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

BUSINESS

Consideration of Legislation

Motion (by Senator Ian Campbell) agreed to:

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

A New Tax System (Tax Administration) Bill (No. 2) 2000
Excise Amendment (Compliance Improvement) Bill 2000
New Business Tax System (Miscellaneous) Bill (No. 2) 2000
Primary Industries Legislation Amendment (Vegetable Levy) Bill 2000
Product Stewardship (Oil) Bill 2000
Customs Tariff Amendment (Product Stewardship for Waste Oil) Bill 2000
Excise Tariff Amendment (Product Stewardship for Waste Oil) Bill 2000
Product Stewardship (Oil) (Consequential Amendments) Bill 2000.

BROADCASTING SERVICES AMENDMENT (DIGITAL TELEVISION AND DATACASTING) BILL 2000

DATACASTING CHARGE (IMPOSITION) AMENDMENT BILL 2000

In Committee

Consideration resumed from 27 June.

BROADCASTING SERVICES AMENDMENT (DIGITAL TELEVISION AND DATACASTING) BILL 2000

Senator MARK BISHOP (Western Australia) (9.31 a.m.)—I have a question at the outset to the minister. Minister, last night in parts of the discussion you made some reference to inadvertent material in the context of walled gardens on the Internet. Would the government be amenable to an amendment on that issue to try to resolve it?

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (9.32 a.m.)—Our position is that we think the regime we have devised is the best that can be put forward under the circumstances. I am conscious that there are those in industry who would argue that even with what seems to be a transparent set of categories you could find that there would be a minor overlap or that in some respects web sites might be caught which, although they might strictly run foul of the genre regime, would not be recognisably televisionlike. That is really all that I was advertung to. We would not want a situation where web sites that were not televisionlike were ruled out so, to the extent that some limited discretion might be available, that might be of assistance. Certainly our primary position is that what is there is adequate, but I can understand what you are putting forward, because it does reflect what other people have put to me about the concerns that they have.

The CHAIRMAN—Minister, are you seeking leave to move your next group of amendments?

Senator ALSTON—Yes.

Leave granted.

Senator ALSTON—I move government amendments Nos 14, 15, 17 and 18:

(14) Schedule 1, item 91, page 24 (lines 12 to 14), omit “and any category B digital program-enhancement content (as defined by subclause (15))”.

(15) Schedule 1, item 91, page 24 (after line 14), after paragraph (c), insert:

(ca) ignore a particular item of category B digital program-enhancement content (as defined by subclause (15)), so long as the licensee does not transmit simultaneously any other item of category B digital program-enhancement content; and

(17) Schedule 1, item 112, page 32 (lines 9 to 11), omit “and any category B digital program-enhancement content (as defined by subclause (15))”.

(18) Schedule 1, item 112, page 32 (after line 11), after paragraph (c), insert:

(ca) ignore a particular item of category B digital program-enhancement content (as defined by subclause (15)), so long as the national broadcaster does not transmit simultaneously any
other item of category B digital program-enhancement content; and

The purpose of these amendments is to restrict the additional category B digital program enhancement content simultaneous live coverage of overlapping sporting events in the same sport at the same venue which can be transmitted on a free-to-air broadcaster's digital television service to a single program only. The original bill does contain provisions that would enable the carriage of the same sport at the same venue, which is a very limited form of enhancement but does go beyond the position we announced back in December. Nonetheless, in our view it would have very limited effect, because it would probably only cover tennis. That is about the only sport that would readily spring to mind, where you could potentially have—at least, say, in the early stages of Wimbledon, like right now; I was not up last night but I saw that Rafter won in straight sets—a number of games being played on outside courts as well as the main game on the centre court. In those circumstances—being played at the same venue at Wimbledon; a number of different matches all arising out of that same event—we take the view that that form of enhancement is acceptable and certainly in the consumers’ interest.

Given that we do also recognise that the secondary matches may well be matters that could be of interest to pay TV operators, this amendment is designed to limit the enhancement to a single program only. In other words, you would only be able to show one additional match. The amendments clarify and constrain the scope of the provisions in the bill which allow free-to-air broadcasters to show as an enhancement another match in a particular sport, such as tennis, provided both matches are live and in the same sport and played at the same venue. The enhancement provisions operate by allowing certain content to be ignored in determining whether a broadcaster is simulcasting the same program in both digital and analog modes.

Amendments Nos 14, 15, 17 and 18 will amend items 91 and 112 of the bill which amended clause 6 of schedule 4 of the BSA. These amendments will restrict the category B digital program enhancement content that is ignored at any particular time to a single television program only. The effect of this is that only one additional match can be shown as an enhancement, rather than a number of separate matches all occurring simultaneously.

Senator BOURNE (New South Wales) (9.37 a.m.)—I will not take up the Senate’s time talking about this except to say that the Democrats will be voting against the amendments. We have considered this very closely, and we believe that the original provisions which did not allow this are probably fairer to pay TV. We have heard the arguments and some of them are quite good, but we have to keep in mind that the pay TV industry would normally get that second tier of the tennis, and it is something that they do rely on. This would make it very likely that they would not get it. Also, people in regional areas would have a more difficult time with this, because they are less likely to get the digital regime as early as people in metropolitan areas. On those grounds, we will be voting against this and we have a couple of amendments later on.

Senator MARK BISHOP (Western Australia) (9.38 a.m.)—For Senator Bourne’s information, the items we are dealing with, amendment Nos 14, 15, 17 and 18 on sheet EK215, are essentially technical amendments as opposed to amendments of substance. The amendments of substance on this issue of program enhancement will come later. On the basis that we are dealing with technical amendments that have been circulated by the government, the opposition will be supporting those amendments.

Senator BROWN (Tasmania) (9.39 a.m.)—That is not what Senator Alston said. There is a restriction in programming that goes beyond the technical in these amendments, and maybe we should have that cleared up. I would like to take this opportunity to ask, through you, Madam Chairman, whether either Labor or the Democrats have a view to recommitting amendments from last night, when Labor and the Democrats voted against each other’s amendments, knocking them out and allowing the government position on datacasting to prevail. I hoped there would have been some communication over-
night so that the opposition could improve the situation as far as those datacasting parameters are concerned. I would be interested to know if there will be any effort to recover ground lost by the knock-out situation that occurred last night between the Labor and Democrat positions.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (9.40 a.m.)—Ignoring Senator Brown’s repetitious grandstanding, I will make it clear that what we contemplate by these provisions is to allow an additional channel to broadcast the same event at the same venue, but it is limited to one program. In other words, if you had a series of matches on the outer courts at Wimbledon right now—which you would have—you would only be able to show one of those in addition to the match on the main court, which would be on the primary channel. For example, if Channel 7 were showing the centre court game, they would be able to show one outside match but not an unlimited number of them.

Senator BROWN (Tasmania) (9.41 a.m.)—Why not an unlimited number?

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (9.41 a.m.)—These things are all compromises. As I said earlier, it is a matter of recognising that the pay TV industry has previously had an interest in secondary games. To the extent that this might then allow the free-to-air networks to run the second game, at least it is allowing the pay TV operators to run the third and fourth game rather than requiring them to vacate the field entirely so that all matches at the same venue would effectively be within the control of the networks. It recognises that pay TV has a legitimate interest in showing some second order games but also acknowledges that consumers watching the primary event might like to also see, by way of enhancement, one other game on an outer court that is being played at the same time.

Senator MARK BISHOP (Western Australia) (9.42 a.m.)—I would like to clarify the position of the opposition. We support enhancement generally and, in the context of the amendments currently before the chair, we will support the one channel. Later, if an additional amendment comes for the same sport at the same venue, we will oppose that.

Senator BOURNE (New South Wales) (9.42 a.m.)—I am sorry to be obtuse about this, but I suspect that the government and the opposition think that this amendment goes to different areas. I thought that the amendment went to the same sport venue that the minister is talking about. I think, though, that the opposition believes the amendment to be something altogether different. If that is the case, it might be sensible if we put this off and discussed whether we were talking about the same thing and dealt with it a bit later.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (9.43 a.m.)—I think the situation is that the Labor Party are essentially taking the view that an additional one channel is less restrictive than an unlimited number of additional channels. To that extent, they are supporting what they see as a restriction on what is contained in the bill provision. When we come to voting on the bill provision, we will be asked to decide whether there ought to be an enhancement that allows one additional channel. You may still want to vote against that, but you will only be given a choice between one additional and no additional rather than unlimited and no additional.

Senator BOURNE (New South Wales) (9.44 a.m.)—I thank the minister for that explanation. I take it then that this is what the ALP are telling me they think it is, and that it does not actually involve the same-venue sport; it is just the additional multichannel. If that is the case, the Democrats would be in favour as well.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (9.44 a.m.)—Again, to be clear, it is do with same sport, same venue, but with the way the bill is drafted you would be able to show a number of outside court games at the same time. Your main channel might have the centre court, and you might be able to have two or three other digital standard definition channels. This is in the bill. What I am proposing is a restriction or limitation on that, and Labor is supporting that but without
prejudice to the decision that might be taken down the track as to whether there should be any enhancement at all. If you are implacably opposed to the whole regime, you will in due course be voting against any enhancement, and Labor will then have to decide whether it supports any enhancement or a single additional channel enhancement. But we will have removed the current bill provision, which has an option of unlimited additional channels. In other words, we are restricting our original provision. Labor is saying, 'At least for present purposes, the choice will be between none and one rather than none and many.' Then you can have your substantive debate and vote down the track.

Amendments agreed to.

Senator BOURNE (New South Wales) (9.46 a.m.)—by leave—I move Democrat amendments Nos 5, 7, 8, 11 and 12 on sheet 1827:

(5) Schedule 1, item 91, page 24 (lines 11 to 14), omit paragraph (c), substitute:

(c) ignore any digital program-enhancement content (as defined by subclause (14)); and

(7) Schedule 1, item 94, page 25 (line 14), omit “Category A digital”, substitute “Digital”.

(8) Schedule 1, item 94, page 25 (line 15), omit “category A”.

(11) Schedule 1, item 94, page 26 (line 7), omit “category A”.

(12) Schedule 1, item 94, page 26 (line 13) to page 27 (line 15), omit subclauses (15) to (19).

I should explain all the amendments. We have four sets of amendments to the program enhancement. One of them relates to a 10-minute limit on what can be shown. I do not have any support at all for that one, as far as I know. One of them relates to accidental overlaps of time. I do not know whether I have support on that one. One of them relates to the category A primary program. Many of the five I am moving at the moment relate to same sport, same venue. As I said before, the Democrats are not inclined to support the tennis amendment, which would allow you to see two games from the same venue at the same time. This is because, as Senator Alston himself said, pay TV usually shows the second most interesting game on any tennis tournament, and that is where they get a substantial amount of their revenue from. There is also the problem that regional areas will change over to digital much later than we will in the metropolitan areas.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (9.48 a.m.)—Although we have narrowed it, we still take the view that this is in no shape or form multichannelling, which is what the original commitment was, and we adhere to that. We did that quite explicitly to limit the capacity of the free-to-air networks to expand their business cases quite dramatically and have what one would expect to be a significant impact on a growing industry. Given that this is not multichannelling, we believe it is a tightly confined enhancement with the same sport at the same venue at the same time. Very few sports are likely to be affected. We do not think it would significantly impact on the existing business of pay TV operators. We oppose the amendments.

Senator MARK BISHOP (Western Australia) (9.49 a.m.)—For the information of the chamber, whilst there is some common ground between the opposition and the Democrats, there is not sufficient common ground. We tend to agree with one sport, one venue, but if these Democrat amendments are defeated we will be next on the list moving opposition amendments Nos 3 to 16, which we think go much further. At this stage, we oppose the Democrat amendments.

Amendments not agreed to.

Senator BOURNE (New South Wales) (9.50 a.m.)—I move Democrat amendment No. 6:

(6) Schedule 1, item 91, page 24 (line 21), after “capacity”, insert “is a program of no more than 30 minutes in length that”.

This amendment is on accidental overlaps of time. Under this amendment, if there is, for instance, a sporting event—and I think that is the only place it would occur—which goes over time, the commercial and national broadcasters would like to be able to put it on the other channel and broadcast at the same time. We hope that this will not apply to the nationals. So far it does. So, if there is an accidental over time limit on, say, a football
game or a long game like cricket, golf or perhaps tennis, that game could continue to be shown until it finishes—that is the case in the minister’s amendments at the moment—and on the other channel you would have the regularly scheduled program, which would start on time.

We see that as a problem because it could lead to programming decisions. I am not saying it would, but it could. As the minister has pointed out, you have to be careful of these sorts of things in the current climate. That would give us one program that was, say, three hours long and with that one program you could have an accidental overlap—although perhaps it might not be quite as accidental as it appears—of a sport that could go as long as that program went, even if it were three hours long.

That could lead to—and I am not saying that it would—programming decisions that virtually enable multichannelling on the commercial channels. They would enable it only while the sporting events are on, but it could be a problem. We have heard that nothing will go much over 15 minutes, but I noticed two Sundays ago when I was waiting for the Sunday program to come on at 9 o’clock that there was an accidental overrun of the golf of two hours and 43 minutes. Because they have only one channel to broadcast on, the golf was shown for an extra two hours and 43 minutes, and then we saw the Sunday show. I cannot see why that should not continue to happen. For short overruns—and we have seen evidence from the commercial free-to-airs that, in general, overruns are quite short; they are generally about 15 minutes—that should be allowable. Heaven knows that it is very annoying when something that is really exciting is about to finish and they suddenly change over to another scheduled program. We think a 30-minute overrun time is a more reasonable one than the duration of any program, which I believe is the minister’s preferred position. Or perhaps it was the minister’s preferred position but I have just argued so brilliantly that he has changed over to my 30 minutes.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (9.53 a.m.)—With the greatest respect for Senator Bourne, you have to be a sports fan to appreciate how potentially absurd and highly infuriating an arbitrary 30-minute cut-off would be. Bear this in mind: these are going to be very rare occurrences. This is act of God stuff—unforeseen circumstances, rain delays play and that sort of thing—which is not normally within the power of the otherwise very powerful broadcasters to control. We have not privatised the weather yet, and it would be very difficult for them to manipulate the start of play simply so they could achieve an overrun. We will certainly be expecting the ABA to monitor any possible abuses very closely. I remember when Doug Walters was on 94, we went to the Channel 9 news and he hit a six off the last ball of the day in Perth at the WACA. That was not a half-hour, but if an AFL grand final were coming to a climax and rain had delayed play by 35 minutes, Senator Bourne might be quite happy to tune out with five minutes to go, but I would not be very happy. If it were the 1964 or 1966 grand final, where Collingwood was beaten by less than a goal each time, I would not have been very happy.

Senator Calvert interjecting—

Senator ALSTON—We did win by about seven goals in 1990. I would have been happy to tune out then, because Leigh Matthews has a great theory that, in the modern era, you are home only if you are more goals in front than there are minutes left to play. So, with five minutes to go, we would have won that game.

The CHAIRMAN—Minister, you can leave your comments on Collingwood.

Senator ALSTON—This is very relevant. I am demonstrating to Senator Bourne why an arbitrary 30-minute cut-off could be very aggravating indeed and would not achieve any useful purpose. You are only trying to accommodate a situation where something has been delayed by forces beyond your control to enable it to be completed. We do not want that to be manipulated in any shape or form. It will be very rare to have these situations. But, if people are wanting to watch those sporting events, they ought to be allowed to watch them until completion. That is our point. I do not think it makes sense to draw the line. If we were talking about peo-
ple being able to artificially schedule so that you could have overlaps on a regular basis, that is an entirely different proposition. But this is only in unforeseen circumstances, it will occur only very rarely and the last thing I would want is for the program to be prematurely closed down if I had taken the option of staying with the sporting event.

**Senator BOURNE (New South Wales)**

(9.57 a.m.)—I would like to make two points about that. Currently, the regime we have is that you do not have to turn the sport off. If it looks hugely exciting and it has only 10 minutes, half an hour or even an hour to run, you can leave it on. You just have to put off your regularly scheduled program. The minister said that he did not want to see a cut-off to one program. He has his own cut-off written in. I understand the minister’s suggestion on this is that it be allowed to run as a multichannel to the end of one program. Programs may be movies, and they may be quite long, but in general they are only half an hour or an hour. So he has his own cut-off built into his scheme, and his cut-off is half an hour or an hour—in general, unless we are looking at a movie or something which is deliberately scheduled to be very long when it is thought that something else might go very long, such as the golf or the tennis. But there is the possibility of doing that. So, firstly, there is no necessity to cut off the sport as there is no necessity now to cut off the sport. It is always a programming decision whether that happens or not. Secondly, the minister already has his own cut-off built into his own piece of this legislation. His cut-off, though, is half an hour or an hour to any program; mine is 30 minutes to any program.

**Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts)**

(9.58 a.m.)—I do not quite know why Senator Bourne thinks I have a cut-off built into my arrangement. I do not. I thought the example you gave at the outset was based on your concern that you should not have had to put up with the golf for another couple of hours when you wanted to watch the Sunday program. If that is right, by allowing the golf event to be completed on the second channel, you would be able to watch the Sunday program on time. All it is doing is providing flexibility and not putting the programmers in that very difficult situation. You or someone else might want to see the Sunday program start right on time, and others might say, ‘I don’t care how long the golf goes for, I want to see it to the end.’ Both of them are legitimate points of view, and we are trying to accommodate both. If you simply say that, to finish the golf, you ought to defer the start of the Sunday program—or whatever else it might be—you are coming down on the side of the sporting fan whereas I thought your starting point was that the sporting fan should not be accommodated for any more than 30 minutes. You end up punishing both if you allow a 30-minute overlap and nothing more.

**Senator BOURNE (New South Wales)**

(10.00 a.m.)—Minister, I may have this wrong. If this amendment does not go through, will there be a limit on accidental overruns? I had assumed through reading the legislation—that though I must say it was a long time ago—that there would be a limit, and the limit would be to the end of the program that was on. But perhaps I am wrong and perhaps there is not a limit at all, in which case I am even more worried about it and I would be keener to have a 30-minute limit.

**Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts)**

(10.00 a.m.)—No, you would only be worried if you thought that unforeseen circumstances such as weather or acts of God—lightning strikes and the like—were going to be regular occurrences. But they are not. This is simply catering for the very occasional happening.

**Senator Bourne**—But there is a limit.

**Senator ALSTON**—No, there is not a time limit. It is to enable the completion of the event; that is all. It may be only five minutes.

**Senator Bourne**—It may be two, three or four hours.

**Senator ALSTON**—It may be but, again, you cannot possibly try to strike a moving average of how long unforeseen weather circumstances normally delay the completion of a game for it is an utterly unpredictable event; it happens only very rarely. Our
proposition is that those who have started watching that event ought to be allowed to watch it to completion, however long or short that is.

So the notion of imposing an arbitrary cut-off point runs entirely contrary to that fundamental consumer preference to be allowed to see the completion of the event, and that is not time dependent. That depends on factors beyond your control. If we thought for a moment that the broadcasters could manipulate that, we would be very worried indeed. We will monitor it to ensure that there is not any artificial manipulation. But it is very hard to see at first glance how there could be.

The starting and finishing point ought to be to try to accommodate as many viewers as possible. Those wanting to watch a sporting event do not want to just see another 30 minutes; they want to see the completion. It might be only five minutes; it might be more than 30 minutes—who knows. The cricket can be washed out for a whole day. There are matches that have been washed out without a ball being played. On the other hand, they can go off the field for five minutes.

It should not occur very often but, when it does, the overriding concern ought to be to accommodate those who want to see the game through to completion. Those people will not say, ‘Well, another 30 minutes is better than nothing.’ They will say, ‘So what—all you have done is heighten my interest and then you have chopped me down with five minutes to go.’ Therefore, we think the notion of time limiting is fundamentally opposed to the interests of consumers. Where I think you should take comfort is from the fact that this will occur very infrequently and in entirely unforeseen circumstances beyond the control of the broadcaster.

Senator BOURNE (New South Wales) (10.03 a.m.)—I just want to clear this up. Paragraphs (d)(i) and (ii) of clause 91 is where I got the impression that we were going to the end of one program. Paragraph (d)(ii) reads:

... the other television program broadcast using that multi-channelling transmission capacity was scheduled at least one week before the start of the designated event ...

I assumed that meant one television program being broadcast. I assumed that the minister’s intent was that the overrun could go to the end of the other television program that was being broadcast. I assumed that was one scheduled program and not an entire schedule of a free-to-air television station. Can the minister explain whether or not that was his intent in that clause?

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (10.04 a.m.)—I am rather puzzled at the suggestion that the combination of (d)(i) and (ii) amounts to saying that you could only delay one program but not the succeeding program. Paragraph (d) reads:

... ignore a particular television program transmitted ... where:

(i) the program is a scheduled program that provides live coverage of a designated event ...

That all seems to be fairly neutral. It goes on:

... and

(ii) the other television program broadcast using that multi-channelling transmission capacity was scheduled at least one week before the start of the designated event.

I understand that to mean that you could not suddenly put the golf on at short notice. It would have to be an event that had been scheduled at least a week ahead of, say, the Sunday program on Channel 9.

Senator Bourne—Okay, I understand.

Senator ALSTON—So you cannot just bring something in at the last minute. These have to be events that are set out well ahead. I suppose you could say they should be sufficiently far ahead that you could not take advantage of the likelihood of bad weather—in the UK, maybe even a week would be too short because in the middle of winter you might be reasonably confident that it will be washed out. It is a very long bow to draw. It is simply designed to ensure there is no last-minute fiddling or positioning of programming in such a way that you might be able to claim that a sporting event has been washed out and should therefore be allowed to run in conjunction with another scheduled event. It just gives that extra degree of comfort that the exceptions only apply where they are in
relation to events that have been already scheduled well in advance.

Senator BOURNE (New South Wales) (10.07 a.m.)—I thank the minister for that. I do see what he means now. I assumed that part (ii) referred to the scheduled program. As I understand it, he says that part (ii) actually refers to the overrunning program, in which case that does make sense. But I think it is even more important now that people agree to my 30-minute rule.

Amendment not agreed to.

Senator BOURNE (New South Wales) (10.07 a.m.)—I move Democrat amendment No. 10:

(10) Schedule 1, item 94, page 25 (after line 32), after paragraph (j), insert:

(ja) except where the content is the depiction of the primary program from a different camera angle—the content does not contain matter in the form of video footage of more than 10 minutes in length; and

I will not spend much time on amendment No. 10 because I do not think it has much of a hope. This amendment would apply a 10-minute limit. The only reason I am putting a 10-minute limit on it—it is a bit cheeky really—is that there is a 10-minute limit on video in datacasting. I thought it was quite appropriate to put it in here. But, as I understand it, I do not think anybody else thinks it is appropriate at all.

Amendment not agreed to.

Senator BOURNE (New South Wales) (10.08 a.m.)—I move Democrat amendment No. 9:

(9) Schedule 1, item 94, page 25 (lines 27 to 30), omit paragraphs (h) and (i), substitute:

(h) having regard to the subject matter of the content, it would be concluded that:

(i) the sole purpose of the transmission of the content is to enhance a television program (the primary program); and

(ii) the content is ancillary or incidental to the primary program; and

This amendment places limits on category A program enhancements to ensure that the bill is consistent with the original stated intention that enhancements be directly linked to the primary program. That is what we came up with, I think, two years ago. The concern has been expressed that the proposed form of words links programs on the basis of shared subject matter rather than linking them to the primary program. This could permit forms of de facto multichannelling. Obviously, subject matter is much broader than linking to the primary program. We would like to keep it narrow to ensure that multichannelling does not accidentally happen because of that.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (10.10 a.m.)—Our concern has always been that the enhancement ought to relate to the subject matter of the primary program. That is why we talk in terms of being closely and directly linked. I think the term ‘ancillary or incidental’ did have some currency a year or so back. But the general view was that these words did not quite make sense in this context. If you ask yourself how something can be ancillary or incidental to the main program, it does not seem to necessarily mean that it relates to the same subject matter. What is it? It could cover almost anything. It could be very narrow. We think the primary requirement is that the matter should be directly and closely linked. In that way you know exactly what you are allowed to do. It has to be, if you like, an extension of the main program.

If you say it is ‘ancillary or incidental’, ‘incidental’ could mean irrelevant. If that is the case, there is no justification at all; that is classic multichannelling. If it is ‘ancillary to’, does that mean it is just not as important as or that it has some sort of tangential relevance? Again, I think both of those terms are moving further away from enhancements and more into the category of multichannelling. I can remember—it must be at least 12 months ago—looking at those terms and perhaps even using them at some stage and then realising that they did not achieve the purpose that we wanted to achieve. I think Senator Bourne is quite rightly concerned to keep these enhancements away from the multichannelling arena. But the way you do that is to say that they should be directly and
closely linked. I think you just open it up to much more uncertainty if you use words as vague and ambiguous as ‘ancillary or incidental’.

Amendment not agreed to.

Senator MARK BISHOP (Western Australia) (10.12 a.m.)—by leave—I move:

(3) Schedule 1, item 91, page 24 (lines 11 to 14), omit paragraph (c), substitute:

(c) ignore any digital program-enhancement content (as defined by subclause (14)); and

(4) Schedule 1, item 91, page 24 (lines 21 to 23), omit “was scheduled at least one week before the start of the designated event”, substitute “is a regularly scheduled news program”.

(5) Schedule 1, item 91, page 24 (lines 32 and 33), omit “the other television program”, substitute “the regularly scheduled news program”.

(6) Schedule 1, item 94, page 25 (line 14), omit “Category A digital”, substitute “Digital”.

(7) Schedule 1, item 94, page 25 (line 15), omit “category A”.

(8) Schedule 1, item 94, page 26 (line 7), omit “category A”.

(9) Schedule 1, item 94, page 26 (line 13) to page 27 (line 15), omit subclauses (15) to (19).

(10) Schedule 1, item 112, page 32 (lines 8 to 11), omit paragraph (c), substitute:

(c) ignore any digital program-enhancement content (as defined by subclause (14)); and

(11) Schedule 1, item 112, page 32 (lines 18 to 20), omit “was scheduled at least one week before the start of the designated event”, substitute “is a regularly scheduled news program”.

(12) Schedule 1, item 112, page 32 (line 30), omit “the other television program”, substitute “the regularly scheduled news program”.

(13) Schedule 1, item 115, page 33 (line 11), omit “Category A digital”, substitute “Digital”.

(14) Schedule 1, item 115, page 33 (line 12), omit “category A”.

(15) Schedule 1, item 115, page 34 (line 2), omit “category A”.

(16) Schedule 1, item 115, page 34 (line 8) to page 35 (line 10), omit subclauses (15) to (19).

The minister for communications, Senator Alston, released a media statement on 21 December 1999 indicating the government’s policy approach to the scope of the enhanced services free-to-air commercial television broadcasters would be able to provide within the digital environment. The 1998 framework legislation provided for additional ‘incidental and directly linked programming by commercial free-to-air television broadcasters’. The term ‘incidental and directly linked’ was not defined in that legislation.

The minister’s announcement on 21 December stated that the government would allow free-to-air broadcasters to provide digital enhancements to their main simulcast programs, provided that they are directly linked to and contemporaneous with the main program. This could take the form of additional camera angles on a sports match, statistics about a player or additional information about a segment in a lifestyle or magazine program. Multichannelling when dealing with overlaps—for example, to allow the end of a sporting match to be shown even if it runs over time and clashes with a news bulletin which commences on its scheduled time—was the parameter the minister laid down at that time.

The opposition’s policy approach to this debate is that we propose to amend the government’s enhanced services framework to reflect more accurately the framework announced back in December of last year. This will be done by: firstly, maintaining enhanced service provisions for free-to-air broadcasters at the level described by the government’s December 1999 announcements; secondly, allowing simultaneous transmission of content additional to the primary broadcast content, provided that the additional content has a direct and obvious link with the primary broadcast; and, thirdly, allowing overlap of broadcasts where an unexpected delay or extension in the time of one broadcast coincides with the scheduled broadcast of a news bulletin. These amendments achieve clarification of the relevant provisions in the bill so that the scope of enhanced services in the bill is consistent with the minister’s policy announcement.
In summary, we seek to remove the category B enhancements from clause 94 of the bill. The reason for our proposed amendment is that it removes category B enhancements from the bill, as these clearly go beyond the scope of enhanced services proposed by the minister last December. Removal of the category B enhanced services makes the bill’s provisions consistent with the minister’s previous policy indications of what would comprise enhanced programming.

In terms of category A amendments, in summary, we amend category A enhancements to reflect a new single category model and refer to all enhanced services content by the generic term ‘digital program enhancement content’. The apparent breadth of category A program enhancements in the bill includes video programming with a subject matter that is closely and directly linked to the subject matter of the primary program; our amendments restrict that so that de facto multichannelling is not allowed. The specific amendment requires a direct and obvious link with the primary broadcasts and refers to all enhanced service content using the generic term ‘digital program enhancement content’. The amendments ensure that broadcasters cannot simultaneously broadcast stand-alone separate programs—such as a rerun or a different program of the same series of a sequential drama program, sitcom or miniseries—at the same time as the primary program or a secondary program which has an indirect link to the primary program; for example, a secondary program in which an actor stars where that actor was a special guest on another program.

Finally, the amendments achieve this by clarifying the examples in item 94 of the bill, subclause 614, schedule 4, that video highlights from past matches and each player’s ranking and career highlights are considered a program enhancement pursuant to category A so that they do not amount to multichannelling. In terms of the overlap amendment, briefly in summary, the amendment conditions for free-to-air enhanced service transmissions will specify that overlap multichannel transmissions may only occur where the overlap involves a scheduled news program. Our reasons for that amendment are these. The bill makes specific provision for overlap multichannelling in the amendments to clause 6(8), schedule 4, of the Broadcasting Services Act. The circumstances where this kind of multichannelling is permitted are considerably more extensive than originally contemplated. The minister’s announcement of 21 December 1999 clearly indicated that multichannelling would be permitted where events ran into a news bulletin. The new clause allows multichannelling where the overlap is into any scheduled program. The provisions are substantially different from those previously proposed. An overlap of broadcasts, where there is an unexpected delay or extension in the time of one of the broadcasts, will be allowed when the overlap coincides with the broadcast of a scheduled news program.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (10.19 a.m.)—There are two separate matters that are being dealt with here, and I would really like to separate them. The first one is in relation to same sport/same venue. I think we have already had that discussion. We have narrowed it down to the proposition that you should be allowed to have one additional event or one additional game broadcast at the same time as the game on, say, the main court. That is a very separate issue from the question of whether or not you ought to confine overlaps to news. In some respects, I think it might be easier if these were dealt with and voted on separately.

Senator HARRADINE (Tasmania) (10.20 a.m.)—The example that was given was Wimbledon and matches on other courts. The virtue of this is that it has got realtime and, if you have a high definition TV set, it is very clear, et cetera. Minister, if a high definition television set will cost about $20,000, how many times could a tennis enthusiast go to Wimbledon and back for that particular cost? We really do have to put these things into perspective. I do not want to repeat what I said last night, but I think that is just indicative of the fact that we seem to be talking of things in an unreal world.

Senator ALSTON (Victoria—Minister for Communications, Information Technology
and the Arts) (10.22 a.m.)—Senator Harradine, if we were talking about only the availability of true HD television and only accessing that through a new HD set, then indeed one could expect a fairly limited audience, but we are not. Given that parliament has mandated that all free-to-air networks should simulcast in both HD and SD—sometimes described as ‘triplecasting’—you will be able to access multiple channels through a standard definition set-top box, which one would expect to cost a few hundred dollars—we would hope $500 or less.

Senator Harradine—It is more like $7,000, isn’t it?

Senator ALSTON—These prices move around, but a lot of people buy video cassette recorders and digital video disks and the like and pay what might to some people seem to be significant sums of money, but it does not seem to deter quite a lot of people from actually accessing new technology opportunities. If you are able to buy a standard definition set-top box for under $1,000—as I think many people would be able to afford to do—then you would have the opportunity of accessing more than one channel at the same time. Given that seven megahertz gives you 20 megabits and a standard definition channel takes up about three to four—sport maybe a bit more—you certainly have the capability of transmitting more than one standard definition channel at the same time. Given that we are proposing only one additional match, you would be able to get both of those channels by getting the cheap option—the standard definition set-top box. I think it is reasonably affordable for the masses.

Reverting to this batch of amendments put forward by the opposition, I think they should be dealt with separately. I understand the argument that you are not comfortable even with one additional channel on the enhancements, and we ought to vote on that. If Senator Bishop is really trying to hold me to a statement that we made back last December on the basis that somehow we said that overlaps should only apply in relation to news, I would, firstly, argue that that is not right—that we were simply using that as an example. More importantly, it is the issue of principle: that is, if there are very occasional circumstances in which weather or other acts of God make it desirable to allow an overlap, that should not then be artificially constrained by whether or not it runs up against the news. As a matter of principle, once you accept that you can have the occasional overlap, then it should not be determined by whether or not the news is coming up. We said in the press release of 21 December:

The Government will allow the broadcasters to multichannel when dealing with “overlaps”—for example, to allow the end of a sporting match to be shown even if it runs over time and clashes with a news bulletin which commences at its scheduled time.

We were really just picking out the news as the best example, because probably Senator Bourne, if she is not a sports fan, would be most upset if the news was delayed, rather than if Home and Away was delayed. She might not be in the majority of the Australian population, but probably most people in this chamber would regard the news as the single most important event. All we are saying is that it should not be confined to that; the news is the best example that most of us could relate to. But if the principle is that on those odd occasions you ought to allow overlaps, then there should not be those sorts of limitations placed on them.

I simply appeal to the opposition, in the first instance, to reconsider the basis on which they have put forward these amendments, because I think they have proceeded on a false premise: that is, they are holding us to what they think is an earlier and different position, I say that this press release demonstrates that that is not so; but, even more fundamentally, the principle ought to be that on the rare occasions when overlaps occur their fate should not be determined by whether or not it is the news that they run up against. That is not so, and I think I have demonstrated that. I am happy to table that press release if it assists Senator Bourne or Senator Bishop. Insofar as you are endeavouring to hold us to what you say is an earlier and different position, I say that this press release demonstrates that that is not so; but, even more fundamentally, the principle ought to be that on the rare occasions when overlaps occur their fate should not be determined by whether or not it is the news that they run up against. It should be any program, because we are trying to accommodate the interests of those who want to see the sporting event. That seems to me to be something that should be accommodated,
irrespective of whether or not it is the news that is running in parallel. I am happy to pro-
vide that press release of 21 December to Senator Bishop so that he can at least ensure that we are both discussing the same position adopted by the government.

Senator Mark Bishop—I’ve read it.

Senator ALSTON—Therefore, you ac-
cept, I trust, that all you are doing is putting forward the most readily identifiable example rather than saying that, in any shape or form, you wanted it to apply only to news.

Senator MARK BISHOP (Western Aus-
tralia) (10.28 a.m.)—I have listened to what the minister has said. If he wishes to table the press release, the opposition does not have any objection to that, but the minister can be assured that, in our deliberations leading up to this debate, we have had considerable re-
ference to, firstly, the act of 1998 and, sec-
ondly, a series of policy announcements in-
cluding, most importantly, the December 1990 press statement put out by the govern-
ment. The opposition does not accept the argument by the minister that the reference to a news program or news bulletin was by way of example. We have always understood that that was the primary and dominant objective of the government. The sentence referred to in the press release might be categorised as an example but, more accurately—this was our understanding and is our understand-
ing—it was the primary intent of the gov-
ernment at that time.

If it has changed subsequent to that, we have not been party to those discussions and negotiations and are not aware of it. Indeed, we are confirmed in our position by the ap-
proaches and lobbying we have received on this issue by the free-to-air broadcasters, who have, almost without exception, in their dis-
cussions with the opposition referred to news programs and news bulletins in the context of overlap and nothing else.

The reason we hold to the importance of news programs and news bulletins is that they are on at a scheduled time every day of the week and there is a clear public interest component in accessibility to the news. It is common knowledge that a lot of families either have their evening meal around the TV set watching the news or have their meal prior to the news so that they can be informed of the day’s events. If other programs that may or may not be scheduled before or after the evening news are to be altered or changed because of extraneous events, that, in our view, is a commercial decision of a commer-
cial nature made by the broadcasters. But in terms of the news there is a clear public in-
terest in that issue at that time of night. So the opposition is not receptive to the gov-
ernment’s suggestion that this series of amendments be divided, and we wish to vote on them en bloc.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (10.31 a.m.)—Seeing that Senator Bishop is a lost cause, can I appeal to Senator Bourne to simply look at what is in that press release and to take Senator Bishop at face value insofar as he believes he is try-
ing to hold us to our December position. I am happy to be held to my December position. My December position was one of principle that overlaps should be allowed and that they should not be determined by what other event they might run up against. We simply gave what is the classic example and what no doubt for shorthand purposes would be given as the classic example by the free-to-airs. But that does not mean they were saying they only want it for news. I do not think it is a matter of what they want. It ought to be a matter of what is the principle. If you allow overlaps, then you are trying to accommodate the interests of those wanting to see the overlapping programs through to completion. The sporting event, again, is the principal example. Therefore, whatever it runs up against, it ought to be allowed to be com-
pleted. It should not be determined only by whether or not the news happens to be around the corner.

We might all regard news as the best ex-
ample and be most put out if news were de-
layed, but that should not derogate from the general principle that overlaps are there to enable the completion of the event which has been delayed through circumstances beyond the control of the broadcaster and, therefore, in order to accommodate the interests of con-
sumers. Once you accept the principle—even
if Senator Bourne did to a 30-minute extent—if we are now talking about overlaps per se, then by all means hold me to that December press release, because that was the whole basis of what Senator Bishop argued.

Senator BOURNE (New South Wales) (10.33 a.m.)—The fact that my amendment was defeated does not mean I do not still think it is the best idea. I therefore think that the second best idea is Senator Bishop’s amendment, although I do accept from the minister’s press release that he was not only talking about news bulletins when he was talking about overlaps. Despite that, I think scheduled programs can be changed if there is a particularly exciting news event. I cannot imagine that anybody is not going to show the last five minutes of a really exciting football match because another program is scheduled. Nothing in this forces people to cut off exciting moments of sport. What it does is say that the opposition believes that the news is probably the most significant event that people tune in to every day at the same time and watch—I certainly do and probably everybody I know does—but that, if there is going to be an overlap and if we are going to allow the free-to-airs to multichannel, then they should be able to do it only on that really important point of news. But apart from that they can keep showing the sports program. They will just be making another program late. Based on my own amendment, I think that is probably a second best amendment to support. The other ALP amendments look remarkably familiar to me. I think we just voted them down when they were mine. Seeing they are the same as mine, I am going to be voting for them.

Amendments agreed to.

Senator BOURNE (New South Wales) (10.36 a.m.)—My next amendments are on sheet 1827: Nos 15 to 17, 19 to 21 and 51. These amendments relate to spectrum clearance. The minister has given an undertaking, I believe, earlier in this debate to have a review to direct the ABA to work out what they can do and then to expeditiously—I hope the minister will correct me if I have got this wrong—direct the ABA to clear spectrum and to work out what is going on with the potential sale, or however we do it, of the datacasting spectrum. If that is the case and if he will give me another undertaking now to do that expeditiously and thoroughly, and seeing as I do not think I have an awful lot of support otherwise for my amendments, I would be prepared to withdraw those amendments.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (10.37 a.m.)—I think what Senator Bourne said is consistent with the discussion we had last night. I did say that we wanted the statutory review by 31 October, and that is pretty expeditious. I could not undertake in advance that we would implement every outcome, but we certainly proceed on the basis that it is a very important issue. We want provisions to enable spectrum clearance to occur as efficiently and as effectively as possible. We want the review to occur as quickly as possible to tell us what the options are; and some of those options, as you are probably well aware, could be controversial in terms of moving some of the broadcasters from part of the spectrum to elsewhere. You will have heard of the term ‘polluter pays’. All these things do deserve proper consideration. It would be wrong for us to simply try to force them now, irrespective of the consequences. Yes, we certainly support what Senator Bourne has been saying. I hope we will be able to have further discussions within a matter of a few months.

Senator BOURNE (New South Wales) (10.38 a.m.)—In that case, I will withdraw those amendments.

The TEMPORARY CHAIRMAN (Senator Sherry)—We will take it that you are not moving them. We will move on to the next amendments, Senator Bourne.

Senator BOURNE—I believe these are the amendments that relate to multichannelling for the national broadcasters, both the ABC and the SBS. I have had discussions with the ABC, the SBS, the ALP, the government and various other people on this. The ALP put up exactly the same amendment as I did on this. I think it has been agreed that it would be better if that amendment were changed. If the ALP would like to move an amendment to this amendment to change the words ‘is in accordance with the charter of
the national broadcaster’ to ‘is a national broadcasting service in accordance with section 13’, I would be more than happy to agree to that amendment. Because I view this as so important, and I believe the ALP also views it as so important, I would be happy to move that amended amendment in conjunction with the ALP. So it would be a joint amendment. But I would be interested to hear what Senator Bishop has to say about that.

Senator MARK BISHOP (Western Australia) (10.39 a.m.)—My understanding, Senator Bourne, is that the particular concerns you have raised have been accommodated in the ALP amendment and that we are going to move it together. With respect, I suggest that if you withdrew your amendment we could then move the opposition amendment together.

The TEMPORARY CHAIRMAN—I take it you are not moving your amendment then, Senator Bourne?

Senator BOURNE (New South Wales) (10.40 a.m.)—That is correct. I will take Senator Bishop up on his offer and we can move the ALP amendment together.

The TEMPORARY CHAIRMAN—We now move to opposition amendment (1) on sheet 1823.

Senator MARK BISHOP (Western Australia) (10.40 a.m.)—Also on behalf of Senator Bourne, I move:

(1) Schedule 1, item 123, page 38 (lines 9 and 10), omit the item, substitute:

123 Clause 35 of Schedule 4
Repeal the clause, substitute:

35 Multi-channelling in and after simulcast period
If there is a simulcast period for a coverage area, nothing in this Act prevents a national broadcaster, either during or after the end of the simulcast period for a coverage area, from using multi-channel transmission capacity to broadcast television programs in SDTV digital mode in that area, where:

(a) the programs are in addition to programs that are broadcast simultaneously by the national broadcaster in both analog and SDTV digital mode in that area; and

(b) the broadcast of the programs is a national broadcasting service in accordance with section 13.

I thank Senator Bourne for that cooperation. In this discussion on multichannelling concerning the national broadcasters, the government has imposed a prohibition on multichannelling by the national broadcasters in the bill. The rationale for the government’s decision to prohibit multichannelling by the national broadcasters is not easily ascertained, as we understand from later discussions related to the embryonic or emerging pay TV industry. It has been made patently clear by the national broadcasters that they regard multichannelling as critical to their future. The capacity to multichannel pursuant to their charters is important because it will enable them to better fulfil their charters, giving viewers real additional choice by allowing more programming to be showcased and at times that suit their audiences. It will allow the ABC and the SBS to program content with a regional focus and for the SBS to program additional Australian and multicultural content within that focus and be more cost effective and encourage a take-up of digital technology to the benefit of the industry as a whole. Even the commercial free-to-air TV stations indicated at the Senate inquiry that they did not and do not oppose multichannelling by the ABC and the SBS, provided that multichannelling is within the charters of the two national broadcasters.

The government’s decision to prohibit multichannelling is short-sighted and, to the opposition, has no valid justification. Without amendment, the prohibition will have a detrimental impact on the national broadcasters into the future. Labor’s policy position is brief. Significant sections of the industry have come out in support of permitting multichannelling by the ABC and the SBS. We do not understand there to be any valid justification for denying the national broadcasters the ability for multichannelling, particularly when those arguments are balanced against the resultant benefits. So the amendment, in detail, allows the ABC and the SBS to mult-
This amendment provides for removal of the prohibition on multichannelling by the ABC and the SBS to permit them to multichannel within the constraints of their representative charters, and the charter based restrictions on multichannel services offered by the national broadcasters are to be defined in clause 115 of the bill.

In summary, from the outset of this discussion the government have had a clear policy position that the national broadcasters should not be able to multichannel. The ALP has sought to get a firm understanding of the rationale behind that decision of the government. In our discussions with the government, we have not been persuaded of the merit of their view. That is really the negative side of the debate. The positive side of the debate, as far as the opposition are concerned, is that we believe there is a pivotal, necessary and vitally ongoing important role for the national broadcasters in public debate in this country. We believe they should be adequately funded by government to carry out the tasks set out in their charters as determined by their boards. We believe they make an important contribution to public life in this country. As they make an important contribution to public life in this country, we believe that there is a reverse onus on government—and it does not matter if the current government or the opposition should be in government—to adequately fund and hence protect that important public contribution that the national broadcasters make to public life. Part and parcel of that important contribution to public life and public discussion is the ability for those broadcasters to change, reflecting altered consumer desires, patterns or wants. But, more importantly in terms of capital investment and investment in new technologies, it is no good leaving our national broadcasters back using technology that is now out of date and that will be increasingly irrelevant. The switch to digital is on. The switch to multichannelling is on. The switch to enhanced services may not be going down the road as quickly as the government desires, but I am sure that issue is going to be revisited over the next four or five years.

In that debate, we believe there is an obligation upon government—either a conservative government or a Labor government—to adequately fund our national broadcasters to carry out the role that has been allocated to them by the parliament of this country. Critical to that is continuing capital investment in terms of equipment and necessary changes in terms of broadcast technology. Multichannelling is important because it enables the national broadcasters to provide information, delivery of services and topical material not just to the big cities, where most of us live and receive quite valuable services from both the commercials and the national broadcasters, but also to the outlying parts of our country outside the major capital cities, where the level of service—as we know from a whole range of debates—is not what it should be. The ABC and the SBS can make a major contribution to improving the standard of service and the range of information and the comment that persons living in rural and regional Australia can enjoy.

One of the critical matters in our deliberations in the multichannelling debate has been that rural and regional Australia should not be denied the benefits of technology. They should enjoy the progress that we are all enjoying as technology penetrates our society and the provision of technology becomes cheaper and hence the provision of services becomes cheaper. We are alarmed that the government does not wish to adequately fund the necessary changes in terms of the way the national broadcasters operate. We believe that multichannelling is critical to their future. They have repeatedly said it to us privately and they have certainly, in a number of inquiries, been on the public record as saying that multichannelling is important to their future. The opposition is of the view that that is a legitimate desire and want, and this amendment is moved accordingly.

Senator BOURNE (New South Wales) (10.48 a.m.)—I am very pleased to move this amendment with the opposition. I think that their wording is probably a technical improvement on our own, to start with. I am sure that the entire chamber is only too aware that I could go on in long and tedious detail about the importance of the ABC and about the underfunding of the ABC. I absolutely agree with what Senator Bishop said. I am
sure that the minister, when this goes through—as I am sure it will—will go back and reconsider his oversight in the last budget in not having given the ABC enough money, so that they will find it very difficult to create digital content, seeing that they have not been funded to do it. I am sure that was just a dreadful oversight and that the money will be forthcoming in the next budget—if not before, as I certainly hope. The ABC and SBS should certainly be able to multichannel. There is just no question about it. You have probably heard this speech a few times before, but the innovations that we see on our screens most often come from that area. Enabling the ABC and SBS to multichannel is a huge step forward in this debate.

I note, too, that I did not think the minister was all that averse to multichannelling for the ABC and SBS when he set up the first bill. It is a pity that he has come down against it now. It certainly was the overwhelming agreement of the committee on which Senator Bishop and I sat that multichannelling for ABC and SBS would be a good thing. There was little disagreement with that, and people would be interested to see what the ABC and SBS could do with multichannelling, particularly with so few funds. It will certainly be a very interesting thing to see. I am very pleased to join Senator Bishop in moving this amendment and I look forward to it going through and to the minister therefore seeing the error of his ways in his funding of the ABC, so that in the next budget it should be hugely increased.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (10.50 a.m.)—I look forward to the Democrats being in government. I can see we are going to have a very serious budget deficit problem if that were ever to eventuate. I presume that it is not really a Trojan horse for you to say that the ABC would want dramatically increased funding to enable it to multichannel. I do not think that is the opposition’s view. The debate ought to proceed more in terms of what is a fair regime and what is generally in the national interest. The starting point is that we do have very good quality commercial free-to-air television in this country. I think that is generally accepted on all sides. Most of us have been overseas and have seen what is on offer elsewhere. You come back and, much and all as you do not immediately rush out and turn on the commercial networks, when you do that you are constantly grateful. I say in passing that I remember being in the United States during the Atlanta Olympics, which I did not attend, and being appalled at the very poor quality of the network coverage in the US. I was told that it was deliberate, because the sports aficionados would watch it anyway and that the only way you would get in the masses was to dumb it down and to have a whole series of soft, human interest interviews with the next-door neighbour of the cousin of the high jumper who won in 1948 and that sort of nonsense. You did not get any highlights packages, you did not get a gold medal tally and you did not even get the main events. To me, that was a classic example of the differences between the quality of free-to-air in this country and elsewhere.

I can understand an argument that says, ‘Look, the ABC is quite different from the commercials.’ Indeed, when we reviewed this whole area we said we would look at whether it was appropriate to allow the ABC and SBS to multichannel, but it was on two conditions. One was that they would have to do it in accordance with their charter. The opposition might have changed the wording, because the charter is not technically referred to in the act, I do not think, but our objection, in a sense, to the charter has always been that it is all things to all people. Brian Johns used to be out there on a regular basis saying, ‘No need to change the charter because it enables us to do whatever we want to do,’ which is exactly our criticism of it. It ought to be more focused. It ought to make it clear that priorities ought to be given to regional coverage—news and current affairs, children’s programs and the like. If that is the case, then it seems to me that you move right away from those activities of the ABC directly into the commercial realm if you allow full and unrestricted multichannelling.

I note with interest that the new managing director says that ratings are not a sin. I personally have never advocated that the ABC should simply be in the ratings game. What I
have always said is that they should benchmark, and they should know in advance before they schedule a program what outcomes they expect. If it is a science program on Radio National, no-one expects it to be a runaway winner. But you ought to have some sense of how many people you expect to listen to it and, if you do not achieve that objective, then you rethink your position. The best way of judging success may be to say, ‘If we expect a four per cent audience and we get a one per cent, then we ought to think twice—or probably three times—before continuing it. We ought to look at whether we shouldn’t have a better allocation of resources and put on a different program schedule.’ I do not argue in favour of ratings per se, but I do accept the managing director’s point that the ABC has to be as relevant as possible to the majority of Australians; that it has to ensure that it is catering for an audience. It is no use saying, ‘Well, I’m a programmer. I believe in quality. I’m disappointed if the public don’t like it, but I can tell you I haven’t compromised my standards.’ I think that is an unjustified indulgence. But if the ABC is going to become more commercial and is going to buy in more programming from the US instead of, or in addition to, the UK, and we are to find a whole new bunch of sitcoms and what might loosely be called ‘mainstream programming’, it does not strike me that that is the sort of thing that Senator Bourne would say is morally and spiritually uplifting to see on a second channel. Indeed, multichannelling presumably means you could run a number of channels at the same time. To what purpose? All you are really doing is becoming a de facto commercial broadcaster, and that was the second concern we had: that the ABC ought to be a quality alternative to the commercials.

If you ask what the purpose was of the parliament originally supporting an ABC, it was not to be a pale imitation or a simulacrum of the commercials; it was to be a quality alternative to provide information, education, science and religious programming to regional areas. These are the sorts of things that distinguish the ABC from the commercials. Full and unbridled multichannelling could just as easily result in more and more programs such as *The Bill* and other British sitcoms. It could indeed result in bringing in a whole lot of those types of entertainment programs from around the world. I do not see that you have achieved very much if you allow that, because the commercials themselves can do it, and that is not why we are providing very significant funds to the ABC to move into the digital era. We ought to be doing it on the basis that they do not compete with the commercials and that they adhere to a tighter charter than they have now.

Our decision in 1998—this was, of course, a decision of the parliament, so it was supported by all the major political parties—was a decision not to allow free-to-air broadcasters to multichannel, because we took the view that that would encroach on the business of the developing pay TV sector. If you allow the national broadcasters to have full and unrestricted multichannelling, then you are running up against that principle in relation to pay TV, but you are also infringing it in relation to the ordinary, commercial free-to-air networks. It seems to me that you are moving a long way away from where I am sure Senator Bourne would want the ABC to be; you are moving it more into the realm of being a second-class commercial network rather than a first-class quality alternative.

We think that this issue of multichannelling is best addressed in the statutory review that is scheduled to be conducted in 2005. That will allow us to reflect on the introduction of digital technology and digital television in general, and to look at further developments in the pay TV industry, which may well be in an even better position then than it is now: able to withstand full multichannelling from all parties. If that is the case, then you have an environment which is, I think, a lot fairer than one in which you say, ‘Some free-to-air networks can’t multichannel because they are commercial. Others, because they are taxpayer funded, can, and they can do it on the basis that they can compete directly with the commercials.’ I just do not see the logic of that argument. I would have thought that, rather than Senator Bourne asking for a blank cheque to buy in more sitcoms from offshore, she ought to be a bit more interested in how she can encourage the
ABC to produce programming that is much more in line with what its charter ought to be.

**The TEMPORARY CHAIRMAN** (Senator Sherry)—Just before we proceed, I understand that this amendment has been jointly moved by the Democrats and the opposition.

**Senator BROWN** (Tasmania) (10.59 a.m.)—I agree with the opposition and Democrats here. This is again part of the anally retentive view that the government has towards broadcasting in general, towards modern technology and towards the ability of the community to be able to choose what it is going to select from—hopefully, a much wider range will be offered in the age of digital technology.

The ABC and the SBS ought to be given the option of extending more, not less, to the Australian public. This view that they should be restricted to religion and science—as important as those components of what the ABC puts forward are—is not what the Australian people are about. I read into what the minister has just said this censorious view that the ABC and the SBS ought to be restricted and taken out, effectively sidelined, and not be able to be part of mainstream communications with the Australian people, and I totally disagree with it.

I will be supporting this amendment, because I think SBS and ABC do provide a great service, and that should be able to expand with the new technology. We should not be waiting five years to review something to see whether perhaps we could change an option which should be available now. I remind the committee that I did not go along with the 1998 decision, and I am certainly not bound by it now. I also think there is a flawed contradiction in the minister saying that ABC and SBS on the one hand ought to be chasing ratings but on the other hand ought to be constrained from putting forward the full range of options to viewers, including quality entertainment.

**Senator BOURNE** (New South Wales) (11.02 a.m.)—I do not want to prolong this, but I feel I really must respond to a few of the things the minister has said. In his comments the minister seemed to take the ABC from a quality national broadcaster to a rather tacky copy of the commercials. I do not think that is likely to happen. If the huge funding cuts and the appalling way in which this government has treated the ABC since it came in have not turned the ABC into a tacky copy of the commercials, nothing is going to do that. I certainly do not think this amendment will. I do not think that there is any way on earth that the ABC have the intention—let alone the money—to buy in a huge number of American sitcoms. I cannot see that being on their multichannel. The minister knows as well as I do—as well as everybody in this chamber does—what the ABC have said they want to do with their multichannelling. They have shown us all the example of what their regional programming would be. It is very good. It is very interesting. They have shown us examples of education. We know that they are probably the best in Australia on children’s programming, and we would expect to see a lot of that.

The minister also made the comment that significant funds have been made available to the ABC by the government to move into the digital era. That is a bit of a furphy too, isn’t it? Significant funds? Please! They have not even been given enough money to properly change over their technology to transmit digital, and that is something that has been around since the original act in 1998. The government thought 25 times before they even decided to fund them to do what they had forced them to do under the last act when it came through in 1998. There is no funding—there is zero funding—for producing digital material. Generous funds? Significant funds? Where? I have not seen them. There is no funding for producing digital material. There is no funding for archiving to go from analog to digital. There is very little funding for the ABC overall. What an outrageous statement for the minister to make.

The minister said that the decision not to allow free-to-airs to multichannel—and that included the ABC—was taken in 1998. The minister knows very well that there was a debate about that in 1998. The minister knows very well that the only reason that we, and probably the opposition as well, agreed with that as a starting point was that there
was a review and we had expected, because we insisted on this review, that after the review—it is obvious that the ABC and the SBS are best placed to be able to multichannel, to be able to provide programs that others do not provide; not American sitcoms, which are going to be just impossible for them to put on anyway, as they have not got the money—it would be available at this point in the debate. There should be a third point, of course, in this debate, but that is going to be eliminated under one of the minister’s amendments.

The fact is that we always expected the ABC to be able to multichannel. We always expected that. Perhaps the ALP are in agreement, but they may not be, and they would tell us if they were not. But we had always expected that. We had also always hoped that the ABC would be funded to multichannel. However, funding the ABC is not something that the government are good at, and I think they need a lot more practice at it.

**Senator MARK BISHOP (Western Australia) (11.05 a.m.)**—I just want to make a couple of points in response to the minister’s comments and pick up on the last point made by Senator Bourne. In regard to the 1998 legislation, the opposition has had a long-standing commitment to multichannelling for the ABC, and you were correct in your supposition.

I will turn to the minister’s contribution. The hole in his argument, or the mistake he makes, appears to us to be that he assumes that the ABC, if it is given the ability to multichannel and the appropriate funding, will emerge or evolve into a de facto free-to-air or, as Senator Bourne says, a tacky commercial operation. That is the mistake in the government’s approach. The opposition’s approach, in contradistinction, is that the national broadcasters have to stand, and survive, within their charters on their own feet and that they are worthwhile stand-alone entities. They need to receive adequate budget funding from the government and they need to be permitted to emerge, change and evolve over time; firstly, in respect of the changing dictates of the market in terms of consumer preferences and, secondly, in their ability to cater for those consumer preferences by being able to provide new equipment.

We do not want the ABC or the SBS to evolve into some sort of alternative free-to-air commercial broadcaster. We are of the view that their charter lays down their obligations and their audience and they should be confined to that. If the charter needs to be broadened, extended, changed or adapted, it would be appropriate to bring it before the parliament to consider those changes. As far as we are concerned, we do not want the ABC to emerge as an alternative, free-to-air broadcaster; we do not see it as appropriate for that to be its position in the marketplace. I am reminded of a line in an old Bruce Springsteen song: 57 Channels (And Nothin’ On). That would happen if the minister’s desires or fears came to pass. We do not want that to occur. We want the ABC and the SBS to evolve to cater to changing needs in the marketplace. In this debate, that is best achieved by their ability to multichannel.

**Question put:**
That the amendment (Senator Mark Bishop’s and Senator Bourne’s) be agreed to.

The Committee divided. [11.13 a.m.]

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

<table>
<thead>
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<th>Ayes</th>
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**AYES**

Allison, L.F.  
Bishop, T.M.  
Bourne, V.W.  
Campbell, G.  
Collins, J.M.A.  
Cook, P.F.S.  
Crossin, P.M.  
Denman, K.J *  
Greig, B.  
Hutchins, S.P.  
Ludwig, J.W.  
Mackay, S.M.  
McLucas, J.E.  
O’Brien, K.W.K.  
Ray, R.F.  
Sherry, N.J.  
West, S.M.  

**NOES**

Abetz, E.  
Boswell, R.L.D.  
Calvert, P.H *  

Bartlett, A.J.J.  
Bolkus, N.  
Brown, B.J.  
Carr, K.J.  
Conroy, S.M.  
Cooney, B.C.  
Crowley, R.A.  
Forshaw, M.G.  
Hogg, J.J.  
Lees, M.H.  
Lundy, K.A.  
McKiernan, J.P.  
Murphy, S.M.  
Quirke, J.A.  
Ridgeway, A.D.  
Stott Despoja, N.  
Woodley, J.  

Alston, R.K.R.  
Brandis, G.H.  
Campbell, I.G.
Question so resolved in the affirmative.

Senator MARK BISHOP (Western Australia) (11.15 a.m.)—The opposition withdraws amendment No. 45 on sheet 1823. We will be supporting the government amendment on interoperability standards, which is much more detailed and covers more ground than we had covered. Accordingly, I withdraw that amendment.

Senator BOURNE (New South Wales) (11.16 a.m.)—I move Democrat amendment No. 23 on sheet 1827:

(23) Schedule 1, item 126, page 42 (line 15), at the end of subclause (2), add:

; (c) the objective that, after the 5-year period beginning when each commercial television broadcaster is required to commence transmitting in SDTV mode in an area, the levels of Australian content that each commercial television broadcaster transmits in HDTV digital mode (expressed as a percentage of hours of content transmitted) will be required to correspond with the Australian content standards determined by the ABA in accordance with sub-section 122(2)(b).

This is the amendment on Australian content standards. I am afraid it was drafted rather hastily. It would require the commercial free-to-air broadcasters to have a high level of Australian content in their HDTV content. I am particularly keen to see a large acknowledgment of Australian content in this process. I will just pre-empt now the arguments that there is not a lot of equipment here and that it is going to be difficult to make it up. I have made it a five-year period. I have not put in the hours, which are already there. I have made it a percentage. As far as I can see, there does not seem to be any review looking at what level of Australian content should be required under the HDTV quota. If that is included in any of the reviews or any of the ALP’s proposed reviews, I would be interested to hear that. I think we have forgotten Australian content to some extent. We should be starting to focus on it, so I am moving this amendment. If anybody has a better idea, please let me know.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (11.18 a.m.)—To the extent that it is helpful, given that the government oppose the amendment, there is a review scheduled to be conducted by 1 January 2004 into HD quotas. I would certainly be prepared to undertake to include the issue of local content in that review. It is also a matter that has been canvassed more generally by the Productivity Commission, and we are scheduled to provide a response to that by September. I have a fair degree of sympathy for what Senator Bourne is proposing, but again it is such a complex area that one cannot predict how the market will play out and whether it will end up being an HD world, an SD world or a combination of the two. In view of those uncertainties, an arbitrary starting point for local content requirements could impose significant difficulties. I do think it is something that ought to be examined. We are prepared to look at it in both of those contexts. I think that is probably the best outcome at this stage. It will give us the opportunity to fully consider all the implications and to hear all the arguments formally. When Senator Bourne says that this has been largely overlooked, in a sense she is really underlining the fact that sufficient attention has not been given to it and that it would therefore be perhaps a bit premature for us to start imposing arbitrary start-up deadlines in advance of proper examination. I am happy with the spirit of the amendment, but I think there is a better way of achieving the same outcome.
Senator MARK BISHOP (Western Australia) (11.20 a.m.)—Senator Bourne was correct to say that, in the inquiry we had, there was little attention paid to the issue of local content. From memory, there was only one submission, from the Screen Producers Association, which drew attention to the issue. As the debate went on during the inquiry, the issue of local content probably did not receive the degree of attention that it inherently warrants. The opposition have considerable sympathy for the Democrats on this position, and we do not seek at all to retract from the past public policy positions that we have put out on the issue of local content. We do note that, in the first five years of the HD regime, quotas are optional. In that sense, quotas should not apply. After five years, the quotas become mandatory and, in our view, that is the appropriate time to incorporate the content quotas. As the minister said, we presume that the HD review is the appropriate time to perhaps pay a serious amount of attention to the issue of quotas for local production. Having made those comments, I state that the opposition support the Democrat amendment.

Senator Alston—Senator Bourne was generally accepting the proposition we were putting forward.

Senator MARK BISHOP—Yes, sorry.

Amendment not agreed to.

Senator BOURNE (New South Wales) (11.22 a.m.)—by leave—I thank the minister for the undertaking to put Australian content into the HD quota review. I move Australian Democrats amendments Nos 24 and 25 together:

(24) Schedule 1, item 126, page 43 (line 37) to page 44 (line 15), omit paragraphs (2)(b) and (c), substitute:

(b) the objective that, after the end of that 2-year period each national broadcaster is required to transmit a least 20 hours per week of high-definition television programs in HDTV digital mode in a coverage area on the HDTV version of the national television broadcasting service concerned.

(25) Schedule 1, item 126, page 48 (line 1) to page 49 (line 10), omit clause 37L, substitute:

37L High-definition television programs

(1) For the purposes of the application of this Division to a commercial television broadcast licensee, a high-definition television program is:

(a) a television program that was originally produced in a high-definition digital video format; or

(b) a television program that:

(i) was originally produced in a non-video format (for example, 16 mm or 35 mm film) that was of equivalent picture quality to a high-definition digital video format; and

(ii) has been converted to a high-definition digital video format; where the conversion has not resulted in a significant reduction in picture quality.

(2) For the purposes of the application of this Division to a national broadcaster, a high-definition television program is:

(a) a television program that was originally produced in a high-definition digital video format; or

(b) a television program that:

(i) was originally produced in a non-video format (for example, 16 mm or 35 mm film) that was of equivalent picture quality to a high-definition digital video format; and

(ii) has been converted to a high-definition digital video format; where the conversion has not resulted in a significant reduction in picture quality; or

(c) a television program that:

(i) was originally produced in a standard definition digital video format; and

(ii) has been converted to a high-definition digital video format; or

(d) a television program that:

(i) was originally produced in an analog video format; and

(ii) has been converted to a standard definition digital video format;
where the converted program was subsequently converted to a high-definition digital video format.

The above amendments relate to the originating—I am finding so many words that I have never heard of in this debate—of HDTV original content for the national broadcasters—that is, the ABC and SBS. They are treated differently under the suggested amendments to the act, and it would probably be sensible to treat them the same. Under the bill, the ABC is required to transmit HDTV originated material for four out of its 20 hours of HDTV broadcasting. That is all in prime time, until 1 January 2006, when all of its HDTV content must be HDTV originated. In comparison, the SBS is permitted to use up-converted SDTV material for the same period. The rationale for this is that the SBS mostly sources its material from Europe, which has adopted SDTV rather than HDTV. But, as the ABC sources much of its material from Europe as well, there seems to be no sensible reason why it should be forced to move to HDTV originated material. We know overseas material for the commercial free-to-airs will probably come from the US—and a bit from Europe—whereas, with the national broadcasters, it will mostly come from the European SDTV standard.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (11.24 a.m.)—The government’s position is that we have already given the ABC additional, and considerable, latitude. Within two years, the commercials are expected to achieve 20 hours per week of full HD. By that time, the ABC will be allowed to have 80 per cent of that quota up-converted—in other words, they will have a very significantly lower standard to comply with by that time, and they will have until 2006 to bring themselves fully into line with the commercial networks. It seems to us that that is a pretty generous regime. To say that the ABC should not be required to produce any originated HD material seems to us to be behind the eight ball through that period. What we have already proposed is a very generous and relaxed attitude that singles out the ABC for special treatment in the direction they would prefer. To go beyond that is to simply give the game away altogether, and we do not think that is in anyone’s interests, including the ABC’s. They should be encouraged to meet the standards, even if they are allowed a bit more time to do so.

Amendments agreed to.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (11.28 a.m.)—by leave—I move government amendments Nos 6, 7, 9 and 10 on sheet ER232:

(6) Schedule 1, item 130, page 50 (after line 14), after subclause (2), insert:

(2AA) Standards under subclause (1), to the extent that they deal with application program interfaces, must be directed towards ensuring the achievement of the policy objective that, as far as is practicable, those interfaces should be open to all providers of eligible datacasting services.

(7) Schedule 1, page 50 (after line 28), after item 131, insert:

131A Subclause 39(5) of Schedule 4 Insert:

application program interface has the meaning generally accepted within the broadcasting industry.

(9) Schedule 1, item 140, page 94 (after line 21), after subclause (2), insert:

(2A) Standards under subclause (1), to the extent that they deal with application program interfaces, must be directed towards ensuring the achievement of the policy objective that, as far as is practicable, those interfaces should be open to all providers of eligible datacasting services.

(10) Schedule 1, item 140, page 95 (before line 1), before the definition of conditional access system, insert:

application program interface has the meaning generally accepted within the broadcasting industry.
The purpose of these amendments is to require the technical standards relating to transmission which deal with application program interfaces—which are the platforms on the set-top boxes—for datacasting should do so on the basis that they are open to all datacasting service providers. The amendments add an additional requirement to the provisions in schedule 4 of the Broadcasting Services Act, relating to regulations which may determine transmission standards. They require that, to the extent that those regulations deal with application program interfaces, they must be directed towards the policy objective that as far as practicable those interfaces should be open to all providers of eligible datacasting services. These amendments are important in ensuring open standards so that different players are able to develop applications which are used in set-top boxes. It is increasingly becoming a world of open standards, and I will be moving at a later point some additional amendments to provide for the same open access regime for reception equipment. This is stage one of that process.

Amendments agreed to.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (11.30 a.m.)—by leave—I move government amendments Nos 1 to 4 on sheet ER234:

(1) Schedule 1, page 19 (after line 20), after item 69, insert:

69A After paragraph 7(1)(o) of Schedule 2

Insert:

(oa) the licensee will comply with any regulations made for the purposes of clause 36B of Schedule 4 (which deals with the accessibility of domestic reception equipment);

(2) Schedule 1, page 38 (after line 14), after item 125, insert:

125A After Part 3 of Schedule 4

Insert:

Part 3A—Accessibility of domestic reception equipment

36B Accessibility of domestic reception equipment

(1) The regulations may provide that a designated person must not:

(a) provide domestic reception equipment; or
(b) enter into an agreement, arrangement or understanding in relation to the provision of domestic reception equipment;

unless the equipment is accessible by:

(c) each commercial television broadcasting service; and
(d) each national television broadcasting service; and
(e) each datacasting service provided under, and in accordance with the conditions of, a datacasting licence.

(2) In this clause:

designated person means:

(a) the holder of a commercial television broadcasting licence; or
(b) a national broadcaster; or
(c) the holder of a datacasting licence; or
(d) the holder of a datacasting transmitter licence.

reception equipment means equipment that is capable of receiving either or both of the following:

(a) a television broadcasting service transmitted in digital mode;
(b) a datacasting service provided under, and in accordance with the conditions of, a datacasting licence.

36C Compliance by national broadcasters

A national broadcaster must comply with any regulations made for the purposes of clause 36B.

Note 1: For compliance by holders of commercial television broadcasting licences, see clause 7 of Schedule 2.

Note 2: For compliance by holders of datacasting licences, see clause 24 of Schedule 6.


(3) Schedule 1, item 140, page 70 (after line 21), after paragraph (c), insert:
(ca) the licensee will comply with any regulations made for the purposes of clause 36B of Schedule 4;

(4) Schedule 2, item 25, page 108 (after line 21), after paragraph (f), insert:

(fa) a condition that the licensee, and any person so authorised, must comply with any regulations made for the purposes of clause 36B of Schedule 4 to the Broadcasting Services Act 1992;

The purpose of these amendments is to introduce provisions that allow regulations to require that datacasters and broadcasters who provide viewers with reception equipment must make equipment accessible to other service providers. These amendments will help to ensure that if datacasters or broadcasters provide their customers with reception equipment—for example, as part of a subscription package, as has occurred in the UK—regulations can be made to ensure that the equipment is accessible by competing service providers. In other words, we do not want proprietary systems because that will obviously add dramatically to the cost for consumers if they have to buy competing set-top boxes. This is crucial if viewers are not to be faced with the prospect of having multiple set-top boxes to receive different datacasting and broadcasting services.

Specifically, the amendments provide that regulations can be made to prevent broadcasters and datacasters from providing domestic reception equipment, or entering into an agreement with another person to provide domestic reception equipment, unless the equipment is accessible by other television broadcasters or datacasters. These provisions are enforced by making it a licence condition that commercial broadcasters and datacasters comply with any regulations set and by requiring national broadcasters to comply with the regulations. I say in passing that we went down this track a few years ago in relation to satellites and we are now doing the same in the digital television environment. The principle is the same: that as much as possible at all levels of the process consumers ought to have that interoperability, which will enable them to access the maximum range of programs at the least possible price.

Amendments agreed to.

Senator BOURNE (New South Wales) (11.32 a.m.)—I wish to oppose schedule 1, item 134. I am sure honourable senators will remember that when we started the debate two years ago—it was longer than that—we made quite a point in that debate of saying that we needed a lot of time to consider this and that we needed to have many points within the debate where we could reconsider what was happening and make sure that it seemed to us to be in the best interests of the community. The end result was the original act in 1998, then there was this amendment which is before us now, and then there was a further third and final mechanism for the scrutiny of this whole regime.

So the government expected first of all to conduct inquiries, then to create legislation and finally to create standards. All of those were supposed to have a provision for parliamentary scrutiny over them. The results of the inquiries were released after the shape of the legislation was known, which I think is a bit unfortunate. This legislation, as we all know, has been unreasonably quickly put on. If we agree to item 134 in schedule 1 of this bill then that last plank will disappear. This would mean that on proclamation of this bill everything becomes law without that extra step of waiting until we see what the regulations and standards are. I am aware that the regulations are disallowable instruments. But I would like to see the whole of this carried out, as was promised two years ago—I know we are in a hurry now; I do not think we need to be—and I would like to see that last step maintained. Obviously, the government would like to take that plank out because that is what is in their bill. I would rather have it in there to give us one more go at seeing whether or not this is the best way to go forward.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (11.35 a.m.)—Can I just explain why I do not think we should have this additional and, in many respects, onerous obligation imposed. The original 1998 provisions were designed to ensure that the government could not simply run off and prescribe standards and make regulations ahead of the eight
reviews, I think there were, that emanated from that legislation—or were there more than eight?

Senator Bourne—No, there were eight.

Senator ALSTON—In any event, quite clearly we wanted to see the outcome of those relevant reviews on captioning, transmission and HD standards before this legislation came to the parliament, and we have done that. It has been two years—I would not say that is rushing it—but certainly we have had the benefit of those reviews. They have been tabled in the parliament. There has been plenty of opportunity to debate them.

But to now say that we cannot give effect to any intentions in relation to standards in these critical areas without a proclamation would have the effect of ensuring that you could not go ahead and do anything. You would delay the introduction of any regulations unnecessarily, and it would mean that no standards would apply to broadcasters in the absence of the proclamation. I do not think that is what we have in mind. This legislation will provide regulation making powers to proceed to give effect to the outcome of those reviews and to completely honour the original requirement which was there for a limited period of time—not indefinitely or until such time as the parliament, in its wisdom, might choose to allow or disallow a whole set of different standards. It could mean, for example, that it is many months before you finally have HD, captioning and transmission standards in place.

This digital television era is meant to start in just over six months. We want people to have maximum certainty. We want them to get on with it. We have all had the benefit of the reviews. It has been a very transparent process. I do not think that you aid the cause at all by introducing a potentially very destabilising and uncertain environment in which each of those standards is going to be deferred until such time as the parliament has passed further judgment on them. In those circumstances, I would hope that the chamber would accept that we have fully honoured the 1998 legislation and all we are doing now is enabling the broadcasters and all other stakeholders to get on with the business as quickly as possible ahead of 1 January.

The TEMPORARY CHAIRMAN (Senator Lightfoot)—The question is that item 134 stand as printed.

Question resolved in the affirmative.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (11.40 a.m.)—by leave—I move government amendments Nos 12, 19, 20, 22, 23 and 25 on sheet EK215 and Nos 1 and 2 on sheet ER235:

(12) Schedule 1, page 20 (after line 8), after item 73, insert:

73A  Clause 2 of Schedule 4 (definition of broadcasting transmission tower)

Omit all the words after “used”, substitute:

to supply:

e) a broadcasting service by means of radiocommunications using the broadcasting services bands; or

f) a datacasting service provided under, and in accordance with the conditions of, a datacasting licence.

(19) Schedule 1, page 51 (after line 5), after item 134, insert:

134A  Clause 42 of Schedule 4

After “a broadcasting transmission tower” (wherever occurring), insert “or a designated associated facility”.

134B  Clause 42 of Schedule 4

Omit “tower, and the site of the tower, for the purpose of installing or maintaining a transmitter for use in transmitting television broadcasting services in digital mode”, substitute “tower or facility”.

134C  Clause 42 of Schedule 4

Omit “tower, and the site of the tower, for the purpose of installing or maintaining a transmitter for use in transmitting datacasting services in digital mode”, substitute “tower or facility”.

134D  At the end of clause 42 of Schedule 4

Add:

- The owner or operator of a broadcasting transmission tower must provide:

  (a) the holder of a commercial television broadcasting licence; or
(b) a national broadcaster;
with access to the site of the tower.

• The owner or operator of a broadcasting transmission tower must
provide a datacaster with access to the site of the tower.

(20) Schedule 1, page 51 (after line 13), after item 136, insert:

136A Clause 43 of Schedule 4
Insert:

*designated associated facility* has the
meaning given by clause 43A.

136B Clause 43 of Schedule 4
(definition of facility)
Omit “or a line”, substitute “, a line or
an electricity cable or wire”.

(22) Schedule 1, page 51 (after line 13), after item 136, insert:

136D After clause 43 of Schedule 4
Insert:

43A Designated associated facilities
For the purposes of this Part, a *design-
ated associated facility* means any of the
following facilities:

(a) an antenna;
(b) a combiner;
(c) a feeder system;
(d) a facility of a kind specified in the
regulations;
where:

(e) the facility is, or is to be, associated
with a transmitter; and

(f) the facility is used, or capable of
being used, in connection with:

(i) the transmission of a television
broadcasting service in digital
mode; or

(ii) the provision of datacasting ser-
VICES in digital mode.

136E At the end of clause 44 of
Schedule 4
Add:

(3) For the purposes of this Part, *giving
access* to a designated associated fac-
ility includes:

(a) replacing the facility with another
facility located on the same site and
giving access to the replacement fa-
cility; or

(b) giving access to a service provided
by means of the designated associ-
ated facility.

136F After clause 45 of Schedule 4
Insert:

45A Access to designated associated facili-
ties
(1) This clause applies to a designated asso-
ciated facility if the facility is situated
on, at, in or under:

(a) a broadcasting transmission tower;
or

(b) the site on which a broadcasting
transmission tower is situated.

*Television broadcasting services in
digital mode*

(2) The owner or operator of the designated
associated facility must, if requested to
do so by the holder of a commercial
television broadcasting licence (the *ac-
cess seeker*), or a national broadcaster
(also called the *access seeker*), give the
access seeker access to the facility.

(3) The owner or operator of the designated
associated facility is not required to
comply with subclause (2) unless:

(a) the access is provided for the sole
purpose of enabling the access seeker
to use the facility, or a service
provided by means of the facility,
wholly or principally in connection
with the transmission of the access seeker’s television broadcasting
service in digital mode; and

(b) the access seeker gives the owner or
operator reasonable notice that the
access seeker requires the access.

*Datacasting services in digital mode*

(4) The owner or operator of the designated
associated facility must, if requested to
do so by a datacaster (the *access seeker*), give the access seeker access to the facility.

(5) The owner or operator of the designated
associated facility is not required to
comply with subclause (4) unless:

(a) the access is provided for the sole
purpose of enabling the access seeker to use the facility, or a service
provided by means of the facility,
wholly or principally in connection
with the provision of datacasting
services in digital mode; and
(b) the access seeker gives the owner or operator reasonable notice that the access seeker requires the access.

Compliance not technically feasible

(6) The owner or operator of a designated associated facility is not required to comply with subclause (2) or (4) if there is in force a written certificate issued by the ABA stating that, in the ABA’s opinion, compliance with subclause (2) or (4), as the case may be, in relation to that facility is not technically feasible.

(7) In determining whether compliance with subclause (2) or (4) in relation to a facility is technically feasible, the ABA must have regard to:

(a) whether compliance is likely to result in significant difficulties of a technical or engineering nature; and

(b) whether compliance is likely to result in a significant threat to the health or safety of persons who operate, or work on, a facility situated on the site; and

(c) if compliance is likely to have a result referred to in paragraph (a) or (b)—whether there are practicable means of avoiding such a result, including (but not limited to):

(i) changing the configuration or operating parameters of a facility situated on the site; and

(ii) making alterations to a facility situated on the site; and

(d) such other matters (if any) as the ABA considers relevant.

Issue of certificate

(8) If the ABA receives a request to make a decision about the issue of a certificate under subclause (6), the ABA must use its best endeavours to make that decision within 10 business days after the request was made.

Exemptions

(9) The regulations may provide for exemptions from subclauses (2) and (4).

(10) Regulations made for the purposes of subclause (9) may make provision with respect to a matter by conferring on the ACCC a power to make a decision of an administrative character.

136G After subclause 47(1) of Schedule 4

Insert:

Access to designated associated facilities

(1A) The owner or operator of a designated associated facility must comply with subclause 45A(2) or (4) on such terms and conditions as are:

(a) agreed between the following parties:

(i) the owner or operator;

(ii) the access seeker (within the meaning of that subclause); or

(b) failing agreement, determined by an arbitrator appointed by the parties.

If the parties fail to agree on the appointment of an arbitrator, the ACCC is to be the arbitrator.

136H At the end of subclause 48(4) of Schedule 4

Add “, to the extent to which the Code relates to the provision of access under clause 45 or 46”.

136J After subclause 48(4) of Schedule 4

Insert:

(4A) The owner or operator of a designated associated facility must comply with the Code, to the extent to which the Code relates to the provision of access under clause 45A.

(23) Schedule 1, page 53 (after line 8), after item 139, insert:

139A Paragraph 61(1)(c) of Schedule 4

Insert “, 45A(6)” before “or 46(5)”.

(25) Schedule 1, page 53 (after line 8), after item 139, insert:

139D Subclause 62(5) of Schedule 4

Insert “, 45A(6)” before “or 46(5)”.

139E At the end of clause 62 of Schedule 4

Add:

(9) An application may be made to the AAT for a review of a decision of the ABA to refuse to issue a certificate under subclause 45A(6).

(10) An application under subclause (9) may only be made by the owner or operator of the designated associated facility concerned.
(1) Clause 2, page 1 (after line 11), after subclause (1), insert:

(1A) Subject to subsection (1B), items 134A to 134D (inclusive), 136A, 136B, 136D to 136J (inclusive), 139A, 139D and 139E of Schedule 1 commence on a day to be fixed by Proclamation.

(1B) If items 134A to 134D (inclusive), 136A, 136B, 136D to 136J (inclusive), 139A, 139D and 139E of Schedule 1 do not commence under subsection (1A) within the period of 6 months beginning on the day on which this Act receives the Royal Assent, they commence on the first day after the end of that period.

(2) Schedule 1, item 142, page 96 (line 31), omit “items 75 and 137” substitute “an item that commences under subsection 2(1) or (1A)”. The purpose of the first batch of amendments is to clarify the access rights under the transmitter access regime to ensure that a free-to-air television broadcaster or datacaster can gain access not just to broadcasting transmission towers and sites but also to designated associated facilities on those sites and towers for the purpose of installing or maintaining a digital television or datacasting service. The access regime applies to towers, sites and associated facilities that are used to supply a datacasting service as well as those used to supply a television broadcasting service.

These amendments clarify the access rights under the transmitter access regime to facilitate the successful rollout of the digital television and datacasting infrastructure. In order to transmit their services in digital mode, free-to-air television broadcasters and datacasters may in practice require access not only to towers and sites but also to commonly used combiners, antennas and feeder systems situated on the site. However, a literal reading of the existing provisions in part (5) of schedule 4 would mean that access seekers could be denied access to necessary associated facilities on reasonable terms and conditions and would not have access to arbitration—a la the telecommunications model.

The proposed amendments will ensure that there is a right of access to these essential common facilities and to any associated facilities that are prescribed by regulations. The regulation making power will provide flexibility to designate other facilities if, following industry consultation, it can be demonstrated that it is not practicable to expect access seekers to install those facilities at the transmission site. The amendments will also extend the obligation to provide access to designated associated facilities to the owner or operator of those facilities to cover situations where the owner or operator is not the same person as the owner or operator of the transmission tower. These provisions will ensure that the access regime for associated facilities covers all possible ownership and control arrangements at the transmission site.

The existing right to refuse access to sites and towers where compliance with the access obligation is not technically feasible will also apply to the right of access to designated associated facilities. To the extent that access to an associated facility involves access to a service provided by means of a facility, there may also be circumstances where the owner or operator of a facility may have legitimate economic grounds to refuse access.

The proposed amendments therefore also include the flexibility for regulations to set out further exemption criteria. The nature and extent of any regulations of this kind would be determined following consultation with broadcasters, transmission tower operators and other stakeholders having regard to exemptions provided under part XIC of the Trade Practices Act 1974. Consistent with the existing access provisions in part (5), reasonable notice needs to be given by a broadcaster or datacaster seeking access to a designated associated facility. Provision is made for arbitration of disputes about access to associated facilities and the conditions that are to be complied with in relation to access to those facilities to be determined in an ACCC access code.

Amendments agreed to.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (11.45 a.m.)—I move government amendment No. 21:

(21) Schedule 1, page 51 (after line 13), after item 136, insert:

136C Clause 43 of Schedule 4
(definition of television broadcasting service)
Repeal the definition.
This amendment makes a technical change to delete the definition of ‘television broadcasting service’ from clause 43 of schedule 4, as the term is defined now in clause 2 of schedule 4. The amendment will have the effect of deleting the definition of ‘television broadcasting service’ from clause 43 of schedule 4. This will ensure that there is no duplication or confusion as the definition of ‘television broadcasting services’ is now in clause 2 of schedule 4. It is just tidying up.

Amendment agreed to.

Senator BOURNE (New South Wales) (11.46 a.m.)—The next four Democrat amendments now, for various reasons, I think I will move separately rather than together. Democrat amendment No. 31 is consequent upon the ABC and SBS being able to multichannel, which has been passed previously. On my new running sheet, I think it is almost the same as the ALP’s amendment along the same lines. So I am happy to move my amendment in conjunction with them, if the opposition are happy to do that.

Senator Mark Bishop—That is amendment 32?

Senator BOURNE—Yes, 32. So, if Senator Bishop is happy with that, I am happy to put my name on his or, if he wants to put his name on mine, that is fine. That is the one in relation to the national broadcasters as a consequential amendment. The second one is about community television broadcasting services and an inquiry into whether access to spectrum should be free of charge. I think it would be better if this, Democrat amendment No. 32, came after we had looked at Senator Brown’s amendment on community television. If his amendment passes, then this one would need to be changed, and he has another amendment which would be better. So it would probably be better if we did all of those together a bit later, if that is all right.

Democrat amendment No. 33 looks into the viability of creating an indigenous television broadcasting service and the regulatory arrangements that should apply to the digital transmission of such a service using spectrum in the broadcast services band. This is as a consequence of information that came from the Senate inquiry that Senator Bishop and I were on and also from the Productivity Commission report into broadcasting, which had what I thought were very strong and sensible recommendations on the future of indigenous television and radio broadcasting in Australia. So that would be an inquiry looking into whether that was feasible at that period.

Finally, Democrat amendment No. 34 concerns the inquiry which looks into whether the HDTV quotas should be amended or repealed. I believe that, if they are repealed, we are very likely to see HDTV disappear pretty quickly in Australia. I think that that should not be an option at this stage—or even at that stage when that amendment comes up. I would rather that the words ‘or repealed’ were taken out.

So, if it is acceptable to the committee, I would be happy to move Democrat amendment No. 31 in conjunction with Senator Bishop’s, if that is acceptable to Senator Bishop. I would rather leave Democrat amendment No. 32 until later, but I would be happy to move Nos 33 and 34 now as well.

Senator MARK BISHOP (Western Australia) (11.49 a.m.)—Democrat amendment No. 31 is the same as the opposition’s amendment. We accept the invitation of Senator Bourne and co-move the opposition-Democrat amendment:

(31) Schedule 1, page 51 (after line 20), after item 137, insert:

137B Paragraph 60(1)(b) of Schedule 4

Repeal the paragraph, substitute:

(a) whether paragraph 7(1)(m) of Schedule 2 (which deals with simulcast requirements for commercial television broadcasting licensees) should be amended or repealed;

So we support this amendment. We do not have a problem with deferral of amendment No. 32. We support amendment No. 33. Amendment No. 34 is the issue of repeal on the HD?

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (11.50 a.m.)—I am happy to
have amendment No. 32 deferred and considered later. In relation to No. 33, I would simply say that the government would oppose that, but I hear that both the other parties are in favour. We will be considering the Productivity Commission report by September this year, and it did make some recommendations in that area.

But in relation to amendment No. 34, the purpose of the review is to decide whether the quotas for HDTV should change. It is not intended to examine the basic requirement to provide HDTV and, if necessary, that can be made very clear or clearer. In addition, the word ‘repealed’ is needed to allow the review to consider whether any existing clauses need to be repealed—for example, to be replaced with another clause—rather than just being amended. So that is a process point. But if your concern is that this might be a backdoor way of dismantling the whole HD regime, that is certainly not our intention. I do not think there is any basis on which anyone would support that. Certainly I can clarify that in the context of the review, if necessary.

Amendment agreed to.

**Senator BOURNE (New South Wales)**

(11.51 a.m.)—I now move Democrat amendment No. 33:

(33) Schedule 1, item 138, page 52 (line 24), after paragraph (i), add:

; (k) the viability of creating an indigenous television broadcasting service and the regulatory arrangements that should apply to the digital transmission of such a service using spectrum in the broadcasting services bands.

This amendment relates to a review into indigenous television broadcasting.

Amendment agreed to.

**Senator BOURNE (New South Wales)**

(11.52 a.m.)—I now move Democrat amendment No. 34:

(34) Schedule 1, item 139, page 52 (line 31), omit “or repealed”.

This amendment would omit the words ‘or repealed’ from the end.

Amendment not agreed to.

**Senator MARK BISHOP (Western Australia)** (11.52 a.m.)—by leave—I move opposition amendments Nos 39, 40, and 46 to 49 on sheet 1823:

(39) Schedule 1, page 17 (after line 25), after item 57, insert:

57A After section 216C

Insert:

216D Review of Schedules 4 and 6

(1) As soon as practicable after 1 January 2003 and before 1 January 2004, the Minister may cause to be conducted a review of the operation of Schedules 4 and 6.

(2) The Minister must cause to be prepared a report of a review under subsection (1).

(3) The Minister must cause copies of a report to be laid before each House of the Parliament within 15 sitting days of that House after the completion of the preparation of the report.

(40) Schedule 1, page 17 (after line 25), after item 57, insert:

57B After section 216D

Insert:

216E Review of streamed Internet, audio and video content

(1) Before 1 January 2002, the Minister must cause to be conducted a review of whether, in the context of converging media technologies, streamed audio and video content obtainable on the Internet should be regarded as a broadcasting service.

(2) The Minister must cause to be prepared a report of a review under subsection (1).

(3) The Minister must cause copies of a report to be laid before each House of the Parliament within 15 sitting days of that House after the completion of the preparation of the report.

(46) Schedule 1, page 51 (after line 20) after item 137, insert:

137A Subclause 60(1) of Schedule 4

Omit “31 December 2005”, substitute “1 January 2005”.

Note: The heading to clause 60 of Schedule 4 is altered by omitting “31 December 2005” and substituting “1 January 2005”.

(47) Schedule 1, item 138, page 52 (line 5), omit “the regulatory”, substitute “the competitive and regulatory”.
This series of amendments goes to a series of reviews that the opposition proposes to bring into the act. Amendment (40) goes to the issue of audio and video streaming. This amendment proposes that the ABA review referred to in Minister McGauran’s second reading speech in the other house, to determine whether services such as streamed audio and video obtained via the Internet constitute broadcasting services, will be a statutory review to report to the parliament prior to 1 January 2002. So the issue there is to bring it forward. The amendment requires that the review should consider the matter in the context of convergence of media technologies, which is a critical issue at the heart of these deliberations and crucial to the efficacy of policy in the area.

The industry is keen for the review to be completed without delay to provide certainty as to the regulatory scheme applicable to video and audio streaming. The transparency of this review is critical to its eventual outcome. Transparency, we believe, is best achieved by making the review statutory and required by this legislation, and hence open and accountable to the parliament. Yesterday evening, Senator Harradine alluded to this issue of audio and video streaming in another context. We are of the view that there is considerable speed in which a range of technologies are converging. The minister’s second reading speech and the explanatory memorandum made it quite clear that the issue of audio and video streaming may well not be covered by the current definition in the Broadcasting Services Act, and hence regulation free.

That is a matter, I presume, of concern to the government. It is a matter that the opposition wishes to have a good, long, hard and serious think about in the future. We know from the range of correspondence and approaches that we have received from a range of current industry players and prospective industry players that the issue of regulation of this new method of receiving information is quite critical. Amendment (40) goes to that and, essentially, sooner rather than later, reporting to the parliament by the beginning of the year after next.

Amendment (39) is a general review of schedules 4 and 6 of the Broadcasting Services Act—the two most important schedules. This amendment allows the minister to conduct a general review of the operation of schedule 4 concerning digital TV and schedule 6 concerning datacasting services, commencing after 1 January 2003 and again reporting to the parliament no later than 1 January 2004. The importance of this legislation in achieving the policy outcomes of the government in respect of digital conversion necessitates this overarching interim review of the progress of the legislation in fulfilling these policy objectives. The legislation is transitional. The opposition is of the view that the government needs to be flexible for the market to adapt to new technologies and circumstances previously unforeseen or unanticipated. This review, we believe, will assist the government in its decision making on these issues.

Amendment (49) is in relation to commercial broadcasting licensing conditions at the expiry of the moratorium. The conditions which will apply to broadcasting commercial broadcasting licences at the end of the moratorium on the issue of new licences need to be determined by a review, the opposition believes, prior to that time to again provide certainty to existing and aspirant commercial broadcasters and to ensure that conditions are consistent with policy objectives at that time. This amendment incorporates a review of the conditions to apply to commercial broadcasting licences at the end of the moratorium on the issue of new licences to report no later than 1 January 2005.

Amendment (46) is in relation to schedule 4 of the BSA. Amendments proposed in the government’s bill require various reviews to occur during the transition to digital broadcasting. The opposition’s policy position is to amend the report dates for existing reviews—
group A and group B—and to propose additional reviews. So we break them up into group A and group B reviews, with different report dates, and propose additional reviews. Group A reviews are those reviews currently due to be completed by 1 January 2006 or 31 December 2005.

In recognition of the transitional nature of the legislation, it is highly desirable that its consequences and efficacy are measured over the coming years to ensure the parliament’s policy objectives are being properly and effectively implemented. This is particularly so in view of the considerable doubts that have been raised during the process of the Senate committee’s inquiry into the bill. It has become apparent that any reviews undertaken in analysis of the legislative scheme should be conducted as early as practicable. I think there was almost unanimous support for that position.

The group A reviews, as I said, are those reviews required to be completed by 1 January 2006 or 31 December 2005, and the amendment proposes that these reviews be completed by 1 January 2005. So our proposition is that the reviews be brought forward by that 12-month period for the reasons that I outlined. The group A review includes spectrum use, identification and efficient use of available broadcasting spectrum, the simulcast period duration and any further requirements, subscription TV services, and the regulatory and revenue arrangements for datacasting transmission licences; and the implications of the expiry of the moratorium on commercial television licences need to be ascertained prior to its expiry to provide the datacasting industry with certainty. It is clear that there is a considerable degree of confusion on this matter with the ABA disagreeing with the minister’s statement on 16 June—a speech on the status of datacasting licences at the expiry of the moratorium. The final group A review will also include commercial television licences in underserved areas.

Turning to the datacasting transmission licence review and its expanded breadth, in summary the amendment seeks to insert the words ‘competitive and regulatory arrangements’ and further add ‘revenue to Commonwealth provisions’. So the bill provides for a review of regulatory arrangements that should apply to, and the revenues to be raised by the Commonwealth in connection with, the operation of a datacasting transmitter under a datacasting transmitter licence to transmit licensed broadcasting services on or after 1 July 2007. This amendment provides that the review will include the words ‘competitive and regulatory arrangements’ and ‘revenue to the Commonwealth’. The opposition believes that both of these amendments, of some few words, are important to take account of competitive arrangements which are critical to the ongoing conduct of broadcasting policy.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (12.01 p.m.)—Our general attitude is that it is not necessary to bring forward any of these reviews because they are all ‘out dates’, in other words, the latest date by which something might be reviewed. The government are as conscious as anyone else in the industry that this is a fast moving game, that technology can throw up some pleasant and unpleasant surprises for various people and that in those circumstances you need to be flexible and to monitor progress. So we would certainly want to ensure that, if there was a demonstrated need to conduct an earlier review, we did it. The vice of this approach is to simply say that, because you guarantee there will be reviews in all these areas by a certain date with the flexibility to bring them forward if necessary, you are bringing them forward irrespective of need. It is an industry that is going to be regulated to death anyway, and for it to be reviewed on such a frequent basis seems to us to be perhaps very premature.

The first review into the operations of digital television and datacasting is proposed to be brought forward by 12 months, I think. As digital television may not even start in some areas until 2004, a review may exclude findings from those areas. Again, you can have a partial review, and you can tailor it in some respects, but it is likely that bringing forward a wholesale review of the digital television provisions would overlap with
most of the reviews that are already proposed.

Insofar as there is a proposal for a statutory review of streamed audio and video content, we have already made it public that the government will be asking the ABA to undertake a review of video and audio streaming services provided over the Internet and their relationship with broadcasting services. This is a generic issue relating to the convergence of broadcasting with other services and it is therefore proposed to refer the matter to the ABA for its detailed consideration. As the matter does not specifically relate to digital television it was not proposed to make it a statutory review, but parliament will be aware that this whole exercise will be conducted in the public arena and any regulatory changes proposed would require public scrutiny and decision making. We also see the nature of that review as narrow and prescriptive because we need to allow a wide range of possibilities to be examined in relation to the regulation of these industries, not just the issue of whether they should be regarded as a broadcasting service. The review would also have to be conducted in a very short time frame and that is not desirable in an area of such complexity.

In relation to the next review, which I think is in amendment No. 46—‘bring forward all the reviews currently scheduled for 2005 to 2004 into simulcasting and spectrum efficiency’—a review of simulcasting provisions and spectrum availability does need to be conducted closer to the prescribed end of the simulcast period. In other words, we are not seeking to amend the simulcast time frame. Therefore, it is desirable to wait until you are getting reasonably close to the expiration of that period to make a proper judgment about the level of take-up and what arrangements might apply for the simulcast period and beyond.

Digital television in regional areas, as I said earlier, may not have commenced until 2004. In a number of areas, and certainly in remote areas, there is no prescribed start-up date. We need time for all these new initiatives to settle down. The review of whether commercial television broadcasters can offer other forms of broadcasting services, including pay TV services, is also more appropriately timed so that the effect of the introduction of digital commercial television on pay television can be properly gauged, including in regional areas where start-up may not be until 2004.

In other words, you ought to give yourself the maximum opportunity to allow this regime to prove itself, to make judgments in the lead-up to a legislative requirement for change at a later point, but not perhaps conduct a review that may itself be out of date by the time the expiration period arrives. You want it to be as close as reasonably possible, without running out of time, to enable to you make judgments beyond the expiration dates that are still contemporary. So that would be a particular concern in relation to that matter.

In relation to the proposed review of regulatory and revenue arrangements, I do not think we would quarrel to any significant extent with that. The opposition is proposing to include a review of competition arrangements, and I think probably that will be part and parcel of that review in any event. In other words, it is a necessary implication.

The last amendment is (49) and that is to require a new statutory review of the conditions applying to commercial television broadcasting licences on or about 2007. Given the range of reviews already provided for in the legislation, it would seem to the government that it is unnecessary to conduct yet another review into all of those matters—datacasting, simulcast period, multichanneling, other broadcasting services, terms applying to datacasting conversion arrangements and, of course, HD.

Senator BOURNE (New South Wales) (12.08 p.m.)—I have to admit to a bit of confusion about this. I see no problem with moving most of these reviews forward, but I do see a problem with moving the one forward but moving the others forward. I think it would be an amendment to opposition amendment (46). I would appreciate it if someone could tell me if I
have this wrong, but I think the way to do it would be to insert:

60B Reviews before 1 January 2006

(1) Before 1 January 2006, the Minister must cause to be conducted a review of the content of any regulations made for the purpose of paragraph 6(3)(c) of this schedule, which deals with the duration of the simulcast period.

I think also I would need to omit 60(1)(d). If somebody could tell me whether that would give me my proposed outcome, I would be more than grateful. I imagine that the minister might have a view on that.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (12.10 p.m.)—In order to ensure that we are not caught on the run, it might be better if you could stand that one down to enable us to separately consider it. We can vote on all the others now and we will come back to it a bit later.

Senator Bourne—Fair enough.

Senator MARK BISHOP (Western Australia) (12.10 p.m.)—I think that is a sensible path to pursue, if it is acceptable to Senator Bourne. I move:

That further consideration of opposition amendment (46) be postponed.

The TEMPORARY CHAIRMAN (Senator Lightfoot)—The question is that opposition amendments Nos 39, 40, 47, 48 and 49 on sheet 1823 be agreed to.

Questions resolved in the affirmative.

Senator BROWN (Tasmania) (12.11 p.m.)—I am happy to do that. That would mean that, if the committee is agreeable, my amendment No. 2 is put after amendment No. 3, which is at the top of page 8 on the running sheet.

Senator MARK BISHOP (Western Australia) (12.12 p.m.)—That is news to me. I thought we were going to have a discussion over lunch to see whether that outcome would be the case.

Senator Mark Bishop—We cannot have the discussion if we move it now.

Senator BROWN—I put to the committee that we postpone amendment No. 2 till after amendment No. 3, which puts it at the top of page 8 on the running sheet. Is that okay?

Senator Mark Bishop—Yes, that is okay.

Senator BROWN—Chair, we have come to an agreement, if the government is happy for Australian Greens amendment No. 2 to come after amendment No. 3 a little later in the day. I move:

That further consideration of Australian Greens amendment No. 2 be postponed.

Question resolved in the affirmative.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (12.14 p.m.)—I move government amendment No. 1 on sheet DW212:

(1) Schedule 1, page 52 (after line 24), after item 138, insert:

138A After subclause 60(1) of Schedule 4

Insert:
(1A) A review under subclause (1) of a matter referred to in paragraph (1)(h) or (i) is to be conducted on the basis that, if the licence referred to in subparagraph (1)(h)(i) or (i)(i) is a commercial television broadcasting licence, the licensee should, on and after 1 January 2007, be treated in the same way as persons who held commercial television broadcasting licences immediately before that date, in relation to:

(a) the duration of related transmitter licences; and
(b) fees under the Television Licence Fees Act 1964.

The purpose of this amendment is to provide that the proposed review of the regulatory and revenue arrangements that should apply to datacasting transmitter licences on or after 1 January 2007 should be conducted on the basis that, if the transmitter licence is to be used to provide a commercial television broadcasting service, the licensee should be treated equitably with incumbent commercial broadcasters. The statutory moratorium on the issue of new commercial television broadcasting licences is scheduled to end in 2006. From 1 January 2007, therefore, under provisions proposed in the bill, spectrum licensed to datacasters will be able to be used for any other service licensed under the Broadcasting Services Act in addition to licensed datacasting.

The bill provides that the regulatory arrangements applying to the use of this spectrum from 1 January 2007 will be the subject of a statutory review in 2005. The review will also examine what charges and other financial arrangements, if any, should apply to this spectrum. This amendment requires that review to be conducted on the basis that, if the service that the datacasting transmitter licensee transmits on or after 1 January 2007 is a commercial television broadcasting service, the licensee should, from 1 January 2007, be treated in the same way as incumbent commercial broadcasters in relation to the duration of related transmitter licences and fees under the Television Licence Fees Act 1964. It is the government’s intention that, if the licensee obtains a commercial television broadcasting licence for the area where the datacasting transmitter transmits on or after 1 January 2007, there should be a level playing field between that licensee and existing commercial television broadcasters in relation to tenure of spectrum and the licence fees applying to the use of that spectrum. So the 2005 review would be conducted on the basis of competitive neutrality at that point.

Amendment agreed to.

Senator MARK BISHOP (Western Australia) (12.16 p.m.)—by leave—I move opposition amendments Nos 50 and 51 on sheet 1823:

(50) Schedule 1, item 139, page 52 (line 27), omit “2004”, substitute “2003”.
(51) Schedule 1, item 139, page 52 (line 28), omit “2004”, substitute “2003”.

This goes to what we have characterised as the group B reviews to be completed by 1 January 2004, going to the issue of HDTV quota review. We say that, for the same reasons that the group A reviews require timely completion, the HDTV quota review requires the same treatment; that is, the legislation is transitional in nature and it is highly desirable that its consequences are measured over the coming years to ensure that the parliament’s policy objectives are being properly and effectively implemented. Doubts raised during the process of the Senate committee’s inquiry into the bill indicate that any reviews undertaken in analysis of the legislative scheme should be conducted as early as practicable.

The review of the HDTV quotas is required to be completed by 1 January 2004. Amendments Nos 50 and 51 propose that these reviews be completed by 1 January 2003. This review involves a review of HDTV quotas, both generally and in remote or single-service areas by commercial and national broadcasters. Once again, the issue as far as the opposition are concerned is the progress of implementation of the legislation and the issue of the HDTV quota review. We are of the view that, for the reasons that were put forward in the Senate inquiry—reasons which I will not bother to repeat now—are better done sooner rather than later, and so we amend to bring that forward to 1 January 2003.

Senator BOURNE (New South Wales) (12.18 p.m.)—The Democrats cannot agree
with Senator Bishop on this one. We do not believe that within two years of HDTV starting up there will be enough take-up of the hardware—especially if you do not really need it, because the other is not about to be turned off—for us to have a reasonable and fair view of whether HDTV is going to be successful. We would rather that that was put off for another year, and so we would rather stick with the government’s timetable on that one.

Amendments not agreed to.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (12.19 p.m.)—I move government amendment 24 on sheet EK215:

(24) Schedule 1, page 53 (after line 8), after item 139, insert:

139B At the end of paragraph 62(1)(c) of Schedule 4
Add “or (10A)”.

139C At the end of paragraph 62(3)(b) of Schedule 4
Add “or (10A)”.

This is a technical amendment and involves the insertion of references in clause 62(1)(c) to new schedule 4 clause 8(10A) and in clause 62(3)(b) to new clause 23(10A). I am sure you are now fully informed of what it really does! Just in case, it is designed to ensure that an application can be made to the AAT for a review of decisions relating to the issue of a replacement transmitter licence, as mentioned in subclause 8(10A) and 23(10A), as well as in subclause 8(8) and 23(8).

Senator MARK BISHOP (Western Australia) (12.20 p.m.)—I advise the minister that we have given this particular amendment a lot of consideration and are going to give you informed consent.

Amendment agreed to.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (12.20 p.m.)—I move government amendment No. 26 on sheet EK215:

(26) Schedule 1, item 140, page 53 (line 22), after “a range of”, insert “innovative”.

This is a minor amendment to the simplified outline of the proposed new schedule 6, which adds the word ‘innovative’ into the existing third dot point. With this change, the dot point would read:

Datacasting content will be subject to restrictions. Those restrictions are designed to encourage datacasting licensees to provide a range of innovative services that are different to traditional broadcasting services.

It does not substantively change the provisions in the schedule; it simply puts the emphasis on what we all think will be the fruits of the technology revolution, and that is the widespread availability of new and innovative services.

Amendment agreed to.

Senator BOURNE (New South Wales) (12.21 p.m.)—Democrat amendment No. 35 on sheet 1827 goes to the definition of news bulletins. I must say that, having looked at the opposition amendment on this—I believe it is their No. 22 on sheet 1823—it is probably better than mine, and so I would be happy to withdraw mine in favour of the opposition’s on this subject.

Senator MARK BISHOP (Western Australia) (12.22 p.m.)—I seek leave to move opposition amendments Nos 19 to 23 and 26 to 34, on sheet 1823, together.

Leave not granted.

Senator BOURNE (New South Wales) (12.22 p.m.)—I want to comment on that. There are a couple that I oppose or would amend, so could we move them separately. From Nos 22 to 34 at least, I agree with you, Senator Bishop, and also No. 19. But Nos 20 and 21 I have other views on.

Senator MARK BISHOP (Western Australia) (12.22 p.m.)—Leave having been denied, I now seek to move opposition amendments Nos 19, 22 and 23 and 26 to 34 on sheet 1823, excluding opposition amendments Nos 20 and 21.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (12.23 p.m.)—These amendments essentially cover areas that are provided for in government amendments Nos 35 and 41. In our view, ours are more effective in addressing the idea behind the amendments—which we agree with—which is to ensure that news can include related analysis and commentary without breaching the pro-
hibition on current affairs, which is currently in prohibited category A genre. We would prefer the government amendments because they respond to these concerns without affecting the distinction between category A and category B programs. I do not know whether both the opposition and the Democrats might like to consider the government amendments in this context. It may well be that we are in agreement on what we are seeking to achieve.

The TEMPORARY CHAIRMAN (Senator Lightfoot)—Would you care to recite those government amendments, Minister?

Senator ALSTON—Yes, they are Nos 35 and 41. I will indicate what ours do. Amendment 35 would add a new provision that allows news, weather or combined bulletins to also include discussion, commentary or analysis in relation to the items included in such bulletins. Financial market and business information bulletins, which are also in category B, do not need to be amended as they are already defined as including discussion, commentary and analysis. Consistent with amendment No. 35, amendment No. 41 adds a new provision that allows news, weather and combination bulletins, which are selected by end users from an on-screen menu, to also include discussion, commentary or analysis in relation to the items included in such bulletins. These amendments recognise that such bulletins are likely to include some commentary or similar embellishment designed to explain or amplify the factual information provided. This amendment will mean that the provision of such commentary will not result in the bulletins being prohibited as current affairs programs under category A.

I think we are all conscious of what, in many respects, can be an artificial distinction between news and current affairs. We think that our approach most effectively addresses it, because it maintains the category A, category B distinction, but it ensures that news, weather and combined bulletins can have that same degree of commentary, discussion or analysis that is allowed in the other category B areas. I think that really should deal with what both the Democrats and the Labor Party are seeking to achieve.

The TEMPORARY CHAIRMAN (Senator Lightfoot)—Senator Bishop, what scheduled item do you wish to proceed with now?

Senator MARK BISHOP (Western Australia) (12.27 p.m.)—I will make a suggestion to the minister. It is now 12.30 p.m. It might be better if we stood down both the opposition amendments and the government’s suggested approach, had a discussion at 12.45 p.m. and brought it back on thereafter, if that is acceptable to both the government and the Democrats.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (12.28 p.m.)—I think there were a few other words that were volunteered, yes.

The TEMPORARY CHAIRMAN (Senator Lightfoot)—Senator Bishop, because leave was not sought, there is nothing before the chair. So we proceed to the next item.

Senator MARK BISHOP (Western Australia) (12.29 p.m.)—I suggest it might be appropriate to go to government amendment No. 32.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (12.29 p.m.)—Government amendment No. 32 is a clarifying proposal. The amendment modifies the definition of a foreign language news bulletin in clause 5 of proposed schedule 6 to ensure that a foreign language news bulletin provided by a data-casting service can include English language captioning or subtitles. The amendment adds a provision in the definition which makes it clear that any English language captioning or subtitles may be disregarded when considering whether a news bulletin is wholly in a language other than English. The amendment also provides that the bulletin can also include discussion, commentary and analysis of items included in the bulletin. This is in keeping with amendments which make similar provisions for other news bulletins.

Senator BOURNE (New South Wales) (12.30 p.m.)—I am a little confused. I would have thought that that amendment was contingent on the ALP’s amendment No. 26 not getting up. Is that correct? We have put off all
of those of the opposition, so I think that
should probably be put off at the same time,
if that is correct.

Senator ALSTON (Victoria—Minister for
Communications, Information Technology
and the Arts) (12.30 p.m.)—We could stand it
down and have it considered in the same
context.

Senator Mark Bishop—Both amend-
ments have the same material effect, so we
are happy to proceed material effect, so we
are happy to proceed with it.

Senator Bourne—Yes, proceed.

Senator ALSTON—I move government
amendment No. 32:
(32) Schedule 1, item 140, page 60 (after line 2),
at the end of clause 5, add:

(3) For the purposes of subclause (1), dis-
regard any English language subtitles or
captioning.

(4) A bulletin referred to in subclause (1)
may include discussion, commentary or
analysis in relation to the items in-
cluded in such a bulletin.

Amendment agreed to.

Senator ALSTON (Victoria—Minister for
Communications, Information Technology
and the Arts) (12.31 p.m.)—I move govern-
ment amendment No. 28:
(28) Schedule 1, item 140, page 57 (line 18), at
the end of subclause (1), add “or to educate
children”.

The Senate Environment, Communications,
Information Technology and the Arts Legis-
lation Committee’s report into the bill rec-
ommended that the bill be amended to delete
the requirement that only those educational
programs that are linked to a course of study
or instruction be acceptable for datacasting
purposes. These amendments respond to that
recommendation by amending the definition
of educational programs in the bill so that
educational programs provided by a data-
casting service are no longer limited solely
by the requirement to be linked to a course of
study or instruction. They may also have the
purpose of educating children. So it amends
the definition of ‘educational programs’ to
add ‘or to educate children’. Amendment No.
28 modifies the test for an educational pro-
pose of the matter to be: ‘to teach, instruct or
train, to assist a course of study or instruc-
tion, or to educate children.’ This amendment
will increase the scope of education programs
for datacasters but without significantly en-
croaching on prohibited genres, such as
documentaries.

Senator BOURNE (New South Wales)
(12.32 p.m.)—I do apologise to the committee
for being such a pain, but I think that this one
was contingent on the ALP’s amendment No.
28 not getting up. I must say I preferred the
ALP’s amendment No. 28, but we have put
that off. Can I ask if I have got that correct?

Senator MARK BISHOP (Western Aus-
tralia) (12.32 p.m.)—Senator Bourne, you do
have that correct. I wonder whether we
should not be treating government amend-
ment No. 28 in the same way as we did the
others, and defer it for discussion over lunch.

Motion (by Senator Alston) agreed to:
That government amendment No. 28 be post-
poned.

Senator BOURNE (New South Wales)
(12.33 p.m.)—My next Democrats amend-
ments go to information-only programs.
Having now seen the government’s version
of those—which I believe is coming up also
as government amendments Nos 29 to 31, I
think theirs are probably better than mine, so
I would withdraw mine in favour of those.

The TEMPORARY CHAIRMAN
(Senator Sherry)—So you are not proceed-
ning with Democrats amendments Nos 36 and
37 on sheet 1827?

Senator BOURNE—Yes.

Senator MARK BISHOP (Western Aus-
tralia) (12.34 p.m.)—Opposition amendments
Nos 24 and 25 on sheet 1823 will not be pro-
ceeded with at this stage.

Senator ALSTON (Victoria—Minister for
Communications, Information Technology
and the Arts) (12.34 p.m.)—Government
amendments Nos 29 to 31 on sheet EK215
will be deferred at this stage.

Senator MARK BISHOP (Western Aus-
tralia) (12.35 p.m.)—I move:
(52) Schedule 1, item 140, page 60 (after line 25),
at the end of clause 7, add:
(3) A determination under paragraph (2)(b) is a disallowable instrument for the purposes of section 46A of the Acts Interpretation Act 1901.

Opposition amendment No. 52 on sheet 1823 goes to the issue of a datacasting fee for commercial television licence holders to be subject to parliamentary disallowance. This amendment subjects the fees determined to be payable by commercial television licence holders for datacasting to parliamentary disallowance. The amendment will ensure that the fees determined to be paid are reasonable and will be subject to parliamentary scrutiny. This whole issue of fees has become quite topical lately. It is a matter that is under constant scrutiny in the press. There is constant discussion in industry circles about the level of fees. The fees are of a significant amount. We do have a new industry emerging in the datacasting area, and the fees that are going to be paid in the future could involve quite significant sums of money and have a significant effect on the future of individual companies and industries, let alone the government of the day. The opposition are of the view that it is appropriate that those fees are, as I said, reasonable and, more importantly, subject to parliamentary scrutiny. Accordingly, we move that they be subject to parliamentary disallowance.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (12.36 p.m.)—There may be some misunderstanding here. I would very much hope that the future of these companies does not depend upon the level of these fees, because these are only intended to cover administrative costs. It would be the ultimate example of micromanagement if we are going to be calling in the ABA to look at its cost structures. I just say for the benefit of others that if the real concern is the datacasting charge to be applied to broadcasters—which, of course, could be quite significant—then that is already disallowable under section 7 of the Datacasting Charge (Imposition) Act 1998.

Senator MARK BISHOP (Western Australia) (12.37 p.m.)—The point the minister raises is correct. It is not the level of fees for the datacasting licences. I seek leave to withdraw opposition amendment No. 52.

Leave granted.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (12.37 p.m.)—I move government amendment No. 33 on sheet EK215:

(33) Schedule 1, item 140, page 64 (line 7), omit paragraph (b).

This amendment will remove the requirement that an extract from a category A television program not be fully self-contained.

Senator BOURNE (New South Wales) (12.37 p.m.)—I think this is another one that goes back to opposition amendment No. 29, which we have put off. If that is the case, perhaps it should be put off as well.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (12.38 p.m.)—Perhaps I should explain a bit further, but I do not think there is any disagreement about this one. The amendment will remove the requirement that extracts of category A programs must not be fully self-contained. This has the result that datacasters may provide extracts of category A programs as long as an extract is not longer than 10 minutes, is not combined with other extracts to form a whole or majority of a category A program and it could be concluded from the facts that the licensee did not intend that it be so combined. The amendment responds to industry concerns that extracts that are not self-contained may be un-intelligible. I think we have all had those representations put to us. Where do you start and finish? Whatever you put on starts at a point: if it is not self-contained, what is it? Presumably, it does not catch someone in mid-flight or halfway through a sentence. It seemed to us, on reflection, that we do not need that provision. The requirement that the matter provided be an extract, the 10-minute limitation and the provisions preventing extracts from being combined are considered sufficient in themselves to ensure that extracts are not used as a means of circumventing the general prohibition on category A programs.

Amendment agreed to.
Senators ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (12.39 p.m.)—by leave—I move government amendments Nos 34 and 43 on sheet E215:

(34) Schedule 1, item 140, page 64 (after line 25), at the end of clause 14, add:

(5) If, because of subclause (2) of this clause, a datacasting licensee can transmit matter without breaching the condition set out in subclause (1) of this clause, the condition set out in subclause 16(1) does not prevent the licensee from transmitting that matter.

(43) Schedule 1, item 140, page 66 (after line 24), at the end of clause 16, add:

(5) If, because of subclause (2) or (3) of this clause, a datacasting licensee can transmit matter without breaching the condition set out in subclause (1) of this clause, the condition set out in subclause 14(1) does not prevent the licensee from transmitting that matter.

The effect of these amendments is to ensure no double jeopardy. The proposed amendments give further certainty by ensuring that programs or extracts permitted by the exceptions to the condition in clauses 14 or 16 are taken to be permitted for the purpose of the other clause. The amendments are intended to limit the risk of double jeopardy in relation to category A extracts and category B news, business, financial information and weather bulletins. This is the crucial point: they ensure that, if something is allowed as an extract, it cannot then be prohibited by the provisions relating to news, business and weather bulletins, and vice versa.

The amendments amend item 140 of the bill, inserting new provisions in proposed clauses 14 and 16 of schedule 6. Amendment No. 34 inserts a new subclause which makes it clear that, where an extract of a television program is permitted under clause 14(2), the condition in clause 16(1) does not prevent the licensee from transmitting the program. Amendment No. 43 inserts a new subclause, 16(5), to clarify that, where a news, business, financial information or weather television program is permitted under subclause (2) or (3) of clause 16, the condition in clause 14(1) does not prevent the licensee from transmitting the program. They are two sides of the same coin. It is simply saying that, if you are okay on one score, you cannot be held to be in breach on the other.

Amendments agreed to.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (12.39 p.m.)—by leave—I move:

(36) Schedule 1, item 140, page 65 (line 30), omit “presenter-based bulletin”, substitute “bulletin (whether presenter-based or not)”.

(37) Schedule 1, item 140, page 66 (line 1), omit “presenter-based”.

The purpose of the above amendments is to remove the requirement for a 10-minute news, financial market, business or weather bulletin to be presenter based. Subclause 16(2) of schedule 6 allows datacasters to transmit a presenter bulletin of not more than 10 minutes. The intention was to allow datacasters to provide short, traditional, overview news bulletins of the kind typically provided by free-to-air television. The key requirements for such bulletins are that they should not be more than 10 minutes in length and they should not be updated more than once every half-hour. Provided these requirements are met, there seems little reason to require that such bulletins have a formal presenter. The amendments, therefore, make it clear that these bulletins can be provided, whether or not they are presenter based.

Amendments agreed to.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (12.42 p.m.)—by leave—I move:

(38) Schedule 1, item 140, page 66 (line 7), omit “minutes.”, substitute “minutes; and”.

(39) Schedule 1, item 140, page 66 (after line 7), at the end of subclause (2), add:

(c) the bulletin is not combined with one or more other bulletins in such a way that the bulletins together constitute a bulletin longer than 10 minutes; and

(d) having regard to:

(i) the nature of the bulletin; and

(ii) the circumstances in which the bulletin is provided;
it would be concluded that the licensee did not intend that the bulletin be combined with one or more other bulletins in such a way that the bulletins together constitute a bulletin longer than 10 minutes.

The purpose of these amendments is to include an anti-avoidance provision to deal with the possibility of a licensee entering into a contrived arrangement through multiple licences to avoid the operation of the 10-minute bulletin rule. These amendments insert anti-avoidance provisions in clause 16(2) of schedule 6 to deal with the possibility that a licensee may enter into a contrived arrangement to avoid the operation of the 10-minute bulletin rule under which a different licensee broadcasts a subsequent bulletin, which the viewer can combine to view as a longer bulletin. This responds to concerns that the same person may use two or more datacasting licences to avoid category B provisions. A similar provision already exists in paragraph 14(2)(d) in relation to extracts of category A programs.

Amendments agreed to.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (12.44 p.m.)—I move:

(40) Schedule 1, item 140, page 66 (after line 15), after subparagraph (ii), insert:

(iia) the bulletin is a compilation of items, the subject of which is the same or directly related, and is not longer than 10 minutes;

This amendment allows compilation news, bulletin, business information and weather bulletins of related or link stories as click-on bulletins under the provisions relating to category B programs in schedule 6. The amendment relates to item 140 of the bill to amend proposed clause 16(3) of schedule 6. Under subclause 16(3), the following category B bulletins are allowed to be provided by datacasters, provided they can only be accessed by a user making a selection from an on-screen menu and they are not presenter based bulletins; single items of news, financial market or a business information bulletin that deals with a single topic or a weather bulletin. The amendment adds a fourth category of bulletin to this list, a bulletin which is a compilation of items, the subject of which is the same or directly related and is not longer than 10 minutes. There seems little reason to disallow compilation bulletins as click-on items if they are allowed more generally under clause 16(2), provided the click-on compilation bulletins comply with the same rules as other allowed bulletins.

Amendment agreed to.

Progress reported.

MATTERS OF PUBLIC INTEREST

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

Rural and Regional Australia: Development

Senator PATTERSON (Victoria—Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs and Parliamentary Secretary to the Minister for Foreign Affairs) (12.45 p.m.)—Today I want to talk about country Australia and rural Victoria in particular. Country Australia has made an indelible and irreversible mark on what we are as a nation and what shape we will take in the future. As a senator for Victoria, I regularly visit rural and regional Victoria, see the resilience of people in the country and enjoy enormous hospitality from those people. I recently attended the completion of a Work for the Dole project in Churchill, Gippsland and was pleased to officially open the Churchill community swimming pool project. Try Youth and Community Services were the group that oversaw the project, and they have developed a number of Work for the Dole projects covering 11 sites across west and south Gippsland and south-east Melbourne. I would like to congratulate them on the work they are doing in those areas.

The Churchill community swimming pool project began in November 1999 and was completed six months later in May 2000. The project engaged seven members of the local community and two supervisors, Mick Kellet and Leon Robinson, and has turned a disused area behind the Churchill swimming pool complex into an outdoor barbecue and play area. Like all Work for the Dole participants, those who participated in the Churchill swimming pool project can be very proud of
their efforts and of the contribution that they have made to their local community.

The 2000-01 budget has seen an expansion of Work for the Dole projects such as the one at Churchill, which is testament to their effectiveness and popularity within the community. Work for the Dole aims to involve unemployed people and, in particular, younger Australians who are looking for work. It aims to harness their interest in maintaining and being part of their local communities. It also fosters necessary work habits and skills and, perhaps most importantly, it develops and promotes the self-esteem of the individual participants. The government is very pleased that almost half of all Work for the Dole participants are in permanent employment or further training or education within three months of participating in Work for the Dole projects. I talked to one of the young fellows at Churchill who, only that afternoon, had been asked to go for an interview for a job. I could see how excited and thrilled he was at the possibility that his involvement in this project might lead to full-time employment.

A few weeks earlier, in my capacity as Parliamentary Secretary to the Minister for Foreign Affairs, I participated in an Access AusAID seminar at the waterfront campus of Deakin University in Geelong. The Access AusAID seminars are an opportunity to introduce local Australian industries to business opportunities in the development work which the federal government funds overseas. The Geelong seminar was very well attended and showed that businesses in Geelong have an acute sense of how to generate growth and ultimately jobs for the local community, and I commend them for that. While I was there, I had the pleasure of launching the official Smart Geelong Network web site, which aims to promote an integrated Internet entry point for businesses, education, industry and tourism ventures to access information about Geelong and the surrounding region. The network aims to promote Geelong as a region of excellence in education and research capabilities and is an initiative of the Geelong Chamber of Commerce. The web site will allow access to a much wider audience and will market Geelong and the region in a coordinated and very direct way.

While I was in Geelong, I also visited Sacred Heart College in Newtown to thank the students there for their outstanding fundraising efforts during the recent stay of the Kosovar evacuees at the Puckapunyal safe haven in central Victoria. The students of Sacred Heart College took on the Kosovar children as a special project and collected books, musical instruments and other items for use at the safe haven. They also raised enough funds through a casual clothes day to purchase an English-Albanian dictionary for every family at the haven, which has been invaluable in the continuing English language education of the Kosovars as they have returned home.

Ballarat is a city of great history and character—a fact that you cannot help but notice as you enter the city and see the tremendous buildings and the great heritage from the gold rush days. I visited there, working with my colleague Michael Ronaldson, in my capacity as Parliamentary Secretary to the Minister for Foreign Affairs. When I visited a local school, it was heartening to see the interest that the students took in Australia’s de-mining project. As Australia’s special representative on de-mining, one of my roles is to actively promote the Destroy a Minefield program and to encourage Australians to be involved in a project we have in western Cambodia. Mr Ronaldson and one of my other colleagues, Fran Bailey, have taken a very active interest in this. Fran Bailey has talked to people in schools and in Rotary clubs about de-mining and has really encouraged her electorate to be involved in this challenge. Through the encouragement of Mr Ronaldson, Loreto College in Ballarat has also become involved in the challenge of raising funds for the area of western Cambodia where we have a very important de-mining program.

Since coming to office, the Howard government has introduced practical measures designed not only to bring jobs, employment and some measure of prosperity back to rural life but to place the tools and mechanisms of that prosperity back into the hands of local communities. Undoubtedly, it is from our
local communities that long-term and sustainable solutions to problems and concerns spring. The coalition government has supported country Victorians and Australians on both counts. As the Deputy Prime Minister, John Anderson, said recently:

... our broader goal must be to provide all regional communities with the tools they need to find and develop their best opportunities. They know what their strong points are ... They know best how to develop those strong points.

The aim of this government’s policies is to support rural communities by equipping them with the tools which they will need to address their concerns. The practical measures of the Howard government that will provide positive results for country communities include the $1.5 billion Natural Heritage Trust, which has funded myriad practical community initiated projects across Australia, particularly in rural regions, and the $464 million Regional Telecommunications Infrastructure Fund, which has provided $120 million for a television fund to expand SBS broadcasting into rural areas. When I go out to rural areas, this is the thing people ask me about over and over. They want access to SBS. There is also $36 million over three years for increased Internet access in rural Australia. This issue is raised often. People in rural areas want access to the Internet at the speed of transmission that their city cousins enjoy. There is also $25 million over three years for continuous mobile phone coverage along designated major highways and $45 million towards local government funds to support the local government authorities’ access for rural people to their online services.

In addition, there has been a $70 million five-year Rural Transaction Centre program, and that has been designed to support the establishment of rural transaction centres in towns with populations of less than 3,000 people, providing access to services such as banking, post, phone, fax, Medicare and Easyclaim services. When my mother was alive, she lived in a small rural town in New South Wales. It is very important for people in rural areas to have access to something like those transaction centres, because many of them are older people who are not able to drive and who need to be able to make those sorts of transactions easily in their local communities. We have also established a regional solutions fund, which will allow communities to identify and implement development opportunities that meet their specific community needs, with grants between $1,000 and $500,000.

Health is a major issue in rural and regional areas. There is a $137 million regional health services package aimed at enabling rural towns of under 5,000 people to fund health projects that they develop to meet specific community needs, such as a home carer for a recently discharged elderly resident in their own home. The Howard government has also provided just over $1 million to assist people with dementia and their carers living in rural areas. This is in conjunction with an additional $270,000 for the establishment of videoconferencing services in rural centres to help diagnose dementia in the first instance and to provide first-rate care assessments. This is an important area again, as many people in small rural areas are ageing. They are facing the problems of people caring for a loved one often with the younger members of the family significant distances away.

Over half a billion dollars has been committed for a regional health strategy aimed at providing infrastructure funding for a range of new specialised initiatives. There has also been a $49.5 million package for increased access to nursing, psychologists and podiatry services in the country. Nearly $50 million has been committed for a medical specialist outreach assistance package to ensure access to specialist health care for rural Australians. One of the areas of particular need is psychiatric care, and it was previously not possible to receive psychiatric care west of Bendigo. If people were in need, they had to come into Bendigo on one particular day. We need to ensure that specialist health care is more available, and that package goes towards achieving that goal.

There is a $41.6 billion rural pharmacy maintenance allowance, which will improve the access of rural people to quality medicines and pharmacy care. The encouragement of GPs and medical graduates to country areas has been commended by the Hunter Rural
Division of General Practice, and their spokesman said in the Newcastle Herald last month:

This is the first time in living memory that a government has made a serious attempt to rectify the 30 year drain on rural communities in the health sector.

There has been a commitment in a number of programs to encourage young people from rural areas to enter into medical training and also encouragement for them to go back to those areas to deliver health services. Rural and remote communities have also received more than two-thirds of the $22 million available nationally for aged care capital funding, which we use to build and upgrade nursing homes. A report by Professor Gregory, commissioned by the Labor Party when they were in government, demonstrated the appalling neglect of capital in nursing homes around Australia, and particularly in rural and regional areas. That money is being used to address some of the Labor Party’s 13-year lack of attention to building up the capital of nursing homes. A further $5.3 million over four years will go towards reviewing the aged care planning process for rural Australia, and the $240 million that has been dedicated to the Stronger Families and Communities strategy will be directed to rural and remote areas.

Networking the Nation was launched in June 1997 to assist the economic and social development of rural Australia. Some $464 million has been set aside for the BARN—Building Additional Rural Networks—program, for a local government fund for additional mobile phone coverage in several states and for networking Tasmanian schools. The Regional Women’s Advisory Council has been set up to enable rural women to participate further in issues of concern to their communities. It has its own web site to enable easy access to this forum, and the address is www.dotrs.gov.au/regional/rwac. The women in the Regional Women’s Advisory Council are dynamic and enthusiastic advocates of not only the needs of people in rural and regional areas but also the skills and the initiative that they can bring to bear in encouraging local communities to maximise the resources they have and the positive aspects of their local communities. They are the very ones that know the attributes of their local areas, the things they can promote and the things they can do. Many of my federal colleagues and I met those women the other day, and I was incredibly impressed by their dynamic approach and by their interest.

There are many other programs, but time has caught me out. I want to contrast the approach of this government with that of the state Labor government in Victoria, for example. The state Labor government in Victoria said before a campaign that they could not fund an ambulance service, but when a by-election came up, they suddenly found the money for it. Then they produced a document on the campaign. They told us in each booth where they spent money and what the swing was. That is not the approach this government is taking. It is looking at the overall needs of the community and at addressing those needs rather than trying to attack a problem when faced with a by-election, which is what happened in the state of Victoria.
commitments, not its own legislation, not even common decency.

Senators may have noticed some coverage in the Australian Financial Review recently on 30 and 31 May and 2 June about the appointment and subsequent sacking of Chris Stewart, formerly Director of Public Affairs at the Australian Bankers’ Association, as Director-General (Communications and Public Affairs) at the Department of Defence. According to the Australian Financial Review, the Minister for Defence, Mr Moore, was irate about Stewart’s appointment because of his involvement in the ‘cash for comment’ scandal while at the Bankers’ Association. The appointment and Stewart’s background had been revealed by the Financial Review in a ‘Rear Window’ piece on 30 May. The AFR reported that Mr Moore had phoned Defence Secretary Allan Hawke to ‘express his displeasure’ about Mr Stewart and that Mr Hawke decided he ‘did not want him’. According to the Financial Review, ‘Stewart, who had been working as a freelance with the scandal-plagued department’... ‘was out the door before he had officially started his $130,000 a year gig as Director-General with Defence’.

Senators may be interested to know that the facts were not quite as portrayed in the Financial Review and that there were several other players in this drama. When Chris Stewart began work with the Australian Bankers’ Association in May 1998 one of his first tasks was to initiate a strategic market research program. He contacted companies that had previously provided research services to the ABA and asked for proposals. Two of the companies consulted were Australian Research Services, which is run by Mark Textor, the Liberal Party’s pollster, and UMR Pty Ltd, which is run by John Utting, who polls for the ALP. UMR was both cheaper and more innovative in its proposal and ultimately got the job. Apparently, Mr Textor hit the roof when he learned that he had missed out. He told Mr Stewart that he was making a very big mistake and would regret the decision. He told the ABA that he would do everything possible to ensure that their access to government, and particularly to the Prime Minister, was curtailed.

It was about this time that the director of the Liberal Party secretariat, Mr Lynton Crosby, well known as a close friend and supporter of Mr Textor, weighed in on his mate’s behalf. Mr Crosby told a number of bank CEOs and senior staff that they could thank the ABA, particularly Mr Stewart, if they had trouble gaining access to the Prime Minister and ministers in future. For the next two years, Mr Textor and Mr Crosby bad-mouthed Mr Stewart and ABA Chief Executive Tony Aveling at every opportunity. The line they put about was that they were idiots giving the bank’s business to Mr Utting because this would lead to sensitive banking research falling into Labor’s hands. To me, such an allegation just sheds more light on Mr Textor’s and Mr Crosby’s modus operandi than that of the ABA and Mr Stewart.

But none of this will surprise senators on either side of this chamber who will be aware of Mark Textor and his methods. This is the character who learned his research strategies from the extreme right Republican identities in the US, like the Reagan pollster Richard Wirthlin, who devised a scheme to improperly siphon off Northern Territory taxpayers’ money to fund Country Liberal Party political research. Together with Shane Stone and DDB Needham, they devised and implemented a push polling strategy in the 1994 Northern Territory election, deliberately telling lies about Labor Party candidates. And, of course, they were also involved in the push polling strategy implemented by Andrew Robb and the federal Liberal Party in the 1995 Canberra by-election and later had to pay damages to the ALP candidate.

In January this year, after the ABA completed its inquiry into radio 2UE, John Laws and Alan Jones, Chris Stewart decided to return to Canberra. The banks had decided to review and restructure the ABA and his job was likely to change as a consequence. He left the Bankers’ Association on good terms with his employer. In early April he was approached by an executive recruitment firm asking if he would be interested in a senior public affairs position with the Department of Defence. His response was along the lines of, ‘Well, you should know who you’re talking to. I’m the Chris Stewart who was recently
involved in the so-called ‘cash for comment’ controversy with the Bankers’ Association. Given the publicity that issue attracted, I think Defence should be asked if they still want to talk to me.’

Some days later he was told that there was no problem and was invited to a meeting with the recruitment firm at which various issues were canvassed, including his time with the banks and the public controversy surrounding the ‘cash for comment’ issue. Eight days after this, he received another telephone call asking him to attend an interview at the Department of Defence. This interview was conducted by three SES officers, led by the Head of Public Affairs and Corporate Communication, Ms Jenny McKenry. Again, the issue of the Bankers’ Association was discussed, including the circumstances of Mr Stewart’s departure from that organisation. The committee spoke to the ABA Chief Executive, Tony Aveling, to confirm details of Mr Stewart’s performance and the circumstances of his departure.

Two weeks after the final interview with the Department of Defence, fully aware of Mr Stewart’s background and experiences, he was offered the position of Director-General (Communications and Public Affairs) in the Department of Defence. Initially he declined the position because the package offered was less than he expected. Defence came back quickly with a better deal and Stewart accepted the offer. He began duty on Monday, 22 May. His appointment was gazetted on 25 May with a date of effect of 1 June. He was given an AGS number—762-39114. All Defence staff and the minister’s office were notified of the appointment by means of a circular, DEFGRAM 136 of 2000 of 18 May. The circular included a reference to his previous position at the ABA. His appointment, a two-year contract, was endorsed by the Public Service Commissioner.

He had been in the job for eight days when on Tuesday, 30 May, the same day that the first piece appeared in the Financial Review, he was called to a meeting with Ms McKenry. She informed Mr Stewart that the secretary had received information that Mr Stewart had been sacked from the ABA under very dark circumstances. Ms McKenry said this was not consistent with what Mr Stewart and Tony Aveling had told the selection committee. Mr Stewart protested that the information was patently untrue and he asked for specifics of the allegation and the person making it. He was told only that the secretary ‘had received a phone call’ and that the story was circulating widely in Sydney. Mr Stewart was asked to set out in writing the details surrounding his time at the ABA, the ‘cash for comment’ controversy and the terms of his departure from the ABA. He was told that efforts were being made to contact Mr Aveling, who was now retired and on a hiking trip in the United Kingdom, to reconfirm his advice. That afternoon Mr Stewart provided the information requested, along with documents clearly refuting the allegations.

The next morning, Wednesday, 31 May, Stewart was summoned to the secretary’s office. Mr Hawke told him that the minister’s office had made it very clear that they would not now or at any time in the future work with Stewart. Mr Hawke said that this created an untenable situation. He said that in the circumstances it would be best if Mr Stewart did not take up the appointment. Shocked, Stewart asked for time to discuss the matter with his legal adviser. He was still in discussions with that adviser when he received a call from Ms McKenry to say that she had a letter to hand to him from the secretary and that the news was not good.

The following morning Stewart was handed a very brief letter from the secretary saying he had considered the material provided by Stewart and ‘other matters relevant’ to his appointment with the department and had decided not to go ahead with the engagement. Why the sudden change of heart? After all, it was Mr Hawke who had approved the terms of the offer of employment to Stewart. It was Mr Hawke who had signed off the announcement of Stewart’s appointment. It seems clear that what changed the secretary’s mind was a mystery phone call and the unequivocal message that he received from the minister’s office that Stewart was unacceptable.

I have reason to believe that that phone call was but one in a chain of calls involving ministers’ advisers, including Arthur Sinodi-
nos, the Prime Minister’s Chief of Staff. I understand that Sinodinos told those that he called that he was acting on information given to him by a trusted bank contact. Sinodinos, of course, was one of the people to whom Textor and Crosby complained bitterly about Stewart and his decision on the research contract two years earlier.

What we are dealing with here is a clear case of political payback. Chris Stewart crossed Mark Textor and Mark Textor used his Liberal Party mates to settle the account. The grounds that have been cited for Stewart’s sacking are spurious. He was appointed to the Defence job on merit. There were no false pretences. He was completely up-front about his work with the ABA and his involvement in the ‘cash for comment’ controversy. He left the ABA of his own volition and on good terms with his employer. He was not sacked. This is corroborated in writing by the ABA’s chief executive. Stewart’s appointment to the Defence position was notified throughout the defence department and to the minister’s office as early as 18 May, four days before he took up duty and nine days before the telephone call to the secretary. The government is using the revelation of his experience at the ABA as a fig leaf to justify nothing more than a sleazy and vindictive hatchet job.

The government’s action appears to have had its intended consequence of shattering the career and prospects of Chris Stewart; that is, unless the Department of Defence has the courage to question the directions it has received from the government in relation to this particular issue. I believe it has very solid grounds on which to question them, not least of which is section 19 of the Public Service Act, to which I referred in my opening remarks. There are other serious issues which this sorry affair raises. What is the meaning of engagement on merit in the terms of the new Public Service Act when such engagement can so easily be overturned by ministerial fiat? Why should public servants abide by the new code of conduct enshrined in the act when the government displays such utter disregard for it? How can we have confidence in the apolitical, impartial and principled management of the Public Service when management bows with such apparent ease to purely political direction from ministers? The government must come clean on the circumstances surrounding the sacking of Chris Stewart and address the serious issues that it raises. Otherwise, quite frankly, it may as well tear up the new Public Service Act.

I hope that the Public Service Commissioner, Ms Williams, will give this matter her close attention. I would also suggest that, if the Secretary to the Department of the Prime Minister and Cabinet, Mr Max Moore-Wilton, has had no involvement in this matter to date, he also acquaint himself with this issue and that both the Public Service Commissioner and the Secretary to the Department of the Prime Minister and Cabinet take the appropriate action.

Finance Brokers

Senator HARRIS (Queensland) (1.15 p.m.)—In rising to speak on a matter of public interest, I would just like to take this opportunity to express my personal gratitude to the members of the chamber who have conveyed to me their wishes for my recovery from legionnaire’s disease, and also to the overwhelming number of people from the public who have contacted my office. I also would like to place on record my empathy for all of the people who have been struck down by this illness. There is nothing like suffering it to have an understanding of what the other people are going through.

I would like to raise as a matter of public interest the finance brokers issue that has been an issue in Western Australia since as far back as 1992. The information that I have has come from various sources, but I would also like to acknowledge the information that has been provided to me by Denise Brailey from the Real Estate Consumers Association in Western Australia.

A brief summation of the issue can be put in a series of dot points. The first acknowledgment that retirees’ funds were at risk, as I said, was as far back as November 1992. The information that I have has come from various sources, but I would also like to acknowledge the information that has been provided to me by Denise Brailey from the Real Estate Consumers Association in Western Australia.
nately $150 million has been lost in defaulting loans to date. There is $500 million at risk. There are nine brokers involved in suspect dealings and most of those borrowers actually had real estate licences in their own right. At least 40 per cent of the investors have already approached Centrelink and asked for assistance because their position is one of being in absolute dire straits. They have invested their entire life savings or superannuation in these bonds and these funds, and 40 per cent of them now find themselves, as self-funded retirees, with no income whatsoever and great difficulty in obtaining any assistance through Centrelink.

In all the cases investigated to date, the actual straw borrowers and brokers have used none of their own funds. I think that is an extremely significant issue. The way the process has operated is that a property is put up and a purchase contract is made out for the sum of $1 million. This is just an example. But the mortgage prepared for that sale is for $2 million. At the same time there is a valuation created for that property that lists the value of the property at $3 million. So what happens to the second $1 million that is actually created within the mortgage? It is used by the people who are manipulating this process to continually prop up the funds themselves.

The most insidious side of this whole issue is that the scheme has targeted retired people. In this process it has used databases from a considerable number of organisations, even from charitable organisations. They are actually using databases of a very wide group of residents to target mainly retirees. Many of the shonky operators—and I do not use those words lightly—in Western Australia have also been setting up deals interstate, so the scams have crossed all state boundaries. As I said earlier, most of the borrowers in Western Australia are licensed real estate agents. Five law firms have been identified in the media and the parliament as having arranged mortgages for the brokers—and they knew the purchase price—while at the same time lodging the documents for the mortgages on the same day. So these legal practitioners acted, firstly, for the broker; secondly, for the borrower; thirdly, for the lender; and, in some cases, even for the vendor.

The scam itself is not necessarily confined to Australia. In 1990 it was used in Spain, with absolutely huge losses. In 1992 it was used in the United Kingdom and one dealer alone in that area was responsible for the loss of $200 million. In America in the 1980s it was partially responsible for bringing down the Reagan government and it cost trillions of dollars in America to actually pay out the damages. In America alone the cost equated to over $3,000 per man, woman and child to rectify.

A survey by the Real Estate Consumers Association indicated that at least 40 per cent of retirees claim they will need some form of Centrelink assistance within the next six months. Many of them have actually already approached Centrelink. It is estimated that the figure of $2 billion will become the liability, which in all probability will be picked up by the federal government.

So how does the collapse of brokers in Western Australia affect the Commonwealth? It is very simple: these people are predominantly self-funded retirees, and they have lost their entire life savings. They have no income and no other means of supporting themselves other than, in some cases, selling their homes. There are examples of where officers from FISA have suggested that these people sell their motor vehicles and live off the funds from the sale of their assets. It was estimated last year that in Western Australia in excess of 5,000 people fell into that most unfortunate situation.

The situation has ramifications in Queensland as well. However, as there are slightly different laws in Queensland, it has manifested itself in different ways. The licensed traders I am referring to in Western Australia are actually state controlled and the licences are issued by the Western Australian state government. Property overvaluations by the land valuer Mr Ron O’Connor have been included in this process. Mr Ron O’Connor was found guilty in 1996 of misappropriating $61,000 from real estate trust funds.

A gentleman by the name of James Bowman, an 84-year-old retiree, has lost half of
his $72,000 life savings. When the fund he was involved in was wound up, he received 17 cents in the dollar. These people who have spent their lives working and saving to set themselves up to be self-funded retirees, so they have no impact on Australia in a financial sense, now find themselves in a situation where they have to come cap in hand to Centrelink. In Mr Bowman’s case, while he has waited almost six years for this process to be fulfilled, the Finance Brokers Supervisory Board has received many other complaints in relation to this issue.

Mr Bowman was summoned to an inquiry in 1997. The night before he was to make his submission to the board, he received a letter saying that his complaint had been dropped as it had lapsed because of the three-year threshold within which the matter had to be attended to. Due to circumstances not under Mr Bowman’s control—the time lapses—he then found himself in a situation where he did not even have a case he could put forward. In Western Australia laws were enacted in 1975 to give the Department of Fair Trading the power, when informed of a situation such as this, to close down the broker without even holding an inquiry and subsequently to initiate police action relating to that. The difficulty that these self-funded retirees and other people find themselves in is that the act sets out that they are not a client of the broker. To a degree, that should have been fixed in 1995.

In conclusion, the people feel absolutely and utterly betrayed—betrayed by the brokers, betrayed by the very government department funded by taxpayers to warn them of the scams, the fraudulence and the cheats. They feel that their life savings have been so callously taken from them, and that demonstrates a total betrayal of trust by those who are licensed to manage those trusts and funds. The act that is being carried out is totally un-Australian. (Time expired)

Telecommunications: Telstra Country Wide

Senator TIERNEY (New South Wales) (1.30 p.m.)—I rise today to speak about the latest initiative of the Howard government in telecommunications services in the bush called Australia Country Wide. It is the latest step in Australia’s communication revolution.

Since the very first telephones were placed in Melbourne in the Robertson Brothers offices in 1879, the number of households and businesses that have received these services has increased at an exponential rate. It took 100 years for the first five million telephones to be installed. It then took 20 years for the next five million telephones to be installed. Judging by the rate of increase in telephony in other services, particularly through mobile phones and Internet services, I am sure this rate will continue to accelerate at an exponential rate.

During that very long history, there has always been a disparity between the service levels that are available in the cities and those available in the bush. The Howard government, particularly through measures like Telstra Country Wide, has put as an absolute top priority reducing those disparities. It stands in stark contrast to the record of the Labor government over the previous 13 years. I will return to that matter later.

Being based in the Hunter Valley, I am very aware of the need for improving communication services, for getting a better quality and range of services. Not only in the Hunter Valley but across the regions of Australia, this is absolutely vital. It is vital to regional economies to have outstanding telecommunication services because, if I can use an analogy from the 19th century, they are like the railways of that era. The railways in the 19th century opened up Australia. What the telecommunication lines, optic fibre and other means promise to do in the 21st century is open up regional and rural Australia so they can become full participants in the economy and the economic revolution that is sweeping the world. It is vital not just for business but for things such as education and health. The need to actually put in place high level services will help booms develop in regional areas in these various fields.

That is why I am delighted about Telstra’s latest commitment to the bush. They were so excited about this commitment, they rang me on Saturday morning. I was driving between
Newcastle and Maitland and they called me on the mobile phone. The services did work, which shows the way in which they have improved over recent times. I was quite amazed at what they are proposing. It is really quite breathtaking.

Telstra has tried to expand its business in a whole range of ways; they have even tried to do that overseas. But the senior official told me at the time that when they looked around for opportunities to expand business, they had been overlooking one literally in their own backyard—that is, the business that could be expanded in rural and regional Australia. I have just come from one of the parliamentary vital issues briefings, which was looking at what is happening in rural and regional Australia. It is certainly not all gloom and doom. In relation to what is happening to income levels and what is happening in various parts of the bush, there are many good stories to be told. There are many opportunities for telephony to expand in these areas, not just through Telstra but through a whole range of new providers that this government has allowed into the market to increase competition since 1996.

Telstra have set up a program which will inject $350 million into the bush called Telstra Country Wide. The aim of this is to set up a separate Telstra business focused on rural and regional Australia that will have the job of improving telephony in the bush. This will affect—this is why they have moved into this area—three million customers in rural and regional Australia. That is a very significant market and that is why they have set this up as a separate business. If we compared the size of this business with the size of other businesses across Australia, it would rank 20th as a listed company. That is how significant the size of this operation will be. Telstra says its main focus will be to lift the repair rates, the response rates, the service connection rates and the expansion of services across regional Australia. The best way to do that is to run the business not from Sydney or Melbourne but from rural and regional areas. I therefore particularly welcome the location of the headquarters of Telstra Country Wide in Albury-Wodonga, which does show symbolically a commitment to rural and regional Australia by keeping the headquarters of this organisation out of the capital cities.

But they are not just setting up an office in Albury-Wodonga; they are setting up 29 regional centres right across Australia to administer Telstra Country Wide. I am delighted to note that this will also include an office in my home town of Maitland. This is not the first telecommunication milestone to come to Maitland. In 1878, the century before last, the first trunk call in Australia was made between Maitland and Sydney. I was very surprised therefore that, when it was announced that Maitland would become one of the centres for Country Wide, the local member, Bob Horne, publicly criticised this plan. I am scratching my head and wondering why the local member would criticise an arrangement where the headquarters of telecommunications services were brought to the city of Maitland. Does he not want the extra jobs for the locals? I would like him to come on the public record and explain why he is against one of the regional centres for Telstra Country Wide being located in Maitland. It certainly beats me why he would oppose it, particularly when we consider the number of jobs it will create in Maitland and also the flow-on effect of those jobs. Not only that, but the service levels will improve quite dramatically. Not only will we have people making the decisions closer to where the action is but Telstra, through this new approach, will change the way in which it delivers its services.

There are quite a lot of services delivered by Telstra that are very simple in nature and the problems are very quick to fix. They could be fixed by local technicians. We all know the stories of the big Telstra truck arriving with all the people on it. They get there to fix the fault and find it is a very simple fault. It might take five minutes to fix but the people might have waited many days to have it fixed. Therefore, it is better to outsource this and send out local people who can fix simple faults very quickly. If it is a more complicated fault that needs Telstra back-up technicians, they are brought in. That will deliver a much more efficient and quicker service. It is in Telstra’s best interests to do that. It has to do that to meet its legal obliga-
tions under the telecommunications bill that this government passed in 1997. We brought in a customer service guarantee. If Telstra cannot meet the standards in terms of timing, it faces heavy fines. Not only does it face heavy fines but now, since 1997, it also faces competition from a range of providers. Over the next 10 to 20 years we can see the opportunity developing for many companies to come in and take some of this market if Telstra cannot deliver the service. That is why it has set up this separate operation called Telstra Country Wide, to protect its market.

This government has made it clear to Telstra and the other service providers that in the delivery of telephony to the bush they must meet certain telephone standards. It is welcome that Telstra are moving on this very quickly. They are moving quickly to replace ageing equipment and lines in rural Australia, and in April this year they made a commitment to upgrade access networks.

Recently there was more good news for customers in the bush which actually showed that, in response to this new competitive environment and the new available technologies, Telstra are moving very quickly to improve services. The Australian Communications Authority, in the Telecommunications Performance Monitoring Bulletin for the last December quarter, reports that independent studies showed improvement in Telstra’s performance in all but two categories. These improvements were in national performance in providing new connections, in repairing faults and in the provision of new services. At least 90 per cent compliance has been met with the customer service guarantee in six of the eight categories.

There is more good news. For the March quarter of this year, the report from the Australian Communications Authority on Telstra’s performance shows a general movement and improvement in communication service quality. Service standards rose in 11 of the 12 key indicators of service. Telstra’s repair rate in urban, rural and remote areas improved, as did Telstra’s record of supplying new services on time. Of course, there is still room for improvement on this excellent news. This improvement in the December report through to March shows that the government regulatory arrangements, such as the customer service guarantee, are working. The federal government’s plan to make even tougher the consumer service guarantee from 1 July this year is most welcome to increase and improve this service standard.

From August 2000, telephone companies will have to provide financial compensation for failing to meet the guarantee, even when the customer does not ask for it. This initiative is aimed at increasing incentives for all telephone companies to lift their service levels and to deliver better outcomes for consumers.

As for the future, the federal government has already made a real commitment to improving telecommunications services in regional areas. On 31 May, the Deputy Prime Minister, John Anderson, and the Minister for Communications, Information Technology and the Arts, Richard Alston, announced a $65 million fund for telecommunications projects in rural, regional and remote Australia. This will fund 100 new projects in the Networking the Nation program and deal with a whole range of communication issues that face regional Australia in this new telecommunications environment.

The projects funded include public Internet facilities, communication training for indigenous communities, establishing a mobile telephone company, infrastructure improvements in regional Australia, improvement in commercial services and additional training in e-commerce. This federal government initiative gave $250 million to the Networking the Nation project from the proceeds of the first round of Telstra. A further $171 million was designated to the program for four new projects and this came from the second tranche sale of Telstra. So you would wonder why we have opposition from the other side to the further sale of Telstra when this government has already demonstrated through the sale of two tranches that the benefits are returned to the consumer, particularly the consumers in regional rural Australia. I wonder why they are knocking it and I wonder why people like Bob Horne, the member for Paterson, continues to knock what this government is doing and why he continues to refuse to support the sale of Tel-
stra, particularly when you compare this new environment the government has created, this new competitive environment with better services, with what happened under 13 years of Labor government.

In 1994 I was in this chamber when a leaked document out of Telstra showed the appalling service levels in southern and western New South Wales. At that time the repair rates, the response rates for getting out to repair damaged services, the failure of services which led to the CoT cases and also the response time in setting up new services were absolutely appalling. That was in 1994. Here we are seven years later with an absolutely major improvement across the whole of Australia, and it is under this Howard government that all these changes have taken place. There is great improvement in telephony. There are more improvements to come. The sooner the Labor opposition and the Democrats wake up to themselves and realise that a more competitive market driven by private sector incentives will, as it has in other countries, deliver a better telecommunications service for Australia, the better. (Time expired).

Trust Bank of Tasmania

Senator MURPHY (Tasmania) (1.45 p.m.)—I rise to raise a matter I have pursued on a couple of occasions in this place that is of a very serious nature and, of course, has been of much concern to the Tasmanian public. That is the issue of the former Trust Bank of Tasmania, which was a trustee bank that acted under the 1995 Trustee Banks Act, state legislation. The bank, of course, was sold last year to New South Wales State Colonial and has subsequently been sold again or was part of the Commonwealth Bank of Australia’s takeover of Colonial.

One of the important aspects of this process and what is important to the Tasmanian people, who viewed Trust Bank as a Tasmanian institution, is that it was made up of two former banks. One was the state bank known as Tasmania Bank, which was made up of two financial institutions, one an equitable building society and the other the old Launceston Bank for Savings. In the formation of Trust Bank, which occurred in 1991, the Savings Bank of Tasmania, which was primarily a Hobart based bank, took over or bought what was formerly Tasmania Bank, and it was supposed to pay to the state government an amount of money which at the end of the day was reinvested by the state government of the day and so not too much money changed hands and no real benefit came to the Tasmanian community as a result. Nevertheless, those financial institutions were the main financial institutions for Tasmanians to deal with. Indeed, Trust Bank, when it was first formed, had in the order of 45 per cent of the total investments or deposits of the Tasmanian community, which is a significant amount. So it was clearly viewed by Tasmanians as a very important financial institution.

What happened to it is what is important, and a story that must be told. What happened to it was that it started in 1991 and, despite some growth in its early years, albeit not much growth, and despite the fact that it turned a profit until 1996, it was very poorly run. In its last 3½ years of operation, it was in fact a debacle. I have raised a number of points about that previously. Indeed, I have made some accusations with regard to actions of certain members of its management team that, I have a view, could be of a criminal nature. Ultimately some of those matters have been referred to the police. Despite a significant public outcry, there has been resistance on the part of the current state government to conduct a full and proper inquiry. There has, of course, been the establishment of a Public Accounts Committee inquiry which was initiated, I think, of its own motion or by the Legislative Council.

When that happened, I sought to make a submission to that committee, which I will come to in a moment. The committee’s terms of reference were rather limited. It sought to look at essentially two matters. One related to the payments of former directors—because they were former at that point, as the bank had been sold. The other was, or I think subsequently became, the core technology investment that the bank had been making from about 1996. As I said, that is rather limited. I understand the committee invited all the former board members to appear before the committee and make a submission to it. I also
understand that only one of them appeared before the committee—and I am not sure whether he came of his own volition or had to be called before the committee—the former chairman of the board, Mr Gerald Loughran.

A number of other people wrote to, and sought to make submissions to, the committee. I understand their efforts have not been too well received, and I do not think any of them have been invited to make a submission to the committee, including me. I wrote in May, and I did so after a discussion with the chairman of the committee, seeking to make a submission to the committee about the conduct of the management of the bank in financial terms. Although I am not an accountant and do not claim in any way to fully understand financial statements, I went through all the bank’s financial statements from its inception. I thought I had discovered a number of glaring errors, and I think that is the case. I was seeking to go before the public accounts committee to take them through the financial statements and ask them whether they would like to investigate some of these matters further; indeed, whether they would like to ask the former managing director and the board how these conclusions were arrived at in the publicly released financial statements.

Initially the committee indicated to me they would allow me to make a submission, but I received a letter this week which said they would not be allowing me to make a submission but asked me to detail my concerns, which is rather difficult when you want to detail eight years of financial statements. It is much easier to actually appear before a committee and make a submission and point to the problems and respond to questions the committee might have. That is the normal process under which a parliamentary committee should operate. It certainly has been the case with the committees in which I have been involved in this place. I have never participated in a committee which has heard from only one witness, and that person is a member of the body which is under scrutiny. I thought it would be highly logical, in a commonsense way, to actually receive submissions from other people so you can test the validity or veracity of the evidence received from this other person or persons. That does not appear to be the case in this instance.

I want to highlight a couple of matters today to illustrate why these things must be tested, why this inquiry should be extended and why there should be a proper audit of the former Trust Bank management. Senators should consider some of the evidence that was given to the public accounts committee by the former chairman. In his initial appearance, which was on 31 March this year, he indicated to the committee that the board of the Trust Bank had the power to make an ex gratia payment to the former managing director of $105,229. In fact, he told the committee that that payment was made under a gratuity fund arrangement that existed for very long-serving employees—employees with in excess of 25 years service. Mr Kemp had been there for barely 14 and a half years. This bloke, Mr Gerald Loughran, appeared before the committee under oath and told it that the board had approved the payment as part of the gratuity fund payment, which was totally wrong. He, in fact, misled the committee. He appeared before the committee later, on 19 May, and he corrected that error. He went on to try to argue that the board still had the power to make the payment, which is patently incorrect.

Some senators in this place may have read in the papers about the payment to Mr David Airey of $3 million for seven months work—indeed, it was not really seven months work. Why these people proceeded to put all these things in place is a mystery to the Tasmanian public and an unacceptable outcome for the Tasmanian public, especially when one looks at the financial statements and the operating expenses of this bank for its final year of operation, which I have checked against other banks. The Trust Bank was the smallest bank in Australia and yet its operating expenses were comparable with any other bank, all of which are larger. I tried to find some banks, like the State Bank of Queensland and Bendigo Bank, which I could reasonably compare on a per customer basis, et cetera but it is not possible to find any financial institution that has the sorts of operating expenses of this bank. I found a column headed
‘Other’ in the financial statements, with no explanation. For the last year of the Trust Bank’s operation the figure in that column was over $70 million. It went up by $8 million in the last year.

I wrote to members of the Tasmanian parliament, in both upper and lower houses, and Mr Loughran wrote a letter. He sent me a copy of the letter and he tried to explain that you do not explain the ‘Other’ column because it might have some impact on the competitive viability of the bank. It went to paper, pens and things like that. You can buy a lot of paper and pens for $70 million. That needs to be explained. The people of the state have a right for that to be explained to them. There is a 30 per cent increase just in the ‘Other’ column, forget about all the other operating expenses. It relates to $70 million—a 30 per cent increase in one year; that is, $8 million. You can do a lot of advertising and buy a lot of pens, paper and everything else for that sort of money but there is no explanation.

Before the public accounts committee finishes its inquiry, it should at least seek an explanation from people who can give the explanations, because those people do exist. There are bank documents that I know about—and I know from where I can get them—that provide a lot of information about why this bank was so pathetically run. It can only point to one thing—that these people acted in a grossly negligent way and they should be pursued no less than other people have been in the case of the State Bank of South Australia and the Victorian State Bank. There is no way that this should be swept under the table just because the bank has been sold. People have a responsibility. The people in charge of this bank had a responsibility under state legislation.

From another point of view, the directors of this bank set themselves up with the directors allowance retirement fund. On what basis did they do that? ‘Well,’ they said, ‘1981 legislation.’ Where is that legislation? It in fact ceased to exist in 1985. They have kept for themselves something that was in breach of the legislation they were operating under. Subsequently, in 1991, the legislation was changed again. Did it mention any directors allowance retirement fund? No. These people have had their snouts in the trough, they should be exposed for it and they should be pursued under common law and made to pay for what they did to a very important financial institution in Tasmania.

QUESTIONS WITHOUT NOTICE
Goods and Services Tax: Banking Fees

Senator CONROY (1.59 p.m.)—My question is to Senator Kemp, the Assistant Treasurer. Can the minister explain how the GST has led to a 10 per cent increase in Westpac’s fees for its small business customers when the government’s own ANTS package predicted that banks would save $670 million in costs from the introduction of the GST? Why is Westpac increasing its fees instead of passing these savings on to its customers?

Senator KEMP—I thank Senator Conroy for that fairly topical question.

Senator Conroy—In ANTS—page 170.

Senator KEMP—Just relax, we will get to that. Frankly, given the GST treatment of banks, it is very difficult to see how the increases announced by Westpac can be justified. In fact, last February—this probably goes to the nub of what Senator Conroy was on about—the Commonwealth Bank’s Managing Director stated that bank customers should pay less in fees and charges under the GST. For example, in the Adelaide Advertiser—a very worthy newspaper—there was the headline ‘GST will cut fees says bank chief’. The article states:

“Bank customers should pay less in fees and charges under the GST,” the Commonwealth Bank’s Managing Director said yesterday. He went on to say that banks would benefit particularly when the financial institutions duty was scrapped. I wonder if the Senate can remember who is really responsible for the delays in the scrapping of the FID. Who is really responsible for that delay? Senator Conroy and his colleagues are responsible for that delay.

Senator Conroy—You did the deal with the Democrats.

Senator KEMP—Senator, I know you are a bit tense about all this, but the truth is that the Labor Party adopted an incredibly nega-
tive attitude to tax reform. There were changes made, and one of those was the delay in the scrapping of the FID. What is the reason for the delay? The answer is that the ALP is the reason for the delay.

Senator Conroy—Come on, get Fels to beat up the banks.

Senator KEMP—Before he slags off—an unfortunate expression but nonetheless true when you refer to Senator Conroy—other people, he should look very closely at his own behaviour on this and the behaviour of his own party. I have referred some quotes to Senator Conroy. What am I going to do about it? I am not actually the responsible minister in this particular area of the ACCC. But my understanding is, and I will seek confirmation, that Mr Hockey is the responsible minister.

Senator Conroy—You represent him in this chamber.

Senator KEMP—I am answering your question.

The PRESIDENT—Order! Senator Conroy, the minister is answering your question and you should not be engaging in conversation across the chamber.

Senator Conroy—I don’t mind if you blame Hockey.

The PRESIDENT—Senator Conroy, I just drew attention to your behaviour.

Senator KEMP—I am attempting to answer Senator Conroy’s question but, every time one responds, Senator Conroy gets overexcited and starts to jump up and down and call out. Mr Hockey, the responsible minister, is concerned about this matter, and my understanding is that he will refer the matter about Westpac fees to the ACCC.

Senator CONROY—Madam President, I ask a supplementary question. Is this 10 per cent increase in fees for Westpac’s 600,000 small businesses one of the significant benefits the Prime Minister promised would flow to small business as a consequence of the GST in his address to the nation on 13 August 1998?

Senator KEMP—There is no argument that very significant benefits will flow to small, medium and large sized businesses as a result of the new tax system. I do not think that that can be argued. In fact, tax reform had its genesis quite a long time ago in the concerns that the business community had about the mess of a tax system that was left to this country by the Labor Party. The Labor Party showed no capacity to bring about substantial reform. This government believes in reform. This reform is good for business and good for Australia, in contrast to the negative, carping attitude of the Australian Labor Party. When this plays itself out fully, the Labor Party will be exposed for the hypocritical approach it has taken to this very important prospect of tax reform.

Economy: Growth

Senator LIGHTFOOT—My question is also directed to the Assistant Treasurer, Senator Kemp. Will the minister inform the Senate of studies that confirm the strong performance of the Australian economy under the Howard government? How will tax reform further boost the Australian economy?

Senator KEMP—Last week I was able to inform the Senate of the strong national accounts figures for the March quarter as well as the favourable survey results of the Westpac Melbourne Institute leading index of economic activity. Yesterday, the evidence of a strongly growing economy received further support from the Australian Industry Group/PricewaterhouseCoopers survey of manufacturing. The survey shows that in the manufacturing industry for the June quarter production has risen, sales are higher, exports are increasing and capital spending remains strong. Importantly, the survey also confirms that the manufacturing sector is defying the doom and gloom forecasts that the Labor Party constantly assail this chamber with.

Surveys such as this are symptomatic of the strong climate of low inflation and high productivity economic expansion which has been a feature of the economic performance of the Australian economy over the past five years. Senators will remember that it was for this reason the OECD named Australia as one of the six fast-growth new economies of the 1990s. In particular—and I think this is important—the OECD praised Australia’s record of structural reform and noted that exces-
sive or distorting taxation was detrimental to entrepreneurial activity.

Senator Cook—That’s the Labor Party that did that.

Senator Kemp—I appreciate the interjection from Senator Cook. Senator Cook said that it was all due to the Labor Party. I think people remember that what was due to the Labor Party was the recession we had to have. Senator, you were a senior minister in that government. There has been a debate in this chamber about Labor’s approach to taxation. I think that makes a lot of sense. We have had various views about when Labor’s tax policy is going to be announced. Senator Sherry told us a little while ago that it was going to be announced at the national conference. The shadow Treasurer, Mr Crean, indicated that it was going to be announced closer to the election. But I have to say that Senator Cook has done it again. Just two nights ago in the Senate this is what Senator Cook said—and I wish to share this with the chamber:

‘Vote with us, support us at the next election and we will ameliorate the worst features of this GST and eventually roll it back.’

But get this, this is the key quote:

We cannot say exactly how until we get control of the Treasury and see what the nature of the 2001 budget is ...

There we are. This is the party that the community trusted in 1993. What did we get? We got higher wholesale sales taxes, higher excises and broken promises on the l-a-w law tax cuts.

Senator Lightfoot—Madam President, the minister’s answers were somewhat truncated by the interjections of fear from Her Majesty’s opposition, so I am forced into asking a supplementary question. Is the minister aware of any alternative policy approaches?

Senator Kemp—Thank you very much, Senator Lightfoot. I must say, as usual you are very much on the ball, Senator Lightfoot. We recently had the ACTU meeting. There will be people in this chamber who know the ACTU. In fact, I think everyone on the other side is a member of a body which belongs to the ACTU. There is nothing wrong with that. All I am saying is that the Labor Party is dominated by an awful lot of trade union leaders. We have, for example, Mr Doug Cameron writing a ‘back to the future’ trade policy for the Labor Party. Let me make it clear: Senator Cook has made an important contribution on trade policy and we look forward to Senator Cook telling Doug Cameron where to get off. We look forward to your quotes on that. We see Mr Greg Combet and Sharan Burrow announcing non-union agreements and ditching, I might say, the very important secondary boycott provisions.

(Time expired)

Lucas Heights: Nuclear Reactor

Senator Faulkner (2.10 p.m.)—My question is directed to Senator Minchin, the Minister for Industry, Science and Resources. Can the minister confirm whether the cabinet decision regarding the replacement nuclear reactor for Lucas Heights was a final binding decision or just a preliminary decision open to further negotiations behind the scenes? If it was a final decision, does the minister have any response to reports that the Secretary to the Department of the Prime Minister and Cabinet, Mr Max Moore-Wilton, has been agitating to have the contract taken off the INVAP consortium and awarded to the French tenderers? If Mr Moore-Wilton has been attempting to get this contract changed, does he have any cabinet or prime ministerial authorisation for this course of action?

Senator Minchin—I noticed the press reports to which Senator Faulkner is alluding. Can I just restate the position: ANSTO, after a very rigorous process, sought, under the relevant legislation, my approval to enter into a contract with INVAP for the construction of a replacement research reactor at Lucas Heights. Under the legislation, it is ANSTO’s obligation to seek my approval as the relevant minister before entering into such a contract. In accordance with good practice and presumably practices adopted under the previous government, I, at an appropriate cabinet meeting, drew to the attention of the cabinet my proposal to approve ANSTO entering into a contract with INVAP as a result of the very rigorous process, the various probity audits et cetera, that ANSTO had gone through—all of which are available.
There was no demur from my notice to the cabinet that I intended to give that approval. There was no objection and no discussion in effect. Indeed, I pointed out to the cabinet that, prior to coming to the cabinet, I had sought the foreign minister’s assurance that he saw no difficulties with entering into this contract from a foreign affairs point of view. He gave that assurance. I do not know what the basis of the press reports are with respect to Mr Moore-Wilton. He has not directly said to me that he has grave concerns about this contract. Indeed, I believe this contract has clearly been awarded to the best tenderer and that it will be very good for our relations with this leading South American country and with South America in general. I have had no information drawn to my personal attention that gives sustenance to the story that was in the Adelaide Advertiser today.

Senator FAULKNER—Madam President, I ask a supplementary question. Given the serious leak that the minister refers to in the Adelaide Advertiser, which of course involves tender negotiations and has foreign policy implications, will the minister be insisting on a comprehensive Federal Police investigation of all aspects of today’s breach of cabinet security, including which public servant, which ministerial staffer or perhaps, Minister, even which minister passed this information on to the Adelaide Advertiser?

Senator MINCHIN—I thank Senator Faulkner for his advice, but I am not sure what cabinet leak he is referring to. As I say, this was not a matter for cabinet decision; it was merely for cabinet to note that I intended to approve ANSTO entering into this contract. So we are not talking about the leak of anything that I am aware of, nor were we discussing a cabinet decision. If he has a difficulty, he can ring Mr Moore-Wilton himself. But, as I say, Mr Moore-Wilton has not raised with me any concerns about this contract.

Gambling: Interactive Services

Senator CALVERT (2.15 p.m.)—My question is directed to the Minister for Family and Community Services, Senator Newman, as Chairman of the Ministerial Council on Gambling—just one of her many roles. Will the minister advise the Senate about community concerns with problem gambling and why the Commonwealth government has taken such a strong stance in respect of interactive gambling? Will the minister also advise the Senate of any alternative policies in this area?

Senator NEWMAN—I thank Senator Calvert, a colleague of mine who is also from Tasmania. Of all the states in Australia ours is the one that has so many people on low incomes who can ill afford to become problem gamblers, and yet our state government seems to be going willy-nilly down the road of trying to diminish the existing gambling industries—like the racing industry, which in Tasmania is having difficulties, as it is in a number of other states. Interactive gambling will only be a job killer for those industries. Our government has repeatedly made clear its views on the potential for new interactive technologies to increase the amount of problem gambling in Australia and the negative social impacts of gambling on families and communities. All of us in this chamber see sad cases of what has happened to families in the break-up after problem gambling. Yesterday, my colleague Minister Alston and I announced that legislation to impose a 12-month moratorium on the introduction of new interactive gambling services will be introduced. The legislation will be based on the date of the introduction of new interactive gambling services and not on the date of the licence. The legislation will be enforced as a criminal offence and breaches will attract significant penalties.

I am extremely disappointed by those of my state colleagues who have ignored public concern about the extent of gambling. They have rejected our calls to slow the growth of the interactive gambling industry by issuing online gambling licences. It is interesting that the move by Gocorp to seek a second Australian licence, based on the lower tax rates offered by Tasmania, demonstrates the competitive nature of the interactive gambling industry and the desire to maximise profits from gambling without concern for the social impacts.

Senator Patterson interjecting—

Senator NEWMAN—It is a disgrace, Senator. The work of the Productivity Com-
mission and any amount of social research on
gambling clearly demonstrate that there are
substantial negative social impacts. The
states and territories generally have been
driven by a concern for revenue and have had
scant regard for the social impact. The
Queensland Treasurer had to stand aside
while some of his own party colleagues were
involved in a company investing in a Queen-
sland online gambling business.

The Productivity Commission found that
Internet gambling has the prospect for sig-
nificant growth, including the likelihood that
it would attract new groups of people, par-
ticularly the young, and for contributing to
the growth of problem gambling through
readier access.

I have been very pleased with the stance of
the New South Wales Labor government,
which has urged its federal colleagues to
support the moratorium. But, beyond that,
there has been belligerence from other states
and territories. Just as we on this side call on
Queensland senators and Labor to support the
Queensland government’s efforts to introduce
its own native title land management provi-
sions, so should New South Wales senators
support the Commonwealth’s efforts to mini-
mise the detrimental effects of problem gam-
bling’s growth on society.

It is time for the other parties to stand up
on this issue and take a moral stance on the
substantial social issue of problem gambling,
a problem that potentially could become
much worse—and I believe that Senator
Woodley would have great sympathy with
the views that I have just expressed.

Perhaps those state Treasurers who are
rushing to rake in the money are not in touch
with their communities and with the pain and
hurt and social dislocation that have been
occasioned by the existing readier access of
poker machines to the people in their
states. They are only compensating the prob-
lem by giving yet readier access to families
in homes right around this country. The time
has come for all governments to take action
on a problem that is facing the nation before
it becomes a serious problem, as poker ma-
chines already have become.

Goods and Services Tax: Compliance
Officers

Senator SHERRY (2.19 p.m.)—My ques-
tion is to Senator Kemp, the Assistant Treas-
urer. Isn’t it a fact that the coalition govern-
ment has recently tasked the ACCC to
monitor: 8,000 petrol stations; 2,800 caravan
parks; 3,300 new car retail franchises; 3,700
used car dealers; telephone wholesalers and
retailers; the banking industry, insurance
companies and the airlines; and the cab-
charge and stevedoring systems? Isn’t it also
a fact that more than 120,000 retail outlets
around Australia are supposedly being
watched for any price increases beyond 10
per cent? Given that in 1999 the ACCC re-
ceived 60,000 complaints before the govern-
ment tasked it with the above and before the
GST, and given that the government budget-
eted only 25 more staff for the introduction
of the GST, how on earth does Mr Howard
expect the ACCC to enforce price laws?

Senator KEMP—The government has
great confidence in the ACCC. The govern-
ment, as you mentioned, has increased the
budget of the ACCC. It is always up to the
ACCC, if it feels it needs further resources,
to come back to the government. The gov-
ernment agrees, I suspect, with the implicit
background to your question about the im-
portant role that the ACCC plays always—
but particularly, I think, in the transition from
the old tax system to the new tax system.

Senator, we are concerned to make sure that
it can carry out its functions. And, just to re-
peat myself: if the ACCC finds that it needs
additional resources, it can always provide
advice to the government on that basis.

Senator SHERRY—Madam President, I
ask a supplementary question. How does the
ACCC have a hope of keeping tabs on all
these industry sectors—and you say you have
great confidence, Minister, in the ACCC—
when the ACCC Director of Compliance and
Enforcement, Nick Ellis, stated in a letter to a
complainant in November last year:

Limited resources and budgetary restraints mean
that the commission is unable to pursue all matters
that are brought to its attention.

Even with 25 more staff, isn’t it the case that
the ACCC would still be unable to police the
60,000 complaints which occurred per year before the introduction of the GST?

Senator KEMP—Senator, I think you, like myself, have sat through very long and tedious hours of questioning at Senate estimates of the ACCC.

Senator Robert Ray—They are very informative.

Senator KEMP—Senator Ray says they are very informative. One area where we never see Senator Robert Ray is at Defence estimates. It would be very good to see your forensic skills working at Defence estimates and explaining cost blow-outs on certain big projects. I guess we would have more chance of seeing Ray playing golf with Mal Colston than seeing those forensic skills before Defence estimates.

Environment: Ranger Uranium Mine

Senator ALLISON (2.22 p.m.)—My question is to the Minister representing the Minister for Industry, Science and Resources. I refer to the Supervising Scientist’s report into the leak at Ranger, detailing the numerous reasons for ERA’s failure to detect and report the leak in a timely manner. Minister, doesn’t it worry you that the Ranger management team did not even know there was a need to report the leak? As of last Thursday, even ERA admitted that ‘additional fundamental change is required’. Minister, how can you seriously argue in your press release of yesterday that we have a system that works when the Supervising Scientist’s report says:

This lack of recognition of the needs of stakeholders appears to permeate down through the organisation at ERA Ranger mine.

And it also said that there is a ‘reluctance by staff to pass on information’.

Senator MINCHIN—Senator Allison asked me if I am worried about the position as revealed in the Supervising Scientist’s report. Can I say, at the outset, I am satisfied that this report confirms that no environmental damage occurred as a result of the leak, that there has been no adverse impact on the world heritage values of Kakadu National Park and that there was no deliberate attempt by the company to deceive the authorities.

It is clear from the report, as Senator Allison points out, that there was a breakdown in communications within the company and that the company did not maintain high standards with respect to the communication of these sorts of incidents, as they should. Indeed, they have indicated quite readily and without hesitation that they will implement all the recommendations set out in the Supervising Scientist’s report. They have written to us to that effect and issued a press release to that effect. We will obviously be working to ensure that they honour that commitment and implement all those recommendations. They are embarrassed by their failure in this instance to properly observe the requirements laid upon them for immediate notification and are acting to rectify that error.

Senator ALLISON—I ask a supplementary question, Madam President. Minister, ERA’s letter to the Supervising Scientist of 19 May said:

Agreement needs to be reached regarding appropriate trigger levels for notification at ... various sites in order to ensure that transient situations which can be shown to have localised impact do not serve to heighten rather than alleviate Aboriginal concern when they are reported.

What does the minister regard as an appropriate level for notification? Doesn’t this mean that ERA wants to cover up all but the most massive breaches and leaks?

Senator MINCHIN—I really do regard that as an idiotic and unacceptable slur upon an Australian company which employs Australians, contributes to our export earnings, employs Aboriginal Australians and contributes to the economy of the Northern Territory. I reject out of hand that slur upon this company. It has issued a statement saying that it totally accepts its obligation to put in place—

Senator Allison—I rise on a point of order. The minister is debating something entirely different from the question that I asked, and I will frame it again in case he has forgotten. It was: what does the minister regard as an appropriate—

The PRESIDENT—You cannot re-ask your question, Senator. There is no point of order.
Senator MINCHIN—I am sick and tired of the Democrats using the chamber to slur Australian companies in that way. If they cast slurs upon them, I will defend them. The company has issued a statement making it clear that it will act upon all the recommendations in the report to rectify the errors that were evidenced in the Supervising Scientist’s report.

Exports: Freight Rates

Senator O’BRIEN (2.27 p.m.)—My question is to Senator Alston representing the Minister for Agriculture, Fisheries and Forestry. Can the minister confirm that exporters of Australia’s agricultural products have been hit with dramatic recent increases in shipping and stevedoring costs on their important perishable goods? For instance, can the minister confirm that freight rates on shipments to Japan have risen from $800 a container eight months ago to $1,400 today and that Middle East freight has gone from $1,000 to $1,500 a container? Given the Howard government’s guard dog and balaclava industrial tactics on the wharves and given it then threw $180 million of taxpayers’ money behind redundancy packages, why should Australian farmers and exporters be experiencing such sharp increases in the costs of sending their products to overseas markets?

Senator ALSTON—That is a very interesting question. I have no idea, quite frankly. I can have a look at it and find out for you, but I am not in any position to dispute your figures. They sound fairly significant. If you want to try to suggest that there is some relevance between that and activities on the waterfront and redundancy packages, why should Australian farmers and exporters be experiencing such sharp increases in the costs of sending their products to overseas markets?

Senator O’BRIEN—Madam President, I ask a supplementary question. While the minister is finding out about the subject that he admits he knows absolutely nothing about, can he ascertain whether the government is aware that the three freight cost increases I referred to over the past seven months—in December, March and April—have occurred with barely two weeks notice each and with no opportunity for competitive negotiation or to take account of these dramatic increases with overseas customers? Can he also see if the government can advise Australian primary producers how they are supposed to operate viably with these arbitrary price movements in the cost of freighting their product into their international markets in this environment, which the government promised would be so cost effective and efficient?

Senator ALSTON—Certainly I will see what we can find out. But the idea that somehow we should be micro-managing negota-
tions on cost increases and, presumably, giving some of your best friends every opportunity to argue why their protective arrangements should result in even higher increases in costs is not something that instantly appeals to the government, I have to say. Presumably, when you talk about advance notice you mean that the ‘workers’ representatives’, as you would call them, should be informed.

Senator O’Brien—No, I don’t; I mean the business.

Senator ALSTON—I presume that in the normal course of business those who are sensible discuss their proposed increases. Sometimes they do; sometimes they do not. Sometimes they give weeks of warning; sometimes they give less. But are these really matters that the government should be micro-managing? I do not think so.

Self-funded Retirees: Western Australia

Senator HARRIS (2.31 p.m.)—My question is to Senator Newman. Minister, can you confirm a report in an issue of Finance Broker that the father-in-law of a minister of the Western Australian government had his entire investment of $100,000 in B & Dixon refunded? Can the minister confirm that her department has informed retirees who have lost their entire investments to sell their motor vehicles and live off the proceeds? Is the minister aware of the possible $2 billion exposure of the Commonwealth to provide social security for these previously self-funded retirees?

Senator NEWMAN—Senator Harris has asked me a number of questions in regard to which I do not have any information here. They are beyond my responsibility or the responsibility of my department. For example, in regard to the confirmation that is asked for in the first question, I would have no knowledge of that at all. He asked about advice regarding the selling of motor vehicles. I do not have any knowledge of that at all. He asked about the possible exposure of the Commonwealth—I think he said through Centrelink payments. I would not be able to quantify that at all. But I can give him some information I have in relation to this matter which may be of help to him. I am advised that certainly no-one in hardship is being denied income support from Centrelink. Social security payments have always been available to ensure that investors are not left without adequate support. The same rules apply to investors who have been affected by the failed mortgage schemes in Western Australia as apply to all other retirees.

Under the social security income test I have exempted from the deeming rules loans that have ceased to operate. Exemptions will be applied by Centrelink where the customer establishes that returns have ceased. An exemption means that income from these investments is not counted. Under the social security assets test, investors in severe financial hardship can apply to have their loans disregarded. A number of investors who have contacted Centrelink have not been eligible for support because they have substantial other income and assets. I am advised that that is the circumstance of Mr Carl Lens, mentioned in a report in the Age on 27 June. His problem is that he has available to him substantial assets to support him. So while no-one is going to be left in hardship, it is not the role of the social security system to compensate for investment losses.

Senator HARRIS—I thank the minister for her answer. That confirms a letter the minister wrote to the Real Estate Association in Western Australia, where funds invested in Grubb and Global were exempted. That affects approximately 1,500 of the investors and leaves approximately 6,500 other investors who have invested in these schemes. Will the minister extend the same exemption to the other people who are involved with the other seven investment groups and who find themselves in hardship when these schemes do not return for self-funded retirees the income they would expect?

Senator NEWMAN—Senator Harris may have missed the fact that I emphasised that I have already exempted from the deeming rules loans that have ceased to operate. Where people apply, and where the customer has established that the returns have ceased, obviously it is considered and processed by Centrelink. But I would also emphasise to him that a number of people have not approached Centrelink or applied to me because they know very well that they are in a posi-
tion to support themselves either from other income or other assets. So although he has cited a figure of 6,500 people who are not covered by the real estate letter, they may well have selected themselves out from application for assistance. But I would urge those who may be entitled to assistance to approach Centrelink and ask for their cases to be reviewed.

Goods and Services Tax: Abattoirs

Senator FORSHA (2.36 p.m.)—My question is directed to Senator Kemp, the Assistant Treasurer. Is the minister aware of reports that the Castlereagh Abattoir at Coonamble in New South Wales is to close on 1 July? Can the minister confirm that the owners have blamed the closure fairly and squarely on the GST? Is it true that associations representing abattoirs have been warning for some time that the GST will cause significant cash flow difficulties for the sector, particularly for small abattoirs? Can the minister explain to the abattoir workers at Castlereagh Abattoir, whose jobs have been destroyed by the GST, why the government ignored these warnings?

Senator KEMP—I thank Senator Forshaw. It is always nice to get a question from Senator Forshaw.

Senator Abetz—It’s nice to know he’s doing something.

Senator KEMP—It is nice to see you have been doing a bit of work, Senator Forshaw. I certainly appreciate receiving a question from you. I am not aware of the specific matter that you have raised, Senator Forshaw, in your question. Let me make a couple of general points which I think will put into context the treatment the government has agreed on of abattoirs and livestock in relation to the new tax system. The government, as you will be aware, recently announced it will amend the GST act to make the delivery of livestock to a processor a taxable supply, regardless of how the contract is specified. This confirms the government’s policy in respect of food to ensure that, as far as is practicable, farmers should be in a position to sell their produce subject to GST. This avoids the distortions that would have occurred due to some sales of livestock being GST free because the contract specified that animal products were being sold rather than the live animal.

The same measure will not be applied to abattoirs, which will purchase the inputs taxable and sell products GST free. It is likely that financing costs involved with addressing cash flow effects of purchasing taxable inputs and selling products GST free will be a small percentage of total costs and not be the cause of an abattoir going out of business. As I said, I have not got the details of the particular case you have in mind. But I suspect, if the abattoir in question was referring to the GST, it is likely that it may well have been referring to the decisions that I mentioned on the taxation of livestock. If there is a cash flow issue involved there, as I said, that would be a small percentage of total costs. It is very hard to see how that could be the cause of an abattoir going out of business.

Let me make a couple of general points. This tax reform package is particularly good for rural and regional Australia. The primary producers in the rural sector were particularly keen to ensure that there was tax reform. I think you would have to look at the particular circumstances of the abattoir. I can point to one of the world’s great growth economies. I can point to an export sector which will benefit hugely from tax reform. The opportunities are certainly there for those in the meat industry and elsewhere to take advantage of the new tax system. It may be that the abattoir had particular industrial problems. We have seen a lot of problems over the years with abattoirs, particularly the behaviour of the various meat unions. Senator Barney Cooney well knows the activities of a certain Wally Curran and the problems that he caused to a whole range of sectors. I have never heard a complaint from the Labor Party on that particular issue. (Time expired)

Senator FORSHA (2.36 p.m.)—Madam President, I ask a supplementary question. I thank the minister for telling us what we already knew in respect of the way in which the GST will be applied to livestock transactions. That is the point. For your information, if you had had access to The Land newspaper, you would know that the owners of the abattoir have blamed the closure purely and squarely
on the GST. Minister, in light of the claims of the directors of the Castlereagh Abattoir that it is because of cash flow problems arising from the GST that they will have to close, what guarantees can you give to other abattoir workers around Australia that they will not suffer the same fate? What do you have to say to workers in other abattoirs, as well as Castlereagh Abattoir, about what your government will do to address their plight? Or will you just continue to ignore this issue, as you and your government have done to date, despite all of the representations that have been made by the meat processor organisations?

Senator KEMP—As I have said on so many occasions, this is a consultative government, unlike the previous Labor government. We consult with all groups. The Labor Party when they were in office essentially consulted with one group: the trade union movement. In fact, they did not consult; they took their marching orders from the trade union movement. There is no group which has caused more problems to abattoirs than the trade union movement. I have never heard you complain once about that particular issue. As I said, tax reform is good for rural and regional Australia for all the reasons I mentioned in answer to your first question.

Tax Reform: Local Government

Senator COONAN (2.43 p.m.)—My question is to the Minister for Regional Services, Territories and Local Government, Senator Ian Macdonald. The minister will be aware of the scaremongering campaign by the opposition and some Labor controlled councils about the impact of tax reform. What are the facts about the benefits to local government of the new tax system?

Senator IAN MACDONALD—I thank Senator Coonan for that question.

Senator Conroy—you needed a dorothy because you didn’t know the answer yesterday. You’re hopeless.

Senator IAN MACDONALD—Senator Coonan has a commitment to honesty and truth in government.

Senator Conroy—Don’t you prepare for question time? Why didn’t you know this yesterday?

Senator Lightfoot—I rise on a point of order. Madam President, you have warned Senator Conroy many times. He should at least allow the minister to get well into the answer to the question before he is interrupted by the perpetual and boring interjections by Senator Conroy. He is an absolute disgrace to this chamber.

The PRESIDENT—I agree, but I was not aware that Senator Conroy had interjected at that time. I shall certainly keep an eye on it.

Senator IAN MACDONALD—Senator Coonan’s question allows me to highlight the deliberate strategy of deceit and dishonesty embarked upon by the Labor Party in relation to tax reform—

Senator Cook—you are a disgrace!

The PRESIDENT—Senator Cook, withdraw that.

Senator Cook—Madam President, that word was used—

The PRESIDENT—It is not a matter to be debated.

Senator Cook—I withdraw. On a point of order, Madam President, that word was just now used by Senator Lightfoot in describing Senator Conroy. You did not correct him and therefore, I thought you had ruled that that word was parliamentary and therefore appropriate to be used, and thus I used it.

The PRESIDENT—It is not a matter to be debated.

Senator Cook—I withdraw. On a point of order, Madam President, that word was just now used by Senator Lightfoot in describing Senator Conroy. You did not correct him and therefore, I thought you had ruled that that word was parliamentary and therefore appropriate to be used, and thus I used it.

The PRESIDENT—It is not parliamentary.

Senator Cook—I would ask that you apply to Senator Lightfoot and to government senators the same standards that you are now applying to me.

The PRESIDENT—I did not hear it used. Senator Lightfoot, I ask you to withdraw, if that is the case.

Senator Lightfoot—I withdraw unequivocally, Madam President.

Senator IAN MACDONALD—The campaign of dishonesty by the ALP started way back, two decades ago, when Mr Keating knew that the GST was good for Australia but, because the Labor Party did not have
the political courage, they pushed it under the counter. Then they opposed it tooth and nail through this chamber, and ultimately adopted it once it had been passed by the government and the Democrats. Even yesterday, Senator Mackay was telling me of all of the councils who are opposed to the GST and have great problems with it—all of these councils who are always ringing her about problems. In the last couple of weeks, I have spoken with the Bombala Shire Council, the executive of the ALGA—representing every state local government association—the Hume Shire Council, the Pilbara region councils, the Albury and Wodonga councils and the 15 or so members of the Riverina Eastern Regional Organisation of Councils—and not one of them has raised the GST with me.

Senator Coonan mentioned some Labor controlled councils. Certainly, Councillor Vic Smith in the South Sydney Council and Councillor Soorley in the Brisbane City Council—both Labor mayors—have gone out of their way to dishonestly misrepresent the tax reform, and I know that their electors will call them to account. This is followed, I might say, by the mayor of my home city of Townsville, who is softening up Townsville people for a 5.7 per cent increase in rates by saying that it is because of the government’s inflation rates that he has to do that—when everybody knows the ongoing inflation rate is about 2½ per cent and the inflation addition for the GST will not apply to councils, because councils are not subjected to the GST. This hypocrisy and deceit by federal Labor and by some local government councils are not shared by their state colleagues. Of course, Mr Egan, the state Treasurer in New South Wales, supports this proposal and has told councils that they will do very well out of it.

As well as that, Senator Coonan asked me about some of the benefits. A recent Ernst and Young report prepared for the Municipal Association of Victoria shows that the new tax system will, for councils, bring road maintenance costs down by four per cent, vehicles maintenance costs down by 10.6 per cent, motor vehicle leasing costs down by 3.5 per cent, community care and child-care services down by 2.4 per cent, electricity costs down by 3.6 per cent and gas costs down by six per cent. That is the assessment of the Ernst and Young report. Of course, it mirrors the Arthur Andersen report and, indeed, it mirrors the report by the Local Government Association of Queensland, which showed that, although there are implementation costs of between $10,000 and $192,000, the annual savings to Queensland councils will be in the order of a massive $15 million across the state. All the reports—whichever report you choose to look at—showed that local government will do very well out of this, as will regional Australians and the transport industry. (Time expired)
were very keen about—particularly those in the medium to higher income groups—was the issue of refundable imputation credits. Let me say that that measure the government announced was a very important initiative and, again, one that has been particularly welcomed by the self-funded retiree community.

Another very high priority among self-funded retirees is health insurance. The health insurance rebate, which was announced some time ago, is already occurring and has been of great benefit to many of the income groups that Senator Crowley was referring to. I think there are a lot of benefits in this tax package. There are changes in the capital gains tax arrangements; the halving of the rate there will also be of particular benefit to self-funded retirees. I think Senator Crowley has got to look at the tax package overall. Certainly in the medium to high income groups there also are substantial benefits for our senior citizens.

Senator CROWLEY—Madam President,

I ask a supplementary question. I remind the minister that it is not me who wants these answers but a person—A. Stoner—writing in the Independent Retiree. The minister’s answer ignores completely the queries raised by the letter writer. In his letter, A. Stoner asked what can be done about this discriminatory treatment. I ask the minister if he would have another shot at responding to the letter writer.

Senator KEMP—I think these are important issues and, frankly, for you to imply or state that they were not addressed in the first part of the answer is totally wrong. I mentioned there were cut-off limits, and there will always be people who fall on the other side of the cut-off limit. Then, Senator Crowley, I took you very carefully through the benefits that those on $30,000 plus receive from the tax package. You might have been talking to a colleague and missed all those things, but I went through quite a range. I discussed the income tax cuts. I discussed the refundable imputation credits. I discussed the private health insurance initiative. All of those are important. I discussed the issue of the halving of the capital gains tax rate. There are a host of measures in this tax package which will benefit self-funded retirees, and of course many of the proposals that they put to us have been adopted by this government. (Time expired)

Indonesia: Ambon

Senator BOURNE (2.55 p.m.)—My question is addressed to Senator Hill, representing the Minister for Foreign Affairs. I ask: does the minister agree that the situation in Ambon and the Maluku islands is grave, that the death toll continues to rise rapidly and that human rights abuses, including rape, torture and the burning of property, continue? What action is the government taking to pressure the Indonesian government to ensure the removal of the jihad troops, to control the army—which evidence suggests is complicit in these atrocities—and to disarm the warring parties?

Senator HILL—Yes, I certainly agree it is a very serious situation. I have noted public reports—which I am sure Senator Bourne is very familiar with—suggesting that in the last 18 months more than 3,000 people have died in this conflict, which principally is a conflict between Muslim and Christian peoples. It is very difficult to find a way to bring that sort of violence to an end. We have frequently made our concerns known to the relevant Indonesian government agencies—most recently on 26 June this year, so our representations are very current.

We believe the government’s declaration of a civil emergency is a welcome recognition of the seriousness of the situation. We hope that it will result in an ending of the violence and loss of life. As Senator Bourne would understand, the declaration allows the authorities to ban public gatherings, to impose curfews and media blackouts, to conduct house to house searches for weapons and to tap phones. Two additional police
companies have also been sent. Apart from making these representations to the Indonesian government and urging that they do everything possible to bring the violence to an end, we have been assisting with humanitarian relief. Again, the honourable senator will know that we provided substantial humanitarian relief of more than $2 million over the last year, and on 30 March Mr Downer announced another $3.2 million for food and medical aid for the region.

As I said, we very much regret this violence. We urge the Indonesian government to do everything that is possible to bring it to an early end. In the meantime we will do our bit, as a friend and neighbour, in support of the obviously very much needed humanitarian relief.

Senator BOURNE—Madam President, I ask a supplementary question. I thank the minister for that answer, and I am encouraged by many of the things that he said. But I ask also if he could perhaps get some information, and I do not know whether he would have it there, on whether the government has been raising this in any other forums—perhaps the United Nations, perhaps ASEAN—where we could suggest some sort of international or regional response?

Senator HILL—I will refer that aspect to Mr Downer.

Goods and Services Tax: Compliance Officers

Senator DENMAN (2.59 p.m.)—My question is to Senator Kemp, the Assistant Treasurer. Can the minister confirm that there are only two state based ACCC officers assigned to GST compliance matters in New South Wales, Western Australia, Queensland and Tasmania? The Northern Territory and South Australia have only one officer per state and territory. Can the minister explain how the ACCC can possibly investigate and prosecute price rorters when so few people have responsibility in these states for following up information gathered by price monitors and the community?

Senator KEMP—Let me make the point that there are many bodies that will choose a particular city to locate most of their staff, but their ambit can reach far and wide. The ACCC, as I said in response to Senator Sherry’s question, is playing a very important role in the transitional phase from an old tax system to a new tax system. We have provided very substantial resources to the ACCC to make sure they can carry out their job. The nature of their work, how they plan to carry out their task, was discussed, Senator Denman, at very great lengths at the Senate estimates committees. I might say it is never quite clear to me whether the Labor Party is concerned that the ACCC has too much or too little power. I am not suggesting you would do this, Senator Denman, because you tend to play your politics pretty straight, but when I think of Senator Conroy’s approach to this area, Senator Conroy will walk on both sides of the street on this issue. But in relation to Senator Denman’s question, let me assure you, Senator, that we have the resources in place. We have an organisation with the competence to carry out its duties. As I said, they are playing a very important role in this transitional phase.

Senator DENMAN—Madam President, I ask a supplementary question. Given that there is a paucity of ACCC personnel on the GST price rort front line, will the government now pledge to put all 25 new staff pledged in the budget into the fight against price exploitation?

Senator KEMP—Senator Denman, I wonder where you were during the 13 years of the Labor government when inflation soared. I just wonder where you were, Senator Denman. Certainly there are a number of Keating ministers that still wander around this chamber. But I might say on the inflation front they performed pretty badly—

Senator Robert Ray—We weren’t picked up in the March draft like you.

Senator KEMP—including you, Senator Ray, let me say—particularly including you. That was not the only thing you performed badly at, Senator Ray, let me say. What were you doing with the Collins class submarines? Looking at the ceiling? What were you doing? Madam President, I regret to say I am sorry I have been diverted again.
Senator Hill—Madam President, I ask that further questions be placed on the Notice Paper.

ANSWERS TO QUESTIONS WITHOUT NOTICE

Genetic Information: Legislation

Senator VANSTONE (South Australia—Minister for Justice and Customs) (3.02 p.m.)—Yesterday Senator Stott Despoja asked me a question. I said I would refer it to the Attorney and get an answer as soon as possible. I seek leave to incorporate it in Hansard.

Leave granted.

The answer read as follows—

Senator Stott Despoja—asked the Minister representing the Attorney-General, Senator Vanstone, the following question:

Given the historic announcement overnight of the finalisation of the human genome project, when will the Australian Government finally take steps to ensure that we have legislation in place that prevents discrimination on the basis of someone’s genetic information and also ensures that the information is kept private? Does the Government recognise that it is more than a year since the recommendation was made by the Senate Legal and Constitutional Legislation Committee that a national working party be established to look into these issues? I ask the Minister what progress, if any, has been made and what assurance can this Government give Australians given this historic breakthrough, that their genetic information is safe, will be protected and cannot be used against them?

Senator Vanstone—I am advised that the answer to the honourable senator’s question is as follows:

The Government is aware of media reports concerning the recent announcement of the progress on the human genome project.

The Government considers that genetic information has many important scientific and medical applications which are of benefit to the community as a whole.

The Government is conscious that advances in genetic technology raise unique and complex privacy and discrimination issues. It is therefore important to work towards ensuring that genetic information is not used as a basis for unjustifiable discriminatory practices.

The Government is currently considering these complex issues in the context of its response to the Senate Legal and Constitutional Legislation Committee Report on the provisions of the Genetic Privacy and Non-Discrimination Bill 1998. This will require extensive consultation with a broad range of affected groups and individuals.

I note the Government has introduced an important initiative to protect the privacy of people’s health information. On 12 April 2000 the Attorney-General introduced the Privacy Amendment (Private Sector) Bill 2000 into Parliament.

When enacted, the Bill will apply to information about individuals that is derived from genetic technologies to the extent that this information could constitute personal information about an individual. Such information will have the same level of privacy protection that is afforded to other types of sensitive personal information under the Bill.

However, the Attorney-General acknowledges that advances in gene technology raise unique privacy and discrimination issues that will require separate consideration, and has announced that he intends to pursue further policy consideration of such issues.

Goods and Services Tax: Abattoirs

Exports: Freight Rates

Senator FORSHAW (New South Wales) (3.03 p.m.)—I move:

That the Senate take note of the answers given by the Assistant Treasurer (Senator Kemp) and the Minister for Communications, Information Technology and the Arts (Senator Alston), to questions without notice asked by Senator Forshaw and Senator O’Brien today, relating to taxation and the meat industry, and cost increases on the waterfront.

The GST is only two days away, and it is quite clear that many thousands of Australian businesses—small businesses particularly—and many thousands of Australian workers and families see that day is approaching with great dread. In an answer today to my question regarding the impact of the GST upon the meat processing industry, Senator Kemp demonstrated how inept he is in respect of his portfolio responsibilities when he said he was not aware of the situation at the Castlereagh Abattoir at Coonamble. That in itself demonstrates just how out of touch this government is, how they have just adopted a bunker mentality, refusing to take note of any of the issues, any of the concerns and any of the specific situations that are brought to their
attention with regard to the deleterious effects of this GST.

The issue at the Castlereagh Abattoir in Coonamble is one which has been presented to the government now for some weeks. The meat processing organisations have been in this parliament lobbying the government, lobbying the opposition, pointing out that as a result of the GST they will face a very severe cash flow crisis come 1 July. In particular—as was reported in the *Land* newspaper on 25 May, a month ago—the Castlereagh Abattoir directors have stated quite clearly that this is the last straw. I would like to quote from that article:

For Castlereagh’s directors Bill, John and Len Scott, the GST slug has come as the ‘final straw’, on top of a string of government-inspired cost assaults on slender margins.

That is the view of the directors. This is in the *Land* newspaper. The *Land* newspaper is not some pro-Labor newspaper; this is the newspaper that regularly reports the views, the attitudes of the farming community and particularly the views of National Party spokespersons. Fortunately, they are coming to realise that there is no future with the National Party as far as rural Australia is concerned—the future really does lie with Country Labor—and in particular they are reflecting the views of farmers out there, reflecting the views of meat processors in abattoirs out there, who know what a disaster for the bush this GST is.

But this minister stood up here and he said, ‘I don’t know about this situation.’ Frankly, if he did not know about the situation at the Coonamble meatworks he has not been doing his job, and his advisers have not been doing their jobs, and the other ministers who represent this portfolio of agriculture have not been doing their jobs. The problem has clearly been identified to this government. The problem is this: the meat processors will have to raise more than $350 million to provide the revolving credit pool needed to meet the GST requirements.

This government did a deal which meant that meat processors will be required to pay the GST on all their livestock purchases, whether they be live animals or over the hook. They will then have to claim that tax back from the Taxation Office. The problem is, however, that they have to meet those commitments within seven days after the transaction; yet they will have to wait a substantial period of time to get a rebate.

*Senator McGauran interjecting—*

*Senator FORSHAW—*Yes, that is four weeks against seven days. The industry have demonstrated—

*Senator McGauran interjecting—*

*Senator FORSHAW—*If you do not believe the industry, Senator McGauran, you go and talk to them. This is not the Labor Party inventing this story; it is the meat processing industry themselves saying that they will have to raise $350 million. When they have gone to the banks to seek to get that advance funding, the banks have said, ‘Sorry, we are not in the business of lending money on the basis that you may get a rebate on a GST that you have to pay.’ It is a disgrace, and you should do something about it.

(Time expired)

*Senator CHAPMAN (South Australia)* (3.08 p.m.)—Here we have our usual scare a day from the Labor Party on the new tax system. We will only have to bear it for one more day and it will be all over, and they will have nothing to grizzle about. When we come back here in August, the new tax system will be in place, business and the community will be benefiting from this much needed tax reform, which will enormously reduce the cost of doing business, and we will have seen the removal of input taxes and the abolition of the wholesale sales tax. Senator Forshaw completely ignores the benefit that the meat processors will gain from the abolition of the wholesale sales tax and the cut in costs of production that that will provide. He completely ignores it in this scare-a-day nonsense we hear from them, but it is a significant benefit that needs to be put on the table. Of course, the other major benefit will be everyone in the Australian community collectively sharing some $12 billion in income tax cuts.

*Senator Forshaw presents the face to us of Country Labor—*this fraud that the Labor Party are trying to perpetrate on rural people that somehow this wolf in sheep’s clothing that is Country Labor loves the country peo-
In raising the issue today, he wants to put this short-term cost—and short-term cost it may be in relation to the meat industry—back onto the farmer by making cattle and sheep meat GST free at the farm gate. This was discussed quite extensively among the government and the rural community, and the conclusion was reached that the fairest approach was to apply GST to livestock. That means that farmers desperately needing cash flow assistance will receive this benefit of cash flow when stock leave the farm gate. The processors will have the opportunity to gain their GST refund within three weeks at the most of having to pay for these items as they go over the hook. That certainly involves obtaining additional overdraft facilities, but that will be more than offset by the benefits that the meat processors will obtain from the abolition of the wholesale sales tax, from fuel tax reductions and from all of the other initiatives that are a very important part of this new tax system.

The rural community is a major beneficiary of this new tax system. The goods and services tax, as I have already said, will replace the existing wholesale sales tax and other distorted indirect taxes. That is what the wholesale sales tax is, Senator Forshaw: a tax that distorts the cost of production and therefore prevents the Australian economy from operating to the maximum benefit of the Australian community. Of course, the other broad ranging business tax reforms are also of great benefit to rural Australia. The removal of the sales tax and its replacement with the 10 per cent goods and services tax will reduce costs for rural industry because the wholesale sales tax is embedded in a whole lot of business and production costs that are currently borne by both farmers and rural producers, like meat works, alike.

Importantly, the GST-free treatment of exports will be an enormous boost to rural communities. In addition to that, we have the reduction in the cost of diesel fuel through the reduction in excise for diesel fuel for regional transport, for vehicles of between 4.5 and 20 tonnes of gross vehicle mass as well as the rebate on the GST on fuel for business users in rural areas. As Senator Forshaw would well know, the estimated benefit to the rural community in general of the new tax system is $4½ billion. That means that, according to National Farmers Federation estimates—not the government estimates, Senator Forshaw, but National Farmers Federation estimates—the average farm costs will decline by about $7,500 a year. Can I remind Senator Forshaw of the work done by the Centre for International Economics, which analysed a range of farms across all states. They found that net farm income would increase by between $1,291 to $49,650. (Time expired)

**Senator JACINTA COLLINS (Victoria)**

(3.13 p.m.)—Senator Chapman has just highlighted why it is useful to take note today of the answers to questions to both Senator Kemp and Senator Alston. Let me deal first with the respect to the impact of GST on businesses. I think this would be useful, and I will make further comments on why this is not a scare-of-the-day issue but one that has been canvassed for quite some time since the Senate investigated the likely impact of the GST on employment. The opposition have raised several examples that have come not from themselves but from Australian business and Australian small business. But Senator Chapman quite usefully made the link to the question asked of Minister Alston by Senator O’Brien when he referred to the productivity gains. Unfortunately, Australian farmers know all about this government’s assertions of productivity gains and what then turn out to be increases in costs to business. They do recall and, like many Australians, abhor the tactics implemented by Minister Reith on the Australian waterfront, and now they are still bearing the costs.

I will start with the costs since Senator Chapman was disappointed that we did not come to this area first. Aside from the costs that were raised by Senator O’Brien, there are some other interesting facts that should be put on the record. The Waterline survey of the Bureau of Transport Economics shows evidence of a decline in productivity in the December quarter of 1999 compared with the other three quarters of that year. Sydney’s average crane rate dropped from 18 to 16.6 container lifts per hour, a fall of approximately eight per cent. The rate also fell in
Melbourne. The five-port crane average is only slightly higher than that reported in December 1998. So we have no improvement in productivity as a result of ‘maritime reform’, and we have costs going up.

Let us go back to the employment issue. The employment issue is dear to my heart because of the amount of time I have spent investigating it. It is unfortunate that from the government side—because they do appear to be in the bunker, as Senator Forshaw suggested—we have neither of the senators who participated in the inquiry present in this debate. Senator Ferris is not here, and of course Senator Synon is no longer here.

Senator Faulkner—They have all run for cover.

Senator JACINTA COLLINS—They are running for cover. We have looked at examples of the huge impact on employment in the services sector and the obscene tax on employment that will apply in organisations such as group training companies, which are responsible for putting apprentices and trainees into employment. This government is applying a tax there, of all places—a tax on employment. Then we looked, as we did back in March last year, at the impact on small businesses. I seem to recall that Senator Mackay referred to supermarkets in Tasmania and how those small businesses are going to suffer and close as the impact of the GST comes home. We are looking at smaller abattoirs and the impact the GST will have on them. What did Senator Kemp say today quite kindly?

Senator Faulkner—Waffle.

Senator JACINTA COLLINS—He said more than just waffle. He said that, with respect to the taxation of livestock, cash flow is just a small proportion of total cost. What on earth does that mean? If it is the small proportion that means the survival of the business, then that small proportion is terribly significant, as it is for the Australians who were working in those jobs. Senator Chapman also referred to the income tax cuts. For goodness sake, what value are these income tax cuts going to have for the Australian workers who no longer have a job? These examples are not rare. Another example came to light yesterday of a bakery operating in Bacchus Marsh near Melbourne. This bakery is closing down because of, in Senator Kemp’s words, ‘the small proportion associated with cash flow problems’. That means a family out of jobs and another two workers out of jobs. The income tax cuts will mean nothing to those people. They may get some ‘compensation’ in some of the social security changes, but, hell, that will make very little difference to those people who once had a job.

Senator ABETZ (Tasmania—Parliamentary Secretary to the Minister for Defence) (3.18 p.m.)—The biggest threat to abattoirs and the jobs of abattoir workers in this country has in fact been Wally Curran and the Meatworkers Union. He has presided over the greatest closure of abattoirs in this country and the greatest loss of jobs in that industry for a long time. Indeed, it raises the question: if one abattoir is allegedly closing because of the GST, why aren’t all the other abattoirs also closing because of the GST? Of course, the answer is that there are undoubtedly different considerations in relation to this particular abattoir. Like many doomsday cults, the Australian Labor Party are watching the clock tick away as their predictions of the approaching Armageddon are about to be exploded. Labor have three more sleeps before their peddling will have to stop. The issue will then be: what is Labor’s policy? We did not hear from Senator Forshaw, in one of his rare appearances, and from Senator Collins what the Labor Party would do if they were in government. The Labor Party are so strangely silent whenever they run a scare campaign. They say, ‘What about the GST on this? What about this? What about that?’ but they will never tell the Australian people what they would do about this alleged problem if they were elected. That shows their policy failure and the reason why they have no right to even parade as an alternative government in this great country.

Indeed, I am sure that if it rains on 1 July the Australian Labor Party will blame the GST. Anything that might possibly go wrong on 1 July or in the lead-up to 1 July is going to be blamed on tax reform. But the Labor Party’s problem is: what are they going to do
after 1 July, when the Australian people are in fact going to benefit from the increase in pensions, from the increase in rent assistance and from the fact that 80 per cent of Australian pay-as-you-earn taxpayers will be paying only 30 cents in the dollar in income tax? There will be huge income tax reductions. What are the Labor Party going to be saying to them? Indeed, the state Labor government in Tasmania, through their government business enterprise, Forestry Tasmania, have just written to logging contractors saying that, on their independent assessments, logging contractors will make savings of 1.5 per cent. They allege that trucking contractors will make savings of 8.5 per cent and therefore Forestry Tasmania is expecting benefits to flow right through the forest industry.

But you never hear from the Labor Party about all the benefits that are going to flow to people throughout our economy and especially to the workers of this country. In putting the economy back in shape, we have created an extra 700,000 jobs. Whereas Mr Beazley, as Minister for Employment, Education and Training, presided over one million unemployed in this country, we have presided over 700,000 new jobs. Whereas Mr Beazley as Minister for Finance presided over the budget black hole of $10.3 billion, we have in fact presided over government budget surplus after budget surplus.

The Australian Labor Party are so envious of the wonderful performance of the Howard-Costello team, which has delivered good, sound economic policies to this country. They are ashamed that, when they were in government, they could not deal with the issues of tax reform, industrial reform and waterfront reform, and they did not introduce such wonderful things as Work for the Dole. So what have they done for the last 12 or so months? They have simply run a scare campaign, but the problem for Labor is that the scare campaign is going to run out in three sleeps time, and the people of Australia will then be asking Labor: what is your alternative policy? What are you going to do? People will wake up and realise that the sun still comes up of a morning and that the wages still come in—indeed, even more money will come in because of our tax cuts. (Time expired)

Senator O'BRIEN  (Tasmania)  (3.23 p.m.)—We have just had another delusional contribution from Senator Abetz, who believes that somehow on 1 July people will forget that this is the government that imposed upon them the tax that they will live with for many years.

Senator Faulkner—That’s the never ever GST.

Senator O’BRIEN—That is right. I am tempted to talk about other comments that certain senators have made in the past, but I do not want to be distracted from what I want to say, particularly about Senator Alston’s response to my question. The beginning of his response said it all. He said that he knew absolutely nothing about the matters that I raised in my question. This is the minister who has been sitting at the cabinet table over the last four years. He has been involved in the discussions about government policy, particularly government policy about the waterfront. He sat in at estimates, where I asked questions about the waterfront issue, but he knows nothing about it, except for the 3½ minutes he spent trying to bag the Maritime Union of Australia. He suggested that somehow the question I raised had everything to do with the Maritime Union of Australia and nothing to do with the exporters and the farmers who are suffering because of the dramatic increase in freight rates of between 50 per cent and 75 per cent on two weeks notice.

This is the cabinet minister who knew nothing about the outcome of a policy of this government which involves spending millions of taxpayers’ dollars on a conspiracy that this government was behind to sack hundreds and hundreds of workers. One has to ask: who has been the beneficiary of these policies? You only had to look at an article by Jane Boyle in the Australian Financial Review on Friday, 23 June, which said:

Two years after his landmark victory in waterfront reform Lang Corporation chief Mr Chris Corrigan is well in the money on his one million options issued in February at a strike price of $7.47. But there wouldn’t be too many of the stevedoring group’s shareholders complaining after watching
their shares appreciate by 350 per cent from $1.80 to around $8.15 in the past two years, with substantial upside ahead, according to analysts.

That is where the government’s benefits have all gone. They have not gone to the farmers, they have not gone to the exporters and they have not gone to the Australian community. They have gone to the pockets of Chris Corrigan and the shareholders of Patrick. What did the minister know about the outcome of this important policy area, where the government promised that there would be dramatic increases in productivity on the waterfront, savings to exporters and savings to farmers? Did the savings go to the farmers? No, they did not. Clearly, the freight rates that I put to the minister in my question demonstrate that the reverse is the case and that they are going to pay substantially more—50 per cent to 75 per cent in the cases that I outlined.

In the contribution from Senator Collins, we heard about the productivity improvements that were promised by Minister Reith at the time. They effectively said that there would be 25 crane movements per hour, and that was supposed to occur by April last year. In fact, the five-port average last September was 19. It was going down. The berth availability indicator which was supposed to achieve 97 per cent availability within four hours of scheduled time had gone down to 88 per cent, and the average waiting time for ships unable to obtain a berth in December was 21 hours, which had gone down from the previous quarter of 22 hours. All of the indicators are pointing in the wrong direction. The only indicator that is pointing in an upward direction is the share price of Patrick. That is the one that can be pointed to.

The community have got nothing from the government’s policies on the waterfront. They have not got cheaper shipping rates, they have not got cheaper stevedoring rates and they have not got better productivity on the waterfront. What have they got? If they are a shareholder in Patrick, they have made a gain. So a very limited group of people in the Australian community have benefited from the millions and millions of dollars that the government has poured into a campaign which was never about productivity and which was never about gain for the economy. It was all about getting the Maritime Union of Australia. The minister’s answer today demonstrated, in the 3½ minutes that he spent on that aspect of the matter, that that is all that has been under discussion around the cabinet table. There has been no real concern about productivity gains. Its concern is to get the Maritime Union and anyone associated with the Labor Party, and forget about gains for the economy. (Time expired)

Question resolved in the affirmative.

Environment: Ranger Uranium Mine

Senator ALLISON (Victoria) (3.28 p.m.)—I move:

That the Senate take note of the answer given by the Minister for Industry, Science and Resources (Senator Minchin), to a question without notice asked by Senator Allison today, relating to the Ranger uranium mine.

This is one of numerous leaks and breaches that we have experienced with the Ranger uranium mine, going back some time. The leaks and breaches number more than 180 at this point. The Minister for Industry, Science and Resources simply attempts to blame the Democrats for raising this issue and charges that we are slurring the miners by raising some very important matters with him.

The situation is that the leak at the Ranger uranium mine occurred at the end of December last year, but it took some months—until 28 April—for ERA to report this leak to the Office of the Supervising Scientist. That is the real question here. It is not a question of whether this tailings dam material damaged the environment; it is a question of whether or not we can trust the current procedures, trust ERA to have the appropriate staff there to deal with it and trust the monitoring system which is supposedly in place to take care of such matters. I would argue that if you only report an incident such as this some four months after the leak or the damage had occurred, it is very difficult to collect information which would lead to any sort of understanding as to whether damage had been done or not. For the minister to simply say, ‘It didn’t cause any damage so we shouldn’t be worried,’ is I think a strong demonstration that he does not have the interests of the environment at heart and that he should, in the
Democrats’ view, have prosecuted ERA. That is right and proper. They have breached an agreement. Not only did they breach an agreement but they failed to report the leak to the responsible authorities.

As we know, the report of the Office of the Supervising Scientist was made available to us this week. I would like to read part of this report so that we have an understanding of what happened:

The cause of the leak was corrosion and subsequent failure of three bolts that secure the jointing of two flanges in the pipeline. The principal cause of corrosion was the burial, under moist conditions for up to 6 months of the year, of the relevant section of the pipeline under silt derived from erosion in the vicinity of the tailings corridor roadway. A contributing factor to the failure may have been the use of undersized bolts.

The failure of the mine inspection program carried out by the Northern Territory Department of Mines and Energy was one of the reasons given by the Office of the Supervising Scientist as contributing to this problem. Another failure, to a lesser extent, says the Office of the Supervising Scientist, was that the Office of the Supervising Scientist itself failed to observe and require remediation of the buried section. That, too, was a contributing factor to the leak. The report goes on:

So you have a situation where there are three containment measures on site: the first one due to a pipe failure causes the leak; the second one, that is the bunded arrangement, failed to contain the water; and the third one is that, of that 2,000 cubic metres of water, 85 cubic metres entered the wetlands and then went on into the surrounding environment.

So the Office of the Supervising Scientist says that the statutory monitoring program has been found to be deficient in two ways: firstly, a visual inspection did not pick up the monitoring that should have taken place there; and, secondly, in the present situation, no statutory reporting of the quality of water in the tailings corridor sump is required under the Ranger general authorisation. The report is an important one we should take note of.

(Time expired)

Question resolved in the affirmative.

PETITIONS

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

Workplace Relations Legislation

To the Honourable the President and the Members of the Senate in Parliament assembled
This petition of the undersigned draws to the attention of the Senate the unfairness of the Workplace Relations Amendment Bill 2000. This Bill, amongst other things, would restrict Australian workers from exercising choice in the manner of industrial agreement they wish to pursue at their workplace.

Your petitioners therefore request of the Senate that when this Bill is presented before the Senate, it is rejected as it is not in the interests of Australian Workers.

by Senator Abetz (from 655 citizens).

Goods and Services Tax: Price Displays

To the Honourable the President and the 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 George Campbell (from 109 citizens).

White Tailed Spider: Funding for Research

To Members of the Senate
We the undersigned wish to bring to the attention of the Government, the urgent need for funding to enable scientists and doctors, involved in researching the bite and damage caused by the
White Tailed Spider, to find a test, treatment and antivenene to be used in the treatment of victims who are suffering unnecessarily. The need is extremely urgent as funding was cut.

by Senator Lees (from 2,135 citizens).

White Tailed Spider: Funding for Research

To Members of the Senate

We the undersigned wish to bring to the attention of the Government the urgent need for funding, to enable scientists and doctors involved in researching the bite and damage caused by the White Tailed Spider, to find a test and antivenom to be used in treating victims who are suffering unnecessarily because funding was cut. This is very urgently required.

by Senator Lees (from 944 citizens).

Fremantle Artillery Barracks: Sale

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

The petition of the undersigned shows: our commitment to retaining the Artillery Barracks, Burt Street Fremantle, Western Australia, and all buildings pertaining thereof, as it now stands, together with the inclusion of the Army Museum of Western Australia as part of that site.

Your petitioners respectfully request that the Senate overturn any proposal to sell or lease the site for any purpose, other than its present use.

by Senator Reid (from 19 citizens).

Petitions received.

ANSWERS TO QUESTIONS WITHOUT NOTICE

Goods And Services Tax: Real Estate Commissions

Senator KEMP (Victoria—Assistant Treasurer) (3.33 p.m.)—On Monday, 26 June, Senator O’Brien asked me a question, and I seek leave to have the answer incorporated in Hansard.

Leave granted.

The answer read as follows—

On Monday 26 June 2000, (Hansard page: 14609) Senator O’Brien asked me:

1. Can the Minister inform the Senate whether GST is payable on real estate commissions on contracts which are exchanged before 1 July but will not be settled until after that date?

2. Is the minister aware that the Real Estate Institute of New South Wales believes that GST is payable on settlements made after 1 July but the National Real Estate Institute is advising that GST can be avoided by proving that introductions of buyer and seller occurred before 1 July? Can the Assistant Treasurer, who, after all, has ministerial responsibility for GST implementation, provide a definitive answer for the many real estate buyers and sellers with thousands of dollars each riding on this important decision and a number of settlements which will occur on 1 July or on Monday.

I now seek leave to have this incorporated in Hansard.

1. Where a real estate agent’s contract of service is for the sale of a house, then the time the service is performed is when settlement is completed.

If settlement occurs after 1 July 2000 then the commission will be subject to GST.

However, subject to any applicable State or Territory law, if an agent has an agreement for service such that his services are complete at an earlier point in time, then the time of supply will be at that time. For example, where the contract for service is to establish an unconditional sale agreement, the time of supply is when the contract becomes unconditional. Where this occurs before 1 July 2000, GST will not apply.

Where independent services such as advertising or valuations occur before 1 July 2000 these may be regarded as separate supplies and would not be subject to GST.

2. Under A New Tax System (Goods and Services Tax Transition) Act 1999 the seller of real property is liable for GST on the sale of taxable real property when the freehold interest is “made available” to the purchaser after 1 July 2000.

The freehold interest in real property is generally made available at the time of settlement of the sale contract, whether the contract is conditional or unconditional. GST cannot be avoided by proving that the introduction of the buyer and the seller of a taxable supply of real property occurred before 1 July 2000.

Australian Business Number: Privacy

Senator KEMP (Victoria—Assistant Treasurer) (3.34 p.m.)—On Thursday, 22 June, Senator Conroy asked me a question, and I seek leave to have my answer incorporated in Hansard.

Leave granted.

The answer read as follows—
On Thursday 22 June 2000 (Hansard page 14537) Senator Conroy asked me:

1. Is the Minister aware of Tax Commissioner Carmody’s speech on 9 June in regard to the Howard Government’s abuse of ABN applicants’ privacy and in particular his statement:
   ‘We will write to each enterprise on the register advising them of the Government’s decisions on the opt-out option and include the revised privacy notifications.

   Has the Commissioner written yet to each and every one of the 2.7 million ABN applicants? Why was mention not been made of the Commissioner’s commitment in the Minister’s press release of 21 June titled “Privacy restrictions on Australian Business Register”?

2. While the Minister is doing that perhaps he could explain why, despite the Commissioner’s commitment to write to all 2.7 million ABN applicants, a tax office spokeswoman on 10 June contradicted Commissioner Carmody’s commitment by stating that the mail-out would only go to the people affected? Aren’t all 2.7 million ABN applicants affected? If not, how many will actually be written to, if any at all?

I now seek leave to have this incorporated in Hansard.

1. The Commissioner of Taxation has prepared a letter about ABN and privacy to be sent to each ABN applicant. The letter sets out the background to the Australian Business Register, explains how an applicant’s private information will be protected and encloses a revised privacy statement for the applicant’s information. It is expected that the letters will be posted out from Wednesday 28 June 2000.

   At the time of the press release of 20 June 2000, the Commissioner had already announced that he would be writing to each applicant regarding the ABN and their privacy.

2. While privacy issues may be of greatest concern to individuals on the Register, it was decided to write to all ABN applicants because the changes to the law and the Register will apply to all ABN holders.

   Goods and Services Tax: Local Government

Senator KEMP (Victoria—Assistant Treasurer) (3.34 p.m.)—On Monday, 26 June 2000, Senator Robert Ray asked me a question, and I seek leave to have some supplementary material incorporated in Hansard.

Leave granted.

The supplementary material read as follows—

On 26 June 2000 (Hansard page 14608), Senator Robert Ray asked me:

Has the Minister’s attention been drawn to a brochure produced by the Melbourne City Council entitled “GST and the City of Melbourne - Your Questions Answered”? Has the Minister’s attention been drawn to the fact that the brochure lists a number of services provided by the council to which the GST will apply - including the release of towed vehicles, swim passes at city baths, wedding permits and parking meter fees - and that the cost of these services will each rise by 10 per cent? Minister, given that your own GST tax package estimated that local government would be expected to save $70 million each year, how is it that the full impact of the GST on these items is being transferred to consumers?

And he asked the following supplementary question:

Senator Kemp said that the local government might consult with the ACCC. Does the ACCC have any power over local government in regard to these prices?

In addition to the answer I provided to Senator Ray in the Senate on 26 June, I now seek to have this incorporated in Hansard:

The Australian Competition and Consumer Commission (ACCC) has not received a public compliance commitment from the Melbourne City Council in relation to proposed fee increases outlined in the Council’s brochure. The ACCC has, however, asked the Council for further information on its proposed fee increases.

Some local government fees and charges will not be subject to the GST because they are included in the Treasurer’s determination issued under Division 81 of the A New Tax System (Goods and Services Tax) Act 1999.

Where local governments carry on a business and provide a regulated supply, they are subject to the price exploitation rule set out in s75AU of the Trade Practices Act. Local governments can seek advice as to how the price exploitation rule applies to their individual activities.

The ACCC will take action against local governments where there is evidence that they are in breach of the price exploitation rule. The ACCC expects local governments to pass-on cost savings arising from the New Tax System changes to consumers, in the same way that private sector businesses are expected to pass-on cost savings to consumers.
NOTICES

Presentation

Senator Allison to move, on the next day of sitting:
That, subject to the States Grants (Primary and Secondary Education Assistance) Bill 2000 being introduced into the House of Representatives today, the provisions of the bill be referred to the Employment, Workplace Relations, Small Business and Education Legislation Committee for inquiry and report by 6 September 2000.

Senator Hogg to move, on the next day of sitting:
That the time for the presentation of the report of the Foreign Affairs, Defence and Trade References Committee on Australia in relation to Asia Pacific Economic Cooperation (APEC) be extended to 16 August 2000.

Senator Allison to move, on the next day of sitting:
That the Senate—
(a) notes:
(i) the Olympic Roads and Transport Authority has sought from the Human Rights and Equal Opportunity Commission an exemption under section 55 of the Disability Discrimination Act in order to procure from New South Wales, Queensland, South Australia and Victoria the required numbers of accessible buses, coach drivers and support staff for the Olympic and Paralympic bus task, and
(ii) this commandeering of wheelchair buses from the states for the 9-week period from 2 September to 4 November 2000 will severely diminish or remove altogether from the current users of those facilities the necessary transport for work, school, college, cinema, shopping or any daily activities;
(b) condemns:
(i) the failure of the authority to plan properly for an entirely predictable event, which has been known and understood in Australia for at least the past 4 years, and
(ii) the expectations of the authority that the disability community should go without transport in other areas of Australia during this time; and
(c) calls on state governments to ensure that the needs of the disabled for accessible transport in their own communities are not disregarded during the Olympic and Paralympic Games.

Senator Allison to move, on the next day of sitting:
That the Senate—
(a) notes:
(i) the final declaration of the Nuclear Non-Proliferation Treaty (NPT) Review Conference, held in New York between 24 April and 19 May 2000, commits the nuclear weapon states to 'the early implementation and entry into force of START-II and conclusion of START-III as soon as possible while preserving and strengthening the Anti-Ballistic Missile (ABM) Treaty as a cornerstone of strategic stability and as a basis for further reductions of strategic offensive weapons in accordance with its provisions',
(ii) that, at the NPT Review Conference, the United Nations Secretary General (Mr Annan), the European Union, Sweden, Portugal, the United Kingdom and France all expressed concern at the prospect of the deployment by the United States (US) of a national missile defence system (NMDS), which would require the alteration or abrogation of the ABM treaty and have stated that the ABM treaty is the cornerstone of strategic stability,
(iii) the statements made by the heads of Government of France and Germany with respect to the inadvisability of deployment of an NMDS by the US,
(iv) the strong statements by the Governments of Russia and China that deployment of an NMDS as currently proposed would have serious consequences for arms control and arms reduction talks, and could result in the abandonment of START commitments by Russia, with the alarming possibility of a new arms race,
(v) the increasing doubts about the technical viability of any system of ballistic missile defence and especially the current NMDS proposal surfacing in the US, and
(vi) the recent declaration, released by the Washington National Cathedral, by a large number of retired senior military personnel and religious leaders, asking that nuclear weapons be eliminated and expressing opposition to NMDS; and

(b) asks the Australian Government:
(i) to make known its position in relation to the US proposal to deploy an NMDS,
(ii) to call on the US not to deploy an NMDS,
(iii) to urge the US and Russia to proceed with the early implementation and entry into force of START-II and conclusion of START-III as soon as possible,
(iv) to call on the nuclear weapons states to outline how they will implement the NPT final document requirement that nuclear weapons play a diminishing role in security policies, and
(v) to urge the US and Russia to maintain the integrity of the ABM Treaty.

Senator Greig to move, on the next day of sitting:
That—
(1) Any original passport, Australian or otherwise, belonging to Mr Konrad Kalejs be laid on the table contingent upon it being presented to any Australian immigration, customs or any other Commonwealth officer at any Australian port or point of egress from Australia and that for the avoidance of doubt, this order shall be in continuing force for any Commonwealth officer who holds or obtains a passport belonging to Mr Konrad Kalejs until revoked by motion of the Senate.

(2) The Senate notes that section 6A of the Passports Act 1938 states the following:
An Australian passport remains always the property of the Commonwealth.

Senator Hill to move, on the next day of sitting:
That the following bill be introduced: A Bill for an Act to amend the Therapeutic Goods Act 1989, and for related purposes. Therapeutic Goods Amendment Bill (No. 3) 2000.

Senator Tierney to move, on the next day of sitting:
That the Senate—
(a) notes that:
(i) students from Penshurst Girls High School in New South Wales were asked to distribute political material promoting the Georges River College in Sydney’s south, and
(ii) students believed if they did not distribute the material to local residents and businesses they would lose their status as prefects;
(b) condemns the use of students to distribute political material and the intimidation tactics that were involved in pressuring the students to do so;
(c) notes the opposition to the proposed college, with a survey of 4 500 voters showing 93 per cent wanted the site to be used exclusively as a university;
(d) criticises the New South Wales State Australian Labor Party Government for not consulting with local parents on the development of the Georges River College, which on the Oatley campus is the wrong place for a super school;
(e) notes the current shortage of secondary teachers in New South Wales and urges the State Minister for Education and Training (Mr Aquilina) to return this purpose-built teachers college to its original function, under the auspices of the University of Wollongong; and
(f) urges Mr Aquilina to hold off plans for a senior secondary college for one year, until further consultations are held between all interested parties on what is the best use for the site.

Senator Harris to move, on Thursday, 17 August 2000:
That there be laid on the table by the Minister representing the Minister for Transport and Regional Services (Senator Ian Macdonald), on 7 September 2000, all correspondence, reports,
investigations and any other information and documentation from the Federal Office of Road Safety (FORS) in relation to the following:

(a) the 1990 report by Zurich Insurance Loss Adjusters, Givens Emerson;
(b) the May 1989 Kenworth correspondence to FORS;
(c) the report by Andy Read (FORS) arising from his visit to Kenworth in June 1989 and Kenworth’s responses;
(d) Bob Howell’s (FORS) 1991 reports on his visits to Kenworth and the discussions that arose;
(e) FORS September 1990 investigation report in relation to the Kenworth steering defects;
(f) FORS 1991 records of their meetings with Kenworth in February and May that year;
(g) FORS 1997 files involving Trojan Insurance’s contact on behalf of their Townsville clients and Peter McLeod’s subsequent engineers report;
(h) Keith Seyer’s (FORS) report on his July 1997 Kenworth visit and the subsequent outcome of this visit;
(i) FORS files in relation to the Kenworth T900 Jonsandi Pty Ltd vehicle;
(j) all documentation in relation to the tendering process both before, during and after the initiation of the ‘Investigation into the Specifications of Heavy Trucks and Consequent Effects on Truck Dynamics’;
(k) all documentation of past and present dealings with RoadUsers International; and
(l) all documentation between FORS and the Minister for Transport and Regional Services office involving Mack, Kenworth and Ford trucks.

Senator Faulkner, at the request of Senator Cook, to move, on the next day of sitting:

That the Senate declares its opposition to the rates of excise contained in the Excise Tariff Proposal No. 2 (2000) tabled in the House of Representatives on 21 June 2000 so far as they relate to draught beer.

Senator Ian Campbell to move, on the next day of sitting:

That on Thursday, 29 June 2000:

(a) the hours of meeting shall be 9.30 am to 6.30 pm and 7.30 pm to 11 pm;
(b) consideration of general business, and consideration of committee reports and government responses and Auditor-General’s reports under standing order 62(1) not be proceeded with;
(c) the routine of business from 4.30 pm till 10.20 pm shall be government business only;
(d) divisions may take place after 6 pm; and
(e) the question for the adjournment of the Senate shall be proposed at 10.20 pm.

Senator Ian Campbell to move, on the next day of sitting:

That the Senate meet on Friday, 30 June 2000, and that:

(a) the hours of meeting shall be 9.30 am to 4.25 pm; 
(b) the routine of business shall be government business only; 
(c) the sitting of the Senate shall be suspended for 45 minutes from approximately 12.30 pm; and
(d) the question for the adjournment of the Senate shall be proposed at 3.45 pm.

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (3.39 p.m.)—I give notice that, on the next day of sitting, I shall move:

That the provisions of paragraphs (5) to (7) of standing order 111 not apply to the Compensation Measures Legislation Amendment (Rent Assistance Increase) Bill 2000, allowing it to be considered during this period of sittings.

I also table a statement of reasons justifying the need for this bill to be considered during this sittings and seek leave to have the statement incorporated in Hansard.

Leave granted.

The statement read as follows—

PURPOSE OF THE BILL

The Bill will provide that the maximum rate of rent assistance be increased by a further 3% to make a total of 10% with effect from 1 July 2000.

REASONS FOR URGENCY

The rate of rent assistance is to rise by 3% to 10% with effect from 1 July 2000 when the GST is introduced.

(Circulated by authority of the Minister for Family and Community Services)
COMMITTEES
Selection of Bills Committee
Report
Senator CALVERT (Tasmania) (3.40 p.m.)—I present the 10th report for 2000 of the Selection of Bills Committee and seek leave to have the report incorporated in Hansard.

Leave granted.

The report read as follows—

SELECTION OF BILLS COMMITTEE
REPORT NO. 10 OF 2000
1. The committee met on 27 June 2000.
2. The committee resolved to recommend—
(a) That the provisions of the following bills be referred to committees:

<table>
<thead>
<tr>
<th>Bill Title</th>
<th>Stage at which referred</th>
<th>Legislation Committee</th>
<th>Reporting date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Renewable Energy (Electricity) Bill 2000</td>
<td>Immediately</td>
<td>Environment, Communications, Information Technology and the Arts</td>
<td>14 August 2000</td>
</tr>
<tr>
<td>Renewable Energy (Electricity) (Charge) Bill 2000 (see Appendix 1 for a statement of reasons for referral)</td>
<td>Immediately</td>
<td>Foreign Affairs, Defence and Trade</td>
<td>16 August 2000</td>
</tr>
<tr>
<td>Defence Legislation Amendment (Aid to Civilian Authorities) Bill 2000 (see Appendix 2 for a statement of reasons for referral)</td>
<td>Immediately</td>
<td>Foreign Affairs, Defence and Trade</td>
<td>16 August 2000</td>
</tr>
</tbody>
</table>

(b) That the following bill and certain provisions of the bill be referred to committees as follows:

<table>
<thead>
<tr>
<th>Bill title</th>
<th>Stage at which referred</th>
<th>Legislation Committee</th>
<th>Reporting date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Financial Sector Legislation Amendment Bill (No. 1) 2000 (see Appendix 3 for a state of reasons for referral)</td>
<td>Immediately</td>
<td>(i) Economics (ii) Superannuation and Financial Services Select Committee, provisions in respect of proposed changes to the Superannuation Industry (Supervision) Act 1993</td>
<td>16 August 2000</td>
</tr>
</tbody>
</table>

(c) That, upon the introduction of the following bills in the House of Representatives, the provisions of the bills be referred to committees as follows:

<table>
<thead>
<tr>
<th>Bill title</th>
<th>Stage at which referred</th>
<th>Legislation Committee</th>
<th>Reporting date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administrative review Tribunal Bill 2000 (see Appendix 4 for a statement of reasons for referral)</td>
<td>Immediately</td>
<td>Legal and Constitutional</td>
<td>7 September 2000</td>
</tr>
<tr>
<td>Telecommunications (Consumer Protection and Service Standards Amendment Bill (No. 2) 2000</td>
<td>Immediately</td>
<td>Environment, Communications, Information Technology and the Arts</td>
<td>25 August 2000</td>
</tr>
</tbody>
</table>
(d) That the following bills not be referred to committees:
• Diesel and Alternative Fuels Grants Scheme Amendment Bill 2000
• Primary Industries Legislation Amendment (Vegetable Levy) Bill 2000

The Committee recommends accordingly
3. The committee considered the Excise Amendment (Compliance Improvement) Bill 2000 but could not agree on whether the bill should be referred to a committee.
4. The committee deferred consideration of the following bills to the next meeting:
   (deferred from meeting of 30 November 1999)
• Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Bill 1999
   (deferred from meeting of 9 May 2000)
• Environmental Legislation Amendment Bill (No. 1) 2000
• Privacy Amendment (Private Sector) Bill 2000
   (deferred from meeting of 6 June 2000)
• Aboriginal Land Rights (Northern Territory) Amendment Bill (No. 3) 2000
• Tobacco Advertising Prohibition Amendment Bill 2000
   (deferred from meeting of 20 June 2000)
• Defence Legislation Amendment (Flexible Career Practices) Bill 2000
   (deferred from meeting of 27 June 2000)
• Family and Community Services and Veterans’ Affairs Legislation Amendment (Debt Recovery) Bill 2000
• Gene Technology Bill 2000
• Gene Technology (Consequential Amendments) Bill 2000
• Gene Technology (Licence Charges) Bill 2000
• Higher Education Funding Amendment Bill (No. 1) 2000
• Product Stewardship (Oil) Bill 2000
• Customs Tariff Amendment (Product Stewardship for Waste Oil) Bill 2000
• Excise Tariff Amendment (Product Stewardship for Waste Oil) Bill 2000
• Product Stewardship (Oil) (Consequential Amendments) Bill 2000
• Vocational Education and Training Funding Amendment Bill 2000

Chair
28 June 2000
Appendix 1

Proposal to refer a bill to a committee
Name of bill(s):
Renewable Energy (Electricity) Bill 2000
Renewable Energy (Electricity) (Charge) Bill 2000

Reasons for referral/principal issues for consideration
1. Adequacy of the legislation to meet the objectives of the renewable energy target (as set out in the explanatory memorandum, page 7) to accelerate the uptake of renewable energy in grid based applications so as to reduce greenhouse gas emissions.
   to provide an ongoing base for the development for commercially competitive renewable energy.
   to contribute to the development of internationally competitive industries which could participate effectively in the burgeoning Asian energy market
2. How the legislation compares to other international examples of renewable energy targets.

Possible submissions or evidence from:
ACF, Total Environment Centre, Greenpeace, Pacific Power, Tasmania Hydro Electric

Committee to which bill is referred:
Environment, Communications Information Technology and the Arts Legislation Committee

Possible hearing date:
Possible reporting date(s): Monday, 14 August 2000

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

Appendix 2

Proposal to refer a bill to a committee
Name of bill(s):
Defence Legislation Amendment (Aid to Civilian Authorities) Bill 2000

Reasons for referral/principal issues for consideration
Bill deals with sensitive issues regarding use of the ADF in domestic emergency situations.

Possible submissions or evidence from:
Department of Defence, Attorney-General’s Department, civil liberties councils, other defence organisations.
Committee to which bill is referred:
Foreign Affairs, Defence and Trade Legislation Committee

Possible hearing date: 20/21 July 2000 (Canberra)
Possible reporting date(s): 16 August 2000
(signed) Kerry O’Brien
Whip/Selection of Bills Committee member

Proposal to refer a bill to a committee

Name of bill(s):
Financial Sector Legislation Amendment Bill (No. 1) 2000

Reasons for referral/principal issues for consideration
To review changes to Authorised Deposit-Taking Institutions under the Banking Act 1959
To review changes to Superannuation Industry (Supervision) Act 1993

Possible submissions or evidence from:
Finance Sector Union, ACTU, Industry Funds Forum, IFSA, ASFA, Corporate Super Association, Financial Services Consumer Policy Centre, ACA, ABA

Committee to which bill is referred:
Economics Legislation Committee, Select Committee on Superannuation and Financial Services

Possible hearing date:
Possible reporting date(s): 16 August 2000
(signed) Kerry O’Brien
Whip/Selection of Bills Committee member

Proposal to refer a bill to a committee

Name of bill(s):
Administrative Review Tribunal Bill 2000

Reasons for referral/principal issues for consideration
To examine and report on the provisions of the bill in order to maximise exposure and ensure the best possible legislative outcome.

Possible submissions or evidence from:
McMillan, McNee, Creyke, AGD

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

Possible hearing date:
Possible reporting date(s): 7 September 2000
(signed) Kerry O’Brien
Whip/Selection of Bills Committee member

Motion (by Senator Calvert) proposed:
That the report be adopted.

Senator O’BRIEN (Tasmania) (3.40 p.m.)—I move an amendment to the Selection of Bills Committee report motion:
At the end of the motion, add “and, in respect of the Excise Amendment (Compliance Improvement) Bill 2000, the bill be referred to the Economics Legislation Committee for inquiry and report by 16 August 2000”.

Item 3 of the report states:
The committee considered the Excise Amendment (Compliance Improvement) Bill 2000 but could not agree on whether the bill should be referred to a committee.

I seek to amend the report by adding to the items in 2(a) the Excise Amendment (Compliance Improvement) Bill 2000 and make it referable immediately to the economics committee with a reporting date of 16 August 2000. Let me say in support of this proposal that this bill was introduced into the House of Representatives on the 21st of this month—that is, last Wednesday, a week ago. The government says that this piece of legislation should not be referred to a committee and committed by that process, apparently with some view that it ought be available to be dealt with this week. I would have thought that the government had a considerable program of legislation to deal with this week, some of which is critical to the timeliness of the implementation of the GST.

Senator Kemp interjecting—

Senator O’BRIEN—I am not sure what the sotto voce interjection was from Senator Kemp. Perhaps he knows that this really is not something that the government wants to deal with this week but merely does not want referred to a committee. I am not sure which is the case.

Senator Kemp—Sit down and I will tell you.

Senator O’BRIEN—I am happy for you to tell me when you have the opportunity. I thought Senator Campbell was going to speak to this. It seems to me that the opposition’s position, which is to have this bill available to be dealt with in the next week of sittings, is very reasonable. For it to be suggested that somehow, because there is a
loophole in the legislation, we ought to forgo our rights, given that the government did not give priority to this piece of legislation for it to be introduced in the House of Representatives until last Wednesday, is wrong. Then they say that we should not have an opportunity to give it consideration so that there are actually two parliamentary sitting weeks between the time it is introduced into the House of Representatives and potentially the time it is dealt with here. That is the opposition’s position on this matter. It seems to me to be quite a reasonable proposition. I would urge the Senate to accept the amendment proposed to the report of the Selection of Bills Committee and allow the economics committee to conduct a hearing in relation to the Excise Amendment (Compliance Improvement) Bill 2000, which I stress again was introduced into the House of Representatives last Wednesday.

Senator KEMP (Victoria—Assistant Treasurer) (3.44 p.m.)—We oppose the reference of the Excise Amendment (Compliance Improvement) Bill 2000 to a Senate committee. It is an important bill which deals with excise evasion. Interestingly, it is a bill that the Labor Party have called for. The shadow Assistant Treasurer, Mr Kelvin Thomson, has called for this. The shadow Assistant Treasurer, Mr Kelvin Thomson, put out a press release saying that he supported the bill. Further, the shadow Assistant Treasurer, Mr Kelvin Thomson, constantly goes on record complaining about the government’s record in tackling things like tax evasion and excise evasion.

This is one occasion on which the Labor Party could have ensured the speedy passage of a bill which it supports. The fact that it has not I think is disgraceful. In future, every time the shadow Assistant Treasurer, Mr Kelvin Thomson, speaks about whether or not the government is moving speedily on an issue, I will have some pleasure in pointing out to him how he delayed this important bill, contrary to his calls for speedy action and in contradiction to his position that the Labor Party supports this bill.

Frankly, this bill is a result of very wide consultation with the industry. There is a very serious problem. There may well be arguments about exactly how much excise is being evaded, but there is no argument that the amount is substantial. The government opposes the reference of this bill.

Senator ALLISON (Victoria) (3.45 p.m.)—Madam Deputy President, I wish to move an amendment.

The DEPUTY PRESIDENT—Senator Allison, we already have one amendment before the chair, but you can foreshadow an amendment.


Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (3.46 p.m.)—I normally would not speak in such a debate, but the buffoonery of the Assistant Treasurer has forced me to join with my—

The DEPUTY PRESIDENT—Senator, do not reflect upon another senator in this place, please.

Senator FAULKNER—I was not. I was talking about his contribution. I described it as buffoonery, which I believe is parliamentary. But if you were suggesting to me it is not, I would not use it. But, with respect, Madam Deputy President, I think buffoonery is not unparliamentary. So we have the buffoonery of the Assistant Treasurer, who is proposing that with important legislation we break with the tradition of this chamber; that is, of course, when senators wish to have bills referred to committees, it normally is accepted by the Selection of Bills Committee that that process take place without debate. That is the way this place has worked. Senator O’Brien tells me that, since he has been whip, he can only recall one other occasion where that has not been accepted as a matter of course.

What I think the Senate needs to understand and acknowledge is that what Senator Kemp is proposing is quite out of the ordi-
nary. What the shadow Assistant Treasurer, Mr Kelvin Thomson, has proposed is that there be adequate parliamentary scrutiny of important legislation. I must say that Mr Kelvin Thomson’s approach on this is one that I warmly share and embrace. He is quite right: we ought to closely examine this legislation and it is appropriate that it be done within a reasonable time frame. It is not an outlandish proposal that Senator O’Brien has moved; it is a perfectly reasonable proposal to have a quick committee inquiry into this particular legislation. That is just standard operating procedure for the Senate. It is the way the Senate works on legislation like this.

No case has been put forward by the Assistant Treasurer for urgency in relation to this bill, none at all. He did not even canvass the issue before the chamber. His only case was that Mr Thomson wanted the bill to pass. That may well be so. But Mr Thomson and the opposition want adequate parliamentary scrutiny. Here you have the Assistant Treasurer either unwilling or unable—probably unable—to make a case before this chamber. This is wholly unsatisfactory. It is typical of the sort of performance we see from the Assistant Treasurer—unable to answer a question in this place, unable to put a case before the chamber. As far as the opposition is concerned, we will not accept the inadequacy of the Assistant Treasurer’s performance in this regard. No case has been put forward that this bill should be exempt from proper parliamentary scrutiny.

The opposition and, I hope, the whole chamber will take seriously the need to have proper parliamentary scrutiny of important legislation. But the opposition is not standing here saying, ‘Oh, we need to deal with this bill; this bill ought to be dealt with some time in the never-never.’ A reasonable time constraint has been applied. It can be dealt with when the Senate resumes its sittings in a few weeks time. That is a sensible and responsible proposal that Senator O’Brien has put forward. It means that there will be adequate scrutiny and the Senate will fulfil its obligations to review this legislation.

I hope that the whole chamber deals with the Assistant Treasurer’s proposition—and the manner in which he has put it—with the contempt it deserves. We need to defend the Senate’s role in relation to scrutiny of this important legislation, and I would like to say that I warmly endorse what I think is a very sensible amendment. I indicate that the opposition will be strongly behind this important amendment that has been moved by the opposition whip, Senator O’Brien. (Time expired)

Senator STOTT DESPOJA (South Australia—Deputy Leader of the Australian Democrats) (3.51 p.m.)—Just for the information of the chamber, the Democrats will be supporting the Labor amendment. We are concerned also about the hasty nature of this process.

Senator Faulkner—Hear, hear!

Senator STOTT DESPOJA—Of course—through you, Madam Deputy President, to Senator Faulkner—we very much stand up for proper scrutiny of legislation and policy in this place. I understand that Senator O’Brien referred to the recent introduction of that legislation. The Democrats were only offered a briefing on that bill, I think, in the last 24 hours. So we will be supporting the amendment.

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (3.52 p.m.)—I want to speak just briefly on the issue of the fore-shadowed amendment by Senator Lyn Allison from the Democrats to say that it does make the Selection of Bills Committee process hard to manage. The issue we have been debating in relation to the so-called chop-chop bill—as I like to call it—the Excise Amendment (Compliance Improvement) Bill 2000, was something we expected. There was a genuine disagreement between the parties. Those things have to be resolved on the floor of the chamber, and of course that will be resolved.

The one that Senator Allison has fore-shadowed relates to the Renewable Energy (Electricity) Bill 2000. All parties at the Selection of Bills Committee, including the Australian Democrats Whip, agreed that the reporting date would be 14 August. I understand the date was agreed to unanimously. In fact, the Selection of Bills Committee can
only work where there is unanimous agreement for references and references reporting, and that includes the committee that that reference is to go to and the reporting date. I understand from the very quick inquiries I have been able to make since Lyn Allison foreshadowed her amendment in respect of the reporting date that the government has not been consulted about a change to the reporting date. We have not had any reason why the reporting date should be extended. The government regards this as a bill that we would like to deal with as soon as the Senate returns. We obviously have something like 6½ weeks to consider this bill between now and then.

Senator Faulkner—What was the committee’s recommendation?

Senator IAN CAMPBELL—The committee’s recommendation was unanimous. It agreed to 14 August, which I think is in the middle of the first week back.

Senator Faulkner—With the legislation committee?

Senator IAN CAMPBELL—Yes, with the legislation committee. I do not think Senator Allison is intending moving the committee it goes to; I think it is just a matter of the reporting date. That is correct—she has just nodded. So there is no disagreement to that. Indeed, as Senator Faulkner would know from his own experiences, the manager of the Selection of Bills Committee can only refer things to legislation committees.

Senator Faulkner—but you were upending that process a bit earlier.

The DEPUTY PRESIDENT—Senator Campbell, I understand that the foreshadowed amendment has the effect of sending it to the references committee.

Senator IAN CAMPBELL—Yes. Clearly the Senate can obviously decide wherever they want to send bills, but the Selection of Bills Committee can only send stuff to legislation committees.

Senator Faulkner—that is not right. It can send it anywhere it wants, but it usually sends it to legislation committees.

Senator IAN CAMPBELL—It usually sends it to legislation committees. The other thing it usually does is unanimously agree on where they should go and when they should report. Yesterday afternoon, less than 24 hours ago, the Australian Democrats agreed, as did the Labor Party and the coalition parties, to send this to the legislation committee and to report by 14 August. The government will be sticking by the agreement that was made at that committee meeting yesterday.

Senator ALLISON (Victoria) (3.55 p.m.)—by leave—I would like to explain the circumstances around the referral. There are two matters that I want to raise. Firstly, this question has been considered at length by the environment references committee in its other inquiry on global warming, so it seems most appropriate that it be referred to the references committee. I apologise for the lateness of this change. I was not aware that we had agreed in the Selection of Bills Committee. However, the last 24 hours has been spent trying to find appropriate times for hearing dates. We need only two—that is the plan. It has just been impossible to get those senators on that committee to be available at that time. So, even with our best endeavours, it will not be possible for us to report on 14 August, given the pressures on senators on that committee and on the secretariat itself.

Senator O’BRIEN (Tasmania) (3.57 p.m.)—by leave—This is a matter which was dealt with at the Selection of Bills Committee meeting. There are occasions, however, where things change subsequent to the Selection of Bills Committee meeting and where arrangements are made about references and reported to this chamber. This matter has come, I would concede, at a very late hour for us to deal with. The alternative proposition is simply to remove reference to this bill from the report and, by notice of motion, proceed to reference of this bill. That is the alternative course of action which seems to me to unscramble the omelette that we have created by the apparently changed circumstances. I understand what Senator Allison is saying, and I accept that she has had discussions with Senator Bolkus and that there is a measure of agreement with it. I say that without having had the opportunity of talking to Senator Bolkus. I see he is here
now nodding, but I have not been able to talk to him before this very second. It seems to me that it would be more productive if Senator Allison were permitted to amend this report by removing this reference and be given leave to give notice.

The DEPUTY PRESIDENT—You could just let the report stand as it is and negotiate a further amendment later on, I understand.

Senator O'BRIEN—If that is a better course, I am happy for any advice that can be given, given that I am speaking, as it were, on the run on this matter, so that we can resolve the matter. In trying to truncate the debate on this matter, I think the outcome will be, as the Labor Party understands it, that this bill will be referred to a references committee. We will be supporting that reference with a reporting date of 6 September.

Senator BOLKUS (South Australia) (3.59 p.m.)—I wish to speak to this while people try to work something out. I think the best approach is for Senator Allison to move an amendment, or to indicate an amendment, at this stage to the committee report and handle it that way. That means we do not, as a set-up, lock ourselves into one course of action when we know that we really want to embark upon another course of action. I also apologise for some sort of communication breakdown here, but we have been working on this. There are issues involved in this legislation which are broader than just the legislation. That is why we have taken this approach. Not just environmentalists but also industry have a range of issues they want to raise with respect to this matter. Those issues would not be accommodated by a legislation committee process. So, without wanting to prolong the Senate too much, can I suggest, following up the whips' suggestion, that Senator Allison should give notice of an amendment and we will proceed down that way.

The DEPUTY PRESIDENT—I would like to put to the vote that the amendment moved by Senator O'Brien to the adoption of the report be agreed to.

Question resolved in the affirmative.

Motion (by Senator Allison) proposed: At the end of the motion, add “and, in respect of the Renewable Energy (Electricity) Bill 2000 and the Renewable Energy (Electricity) (Charge) Bill 2000, the provisions of the bills be referred to the Environment, Communications, Information Technology and the Arts References Committee for inquiry and report by 6 September 2000”.

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (4.01 p.m.)—I thought that Senator O'Brien had suggested that Senator Allison would seek leave to give notice of a motion to refer this bill to a references committee. Is she now proposing to amend the motion in the way she has already foreshadowed? In other words, is she going to proceed with amending the report?

The DEPUTY PRESIDENT—At the moment Senator Allison has moved her motion as she foreshadowed it, to amend the report. The question is that that amendment be agreed to.

Senator IAN CAMPBELL—I thought that the course of action proposed by the opposition was the correct position. They have made it clear in their statements previously that they were not aware that this recommendation of the committee was going to be overturned less than 24 hours later. The government has not been consulted about changing the committee to which it was to be sent and the date on which it was going to be sent. The Democrat whip agreed less than 24 hours ago that it would go to a legislation committee and that it would report on 14 August. We are now to see the cold, hard use of the numbers in this place to overturn an agreement that was made in good faith less than 24 hours ago. I have now had it alluded to us as to why they would like it sent to a references committee. We have not had good reason why the reporting date should be extended by a significant period. The government has not been consulted on this.

I regard this as bad form, bad practice, when you have a Selection of Bills Committee that is supposed to make these things proceed on a consensus basis. We have had no consultation whatsoever. It leaves the Democrat whip in an invidious position that she should have to make agreements on behalf of her party. The Labor Party whip makes an
agreement on behalf of his party and we see it undone on the floor of the chamber. It destroys the goodwill that has been built up in the Selection of Bills Committee process over a long period with whips like Senator Kerry O’Brien, who does a superb job on behalf of the Labor Party, and Senator Vicky Bourne, who does a superb job on behalf of the Democrats. The government is strongly opposed to this and also opposes in the most vigorous terms what I regard as a serious undermining of the processes of the Selection of Bills Committee meeting.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (4.03 p.m.)—There is some substance in regard to this matter in what the Manager of Government Business says. However, we have already had one instance just a few minutes ago where the usual modus operandi of the Selection of Bills Committee has been overturned also. But I hear what the Manager of Government Business says. It seems to me in this circumstance that a sensible way of dealing with this matter, given that I understand the manager indicated that the government is happy with this course of action, would be if leave were sought at a later stage for a notice of motion to be given after this so that the matter can be sorted out outside the chamber. In that circumstance, that seems to me to be a reasonable way forward.

The general point that ought to be made here is that the Selection of Bills Committee process works in the best interests of all senators. We have had the extraordinary and unacceptable proposition argued by Senator Kemp. But on the same basis, if we are going to be consistent on this, then we ought to deal with the matters put to the Selection of Bills Committee previously in relation to this legislation in a similar way. I say to the Australian Democrat senators, through you, Mr Acting Deputy President, that, if there is an understanding that we can deal with this via leave being given for a notice of motion and it can be sorted out outside the chamber over the next few hours, the opposition certainly will give leave. The government has indicated it will give leave.

Anyway, the tyranny of numbers is such that if that does not progress in an appropriate way we will suspend standing orders and ensure that appropriate notice is given. Maybe we can just short-circuit this and save a bit of time and deal with it that way. As far as the opposition is concerned, the whips can consult shadow ministers. There can be continuing arrangements that bring the government whip and the government manager into the loop with what is being proposed. I think that is a sensible way forward and I am happy to embrace that in these circumstances. It will not impact the final outcome that I understand perhaps a majority of senators are trying to achieve. If we go down this track we maintain the integrity of the processes and we do not upend them, like we saw from Senator Kemp just a few moments ago.

Senator Forshaw—Thank God he has left.

Senator FAULKNER—Thank God he has left.

The ACTING DEPUTY PRESIDENT (Senator Chapman)—Senator Allison, do you wish to seek leave to change your amendment? What is your intention?

Senator ALLISON (Victoria) (4.07 p.m.)—Yes. I seek leave to withdraw my amendment and seek leave to give a notice of motion on the same subject.

Leave granted.

Senator ALLISON—I give notice that, on the next day of sitting, I shall move:


The ACTING DEPUTY PRESIDENT—The question now is that the original motion, as amended, be agreed to.

Original question, as amended, resolved in the affirmative.

BUSINESS

Routine of Business

Motion (by Senator Ian Campbell)—by leave—proposed:

That consideration of government documents not be proceeded with today and that government business continue till 7.20 pm.
Senator BROWN (Tasmania) (4.09 p.m.)—I take this opportunity to say that I would support that motion. What I am surprised about is that a further notice of motion says that we will sit on Friday. We have just had the government being concerned about the lack of process in this place, but that is the first I have heard of that motion. I will be interested to hear what the government’s reasoning for that is and what the legislative slate that it expects to deal with on Friday is before we get into what could be quite a prolonged debate on that matter in the morning.

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (4.10 p.m.)—I think it is appropriate that I respond to Senator Brown’s question. We have given notice of a motion. The government’s intention is to conclude our business on schedule tomorrow night. We think the Broadcasting Services Amendment (Digital Television and Datacasting) Bill 2000 has taken longer than any of us envisaged. I think that is fair to say. We have now given notice that we may need to sit tomorrow night—that is, Thursday night—to try to conclude our schedule. I have distributed to all honourable senators, or at least leaders and whips, and that includes Senator Brown, a list of the bills we would be hoping to complete consideration of before we rise at the conclusion of these sittings. They are the bills we seek to conclude. We have given notice of a motion to sit on Friday as a contingency. It is a contingency I earnestly, honestly and frankly hope we do not need to use. I hope we can conclude our business by normal sitting hours tomorrow. If we cannot do that, sit on Thursday night and, clearly, if we cannot do that, sit on Friday. But I really hope that we do not have to use that. It is very much put on the Notice Paper, Senator Brown, as a contingency.

Question resolved in the affirmative.

NOTICES
Postponement
Items of business were postponed as follows:

General business notice of motion no. 607 standing in the name of Senator Stott Despoja for today, relating to the work for the dole scheme, postponed till 29 June 2000.
General business notice of motion no. 612 standing in the name of Senator Stott Despoja for today, relating to international trade, postponed till 29 June 2000.
General business notice of motion no. 613 standing in the name of Senator Stott Despoja for today, relating to unemployment and worker protection, postponed till 29 June 2000.
General business notice of motion no. 614 standing in the name of Senator Stott Despoja for today, relating to a special session of the General Assembly of the United Nations on social development, postponed till 29 June 2000.

BUDGET 2000-01
Consideration by Legislation Committees
Motion (by Senator Carr) agreed to:

(1) That the Employment, Workplace Relations, Small Business and Education Legislation Committee reconvene to resume its consideration of the 2000-01 Budget estimates on 14 August 2000, for the purpose of further examination of the Employment Advocate.

(2) That the committee, by unanimous resolution, may determine, following receipt of answers by 24 July 2000 to questions placed on notice during the committee’s initial examination of the 2000-01 Budget estimates, that the hearing is no longer necessary.

COMMITTEES
Community Affairs References Committee
Reference
Motion (by Senator Forshaw) proposed:
That the following matters be referred to the Community Affairs References Committee for inquiry and report by 5 September 2000:

The provisions of the Gene Technology Bill 2000, with particular reference to:

Objectives

(a) whether measures in the bill to achieve its object ‘to protect health and safety of people and to protect the environment’ are adequate;

(b) whether the proposed regulatory arrangements and public reporting provisions will provide sufficient consumer confid-
ence in the regulation of the development and adoption of new gene technologies;

The Office of Gene Technology Regulator
(c) the structure of the Office of the Gene Technology Regulator (OGTR) and its assessment processes compared with other proposed stakeholder models and similar overseas bodies;
(d) whether the powers and investigative capability of the OGTR are adequate to ensure compliance with conditions imposed in licences;
(e) whether the proposed cost recovery and funding measures for the OGTR are appropriate and will allow for adequate resourcing of the office;

Other proposed bodies
(f) the role and membership of the proposed ministerial council,
(g) the functions and powers of the Gene Technology Community Consultative Committee and the Gene Technology Advisory Committee;
(h) procedures for review of decisions and, in particular, the rights of third-parties to seek review of decisions;

Other issues
(i) liability and insurance issues relating to deliberate and accidental contamination of non-genetically modified crops by genetically-modified crops and how those issues are being addressed in international regulatory systems;
(j) the validity and practicability of any proposed clause allowing individual states the right to opt out of the scheme and the implications of such an option in the context of Australia’s international trade and related obligations; and
(k) the alleged genetically-modified canola contamination in Mount Gambier and the processes followed by the Interim Office of Gene Technology in investigating and reporting on the allegations.

Senator STOTT DESPOJA (South Australia—Deputy Leader of the Australian Democrats) (4.12 p.m.)—I seek leave to amend the motion standing in the name of Senator Forshaw, and I seek leave to make a brief statement. I understand that all parties have been made aware of this request.

Leave granted.

Senator STOTT DESPOJA—I move:
(1) Omit “5 September 2000”, substitute “5 October 2000”;
(2) After paragraph (a), insert:

(aa) the provision and promotion of appeal mechanisms for decisions by the Office of the Gene Technology Regulator and the veto role of the Minister for the Environment and Heritage under the bill and related Acts;

(ab) the reflection and promotion of the precautionary principle in the Bill;

(3) After paragraph (d), insert:

(da) the adequacy and effectiveness of public consultation and participation in gene technology regulation by the OGTR;

(4) At the end of the motion, add:

(l) the adequacy of current and proposed notification and containment procedures, under the Genetic Manipulation Advisory Committee, for deliberate releases of genetically modified organisms.

The gist of the Australian Democrats’ amendments to this motion of reference to the Senate Community Affairs References Committee proposing an inquiry into the Gene Technology Bill 2000 is essentially designed to strengthen what we see as a good terms of reference but can be improved upon. I understand that there is not majority support for those amendments. Rather than hold up the Senate under Order of Business today, I sought leave to comment now. The amendments call for a longer reporting date—that is, we have nominated 5 October—largely as a result of the fact that the introduction of this legislation has been delayed by at least a month by the government. So we do not see that we should necessarily have a reporting date that is strictly in September.

The amendments also seek to ensure that the issue of the role of the environment minister in relation to the gene technology bill is highlighted—in particular, the power of veto for the Minister for the Environment and Heritage under the bill and related acts. We have also included in our proposed amendment the fact that the adequacy and effec-
tiveness of public consultation should be a matter for examination under the committee's reference. We have also proposed that the adequacy of current and proposed notification and containment procedures for the deliberate release of genetically modified organisms under the Genetic Manipulation Advisory Committee, GMAC, also be investigated.

I would say that the Democrats have tried, on many occasions and over many years, to have an investigation or inquiry into genetic engineering and the issue of GMOs. I am glad to see that it is finally happening but I do make one last plea to the opposition and, indeed, the government: that they support terms of reference that include those factors to which I referred. I can see that they would only strengthen the terms of reference and greatly improve the committee's inquiry. I hope that honourable senators will support the Democrat amendments. As I say, I have moved the amendments standing in my name that were circulated earlier today.

Senator FORSHAW (New South Wales) (4.15 p.m.)—by leave—I realise that we are approaching the end of this session. Normally, in a spirit of generosity, I might entertain the plea to the opposition and, indeed, the government: that they support terms of reference that include those factors to which I referred. I can see that they would only strengthen the terms of reference and greatly improve the committee's inquiry. I hope that honourable senators will support the Democrat amendments. As I say, I have moved the amendments standing in my name that were circulated earlier today.

Senator BROWN (Tasmania) (4.17 p.m.)—by leave—I support the amendments that Senator Stott Despoja has moved, because they do improve what is a good set of recommendations for the committee. Gene technology and genetic engineering is not only a complex issue but one that affects all Australians. It is a huge issue. It is extraordinarily important to Australia's future wellbeing—from the health and wellbeing of the rapidly growing organic farming sector in Australia, to the consumers and their right to know what is happening as far as genetically engineered products are concerned. It is an extraordinarily important committee. It will have a very big public input. It has got a very tough task, but this parliament needs to see it for the importance it has. I believe that the one omission—if I can point to one—that I would be adding to this is the economic impact of genetic engineering on Australia. I think it is negative. One only has to see the difficulty that American and Canadian farmers who are growing genetically engineered canola have in trying to sell their unwanted products—so much so that some of them are dumping their products in overseas aid commitments—to know that Australia has to look very carefully at the economic impact, for the worse, that this engineering alternative being foisted rapidly upon Australia by the multi-nationals might have. I will be taking a very keen interest on behalf of the Greens and will be fostering maximum public awareness of this committee and of the need for input to the committee, to help balance the undoubtedly huge sway that the multinational corporations will have on it. I support the Democrat amendments. It would improve the committee's ability to look at the matter if they were adopted.

Senator HARRIS (Queensland) (4.20 p.m.)—by leave—I believe that the amendments put forward by the Democrats do add
substantially to an issue that is of very great public importance, particularly when you look at the fact that the amendments themselves ask for the committee to look at and reflect upon the precautionary principle. If there is anything that we should show precaution in, it is genetically modified food. They also go to the adequacy and effectiveness of the public consultation process. To a great degree, one of the most important ones is the adequacy of the current and proposed notifications. I bring to the chamber’s notice that there are concerns about seeds that are already being brought into Australia for broadacre planting that have genetically modified material in them. Since 1997, we have had within Australia by-products of genetically modified crops entering the food chain being used as supplementary feed for animals that are bred for human consumption. Therefore I believe that the last amendment by the Democrats is quite probably the most important of the whole lot, because genetically modified food is already getting into our food chain. I place on record One Nation’s support for the Democrat amendments.

Amendments not agreed to.

Senator Stott Despoja—I would not wish to call a division, but I would like it recorded how the Labor Party voted, so that we do not have to go to a division.

The ACTING DEPUTY PRESIDENT (Senator Chapman)—That is out of order, Senator Stott Despoja. You can only record how the Democrats voted.

Senator O’Brien—I am happy to indicate that, as was indicated by Senator Forshaw, the Labor Party did not support the amendments moved by Senator Stott Despoja.

The ACTING DEPUTY PRESIDENT—The question now is that the motion moved by Senator Forshaw be agreed to.

Original question resolved in the affirmative.

COMMITTEES
Community Affairs References Committee
Extension of Time

Senator O’BRIEN (Tasmania) (4.23 p.m.)—On behalf of Senator Crowley, I seek leave to incorporate in Hansard a statement regarding notice of motion No. 610.

Leave granted.

The statement read as follows—
Inquiry into Public Hospital Funding Chair’s statement to extend reporting date
SENIOR CROWLEY:
In seeking this extension of time to report, I wish to advise the Senate of the Committee’s proposed course of action to finalise the inquiry.

The Community Affairs References Committee has received a large volume of information and evidence during its inquiry into public hospital funding. A diversity of views and options as to future directions has been expressed in this evidence.

The Committee will shortly release a First Report, representing its initial response to the terms of reference relating primarily to funding within the Australian health system. In this Report, the Committee will present an overview of the public hospital sector, identify the major problems and issues faced by the sector, examine the adequacy of funding and canvass options for reform.

The Committee has not yet taken a position on any options to be presented in this report, but rather, will present the various possible courses of action for consideration and debate.

The Committee plans to convene a Roundtable Discussion/Forum in August at which expert participants will consider the options presented in this Report. It is the Committee’s intention that the Roundtable Discussion/Forum will create an opportunity to provide focussed consideration of the options and enable further development of mechanisms for their introduction.

This process will assist the Committee in its deliberations during the preparation of its final report.

Senator O’BRIEN—At the request of Senator Crowley, I ask that general business notice of motion No. 610 be taken as formal.

Leave granted.

Senator O’BRIEN—I move the motion standing in the name of Senator Crowley:

That the time for the presentation of the report of the Community Affairs References Committee on how, within the legislated principles of Medicare, hospital services may be improved, be extended to 12 October 2000.

Question resolved in the affirmative.
BURMA

Motion (by Senator Brown) agreed to:

That the Senate—

(a) notes the call by Aung San Suu Kyi in Burma, and by the Free Burma Action Committee in Australia, for the cancellation of the human rights training program offered by Australia to the Burmese military regime; and

(b) calls on the Australian Government to withdraw funding from the program unless and until it gains the approval of the democratically-elected leader of Burma, Aung San Suu Kyi.

GOODS AND SERVICES TAX: PETROL PRICES

Motion (by Senator O’Brien, at the request of Senator Cook)—put:

That the Senate condemns the Prime Minister (Mr Howard) and the Government for deliberately misleading the Australian motorists that petrol will not rise as a result of the goods and services tax.

The Senate divided. [4.30 p.m.]

(The President—Senator the Hon. Margaret Reid)

Ayes………… 25
Noes………… 35
Majority……… 10

AYES

Bishop, T.M.
Brown, B.J.
Carr, K.J.
Conroy, S.M.
Crowley, R.A.
Forshaw, M.G.
Harris, L.
Hutchins, S.P.
Lundy, K.A.
McKernan, J.P.
Murphy, S.M.
Ray, R.F.
West, S.M.

Bolkus, N.
Campbell, G.
Collins, J.M.A.
Cook, P.F.S.
Dennan, K.J.
Harradine, B.
Hogg, J.J.
Ludwig, J.W.
Mackay, S.M.
McLucas, J.E.
O’Brien, K.W.K.
Sherry, N.J.

NOES

Abetz, E.
Alston, R.K.R.
Brandis, G.H.
Campbell, I.G.
Coonan, H.L.
Eggleston, A.
Ferris, J.M.
Greig, B.
Herron, J.J.
Knowles, S.C.
Lightfoot, P.R.
Mason, B.J.

Allison, L.F.
Bourne, V.W.
Calvert, P.H.
Chapman, H.G.P.
Crane, A.W.
Ellison, C.M.
Gibson, B.F.
Heffernan, W.
Kemp, C.R.
Lees, M.H.
Macdonald, I.
McGauran, J.J.

PATTERNS

Cooney, B.C.
Crossin, P.M.
Evans, C.V.
Faulkner, J.P.
Gibbs, B.
Quirke, J.A.
Schacht, C.C.

Hill, R.M.
Minchin, N.H.
Ferguson, A.B.
Boswell, R.L.D.
Macdonald, I.A.L.
Murray, A.J.M.
Payne, M.A.

* denotes teller

Question so resolved in the negative.

BUDGET 1999-2000

Consideration by Legislation Committees

Additional Information

Senator CAL VERT (Tasmania) (4.33 p.m.)—On behalf of the chair of the Employment, Workplace Relations, Small Business and Education Legislation Committee, Senator Tierney, I present additional information and the Hansard transcript of evidence relating to the committee’s supplementary hearings on the additional estimates for 1999-2000.

COMMITTEES

Rural and Regional Affairs and Transport Legislation Committee

Report

Senator CAL VERT (Tasmania) (4.33 p.m.)—On behalf of Senator Crane, the chair of the Rural and Regional Affairs and Transport Legislation Committee, I present Hansard transcripts, tabled documents, submissions and additional information relating to the inquiry by the Rural and Regional Affairs and Transport Legislation Committee into the Northern Prawn Fishery Amendment Management Plan 1999, together with correspondence in respect of possible adverse reflections on persons and organisations during the inquiry. I seek leave to incorporate in Hansard a statement in relation to the documents.

Leave granted.

The statement read as follows—

The Rural and Regional Affairs and Transport Legislation Committee conducted an inquiry into the provisions of the Northern Prawn Fishery Amendment Management Plan 1999 in February
2000. The Committee’s report to the Senate on the reference was tabled on 8 March 2000.

The Committee received 81 written submissions on the inquiry, the majority of which were received in the 10 days prior to the Committee’s hearing on the inquiry in Brisbane on 3 & 4 February 2000. The Committee subsequently received a further 8 supplementary written submissions.

Those submissions were not tabled with the Committee’s report, and are now tabled.

On the second day of the Committee’s hearing, that is, 4 February 2000, two witnesses—Mr Ron Edwards and Mr Murray France—drew the Committee’s attention to statements made in several written submissions which they considered contained adverse reflection on a number of individuals: Mr France, Ms Trysh Stone, Mr Bruce Wallner and Ms Annie Jarrett who are involved in private industry, the Northern Management Advisory Committee (NORMAC) or the Australian Fisheries Management Authority (AFMA).

During the course of their evidence, the witnesses asked the Committee to consider expunging the statements complained of from the submissions in question pursuant to the Committee’s powers under paragraphs (11), (12) and (13) of the procedures which the Senate has ordered be observed by Senate committees for the protection of witnesses appearing before them.

Following the Committee’s public hearings on 3 & 4 February 2000, and following further representations to the Committee by Mr Edwards, Mr France and Ms Jarrett, the Committee sought written responses from the persons named in the submissions in question on the statements made.

The persons invited to make responses to the Committee were
Mr Murray France;
Ms Annie Jarrett;
Ms Trysh Stone; and
Mr Bruce Wallner

The Committee received a written submission from each person responding to both general and specific comments made about them in a total of 5 of the written submissions published by the Committee.

Each of these persons asked that, if it was within the Committee’s power to order certain statements expunged from the submissions.

As all submissions received by the Committee were published at the commencement of the Committee’s Brisbane hearing on 3 February 2000, the Committee has obtained the advice of the Clerk of the Senate on the Committee’s powers to consider and comply with such a request.

In a letter dated 8 March 2000, the Clerk of the Senate advised the Committee that—pursuant to current Senate resolutions regarding privilege and on the protection of witnesses appearing before Committees—the Committee has no power to order that statements in written submissions which had been published by the Committee be expunged.

The Clerk has also advised that the Committee should table all written submissions published by the Committee together with the further correspondence sent to the Committee by Mr France, Ms Stone, Ms Jarrett and Mr Wallner.

The Clerk’s letter of advice to the Committee is tabled with this statement.

As Chairman of the Committee I should make some comment, on the Committee’s behalf, on this matter.

The Committee’s inquiry into the Northern Prawn Fishery Amendment Plan was the final inquiry in a difficult, time-consuming process of scientific study, industry consultation and decision on future fishing management methods within the northern Australian prawn fishing industry.

Hearings were held in Brisbane over two days following notification by operators from Western Australia and the Northern Territory that they were prepared to attend hearings by the Committee in Brisbane.

Twenty years ago, it should be stressed, the northern Australian prawn trawl fishery was a prolific and highly profitable fishery. However, evidence is now clear that a substantial reduction in fishing effort is required if it is to remain economically and environmentally sustainable.

Such a reduction in effort appears the only way that rapid further depletion of the resource can be avoided. AFMA recommended, after extensive consultation through NORMAC, and after a review of the process by Justice Toohey that—in view of the depleting resource level—reduction in fleet effort by way of gear limitation, as opposed to restrictions on fishery output based on quota catch, was the favoured option.

The Committee found during its hearings that the decision to amend the prawn fishery management plan was controversial and one to which a number of trawler owners strenuously objected.

It is in this context that the statements and assertions made in these submissions in question were made.

The Committee, I must emphasise, considers that the statements that were complained of do reflect
adversely on each individual and that the reflections in no way assist the case made in those submissions. The Committee has no reason to doubt the integrity and professional capacity or honesty of those named and reflected upon.

The Committee has also been provided with a copy of a letter dated 30 May 2000 from Mr Warren Entsch, MP, the Member for Leichhardt sent to the acting Chair of AFMA. Mr Entsch strongly criticised AFMA and, in the course of the letter, criticising the extent of this Committee’s inquiry. This letter is also tabled.

The Committee points out that its report on the Fishery Amendment plan was a unanimous report by a Committee with Government Senators Crane and McGauran, Opposition Senators Forshaw and O’Brien and Democrat Senator Bartlett. That usual membership was supplemented by the participation in the inquiry of Senators Crossin, Harris and McLucas, representing areas of Australia where the fishery operates.

The Committee was careful to ensure that a broad representative cross section of parties making representations to the Committee were given a hearing, and that—in particular—scientific evidence on the state of the fishery and forecasts for its sustainability were scrutinised.

Accordingly, the Committee believes that the comments made by Mr Entsch MP, after the Committee had completed its inquiry and tabled its report, were not accurate and nor were they helpful in resolving the ongoing management issues required to manage this significant fishery.

The Committee understands that AFMA itself has now responded to Mr Entsch’s letter.

It was not the responsibility of the Committee to involve itself in the political issues related to the fishery, but to examine the plan proposed by AFMA as a way forward: was it necessary, could the old fishery regime be maintained and were there alternative management regimes that would resolve the sustainability issues?

The Committee concluded that the existing Management Plan was not delivering sustainable management due to a number of factors. It was obvious to the Committee that the existing fishery regime together with technological change had allowed many of the problems, such as effort creep, to arise in the fishery, and that the new plan has real potential to significantly improve the situation. Consequently, the Committee supported the implementation of the amended Management Plan but also made significant recommendations for further scientific research on a number of important proposals for improvement of the current plan placed before the Committee during the inquiry.

The principal consideration for all Committee members was to put a regime in place which allows a return to a situation where yields are such as to allow a restoration of profitability and also to assist offshore businesses associated with the fishery. This could only be achieved by having an economically and environmentally sustainable regime.

**DELEGATION REPORTS**

**Parliamentary Delegation to the Kingdom of Cambodia and the 20th General Assembly of the ASEAN Inter-Parliamentary Organisation, Manila, Philippines**

Senator CALVET (Tasmania) (4.34 p.m.)—by leave—On behalf of Senator Lightfoot, I table the report of the parliamentary delegation to the Kingdom of Cambodia and the 20th General Assembly of the ASEAN Inter-Parliamentary Organisation, Manila, Philippines, in September 1999. I move:

That the Senate take note of the document.

I seek leave to continue my remarks later.

Leave granted; debate adjourned.

**COMMITTEES**

**Scrutiny of Bills Committee Report**


Ordered that the report be printed.

**Senators’ Interests Committee Register**

Senator DENMAN (Tasmania) (4.35 p.m.)—In accordance with the order of the Senate of 17 March 1999, I table a copy of the register of senators’ interests containing notifications of alterations to the register since December 1999. I seek leave to make a short statement.

Leave granted.

Senator DENMAN—I thank the Senate. I have tabled the first of two annual updates of
the alterations of interests declared by senators. They are intended to ensure transparency in the matter of conflicts of interests. It is a fact of political and commercial life and a principle of ethical behaviour that a conflict of interest can exist without a person doing anything wrong or taking any unfair advantage. But for important decision makers such conflicts must be resolved. The Senate scheme for addressing conflicts of interest between public duty and private interests, while arising from a resolution of the Senate, is based on the integrity of each individual senator. Senators declare pecuniary and other interests in the register as a demonstration of the transparency which they consider is essential for public representatives taking legislative decisions on behalf of the nation. The declaration of relevant interests during debate reinforces that commitment. These approaches to transparency are the Senate’s method of resolving most conflicts of interest. The fact of the private interests and their potential to be affected by public decisions are declared; nothing is hidden. The relevant decision maker invites the Senate and the public to accept that having declared the private interests they nevertheless have the capacity and integrity to act objectively in the public interest.

Other more stringent schemes may tend to have other consequences for the main work of the legislators. They may tend to disqualify senators from participating in their legislative duties and thus disenfranchise the people who elect them to participate in those duties. Such standards of exclusion are applicable in executive, judicial and commercial areas where serious personal conflicts may arise and normally result in the decision maker withdrawing from decision making processes. Experience has shown that the political consequences of controversies affecting the register of senators’ interests are serious.

But the effectiveness of the scheme as a way to create transparency and reduce the adverse consequences of conflicts of interests is entirely in the hands of senators. It is a function of their personal integrity, supported by the effective administration of their records. In that sense, the scheme is stringent and demanding on all senators to ensure that pecuniary and other private interests are declared in a timely way. Senators do appear to be very conscious of this and act accordingly.

Legal and Constitutional References Committee Report

Senator McKIERNAN (Western Australia) (4.38 p.m.)—On behalf of the chair of the Legal and Constitutional References Committee, Senator McKiernan, I present the report entitled A sanctuary under review: an examination of Australia’s refugee and humanitarian determination processes, together with the Hansard record of the committee’s proceedings, tabled documents and submissions received by the committee.

Ordered that the report be printed.

Senator McKIERNAN—I move:

That the Senate take note of the report.

This report examines an issue which has received considerable attention from the media and from a number of legal, human rights and other organisations over the past few years: does Australia’s onshore protection program for asylum seekers provide too much or too little? As the report’s title, A sanctuary under review, suggests, the committee was examining Australia’s performance as a nation that gives refuge to people who are found to be in need of protection. During the inquiry, the committee recognised that half a century has elapsed since Australia became a signatory to the refugee convention. It notes with regret that the number of people that are in need of protection, and in some cases resettlement in a country other than their own, remains at an alarming level. The world has changed dramatically in these 50 years. It is now much easier for people to move across borders from one country to another in circumstances significantly different from those that existed when the convention was originally conceived and signed. These changes have put enormous pressures on refugee receiving countries and their internal refugee determination processes. Australia continues to grant sanctuary to refugees, allowing them to settle here and assisting them to rebuild their lives.
The committee has found that, whilst Australia has good determination systems in place, those systems are not perfect. Were those systems perfect, the tragic events surrounding the Chinese woman, as detailed in chapter 9 of the report, would never have happened. Dare I suggest that, if the recommendations contained in this report are adopted and implemented, Australia will never again be subjected to the justified criticism that was directed at this country as a result of the events that followed the woman’s removal from Australia. The onshore humanitarian determination procedures that were in place at the time of the woman’s removal from Australia failed this nation. They also, with tragic personal consequences, failed the woman and her unborn baby. We make recommendations that will, we believe, ensure the tragic events are never repeated. It is because the Chinese woman has an application on foot that we refer to her by pseudonym. She is entitled, like every other applicant, to her privacy. Early in the inquiry, after certain approaches, the committee decided not to seek to represent individual cases. It is for this reason that no recommendations are being made in her case or on behalf of any other individual who approached the committee or on whose behalf representations were made to us. The case of Mr SE, the subject of chapter 7, is dealt with in the same manner. Mr SE also has an application on foot.

One major feature of the committee’s deliberations was the humanitarian obligations under the Convention against Torture and the International Convention on Civil and Political Rights. Australia currently satisfies these obligations by way of the ministerial discretionary powers that are contained in section 417 of the Migration Act. There is no formal humanitarian application or review system. Applicants who feel they have a legitimate humanitarian claim have to apply for consideration through the refugee process. When an applicant is rejected at the primary stage and at the Refugee Review Tribunal, they can then make a request to the minister for consideration of their claim and for ministerial discretion to be exercised in order to substitute a more favourable decision. Although the committee concurs that this can be a lengthy and time consuming process, it stopped short of recommending, at this stage, that a humanitarian determination and review system be adopted. The committee was mindful of the controversial debate surrounding the current two-tier administrative refugee determination system and the limited availability of access for those decisions to judicial review.

However, the committee has recommended that the Attorney-General’s Department and the Department of Immigration and Multicultural Affairs should examine the most appropriate means by which Australia’s laws could be amended so as to explicitly incorporate, into domestic law, the non-refoulement—non-return—obligations of the torture convention and the ICCPR. When this is accomplished, an appropriate humanitarian determination and review system can be developed. The committee has examined the primary determination system for refugees and expressed surprise to find that only 10 per cent of the applicants are interviewed at this stage of the process. Recommendations to improve the situation have been made, including the suggestion that sufficient resources be made available to ensure that applicants are better able to understand the requirements of Australia’s refugee program. The committee has not accepted suggestions that the refugee determination system be relocated to the Attorney-General’s Department; however we have recommended that there be greater training given to decision makers in the Department of Immigration and Multicultural Affairs, including those using information stored in the department’s country information service.

Recommendations are also made to enhance the determination process of the Refugee Review Tribunal. One of the recommendations would, if implemented, prevent officers of the Department of Immigration and Multicultural Affairs, the Attorney-General’s Department and the Department of Foreign Affairs and Trade from applying to serve as members of the RRT whilst still attached to their respective departments. The committee felt that this recommendation was necessary to protect the integrity of the tribunal.
The committee did not agree with the proposition that the RRT should be enabled to make decisions on an applicant’s humanitarian claims, but we do suggest that the current informal practice of making recommendations to the minister on humanitarian grounds be allowed to continue. Further or additional training for RRT members is also recommended, and the committee agreed that the credibility of an applicant should continue to be a factor. The committee has also recommended that, in some circumstances, multimember panels of the RRT would be appropriate.

The committee was required by the terms of reference to inquire into the adequacy of ministerial powers as contained in section 417 of the act as a means of ensuring that no person is returned to a country to face torture or death. The committee found that Australia could meet its obligations in this way. We have, however, recommended that the guidelines on the exercise of the powers should be more widely disseminated and, as reported earlier, that there be an examination to find the most appropriate means of amending our laws so as to incorporate the relevant treaty obligations into domestic law. We have also recommended that requests for consideration under section 417 be processed quickly, that the result of the request be advised to the relevant person and that the person not be removed from Australia before the initial or first section 417 request is finalised.

With regard to the removal of unlawful non-citizens from Australia, we have recommended that protocols be developed between the carriers—usually the airline that brought the unauthorised arrival to Australia—and the contract removal service provider. It is further recommended that these protocols be subject to external and independent audit. The committee received a number of submissions suggesting that Australia had obligations to monitor what happened to people after they had been removed from Australia. This was to ensure that Australia was not returning a person to a place where they risked being tortured or put to death. Evidence provided to the committee suggests that the monitoring of individuals would be difficult and possibly dangerous. The government of the country concerned might not appreciate a foreign nation monitoring the movements of a citizen in his or her own country. The committee doubts that Australia would sanction such behaviour within its borders.

The committee inquired into the implications of the refugee safe haven policy and, as this inquiry concludes, events continued to unfold with regard to its implementation. The program is not yet complete, and a certain amount of controversy continues as some Kosovars in Australia on visas issued for medical reasons attempt to apply for protection here. Some persons not in possession of valid visas are in detention, and others are unlawfully in the community. With regard to the East Timorese on safe haven visas, the committee concluded that Australia’s response was both timely and necessary. We are of the view that further work should be done to properly assess the safe haven operations and have recommended that a detailed cost-benefit analysis be arranged. This analysis would necessarily include estimates of the provision of all services by both government and non-government agencies.

The committee has grave concerns regarding the allegations of the sedation of persons being removed from Australia. They were not within the terms of reference of this inquiry. Allegations were made about the Chinese woman being sedated prior to her removal, and Mr Ayers investigated these in his ministerial inquiry. His report on this matter was made public. Further allegations of sedation of persons being removed from Australia were made on a recent ABC TV Four Corners report. We recommended that an inquiry be undertaken into the use of sedation and other means of restraint during the removal process.

Other areas that the committee inquired into included the access to judicial review, the availability of legal advice, funds for medical and psychiatric assessments and separate IAAAS funds for translating and interpreting services. In conclusion, I must record my thanks to my fellow committee members for their continual advice and support during the inquiry. I seek leave to incor-
porate the last paragraph of my speech in Hansard. (Time expired)

Leave granted.

The speech read as follows—

Finally, and on behalf of the committee let me record the appreciation of us all to the committee secretariat led by Dr Pauline Moore. Our gratitude and thanks also go to Yvonne Marsh, Veronica Strkalj, Jonathan Curtis, Sonia Hailes, Patricia Burritt, Saxon Patience, Paul Harris, Deborah Cook and Ruth Clark.

Senator COONAN (New South Wales) (4.49 p.m.)—I rise on behalf of government senators to comment very briefly on the report into Australia’s refugee and humanitarian determination process. I should say at the outset that this inquiry, which raised difficult issues and matters of great sensitivity, showed the Senate committee system working very well. In this regard, I commend the chair, Senator Jim McKiernan, my Liberal colleague Senator Payne and all members of the committee, including participating members like Senator Harradine, for their cooperation in agitating the issues in a responsible way—one which saw the temptation for immediate political point scoring subsumed in the national interest of conducting a thorough examination of the system and protecting the personal details of individuals. I would also like to personally commend my friend and legal colleague Dr Mary Crock for her very generous voluntary assistance to individual members of the committee, including me. Given the time complexity and the number of hearings, she made a significant contribution to the debate about this important area of public policy. The report covers an extensive array of issues material to the debate, and it is not possible to canvass them all. The transcripts of evidence and indeed the extensive nature of the report itself are tantamount to the considered and thorough examination by the committee of these issues.

As noted in the majority report, the evidence of many witnesses, including Commonwealth departments, especially DIMA, greatly assisted the committee in forming its views and making considered recommendations in response to the terms of the inquiry. Government senators support the vast majority of the committee recommendations. It is worth noting, as Senator McKiernan said, that since the committee began its inquiry in May 1999 a great deal of public attention has been focused on immigration and refugee matters. In many ways, this has made the committee’s task more complex. Government senators recognise that Australia’s decision to participate in the safe haven operation for the Kosovars and then in the East Timor safe haven operation placed exceptional demands on the operation of the Department of Immigration and Multicultural Affairs. Indeed, we are grateful to the members of the department who, notwithstanding those demands, continued to assist us in our deliberations.

We are all troubled by the large numbers of unauthorised boat arrivals that have taken place, which have placed new demands on the operations of the department. We considered many aspects of the handling of previous occurrences of this nature, as required by the terms of reference, and we observed that some of the concerns raised by the specific examples of the terms of reference seemed to have been addressed in the current practices and policies that have been developed by the department. Obviously, our recommendations in this area are intended to ensure that the refinement of practices and procedures continues.

We support the majority of the committee’s recommendations in the inquiry. We note that many of the recommendations seek the production of better communication tools to inform individuals operating within the system, including decision makers, practitioners, applicants and non-citizens who have arrived on our shores. Certain other recommendations seek detailed analyses of the weight of demands placed on the system generally to be conducted by the Australian National Audit Office, the Australian Law Reform Commission and the Department of Immigration and Multicultural Affairs itself. It is envisaged that these inquiries, if undertaken, will assist the department in particular—and policy makers in general—to determine whether current practices and procedures are effectively and efficiently meeting Australia’s needs in the current pressured refugee handling environment.
We do take issue, however, with the recommendations in chapter 6 on judicial oversight of administrative decisions. We do not support recommendation 6.4, which recommends that an independent study be undertaken on the benefits of modifying the current refugee determination process—onshore, that is. The recommendation recommends that the assessment should deal with the feasibility of moving to a wholly judicial determination process, including the costs of such a process. The report notes that parliamentary debate is currently occurring on the question of the judicial review of migration and refugee decisions and, in that context, we support the progress of the debate and await its outcome in preference to the time consuming and costly commissioning of a separate study, the relevance of which may be marginalised by the results of the parliamentary consideration of the issues.

In relation to the debate on judicial review, the lines have been drawn. The great challenge facing the government in its obligations to the community is to achieve an appropriate and workable balance between the public accountability of government, administrative justice for the individual and practical, efficient and lawful administration. The government has concerns over the costs, resources and delay involved in the refugee determination system. We think these issues and the role of judicial review do need to be addressed, and we do need to receive advice about how it might best be addressed. The two bills presently before the parliament, the Migration Legislation Amendment (Judicial Review) Bill 1998 [2000] and the complementary migration legislation amendment bill, fairly and squarely raise the issues. During the debate, we will no doubt refine many of them. Government senators take the view that it would be simply unproductive to seek to pre-empt the outcome with an independent study.

We note in conclusion the efforts of the committee secretariat. It was a consuming task to reduce the volume of submissions and evidence to distil the issues into manageable drafts. They are to be commended for their part in ensuring that the report and recommendations form a considered and comprehensive examination of the very wide-ranging terms of reference on this most important matter.

Senator BARTLETT (Queensland) (4.56 p.m.)—I would also like to speak to the report on the operation of Australia’s refugee and humanitarian program entitled A sanctuary under review: an examination of Australia’s refugee and humanitarian determination processes. It is an important report, which has taken a year to produce. As the person who moved the motion originally establishing it, I have maintained a great interest in the conduct and the progress of the inquiry. It is significant for a number of reasons, not least of which is simply the amount of information that it puts on the record—both in the report itself and in the proceedings of, and the submissions to, the committee—which highlights a lot about the operation of our onshore refugee determination process and humanitarian related visas.

This issue is of concern to many people, and it is also an issue of extreme significance. If we mistakenly knock back an application for protection from an asylum seeker, we are quite possibly sending someone back to face death. It sounds dramatic, but it is the case, and we need to acknowledge that in this situation. In a debate that is often conducted in a politicised and fairly heated and didactic way, it is important to pull it back to the basic fact that, if we send people back who are genuine refugees, we may well be sending people to their deaths. That is something I would hope no Australian would support, and I am sure no member of this chamber does. That is why the refugee determination process is so important, and that is why the concerns raised by many people actively involved in the day-to-day operation of that process—not least the asylum seekers themselves—are so important.

During this inquiry, as well as other inquiries by the same and other related committees into issues to do with our refugee process, it has become clear to me that Australia’s processes in this area are quite significant and influential for other countries around the world. As the minister never tires of telling us, Australia has a good record on providing a haven to refugees. In my view,
Australia’s record has been put under threat in recent times, but it is an area where other countries do look to Australia. In that sense, this report is all the more important. As I put in my additional comments, if I had written this report solely I would have been stronger and harder in some of the recommendations. But, as Senator Coonan indicated, what is important about the committee process is that there is cross-party support for the recommendations. Through the conduct of the inquiry, we did look for common ground where possible.

I am very pleased that we have produced a report that is pretty close to unanimous, except for one or two areas. I hope that the government takes note of the fact that it is cross-party and has the overall support of all the senators on the committee, as well as participating senators such as Senator Harradine, which should give emphasis to the government about the weight and strength of the views of the committee. Being a cross-party report, it means that you have to subsume your individual views a bit more. But there is nothing of concern in the report in terms of recommending things going in the wrong direction. That is why I am very pleased to put my name to this report and to support its conclusions and recommendations in total.

I urge the government to recognise that and perhaps to look again at some of its consideration on and rhetoric about refugee issues, because the attitude of the minister in broader debates about related issues is to continually deny that there is anything wrong and to say that there are no problems. There clearly are problems. I quite frequently repeat that this is a very difficult area where you are almost bound to find difficulty in getting it precisely right. Nonetheless, it is incumbent on us to strive to come as close as possible to perfection in this area more than most because of the fundamental aspect I raised before where, if we get it wrong, we could be sending people to their deaths. The case of the Chinese woman, which was one of those cases that prompted this inquiry, is a case in point.

As the chair indicated, the case of the Chinese woman is still live to some extent, so it is not appropriate to comment on it in too much detail. But there are recommendations in the report. It is quite clear that the situation occurred where a woman 8½ months pregnant was sent back and underwent what was almost certainly a forced, involuntary abortion. That should not happen and we have to make sure that it does not need to happen. I notice that the Minister for Justice and Customs, Senator Vanstone, is in the chamber. In my view, she was put in an invidious position by departmental officials in that regard. Any minister in that position would be keen to try to ensure that changes were made so that they were not put in that impossible position again. I think the performance of the department in that area leaves a fair bit to be desired, and I hope it takes the committee’s recommendations seriously.

A few of the important recommendations are worth emphasising. There is a recommendation to examine ways to incorporate other UN conventions, such as the UN Convention against Torture and the International Covenant on Civil and Political Rights, into the legislation. The case of Mr SE is another one that is examined in some detail in the report—again, it is another live case so it cannot be commented on in too much detail. Mr SE is a person who sought—a UN committee’s opinion on whether Australia’s obligations under the Convention against Torture were engaged. That committee indicated their view about that. But the government is under no obligation to act, even if you have a UN body saying that our obligation is not to refoule, not to send someone back to face torture. Because it is not legislated we do have a situation where there is no legal impediment to someone being sent back to face a situation such as torture. That is an undesirable situation. I hope the government takes on board the need to give legal weight to those conventions.

Another recommendation concerns monitoring other countries’ interpretations of the refugee convention. As has been widely stated, the convention is now nearly 50 years old and is very narrow. The minister has made a few statements about wanting to review the convention, which would appear to me to be with the aim of trying to narrow it
even further to enable Australia to reduce its obligations. Clearly, that would be inappropriate. If anything, I think this inquiry demonstrated that the convention is too narrow. When looking at the adequacy of the operation of the refugee convention, we need to look at those people who do not come under the technical interpretation of the refugee convention but who would still, if they were sent back to their country of origin, be facing serious situations, including potential torture or death. It is not against our law to send someone back to face torture or death if that torture or death is not going to be inflicted on them for a non-convention reason, which might make legal sense but does not seem to make much moral sense. I hope the government does take that issue on board.

There is the issue of the concentration of power in the hands of the minister. I think the safe haven visa situation highlights the problems with that. Having that fall-back position, that final safety net, can have its benefits in such a difficult area. But having such total power in the hands of the minister and his or her department, with no rights of appeal or review or any sort of transparency in any meaningful sense, presents potential problems. It is an area that needs to be further considered.

I would also like to place on record my thanks for the work of all the other members of the committee and the secretariat in particular, plus the department. Whilst I did not agree with a lot of what the officials were telling me, they did put a lot of time into the inquiry, and I am grateful for that. I also thank the witnesses who appeared and the people who put in submissions. I would like to acknowledge the expertise and assistance that Mary Crock has provided as well. She has made a major contribution to the overall quality of this report. There is a lot contained in the report on this important issue. I hope the government takes it seriously and I hope people in the broader community take it on board. It is our obligation to continue to strive to have the best possible system to ensure that we do not make mistakes in this crucial area.

Senator QUIRKE (South Australia) (5.06 p.m.)—I do not want to speak for too long on this because I understand there is a lot of pressing business before the house. But there are a few issues which it is necessary to mention in relation to this report of the Senate Legal and Constitutional References Committee entitled A sanctuary under review: an examination of Australia's refugee and humanitarian determination process. Firstly, I want to thank the committee staff who worked intensively on this particular inquiry. The report has taken many months to put together. It has involved a number of people who have had to distil enormous amounts of evidence and come down, at the end of the day, with some fairly simple propositions.

I would also like to thank my friend Senator McKiernan—I told him I was going to make mention of him during this speech—because he showed what an excellent chair he is. Given not only the enormous amounts of evidence that had to be distilled but also all the different views and, dare I say it, difficult people who constitute his committee, he managed to work his way through and produce a report that is, apart from a couple of small bits, almost unanimous. I think it is a credit to his excellent chairmanship that this has happened.

In essence, there are a number of very important issues in this report. The first one that we took evidence on—and one of the chapters in the report deals with this—was the case surrounding a Chinese woman and what happened to that particular individual, the inappropriate way she was treated in both instances in both jurisdictions. I think that point needs to be made crystal clear. Representatives from the Department of Immigration and Multicultural Affairs appeared before the committee a number of times. Their witnesses appeared callous and, in my view, appeared not to understand the enormity of the problem that we were investigating and the enormity of all of the other problems associated with the return of refugees. In the case of the Chinese woman, in particular, there was a callousness from the department which I found quite surprising and unsettling.
I would also say—and I think I would be wrong if I did not make remarks about this here today—that they relied on information provided by the Department of Foreign Affairs and Trade which was patently false. The whole situation in respect of China and the enforced abortion of pregnant women at any stage of pregnancy is a patent fact everywhere except within the Department of Immigration and Multicultural Affairs, inspired by the Department of Foreign Affairs and Trade because, I think, it suits both departments not to believe the truth.

There were other threshold issues to be dealt with. We seem to have a ‘rough’ way of dealing with refugee cases. The section 417 visa is one mechanism for dealing with them. Something that I think the government will have to pick up and deal with in this report is the question of people who seek asylum on humanitarian grounds. The section 417 visa is really an inadequate tool for dealing with the whole of that problem. We need to update the relevant acts and to bring in, in particular, the work done on torture by the United Nations. We have a pressing need in Australia to bring our immigration laws up to speed and into the 21st century. I think that is what this report showed.

I know time here today is precious, as it always is at the end of a session. I understand that a few of my colleagues also want to make remarks on this report, so I will finish by saying that this was a long and valuable experience for me. I hope that Minister Ruddock and the government actually pick up a number of the recommendations in this report and improve a system which, I think, has a number of strengths but also has a number of weaknesses. I also hope the Department of Immigration and Multicultural Affairs take the words that I have said here this afternoon fairly seriously, because I think there were a number of other committee members who were very concerned indeed that an eight-month pregnant woman was put on a plane and the department did not even think it was appropriate to tell the minister. They could not even remember whether they had told the minister that the woman was that far advanced. That probably sums up what I said earlier about how callous the department were in dealing with this particular problem. It is quite clear that this woman did not want to be forcibly aborted in China. It is quite clear that the world knew that was what was going to happen. The Department of Immigration and Multicultural Affairs and, for some reason or other, DFAT argue that this is not the case when everybody knows that indeed it is the case.

Senator COONEY (Victoria) (5.12 p.m.)—This is a very important report, as is every report that comes into this chamber. But this, I venture to say, is amongst the most significant of them. It seeks to answer the question: who is my neighbour? It certainly asks the question: who is my neighbour? It answers the question in terms of the Geneva Convention which looks after the position of refugees who come upon our shores.

There is a lot of dispute at the moment about people who come here, particularly by boat. There is a considerable atmosphere to say that we should just reject them. We have signed the 1951 Geneva Convention which applied to people who were made refugees mainly during the Second World War. In 1967, that proposition was expanded to meet anybody who was a refugee. Clearly, we cannot take every refugee that there is in the world, but we can look at those who come upon our shores and ask for refuge. We can look at them because we have signed this convention. If we do not want to take them, we can denounce the convention. But we cannot have it both ways. We cannot take the moral high ground by saying, ‘Yes, we are a country that has adhered to the Geneva Convention,’ and then in any way ignore what it says. Therefore, the first issue relates to refugees.

The second issue needing to be looked at is the issue of those who are in need of humanitarian assistance. They are distinct from refugees. Refugees are people who come here fleeing persecution for reasons such as race, political opinion and religion. They have convention reasons for coming here, convention reasons for fleeing. Other people may be threatened with the same sorts of things that refugees would be threatened with were they sent home—that is, with death, with torture, with wrongful imprisonment and so on. But
they do not have the convention reasons that a refugee has. In other words, they have no convention reason in terms of religion or race or what have you. They are just ordinary people who go about their tasks, but nevertheless they face those risks. We have signed conventions which touch upon them—such as the convention against torture and so on.

Having signed those conventions, it is incumbent upon us to live up to what we have undertaken. If we do not want to undertake such things anymore, then we can denounce the treaties. But we have not done that yet. In fact, Mr Deputy President, I asked in an inquiry—not this inquiry but some other inquiry, as I remember it—whether we could denounce the Geneva Convention and the answer was yes, but nobody else around the world had ever done that.

This is a significant inquiry in terms of our moral obligations, our obligations of conscience. I believe that reports dealing with those obligations are the reports that last down the years. As has already been done, I would like to thank the secretariat that has prepared this report. I would also like to acknowledge the great work done by the committee—Senator McKiernan, being the chair, Senator Payne, being the deputy chair, Senator Coonan, Senator Ludwig and Senator Bartlett.

I would also mention in this context people who are participating members, particularly Senator Harradine, who brought a great sense of fairness to this task and who did a great deal to help the consideration of the committee. I would acknowledge Senator Quirke, who has just spoken, and, as has been said, the department that gave so much of its time, together with all the other witnesses who came before us. Thank you, Mr Acting Deputy President, for giving me this opportunity to talk about a report which I consider to be one that will live for a while.

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

DEPARTMENT OF THE SENATE
Register of Senior Executive Officers’ Interests

The ACTING DEPUTY PRESIDENT (Senator Hogg)—I present notification of an alteration to the Department of the Senate’s register of senior executive officers’ interests, lodged between 4 December 1999 and 22 June 2000.

COMMITTEES
Reports: Government Responses

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (5.18 p.m.)—I present the government’s response to the President’s report of 8 December 1999 on outstanding government responses to parliamentary committee reports, and I seek leave to incorporate the document in Hansard.

Leave granted.

The document read as follows—

GOVERNMENT RESPONSES TO PARLIAMENTARY COMMITTEE REPORTS
RESPONSE TO THE SCHEDULE TABLED BY THE PRESIDENT OF THE SENATE ON 8 DECEMBER 1999

COMMUNITY AFFAIRS LEGISLATION
Report on the Australian New Zealand Food Authority Bill 1999

The Australia New Zealand Food Authority Amendment Bill 1999 passed through Parliament on 9 December 1999 and commenced on 23 December 1999.

COMMUNITY AFFAIRS REFERENCES
Access to medical records

The Government response will be tabled as soon as possible.

Child care funding

The Government response to this Report was tabled on 9 December 1999.

Report on proposals for changes to the welfare system

The Government is considering the response.

Rocking the Cradle—A report into childbirth procedures

The Government response will be tabled as soon as possible.

CORPORATIONS AND SECURITIES (Joint Statutory)

The Government response will be tabled as soon as possible.
ECONOMICS REFERENCES

A new reactor at Lucas Heights

The Government response to this Report was tabled on 6 April 2000.

EMPLOYMENT, WORKPLACE RELATIONS, SMALL BUSINESS AND EDUCATION REFERENCES

Jobs for the regions: A report on regional employment and unemployment

The Government response will be tabled as soon as possible.

ENVIRONMENT, RECREATION, COMMUNICATIONS AND THE ARTS REFERENCES

Access to heritage: user charges in museums, art galleries and national parks

The Government response to this Report was tabled on 8 June 2000.

ENVIRONMENT, COMMUNICATIONS, INFORMATION TECHNOLOGY AND THE ARTS REFERENCES

Report on the powers of the Commonwealth in environment protection and ecologically-sustainable development in Australia

The Government response has been delayed by the need to consider the report in the context of the new Environment Protection and Biodiversity Conservation Act, 1999. It should be tabled in the Spring sitting.

Jabiluka: The undermining of process – Report of the inquiry into the Jabiluka uranium mine proposal

The Government is preparing a detailed report addressing issues relating to the conservation of Kakadu National Park as requested by the World Heritage Committee. That report and the response to the Senate report are nearly complete. The Government intends to table the response as soon as possible.

Report on the development of Hinchinbrook Channel

The Government response will be tabled as soon as possible.

FINANCE AND PUBLIC ADMINISTRATION LEGISLATION

Format of the Portfolio Budget Statements (2nd Report)

The Government response to this Report was tabled on 6 April 2000.

FINANCE AND PUBLIC ADMINISTRATION REFERENCES

Inquiry into business tax reform

The report was taken into account by the Government in preparing the Business Tax Reform Legislation.

FOREIGN AFFAIRS, DEFENCE AND TRADE (Joint Standing)

Defence Sub-committee: Visit to Sydney Harbour foreshores Defence properties, 14 November 1997

The Government response to this Report was tabled on 9 March 2000.

Australia and ASEAN: Managing change

The Government response will be tabled as soon as possible.

Funding of Australia’s Defence

The Government response is expected to be tabled later in the year.

Australia’s trade relationship with India

The Government response will be tabled as soon as possible.

Report on the loss of HMAS Sydney

The Government response will be tabled as soon as possible.

Military justice procedures in the Australian Defence Force

The Government response will be tabled as soon as possible.

Defence Sub-Committee visit to Defence establishments in Northern Australia, 26-29 July 1999

The Government is considering the Report.

Bougainville: The peace process and beyond

The Government response will be tabled as soon as possible.

World debt: Report on the proceedings of a seminar, 27 August 1999, Canberra

The Government is considering the Report.

FOREIGN AFFAIRS, DEFENCE AND TRADE REFERENCES

The 1998 Indian and Pakistani nuclear tests (Report on nuclear weapon and ballistic missile proliferation in south Asia)

The Government response to this Report was tabled on 13 April 2000.

LEGAL AND CONSTITUTIONAL LEGISLATION

Family Law Amendment Bill 1999
The Government response will be tabled as soon as possible.

LEGAL AND CONSTITUTIONAL REFERENCES

Inquiry into the Commonwealth’s actions in relation to Ryker (Faulkner) v The Commonwealth and Flint

The Government is considering the matter.

Inquiry into sexuality discrimination

The Government response will be considered.

Inquiry into the Australian legal aid system (3rd report)

The Government response will be tabled as soon as possible.

Privacy and the Private Sector: Inquiry into privacy issues, including the Privacy Amendment Bill 1998

The Government response is being revised to take account of the Privacy Amendment (Private Sector) Bill 2000 which was introduced into Parliament on 12 April 2000. The Government response will be tabled as soon as possible.

MIGRATION (Joint)

Deportation of non-citizen criminals

The Government response is expected to be tabled in the Winter sittings.

Review of Migration Regulation 4.31B

The Government response to this Report was tabled on 15 February 2000.

Going for Gold – Immigration entry arrangements for the Olympic and Paralympic Games

The Government response to this Report was tabled on 11 May 2000.

NATIONAL CAPITAL AND EXTERNAL TERRITORIES (Joint Standing)

Island to islands: Communications with Australia’s external territories

A Government response will be tabled as soon as possible.

NATIONAL CRIME AUTHORITY (Joint Statutory)

Third evaluation of the National Crime Authority

The Government response was considered by the Inter Government Committee on the National Crime Authority at its meeting in November 1999, however, consultation following that meeting has yet to be concluded. Subject to finalisation of this process, it is anticipated that the Government response will be tabled in the Spring sittings.

Street legal: the involvement of the National Crime Authority in controlled operations

The proposals set out in the report raise complex issues of law and policy, which are under consideration by the Government. A Government response is likely to be tabled in the 2000 Spring sittings.

PUBLIC ACCOUNTS AND AUDIT (Joint Statutory)

Review of Auditor-General’s reports 1997-98, Third quarter (Report No. 367)

Responses to the Recommendations are being finalised and will be submitted to the JCPAA as soon as possible.


Response to policy Recommendation 5 is being finalised and will be submitted to the JCPAA as soon as possible.

Defence life cycle costing; Commonwealth guarantees, indemnities and letters of comfort; and review of Auditor-General’s reports 1997-98, Fourth quarter (Report No 370)

Responses to the Recommendations are being finalised and will be submitted to the JCPAA as soon as possible.

Review of Auditor-General’s reports 1998-99, First half – Aviation security, costing of services and planning of aged care (Report No 371)

Aviation security:

The Government response will be tabled as soon as possible.

Costing of Services:

Recommendation No 3 paragraph 4.24

DOFA notes the recommendation. Indeed, since the introduction of accrual budgeting DOFA has been actively facilitating the development of appropriate costing methodologies. There is a renewed focus on agencies improving their financial management systems. DOFA is promoting such improvements through consultation with agencies on various aspects of budgeting.

As well, DOFA has been working with a number of agencies undertaking Pricing Reviews to implement appropriate costing systems. These
pricing Reviews will assess the price of agencies’ outputs and lead to improvements in costing systems used by agencies. DOFA is taking an active role in advising agencies on the relative merits of alternative costing models.

Overall, the work carried out by DOFA and individual agencies will ensure that Ministers and parliament have access to higher quality information on the price of outputs produced by agencies in the Commonwealth.

Planning of Aged Care:
The Government is considering the Report.

RETAILING SECTOR (Joint Select)
Fair market or market failure? A review of Australia’s retailing sector
The Government response to this Report was tabled on 8 June 2000.

RURAL AND REGIONAL AFFAIRS AND TRANSPORT REFERENCES
The Effect of Pricing and Slot Management Arrangements at Kingsford Smith Airport on Regional Airlines Communities
The Government response to this Report was tabled on 13 April 2000.

Deregulation of the Australian dairy industry
The committee report was taken into consideration in the drafting of legislation passed on 3 April 2000.

SOCIO-ECONOMIC CONSEQUENCES OF THE NATIONAL COMPETITION POLICY
(Senate Select)
Interim report – Competition policy: Friend or foe – Economic surplus, social deficit?
The recommendations in the interim report will be addressed in the Government response to the final report.

TREATIES (Joint)
Treaties tabled on 18 March 1997 and 13 May 1997 (8th report)
The Government response will be tabled as soon as possible.

Agreement with Kasakstan, Treaties tabled on 30 September 1997 and 21 October 1997 (11th report)
The Government response will be tabled as soon as possible.

Australia-Indonesia Maritime Delimitation Treaty (12th report)
The Government response will be tabled as soon as possible.

Treaties tabled 1 April and 12, 13 and 26 May 1998 (15th report)
The Government response will be tabled as soon as possible.

UN Convention on the Rights of the Child (17th report)
The Government response will be tabled as soon as possible.

The Fifth Protocol to the General Agreement on Trade in Services and Five Treaties tabled on 30 June 1998 (19th Report)
A Government response is not required.

Two Treaties tabled on 26 May 1998, the Bougainville Peace Monitoring Group Protocol and Treaties tabled on 11 November 1998 (20th Report)
The Government response will be tabled as soon as possible.

Five Treaties tabled on 16 February 1999 (21st Report)
A Government response is not required.

Five Treaties tabled on 11 May 1999 (22nd Report)
A Government response is not required.

Amendments proposed to the International Whaling Convention (23rd report)
The Government response will be tabled as soon as possible.

A seminar on the role of parliaments in treaty making (24th report)
A Government response is not required.

Eight treaties tabled on 11 August 1999 (25th report)
The Government response will be tabled as soon as possible.

An agreement to extend the period of operation of the Joint Defence Facility at Pine Gap (26th report)
The Government response to the Report was tabled on 22 June 2000.

Termination of Social Security Agreement with the United Kingdom; and International Plant Protection Convention (27th report)
The Government response will be tabled in the 2000 Winter sittings.

Fourteen treaties tabled on 12 October 1999 (28th report)
A Government response is not required.

PRODUCT STEWARDSHIP (OIL) BILL 2000
CUSTOMS TARIFF AMENDMENT (PRODUCT STEWARDSHIP FOR WASTE OIL) BILL 2000
EXCISE TARIFF AMENDMENT (PRODUCT STEWARDSHIP FOR WASTE OIL) BILL 2000
PRODUCT STEWARDSHIP (OIL) (CONSEQUENTIAL AMENDMENTS) BILL 2000

First Reading

Bills received from the House of Representatives.

Motion (by Senator Ian Campbell) agreed to:

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

Bills read a first time.

Second Reading

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (5.20 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—

PRODUCT STEWARDSHIP (OIL) BILL 2000

This bill, together with three consequential amendment bills, represents a commitment made by the Government in the course of negotiations for A New Tax System—Measures for a Better Environment. As one of the outcomes of those negotiations, the Prime Minister announced, on 28 May of last year, that the Commonwealth would fund the development of a product stewardship arrangement and provide transitional assistance to ensure the environmentally sustainable management, refining and reuse of waste oil. This package of bills offers all these elements. The primary piece of legislation, the Product Stewardship (Oil) Bill 2000, has the object of developing product stewardship arrangements for waste oil that will ensure the environmentally sustainable management, refining and reuse of this oil. The bill also has the object of supporting economic recycling options for waste oil.

Product stewardship is an innovative and exciting tool to address environmental problems of waste disposal and to encourage recycling of finite resources. It is a simple concept—responsibility lasts for the entire life of the product, through research and development, production, distribution, utilisation, and finally to recycling and appropriate waste management. One approach is for the responsibility to be borne solely by the manufacturers of the product, as is a growing practice in segments of the chemicals industry. Alternatively, the responsibility can be shared between the producers and users of a product, as is the case here.

Under these product stewardship arrangements, the waste oil is given a monetary value. Benefits for recycling waste oil will be paid through the mechanisms established in the primary legislation. This provides a financial incentive for the oil to be collected, recycled, and reused. The added value for the oil is largely funded by the oil producers and consumers, through a levy administered by the Commonwealth Government, which ensures the costs of providing for proper recycling and reuse are internal to the market. In economic terms, it 'internalises the externalities'.

The amount of stewardship benefit received will be based on the volume, intended use or quality of goods produced from waste oil and subsequently sold. A system of differentiation will mean some uses and products of waste oil will attract a different level of benefit to other uses and products. The Government recognises that there are a variety of end uses for waste oil. As the focus of this legislation is environmental, product stewardship benefits will reflect the environmental merits of the products and processes. In making a decision to differentiate, the Minister for the Environment...
Finally, this bill addresses a number of procedural matters such as legislative reviews on an ongoing basis at intervals of not longer than four years.

These are the salient points of this package of legislation that is necessary to give effect to the Government’s commitment to reduce the amount of waste oil finding its way into the environment. This goal is accomplished, not through a heavy-handed ‘command and control’ mechanism, but through a product stewardship arrangement involving consultation, and which values the waste oil and gives economic incentives for its recovery and reuse. In the main, this economic incentive is provided by those who use and derive benefit from the original product.

I commend the bill.

CUSTOMS TARIFF AMENDMENT (PRODUCT STEWARDSHIP FOR WASTE OIL) BILL 2000

I will now discuss the first of three pieces of amending legislation that are closely related to the Product Stewardship (Oil) Bill 2000— the Customs Tariff Amendment (Product Stewardship for Waste Oil) Bill 2000.

This bill contains amendments to the Customs Tariff Act 1995 by introducing a levy of five cents per litre on imported petroleum-based oils and their synthetic equivalents and a levy of five cents per kilogram on petroleum-based greases and their synthetic equivalents. Imported recycled oils and greases will also be captured by the levy. The levy will be subject to future Consumer Price Index adjustments.

I commend the bill.

EXCISE TARIFF AMENDMENT (PRODUCT STEWARDSHIP FOR WASTE OIL) BILL 2000

I will now discuss the second of three pieces of amending legislation that are closely related to the Product Stewardship (Oil) Bill 2000— the Excise Tariff Amendment (Product Stewardship for Waste Oil) Bill 2000.

The amendments proposed in this bill contain alterations to the Excise Tariff Act 1921. The bill introduces an excise levy of five cents per litre on domestically-produced oils on 1 January 2001, again subject to CPI adjustments. The excise will be levied on petroleum-based oils and greases and their synthetic equivalents. Most of these products will be levied, because they also have the

The Council is appointed by the Minister and will reflect both industry and broader community interests. The membership includes representatives from the waste oil industry, and from oil producers, as well as from a non-government body with a substantial interest in sustainable industry. Local government and the Australian and New Zealand Environment and Conservation Council, or ANZECC, are similarly represented, as is a national consumer organisation. The Commonwealth is represented though the Environment portfolio, and the Commissioner of Taxation.

In the initial stages of the product stewardship scheme a simple differentiated system, based largely on sustainability criteria, is proposed. Lower levels of benefit will be paid for uses where the waste oil is consumed as a fuel, where essentially only the thermal energy of the oil is recovered. Where the waste oil molecules are not consumed, such as when they are turned into lubricant rather than fuel, a substantially higher benefit should apply. With oil being a limited natural resource this approach is both highly desirable, and consistent with the objects of this bill.

A key to the successful use of recycled lubricant, is the market acceptance and demand for such lubricant, and motor manufacturers are clearly leaders in this market.

In the United States, recycled lubricant that meets American Petroleum Institute standards is accepted by General Motors, Ford and Chrysler. In Europe, some 12 motor manufacturers including companies such as Saab-Scania, Rover and Porsche positively accept the use of high-quality re-refined oil, and two German manufacturers, Daimler-Benz and the Volkswagen Audi Group have gone further. They promote the use of re-refined oils by employing them as factory-fill in a number of new models.

When the Minister for the Environment recently sought the views of manufacturers in Australia on the use of re-refined lubricant of an appropriate standard in Australian built vehicles, senior executives of Holden, Toyota, Mitsubishi and Ford have responded most positively, and supported the Minister’s initiative in this matter.

An Oil Stewardship Advisory Council is established which will advise the Minister on the operations of the product stewardship arrangements under the Act, and on the setting of appropriate benefit rates.

The Council is appointed by the Minister and will reflect both industry and broader community interests. The membership includes representatives from the waste oil industry, and from oil producers, as well as from a non-government body with a substantial interest in sustainable industry. Local government and the Australian and New Zealand Environment and Conservation Council, or ANZECC, are similarly represented, as is a national consumer organisation. The Commonwealth is represented though the Environment portfolio, and the Commissioner of Taxation.

must consider any relevant environmental matters related to the recycling. The information needed to differentiate benefits will be based in part on a comparison of the ‘environmental footprint‘ for the production of each product.

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Finally, this bill addresses a number of procedural matters such as legislative reviews on an ongoing basis at intervals of not longer than four years.

These are the salient points of this package of legislation that is necessary to give effect to the Government’s commitment to reduce the amount of waste oil finding its way into the environment. This goal is accomplished, not through a heavy-handed ‘command and control’ mechanism, but through a product stewardship arrangement involving consultation, and which values the waste oil and gives economic incentives for its recovery and reuse. In the main, this economic incentive is provided by those who use and derive benefit from the original product.

I commend the bill.

CUSTOMS TARIFF AMENDMENT (PRODUCT STEWARDSHIP FOR WASTE OIL) BILL 2000

I will now discuss the first of three pieces of amending legislation that are closely related to the Product Stewardship (Oil) Bill 2000— the Customs Tariff Amendment (Product Stewardship for Waste Oil) Bill 2000.

This bill contains amendments to the Customs Tariff Act 1995 by introducing a levy of five cents per litre on imported petroleum-based oils and their synthetic equivalents and a levy of five cents per kilogram on petroleum-based greases and their synthetic equivalents. Imported recycled oils and greases will also be captured by the levy. The levy will be subject to future Consumer Price Index adjustments.

I commend the bill.

EXCISE TARIFF AMENDMENT (PRODUCT STEWARDSHIP FOR WASTE OIL) BILL 2000

I will now discuss the second of three pieces of amending legislation that are closely related to the Product Stewardship (Oil) Bill 2000— the Excise Tariff Amendment (Product Stewardship for Waste Oil) Bill 2000.

The amendments proposed in this bill contain alterations to the Excise Tariff Act 1921. The bill introduces an excise levy of five cents per litre on domestically-produced oils on 1 January 2001, again subject to CPI adjustments. The excise will be levied on petroleum-based oils and greases and their synthetic equivalents. Most of these products will be levied, because they also have the
potential to be a danger to the environment if disposed of inappropriately.

I commend the bill.

PRODUCT STEWARDSHIP (OIL) (CONSEQUENTIAL AMENDMENTS) BILL 2000

The Product Stewardship (Oil) (Consequential Amendments) Bill 2000 is the third and last piece of amending legislation making up the Government’s legislative package on product stewardship for waste oil.

The legislative mechanism which sets out the terms and conditions of the benefit payments prescribed under provisions of the Product Stewardship (Oil) Act 2000 will be the Products Grants and Benefits Act 2000. Minor amendments to this Act, the Excise Act 1901 and the Taxation Administration Act 1953, are necessary to bring the oil product stewardship benefit payments and levy collection into line with other excise programs.

The Australian Taxation Office will pay benefits to eligible recyclers. The rate of product stewardship benefit that is payable for a particular use of waste oil will be set by regulations, issued under the authority of the Minister for the Environment, under a provision of the Product Stewardship (Oil) Bill 2000.

A claimant for product stewardship benefits will need to satisfy a number of requirements. The Commissioner of Taxation must be satisfied that a recycler holds both a licence as a manufacturer of excisable goods under section 34 of the Excise Act 1901 and an Australian Business Number. The claimant must also demonstrate that all necessary licences, permits and approvals to operate the business are held as required by relevant State and Territory environmental protection agencies.

The Product Grants and Benefits Act 2000 contains provisions against contrived schemes. This will safeguard appropriate use of benefits and is consistent with other taxation legislation designed to prevent rorting and cheating of benefit systems. This Act provides adequate penalties and safeguards to protect public funds and prevent abuse of the product stewardship arrangements.

I commend the bill.

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

CORPORATIONS AMENDMENT REGULATIONS

Senator BROWN (Tasmania) (5.20 p.m.)—I move:

That the Corporations Amendment Regulations 2000 (No. 4), as contained in Statutory Rules 2000 No. 50 and made under the Corporations Act 1989, be disallowed.

The matter at hand is the government’s moving of new regulations in the form of Corporations Amendment Regulations 2000 (No. 4), as contained in Statutory Rules 2000 No. 50 and made under the Corporations Act 1989. That all boils down to a move by the government to change the rules. Currently 100 shareholders, if they get together, are able to require the holding of a special meeting of a company to deal with some matter they consider urgent and important. The government wants to change the rules so that it is no longer 100 shareholders who are needed but five per cent of the issued share capital—that is not even five per cent of the shareholders but five per cent of the issued share capital—to be met collectively by the requisitioning members. What does that mean? That means some wealthy person who has five per cent of the issued share capital of a big corporation can get a special meeting called, but thousands of ordinary little shareholders who may not have five per cent of the required share capital cannot get a special meeting held.

This is a clear change, an anti-democratic change, which says, ‘You are valued according to the amount of money you have in your pocket. You are powerful according to the amount you have in your pocket. If you are a small shareholder, you do not matter.’ We are going to make it harder and harder for ordinary Australians to have a say in what is happening at corporate boardroom level at a time when this government has been calling on ordinary Australians to become a part of the shareholding public. There is a great deficiency in the way corporate power is wielded in this country. There is a great move of power, even from this parliament, to the stock exchange and through the stock exchange to the corporate boardrooms. That is a philosophical matter, maybe. But at hand here is the very great need to develop democracy in that new power base, and this is an anti-democratic move by the government. I am moving to disallow this move so that we maintain the status quo.

I want to cite the position of the Australian Conservation Foundation, for example,
which is the nationwide organisation interested in environmental matters. They have written on this particular limitation of 100 shareholders and the report to this parliament recommending the change which the government is now taking. They say:

We disagree with the conclusion that the present provision is inappropriate and open to abuse. To date we are aware of only two examples of the provision—

that is 100 shareholders having—

being utilised by shareholders—hardly evidence of abuse. In one of the two instances, 121 shareholders of North Ltd—

the very large mining and woodchipping corporation—

called on the company’s directors to call an extraordinary general meeting. If anything, the North example provides a perfect working example of the appropriate use of the provision through which the directors were called upon to justify the company’s involvement in the Jabiluka uranium mine, now a major national and international issue.

The appropriateness of the general meeting to discuss the Jabiluka mine was acknowledged during the meeting by Mr Broomhead, the Managing Director of North when he said, ‘This forum provides a valuable opportunity to listen to all of our shareholders.’

The Australian Conservation Foundation also disagree with the committee’s finding—that is the committee that made this recommendation that the government is acting upon—that the current provision with a numerical shareholder threshold is administratively complex and uncertain. In fact, the opposite is the case. The sole alternative put forward, the one that the government has in this proposed regulation, of a five per cent share capital test provides more uncertainty and administrative complexity than a numerical threshold. For example, it is less adaptable to varying company structures such as mutual companies in which there are no shareholder blocks, with each member having one vote equally valued. Perhaps the most legitimate concern raised on the numerical threshold test is the ability of 100 single shareholders to requisition a general meeting when they, in some instances, represent a minuscule proportion of the company’s numbers and hold only a tiny economic interest.

The Australian Conservation Foundation is of the opinion that the new Australian Stock Exchange listed ruling 810 has adequately addressed this concern, providing an existing mechanism for the refusal of the registration of the non-paper based transfer of a less than marketable parcel of shares. When exercised, this mechanism of refusal can remove the right of a shareholder with less than a marketable parcel of shares to a vote at a general meeting and form one of the 100 shareholders to requisition such a meeting. That advice, from the Australian Conservation Foundation, was written up by Michael Kerr, who is the foundation’s legal adviser.

I also want to quote from the submission to the inquiry I have made reference to. Juliet Forsyth was speaking on behalf of North Ethical Shareholders—that is, the ethical shareholders who got together to have a meeting and to question North about the Jabiluka uranium mine. She said:

It is extremely hard for shareholders in large companies to exercise their rights under the Corporations Law as it presently stands. First, at least 100 shareholders who share the same concerns about their company have to find each other, even though they will often be dispersed across the country. Second, the shareholders need to muster huge resources to get legal advice about how to draft the requisition letter. And, third, shareholders will often be exposed to the risk of hefty legal fees if their company tries to challenge the notice of the meeting.

She is referring here to the committee, but it applies now to the Senate. She went on to say:

We should try to alleviate these burdens on shareholders to ensure greater participation by individual shareholders in the companies in which they invest. The threshold level of 100 shareholders is very hard to obtain, given the fact that shareholders have no easy way of connection with others who share their concerns.

Ms Forsyth said:

The other interesting historical note is that when the threshold level was five per cent of the vote—

that was the case pre-1983, I believe—

it was commented that these provisions work reasonably well in the case of small private companies, but in a public company with a large and dispersed membership it may be a matter of considerable difficulty and expense for one member
to enlist the support of sufficient of his fellow members to be able to make a valid requisition. That was comment coming from Gowers’ Principles of Modern Company Law, UK.

She concluded:

We urge the committee to make it easier for shareholders to get together to use a section by lowering the threshold and would be content for the committee to put a safeguard in place, such as a $200 averaging shareholder requirement that existed under the 1983 legislation.

What small shareholders are saying is: ‘Don’t make it harder. Find a way to make it easier, but put a validation test on the matter.’ These regulations, which have no doubt come from corporate pressure—and not just from corporate pressure but from the big corporations—try to shut the small shareholders out. What sort of democracy is it where one shareholder who has five per cent of the value of the shares can requisition a meeting, but where—as in the case of BHP, for example—13,000 small shareholders who do not collectively have five per cent of the value of the shares cannot? It seems very much like the old ‘chimney pot’ days, when you couldn’t vote for the Legislative Council in Tasmania unless you owned a chimney pot—and that went on until the middle of this century—or, earlier on, where you couldn’t have a vote in Britain unless you owned a window. That was meant of course to shut out the people who did not have property. Here we are now shutting out people who do not have sufficient property. What an extraordinary, undemocratic move from this government!

Just at a time when we need to be increasing democracy because of the increased power of boardrooms over what happens in the lives of everyday Australians—their environment and social circumstances—we have the government moving to make it more difficult for the public to have input. The Prime Minister believes in more power for the private sector. Along with that should go, if he is a democrat, more empowerment to the public to have input to the private sector.

This government inveigles the public to buy shares, but it should inveigle the public to buy shares on the basis that they will have a say in what happens with those shares and that investment of their money—not just the profit line that they will get from it but the indirect consequences of the investment of their money. I say to the government: go back and find a legitimate set of rules which will make sure there is not any future frivolous requisitioning of meetings. There have been none in the past—or indeed only two such meetings have been called, so far as I can ascertain. The record is good. So if you want to improve the rules, don’t trammel shareholders by taking this avenue of cutting their powers. That is what the commentators are saying: this is bad, bad regulation. I thank the Australian Conservation Foundation for drawing our attention to this matter. It would have snuck through here without us noticing otherwise. A community group brought this to our attention. It deserves attention and I am very pleased to know that there will be support today from both the opposition and the Democrats on this matter, which is essentially one of democracy in the marketplace.

Senator RIDGEWAY (New South Wales) (5.33 p.m.)—I rise on behalf of the Australian Democrats to indicate our support for the motion being moved by Senator Brown. I will speak only briefly on the matter, but I believe that it perhaps needs some background to set the context. Section 249D of the Corporations Law currently provides that members of a company can requisition the directors of a company to convene a general meeting. The disallowance motion raises concern about the number of members required to make a requisition for the calling of a general meeting. The Corporations Law provides that the lesser of the number of the members with five per cent of the votes that may be cast and 100 members may in fact requisition a meeting. The section goes on to permit the Minister for Financial Services and Regulation to prescribe a different number of members.

The regulation currently before us provides that, for public companies, five per cent of the total members are necessary to requisition a meeting. Let me say first that I understand the reason for the desire to increase the number of shareholders required to concur in any requisition, but there have been a few instances in the last couple of years where general meetings of large companies have been called at the behest of a small
number of disgruntled shareholders. Arguments have been made that the reasons for calling those meetings have been inappropriate. I am not going to attempt to assess the validity of those arguments—nor for that matter am I going to try to suggest what is and what is not an appropriate reason to call a general meeting. I understand that organising a general meeting is an expensive exercise. The NRMA have suggested that it costs them about $1.5 million to convene a general meeting. While the rationale behind this regulation is clear, the Democrats are yet to be convinced that public companies are suffering to a significant extent because of the inordinate number of so-called trouble-making shareholders who are requisitioning general meetings indiscriminately for inappropriate purposes.

The NRMA example has been cited to us, and it has been suggested that a meeting of North Ltd was also convened recently for inappropriate reasons. It is the view of the Australian Democrats that those two examples do not necessarily demonstrate that the problem is rife. If the government has evidence that the current provisions are costing public companies substantial sums—by virtue of their having to convene meetings for what they regard as frivolous or vexatious reasons—I would be very interested in seeing that particular evidence. But nothing has been put forward. This issue was considered last year by the Joint Statutory Committee on Corporations and Securities. I would like to quote briefly from the Democrat minority report then. We stated:

It is vital that minority shareholders retain the ability to call meetings. It is equally vital that such shareholders are effectively dissuaded from using this power frivolously or vexatiously.

In that report we made it clear that the five per cent figure was simply too high, and we have not changed our mind on that particular issue. I reiterate that, whilst we recognise the mischief that the government is attempting to remedy, a figure of five per cent would mean that in an organisation like the NRMA with two million or so members, it would be necessary for 100,000 members to concur to requisitioning a meeting. I think that is an extraordinary figure. It would be hard enough to get 1,000 people at a football match to sign a petition let alone get 100,000 to requisition a general meeting. So we take the view that such a requirement is too onerous and would potentially prevent a reasonable number of members with a genuine interest in calling a general meeting from being able to do so. I am not going to try to suggest the number of members that would constitute a reasonable number for the purposes of this regulation. I think the simple question that we have to answer today is whether or not five per cent of the total number of members of a company is the appropriate percentage. Our answer to that is that it is not.

As a concluding comment, my understanding is that my colleague Senator Murray has in the past had a very good working relationship with Minister Hockey’s office. We must confess to being a little disappointed that it was never mentioned to us that this regulation was being contemplated and we were not notified of the making until a copy arrived in our office. I accept that there is no obligation on the part of the minister to do anything. But, given Senator Murray’s clear and known interest in the issue, we feel that it would have been courteous for that to have at least occurred. It surprises me a little that the government was not able to foresee that this regulation was not going to withstand the scrutiny of the Senate and did not attempt to engage in discussions with either us or Labor, or anyone else for that matter, with a view perhaps to reaching agreement on what an appropriate formula might be. The issue, in my view, is simply about reconciling corporate need versus shareholder expectation or, for that matter, public expectation of what is fair and what is reasonable. In closing, for the reasons I have outlined, the Democrats will be supporting the motion put forward by Senator Brown.

Senator CONROY (Victoria) (5.39 p.m.)—I rise to indicate the Labor Party’s support for the motion of Senator Brown to disallow the Corporations Amendment Regulations 2000 (No. 4). The attempt by the government to circumvent section 249D of the Corporations Law by this regulation cannot be supported. The regulation tabled by the government, in effect, would mean that a
A company meeting could only be requisitioned by members who together have at least five per cent of the votes that may be cast at the general meeting. Section 249D(1)(b) would, in reality, no longer have any effect. So that the government can understand this, section 249D(1)(b) of the Corporations Law, in effect, is only of relevance to public companies as only very rarely will a proprietary company have more than 50 members. In order to register as a proprietary company and to remain registered as a proprietary company, a company must have no more than 50 non-employee shareholders. Prescribing the class of company to which this regulation applies as ‘all public companies’ and specifying the relevant number of members as five per cent means that only very rarely will a company be subject to 249D(1)(b).

The government should have presented a bill amending the Corporations Law to delete section 249D(1)(b), not tabled a regulation. The government has acted in very poor faith. This is a matter which the government should have dealt with by legislation. To have attempted to alter the Corporations Law in this manner by regulation is underhanded. I endorse Senator Ridgeway’s and Senator Murray’s sentiments. Legislation should have been presented to parliament and time permitted to allow proper consideration and debate.

The effect of this regulation is not insignificant. It is not incidental to the operation of the Corporations Law. This regulation is not to improve the efficiency or efficacy of the law. This regulation is not to modify the law to deal with harshness or unfairness for a particular class of corporations; this regulation is to change the law and its application to all corporations affected by the law. If the law is to be changed in such a manner, it should be done by legislation, not by regulation. More importantly, this regulation ignores the role company meetings play in ensuring a company adopts good corporate governance practices. Shareholder meetings allow shareholders, the owners of the company—I stress that the shareholders are the owners of the company—to participate in the strategic management of the company and to monitor the performance of those people charged with responsibility for managing the company.

It is important that shareholders, both large and small, have a facility and power to call for an extraordinary general meeting to raise concerns that ultimately affect the performance and viability of the company. This monitoring role and participation in the strategic management of the company is essential to good corporate governance. This regulation diminishes the role shareholders can play in the management and direction of companies. This regulation is inimical to shareholder participation and to good corporate governance practices. I am conscious that the test of 100 shareholders in section 249D(1)(b) is for many public companies too low a number. The significant cost involved in holding a general meeting means that general meetings should not be able to be called without sufficient interest or cause. I am also conscious of the disruption to the company involved in holding a general meeting. I believe it would be appropriate to amend the Corporations Law so that individual shareholders can come together as a group to requisition an extraordinary general meeting only on sensible issues with clear justification that their concerns represent a notable proportion of total shareholders. I do not, however, believe that a five per cent test by itself is sufficient.

For many large companies, the five to 10 per cent test is too high a threshold for requisitioning company meetings and would effectively limit the ability of shareholders to participate in and monitor the management of their company. I am also conscious that the bigger investors, particularly the institutions, have an opportunity to raise issues with companies outside of a general meeting. I am informed that institutions will often be approached by companies for their opinion before an item is put on a meeting’s agenda or at other times there will be quiet chats behind closed doors. That is something which disenfranchises a vast number of shareholders. Australia is the largest share owning democracy in the world. According to the last survey by the ASX, over one in two Australian adults own shares either directly or indirectly. This level of share ownership justifies ex-
amining closely the processes by which meetings are called and may justify Australia having a different regime for calling meetings than the rest of the world.

Accordingly, the Labor Party are supporting the motion of Senator Brown. This regulation is inimical to good corporate governance practices; and not to support the motion of Senator Brown would be to abandon shareholders and to diminish the ability of shareholders to monitor management. The government, however, obviously has a different view. This government does not care about shareholder participation. The government is not interested in companies following good corporate governance practices and it does not obviously believe in accountability. If the government did, it would not have tabled this regulation. It would also appear convenient at other times for the government to caution against changing the Corporations Law while a report of the Corporations and Securities Advisory Committee on the relevant matter is being completed. CASAC has issued a discussion paper on shareholder participation, and I understand that the final report will be released shortly. I will be reading closely that report when it is released. In fact the government recently argued for no action awaiting the CASAC report on a different bill: they actually urged the Senate not to move on an issue before the CASAC report came out; yet on this bill they moved before the CASAC report.

I take up the point that Senator Ridgeway and Senator Brown have made: the underhanded way that the government have attempted to pass this regulation. It happened with no fanfare, no press release and no information. It may not be incumbent on them, Senator Ridgeway, to advise the Senate or your party room or my party, but it is certainly incumbent on them to let it be known that they intend to make this change. What are they ashamed of? Normally, Minister Hockey issues press releases like confetti. He has always got something to say on Corporations Law. What do we get in this instance? Silence. So you knew something was up. You knew they were up to some act that they were ashamed of. It was exposed, fortunately, by the vigilance of some community groups, as Senator Brown said. That is the only reason we are on our feet today debating this: this is what the government tried to do. They know that in the last week of June, in the rush to get legislation through, all the senators are busy and are working under enormous deadlines—usually imposed upon us by the government to meet their timetable to ensure that they are accommodated in their parliamentary program. And what does this government seek to do? Slip it through the back door while we are all busy, and hope that no one notices: just stick it in and change the intent of the law which the parliament passed.

That is the form that the government has on this—very similar to the very understated press release yesterday from Minister Hockey about CLERP 6. Because I know Senator Ian Campbell follows these issues even though they are strictly outside his portfolio area, I invite him to say what is going on with CLERP 6. Have we no Corporations Law any more? Is CLERP 6 not going to be proceeded with until the states cede their powers in the Corporations Law area? That is the intent of the press release. So I invite comment from Senator Campbell. I know that time is short, and we appreciate the deadlines, and so I am not going to take anywhere near my full time. But what has happened to CLERP 6? Why has the minister put out a press release saying, ‘We are unsure and we do not want to proceed until we get the states to hand over powers’? I know, Senator Campbell, that your state in particular is loath to hand over its powers and that South Australia is loath to hand over its powers. Does that mean that all ASIC activity should stop, that all corporate law discussion and debate in the parliament should stop and that we not proceed? This is just a furphy. It is camouflage. What is really going on with CLERP 6? Please tell the Senate why CLERP 6 is not going ahead—because the reasons you have put forward are, frankly, ludicrous.

I can see it now: the press release from the minister when we defeat this today. He is going to put out a press release claiming that the Senate has frustrated the will of the government again. He will already have it written, no doubt, by now. But he was not so
proud that he wanted to put out a press release when he tried to slip this through, but I will bet that there is a thundering press release from the minister, already drafted and waiting for the vote, just so that he can put it out and say, ‘Those Democrats, those Greens, that Labor Party—irresponsible behaviour again!’ Well, do not let it be said that the opposition and the minor parties in this parliament are irresponsible today. The people who are irresponsible are the government. Like Senator Ridgeway, the Labor Party is prepared to sit down with the government—as we have indicated both publicly and privately—to discuss finding a solution to this problem. We are prepared to sit down at the first phone call and the first invitation we get and discuss this with the government. We hope that you will take up that opportunity so that this can be progressed and, hopefully, discussions can be held with everybody in the Senate and we can find a mutually agreeable solution.

That is our offer to the government, and it is our offer to anybody who reads this Hansard or is listening today and to anyone in the business community who sees the minister’s press release condemning the opposition, the Greens and the Democrats: we are prepared to sit down and talk about this issue. We have been prepared for eight months to sit down and talk about this issue—but not one single approach! The government try a backdoor method to get it passed, hoping the senators are too busy on other business to notice what they are up to. It is not good practice from the government, but I am sure we will all enjoy and have a good laugh about the minister’s forthcoming press release.

I would like to briefly return to CLERP 6. We would like to know whether you, Senator Campbell, have any indication on behalf of the Western Australian coalition government or the South Australian government that there is any chance whatsoever of them ceding their powers. If there is, this is a major breakthrough, because every Labor state has indicated that it is prepared to play ball. It is the South Australian and Western Australian governments who are indicating that they are not prepared to play ball. Hopefully, we will get some momentous announcement today. But whenever we have tried in the past, it has been the same suspects. Round up the usual suspects who are trying to undermine Corporations Law in this country and, if there is some change in the situation, please let the Senate, the parliament and the country know, because everyone will feel better off.

I say now, and I put the marker down today, that by not introducing the legislation into the parliament this session you would have to believe in Santa Claus to think that the start-up date of 1 January is possible. It will not be possible with the Olympics, the current parliamentary timetable and, more importantly, the government’s other priorities. I am not being critical when I say this. The government will have legitimate other priorities over CLERP 6, although it is a very significant bill. How do government believe that the Senate and the parliament can deal with a comprehensive piece of Corporate Law reform, when they will jam it in here and try to force it through? We still have no transition provisions, we still have no penalty provisions and we have not seen the whole bill yet. You cannot expect there to be genuine consultation.

There is a bipartisan approach to this bill; it is not like there is not bipartisan support to speed this bill through the parliament. But there is no chance for business to be adequately prepared on 1 January if this bill is not able to be passed before mid-November. You are playing with businesses and their livelihoods by delaying this bill—it is a government decision. I do not believe anything will change between now and when this bill is tabled as to the South Australian or Western Australian governments’ position on Corporations Law, so come clean on why you have delayed the bill. Come clean that there is now almost no chance the start-up date of 1 January is possible. Do not start complaining in November that the opposition, the Democrats, the Greens or anybody else have delayed this bill or are threatening it.

The government has taken a calculated decision. Some have speculated the banks are starting to cut up really rough; that it is really the banks that have put the pressure on and slowed down the introduction of CLERP. They really do not want it, and that is true.
There is a lot of bank resistance to the CLERP Bill because they want their tellers to be able to sell across the counter with minimal training, and there are some consequences in this legislation to deal with that. So come clean on what is going on with CLERP 6. Tell the truth. But, first and foremost, to believe in 1 January you would have to believe in Saint Claus. I am conscious of the time and the need to press on.

Senator Woodley—Yes.

Senator CONROY—Thank you, Senator Woodley. I appreciate your encouragement, as always. I know you are particularly interested in these sorts of issues as well.

Senator Woodley interjecting—

Senator CONROY—Transfixed. I will simply finish by saying that corporate governance is crucial to protecting shareholders’ interests and ensuring confidence in Australia’s capital markets is maintained. This regulation does not achieve this goal. Its effect will be to reduce shareholder participation in companies and decrease the accountability of management to shareholders. Ideal corporate law helps align the interests of shareholders and management. This does anything but that. The regulations should be disallowed.

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (5.54 p.m.)—Mr Acting Deputy President Hogg, it would be entirely unsurprising to you and other senators to learn that the government is strongly in favour of further reform of the Corporations Law through this regulation. It was, to say the least, confusing to listen to the previous Australian Labor Party speaker on this subject area. He made a series of comments about this regulation; he made a series of comments that had nothing to do with this regulation. He demonstrated, once again, that he is very badly briefed, is misinformed or is just downright seeking to mislead people about the intention of this regulation.

Firstly, the honourable senator opposite said that the government was undertaking some underhanded action in moving down the course of using a regulation under schedule 6 of the Corporations Law to bring into place the five per cent regime whereby you would need five per cent of the members of a corporation or company to call a meeting. The senator actually voted for the provisions of the Corporations Law when we debated the Corporations Law economic reform bills not so long ago. That in fact gave the government the power to make the regulation we are seeking to make today. He voted for it. If he had thought there was something underhanded about a government bringing to a parliament a regulation to do something, then he should have voted, when he was considering the Corporate Law Economic Reform Bill to allow the government to do that. There is nothing underhanded about what we are doing. We brought in a regulation—governments do that almost every day—and now, democratically through Senator Brown’s motion, it is sought that it be disallowed.

The Labor Party spokesman, Senator Conroy, then said that we had been underhanded because we brought this in in the middle of the night and no-one had learnt about it. We consulted widely on this, as, I might say, Senator Conroy said he was going to do in his minority report—yes, signed by Senator Stephen Conroy—of October 1999 to a report on matters arising from the Company Law Review Act 1998 by the parliamentary Joint Statutory Committee on Corporations and Securities. I refer all honourable senators to page 174, where Senator Conroy put his name. He may not have written the report, he may not even have read it, but he put his name to this very issue. He said:

Labor believes that this issue should be revisited by the parliament with a view to restoring the balance between the majority of shareholders and an active minority. Labor is actively canvassing options with interested parties and will release its position by the end of November.

That was November 1999. We are still waiting! This is no surprise to us. This is the party that is negative, whingeing, carping and whining about tax policy and every other policy, but it has no policies. They have said to us that they think 100 people is too small a number to call a meeting and that five per cent is too high. They said back in October 1999 that they would go and consult. They said that they would release a position by
November, and we are still waiting. They do not have a position. But is it surprising from a party that is so bereft of policies and so bereft of ideas that they cannot even figure out that, somewhere between 100 and five per cent, there is a figure that they might be able to put forward? It is a very simple policy: pick a figure between 100 people and five per cent and put it out there.

They have come out this week with some sort of claptrap about believing in shareholder democracy now. They have all of a sudden woken up to the fact that we have actually sold Telstra over their dead and reeking political bodies and that we have all of a sudden got a lot of people owning shares. They have decided, 'We'd better try to play some catch up here and talk about corporate governance and shareholder participation.' But, in the very same week, they sign their name to yet another report saying, 'Oh, let's not have takeover reform in this place.' The big end of town has come and seen the Australian Labor Party and said, 'We don't want a follow-on rule, we don't want a mandatory bid rule, because we don't want people to threaten our entrenched control of Australia's corporations. We don't want an active takeover market in Australia. We don't want a mandatory bid rule, because we don't want people to threaten our entrenched control of Australia's corporations. We don't want a mandatory bid rule, because we don't want people to threaten our entrenched control of Australia's corporations. We don't want a mandatory bid rule, because we don't want people to threaten our entrenched control of Australia's corporations. We don't want a mandatory bid rule, because we don't want people to threaten our entrenched control of Australia's corporations. We don't want an active takeover market in Australia. Let's keep with the old policies on takeovers that we've got which will entrench the suits in Pitt Street and down in Collins Street and ensure that you've got to go through an expensive, rigorous process to ensure that the members of Australia's big boards do not have to feel the threat, the cold chill, of competition for control of corporations in this country.'

Labor has sided with the big end of town. Labor and the Democrats in this report that has been tabled in this place this week have sided with the big end of town to ensure that directors of those companies do not come under threat, by entrenching Australia's takeover reforms that protect entrenched control of our corporations and freeze out the interests of shareholders. So let us not hear this hypocrisy about Labor's new-found keenness to encourage shareholder participation, when this very week you have said no to it through your rejection of the very sensible follow-on rule and mandatory bids. Then we hear the Labor spokesman saying that he wants to hear about what we are doing about CLERP 6 and saying that we are going to sneak that in at the end of the year. I released the original discussion paper on CLERP 6 as parliamentary secretary back before October 1998. So CLERP 6 has been around for three years. Senator Conroy would not know that, because he does not do his homework on this stuff. He says we are then going to sneak it in and—

Senator Mackay—Where's Senator Alston?

Senator Conroy—Where's the bill?

The ACTING DEPUTY PRESIDENT (Senator Knowles)—Order! If senators wish to make a contribution, they can make it, firstly, from their seats and, secondly, at the correct time.

Senator IAN CAMPBELL—then sneak it through. This is from the party that in November 1990 brought in the Corporations Law, this whole new corporate scheme, which of course has been unwound now in some respects by some High Court decisions—and the Hughes case recently, our deputy whip informs us. What did the Labor Party do in November 1990 when it came to consultation on corporate law? They brought in the corporations bill in early November 1990. They gave it a one-night committee hearing in this place, which was chaired by Senator Cooney, had it back in the Senate about two days later and sought to have it passed within a day. That is Labor's record on consultation on corporate law, and it stands as an absolute disgrace compared to what this government has done, which is the best consultation on corporate law reform in the history of this nation. So I am not going to stand here and put up with that sort of rank hypocrisy from these people. We want to see reform of this Corporations Law. We want to see Australia have a shareholder democracy where people own shares, are proud to own shares and have a good role in corporate governance as part of that. I now seek leave to incorporate in Hansard a statement on this matter.

Leave granted.

The statement read as follows—
GOVERNMENT STATEMENT CONCERNING BUSINESS OF THE SENATE

The Government opposes the disallowance motion.

The Government made a regulation prescribing that 5% of company members could requisition meetings of public companies. The regulation was made in light of concerns regarding provisions of the Corporations Law that prescribed that 100 company members could requisition a company meeting. The concerns with the 100 member test were that it could be abused and result in unnecessary and substantial cost, particularly for companies with large numbers of shareholders, because it gave disproportionate influence to minority shareholders and failed to appreciate the substantial size difference between public companies. However, the Government clearly recognises that these concerns must be weighed against the need to protect minority rights and shareholder democracy.

The regulation was made to temporarily address the difficulties raised by the 100 member test, without pre-empting the Government’s response to the reports of the Parliamentary Joint Statutory Committee on Corporations and Securities (PJSC) and the Companies and Securities Advisory Committee (CASAC).

In its October 1999 report, the PJSC recommended that the Corporations Law be amended to provide that the test for calling a company meeting be based solely on members holding 5% of the issued share capital. Minister Hockey has received today CASAC’s June 2000 report on Shareholder Participation in the Modern Listed Public Company. CASAC recommends that the 100 member test should be abolished for listed public companies, and that only shareholders holding at least 5% of the issued share capital should be able to exercise the requisition power.

The Government is not aware of any other jurisdiction in the world that has a numerical test - other major jurisdictions have a test based upon a percentage of issued share capital. It is important to note that the 5% threshold proposed in the regulation is one of the lowest in the world. This issue is important for the competitiveness of Australian companies with those overseas, due to the effect on the comparative cost to companies.

The Government is committed to ensuring effective corporate governance of Australia’s companies, including appropriate shareholder rights. Indeed, the Government’s recent reforms have encouraged substantial increases in share ownership by the Australian people, with corporate law reforms specifically designed to maintain investor and business confidence.

The Government considers that the regulation under consideration today strikes a reasonable balance between the interests of both minority shareholders and companies. I understand that, although the Opposition and the Australian Democrats propose to support the disallowance motion, they too recognise the problems associated with the current 100 member test. I would urge them to reconsider their position and not seek to revert to provisions under the Corporations Law that they know present difficulties.

Senator BROWN (Tasmania) (6.02 p.m.)—I agree with the concluding remark from Senator Ian Campbell. This is about corporate democracy. It is this side of the house that is defending corporate democracy in this situation. We are defending the right of shareholders to requisition a meeting when they think there is something going wrong with the way their company is headed. We have had no good reason as to why that should be altered. We have heard no good argument as to why it should go from 100 shareholders to five per cent of the value of the shares, which warps the whole thing, takes away democracy and simply gives power to people according not to their intent or their earnestness about the company but to the amount of money that they have. It is very important that this parliament develop new modes of democracy in this age where so many people have shareholdings and there are more companies. There is more public interest in what those companies are doing. There is more interest in what is happening in the private sector. If the government wants that, it should be fostering democracy not cutting the ground from under it. I commend this disallowance motion to the chamber.

Question resolved in the affirmative.
Senator FERRIS (South Australia) (6.04 p.m.)—I present the 16th report of the parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund entitled CERD and the Native Title Amendment Act 1998, together with the Hansard record of the committee’s proceedings, tabled documents and submissions received by the committee.

Ordered that the report be printed.

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

Leave granted.

Senator FERRIS—I move:

That the Senate take note of the report.

This inquiry resulted from a Senate reference on 9 December 1999 which required the committee to consider whether the amendments to the Native Title Act 1993 were consistent with Australia’s obligations under the Convention on the Elimination of All Forms of Racial Discrimination. The Native Title Act 1993 was amended in 1998 by the Native Title Amendment Act 1998. These amendments were necessary to deal with a range of practical issues that affected the operation of the Native Title Act and the Native Title Tribunal. In particular, the decision of the High Court in Wik highlighted the need for amendments to deal with the practical implications of this decision for the possible co-existence of native title on pastoral leases.

The original Native Title Act was, of course, drafted on the reasonable expectation that the grant of a pastoral lease did in fact extinguish native title. The then Prime Minister and a number of his other ministers in the previous government expressed this view during debates on the original Native Title Bill. The Wik decision changed the view that the grant of a pastoral lease did not necessarily extinguish native title and the rights of pastoralists and native title holders may co-exist. This raised a great deal of uncertainty for many people, including miners and pastoralists who had received grants from governments in good faith on the basis of their legitimate understanding of when and how native title was extinguished.

The Native Title Act was amended after an extensive period of consultation with the major stakeholders: indigenous groups, pastoralists, miners and others. The committee held two inquiries into the amendment bills and reported on these inquiries in three reports. As well, the native title amendment bills were debated for over 100 hours in this parliament, a record for any legislation in the history of the Commonwealth parliament. As this report argues, amending the Native Title Act made it a very difficult task for the government to balance the competing interests of all key stakeholders who were potentially affected by native title.

As this report concludes, the government was entitled at international law to balance these competing rights and interests, when amending the Native Title Act. The amended act achieves a successful balance between competing interests in a way that is fair and reasonable in all of the circumstances. This balance respects the unique rights of indigenous people and their connection to their land, while at the same time providing certainty and workability for all other people. A wide range of measures in the amended act recognise and protect native title, address the special features of native title and, very importantly, address prior extinguishment of native title. In particular, sections 47A and 47B of the amended Native Title Act allow for the prior extinguishment of native title to be disregarded in certain circumstances where indigenous people are occupying the land. One of the substantial amendments to the act was the introduction of the indigenous land use agreement—ILUA—provisions. These provisions have greatly improved the capacity for reaching binding agreements under the amended act and are increasingly being used to resolve claims. The amendments to the act also introduced a new registration test, which was necessary to ensure that only bona fide claimants are able to have their claims registered and therefore gain access to valuable rights such as the right to negotiate and the ILUA provisions.
Australia ratified the Convention on the Elimination of All Forms of Racial Discrimination in 1975. The Racial Discrimination Act was enacted in the same year to implement Australia’s obligations under that convention. The Committee on the Elimination of Racial Discrimination was established under the convention to monitor the compliance of states’ parties with their obligations under the convention. In March 1999, the CERD issued its decision on the Native Title Act, in which it expressed concern about the compatibility of the act with Australia’s obligations under the convention. As part of its inquiry, CERD heard from a high level Australian delegation led by Mr Robert Orr, the Deputy General Counsel with the Australian Government Solicitor’s Office. Curiously, the CERD decision did not refer anywhere to the submissions that were put by the Australian delegation; nor did the CERD decision appear to consider the many beneficial aspects of the Native Title Act, which I have already discussed.

In particular, CERD asserted that the amendments to the Native Title Act had been enacted without the informed consent of indigenous people. There is, however, no requirement for informed consent at international law. Under Article 5(c) of the convention, Australia is simply required to ensure the effective participation of indigenous people in public affairs. In fact, the government consulted widely, especially with indigenous people, about amending the Native Title Act. As this report notes, there were extensive discussions and negotiations among representatives of indigenous groups, including the National Indigenous Working Group and ATSIC, non-government parties and the Independent senators, particularly in relation to amendments to the act. Indigenous people had a wide range of opportunities to have their views on the proposed amendments to the act considered. As well as the parliamentary inquiries, the Prime Minister, the Parliamentary Secretary to the Prime Minister and senior departmental officers also met with indigenous representatives to discuss the amendments.

So the views of indigenous people were clearly taken into account. Many of the proposals that formed the basis of negotiations with the government, and which were accepted in some form, had their genesis in proposals from indigenous representatives themselves. For instance, the indigenous land use agreement provisions are largely based on a model originally proposed by the National Indigenous Working Group. Australia’s obligation under the convention and at international law generally is to prohibit racial discrimination or to ensure that racial equality exists. This is of fundamental importance. The amended Native Title Act is not inconsistent with this obligation. As discussed previously, and as this report highlights, the amended act contains a large number of measures that ensure the protection of native title, take the special nature of native title into account and, in some cases, allow for the restitution of native title where it has already been extinguished.

In reaching its decisions on Australia’s native title legislation, CERD also failed to take into account any of these countervailing beneficial measures. Furthermore, the CERD decision considers individual amendments to the Native Title Act in isolation, rather than taking the more proper approach, which is to consider the amended act as a whole. The CERD decision appears to show some misunderstanding of the operation of Australia’s parliamentary democracy by suggesting that the 1998 amendments be ‘suspended’ when this is surely simply not possible to do. It surprised me that CERD did not make itself aware of whether this could be carried out. This parliamentary joint committee on native title is also concerned that CERD was suggesting that all of the 1998 amendments be suspended. This would presumably include the large number of necessary and beneficial amendments that were made to the act—again, a puzzling decision by CERD. This would therefore include the amendments that deal with the operations of the National Native Title Tribunal and the Federal Court, as well as the critical indigenous land use agreement provisions which are now so popular around the country. As the committee notes in this report, it would consider such action a fundamentally retrograde step, which would create at the very least further uncertainty for indigenous and non-indigenous people. A non-government
non-government members report would have exactly the same disastrous results. This report, having analysed CERD’s decision and the evidence received in the course of this inquiry, concludes, quite properly, that the Native Title Act is consistent with Australia’s obligations under the convention to prohibit racial discrimination. I therefore commend the committee’s 16th report to the Senate.

Senator McLUCAS (Queensland) (6.14 p.m.)—This report—framed, written and tabled here in accordance with the statutory responsibilities of this committee—marks a significant step forward in our understanding of native title and indigenous rights. I refer to the non-government members’ report. The terms of reference for the joint parliamentary committee required us to evaluate the finding of the Committee on the Elimination of Racial Discrimination that the Native Title Amendment Act 1998 contained provisions and was developed in a manner inconsistent with Australia’s international legal obligations. The government vehemently rejected CERD’s findings. It went to great lengths to discredit the committee and its work, and we have heard more of that today. They made blustering threats to withdraw from UN treaty bodies.

It is scarcely surprising, therefore, that the non-government members of the joint parliamentary committee have been unable to present a report on this reference that reflects a consensus with the government members. That having been said, I wish to stress that the non-government members of the committee have avoided any suggestion of making a party political or partisan statement in our report. Our report marks the end of a rigorous process of research and hearings in which an impressive list of widely regarded experts put their views to us. Our reflections on their submissions and the recommendations that flow from our findings are intended to be a blueprint for governments into the future to facilitate decent processes and defensible legislation dealing with indigenous rights. They are recommendations that stand independent of the political persuasion of the government of the day.

Reactions to the Mabo decision in 1992 continue to shape relations between indigenous and non-indigenous Australians today. What could have been the dawn of an era of reconciliation and better understanding in fact ushered in a period of politically driven division and discord. Conservative politicians and certain interest groups set out with a clear intention to misrepresented the decision, to deny its validity and to attack the High Court itself. Drafted as it was in this poisonous climate of debate with only one piece of case law and no statutory precedent, the Native Title Act 1993 was a worthy first step in dealing with what was for Australia the legal and social novelty of native title. This act was bound to be imperfect. Later court decisions and practical experience were always going to bring forward the need for amendment. But it was a worthy start to a long and complex process. The government of the day engaged all stakeholders in real negotiations. The final product did not deliver, nor did the government set out to deliver, victory to any one interest group and its particular wish list.

Vital to Australia’s international reputation and to the legal sustainability of the act, the compromises needed to take this first legislative step were made with the informed consent of those negotiating on behalf of indigenous interests. The act was passed in the face of the totally negative opposition of the coalition parties, who at that time rejected both the validity of the act and the concept of native title itself. In government, they set out to dismantle the Native Title Act. Using the pretext of the Wik decision, they set out with a predetermined agenda to wind back the rights won by indigenous Australians in the Mabo decision and protected in the Native Title Act 1993.

What brings us here today is that the United Nations Committee on the Elimination of Racial Discrimination found that both the process by which the Howard government amended the act and the amendments they implemented are inconsistent with our international undertakings as signatories to the Convention on the Elimination of All Forms of Racial Discrimination. Let the report of the non-government members be a circuit-breaker in what has become a divisive process that has brought us social discord and international shame as a nation. There will
always be a temptation for governments or governments in waiting to put forward quick and easily understood solutions to problems of the day. When the problem is as legally complex as native title, as potentially divisive and as central to our sense of national decency as this issue is, then the Australian people deserve better than quick fixes and populist hyperbole. I seek leave to incorporate the rest of my comments in *Hansard* as I wish to leave the remaining five minutes of this debate to my colleague Senator Crossin.

Leave granted.

The speech read as follows—

We have many issues to resolve in our journey towards lasting accord between indigenous and non indigenous Australians. Native Title is one—but only one—such important issue. If the government of the day persists with processes and statutory provisions that are neither legally sustainable nor socially acceptable we will be forever caught up in repeated cycles of Native Title debate. The debate will not move on. Our community will not move on. Indigenous and Non Indigenous Australians deserve better.

This Report has uncovered substantial, authoritative and widely expressed criticism of the *Native Title Amendment Act 1998*. The government can proceed on its chosen course of attacking its critics and deriding their motives, or it can take a serious look at what this Report has to offer. The satisfactory progress of this matter, and our capacity to move on to other matters in a cooperative spirit, hangs precariously in the balance. This issue cannot be dealt with in isolation from the wider national desire for reconciliation. Nor can it be dealt with in isolation from our need to protect indigenous heritage and languages or improve indigenous health outcomes.

The principles are indivisible. We must proceed in a non-discriminatory way. We must reject the paternalism and, indeed, malice that has characterised the relations between governments and indigenous Australians in the past. This government has failed the nation in its desire for reconciliation. It need not fail again. It still has the chance to take up its responsibility to facilitate the decent and non-discriminatory absorption of the concept of native title into our statutes, our legal institutions and the wider society.

In casting off its defensive attitude, and engaging expert international bodies such as the CERD committee, and in negotiating with indigenous Australians, this government can still fulfil its sworn commitment to govern for all Australians. I commend the Non Government Members Report on CERD and the NTAA 1998 to the Senate.

**Senator CROSSIN** (Northern Territory) (6.19 p.m.)—I rise to continue to represent the views of non-government members in our contribution to this report. I place it on the record that, in 1998, CERD, which is composed of a body of international law experts, decided that the amendments to the Native Title Act might not be compatible with Australia’s obligations under the CERD. The CERD places an obligation on Australia to ensure racial equality or, conversely stated, to prohibit racial discrimination in the enjoyment of fundamental human rights. The prohibition on racial discrimination—the obligation to ensure racial equality—is enshrined in the CERD and is a fundamental principle of international law.

The original Native Title Act sought to provide a form of protection to native title that would take into account the unique nature of indigenous traditional title and its central importance in maintaining distinct cultural identity. Of critical significance to CERD was that the provisions of the Native Title Act were implemented with the agreement of indigenous representatives, led by the Aboriginal and Torres Strait Islander Commission. In 1994, the Committee on the Elimination of Racial Discrimination found that the original Native Title Act was consistent with Australia’s obligations under the CERD, despite the fact that the original act contained some provisions that were adverse to indigenous interests. This was primarily because the original Native Title Act was enacted with the consent of indigenous representatives.

One of the justifications advanced by the Commonwealth government for the amendments to the Native Title Act in 1998 was that the act was ‘unworkable’. The dissenting report shows how the government have approached their obligations under the act with a view to deliberately creating a situation where the legislation is unworkable. The amendments to the Native Title Act were mainly discriminatory amendments in that they specifically targeted native title for the extinguishment of suspension for the benefit
of non-indigenous title holders and governments.

The CERD committee identified four sets of provisions in the Native Title Amendment Act 1998 that discriminated against indigenous people, and these provisions were: the amendments to the right to negotiate; provisions which purported to confirm the extinguishment of native title; provisions which allowed for primary production upgrades, essentially allowing for the expansion of the rights of those with grazing leases at the expense of native title holders; and provisions for the validation of acts done by government in breach of the Native Title Act and the Racial Discrimination Act.

In addition, our dissenting report identifies other provisions in the amended Native Title Act which have an adverse impact on the rights of native title holders. A matter of particular concern to the CERD committee was that, while the original act constituted an agreement between the Commonwealth government and indigenous representatives, the largely discriminatory amendments to the Native Title Act in 1998 were imposed on indigenous people. The dissenting report shows clearly that not only did the Commonwealth government fail to secure the consent of—as opposed to negotiate or consult with—the indigenous community regarding the amendments; it never genuinely attempted to negotiate with indigenous people. One matter identified by the CERD committee is that, under international law, it is important that indigenous people are able to effectively participate in making decisions which affect their rights and that they give their informed consent to these decisions. The requirement of effective participation and informed consent has also been identified in the dissenting report as being of critical importance in framing legislation or amendments to legislation which affects the rights of indigenous people.

The dissenting report makes 10 recommendations arising from the consideration of issues in this inquiry. The first recommendation is that the CERD committee is an expert and independent body that is competent to receive and consider complaints, despite the fact that the government in this inquiry continually undermined the members of the committee and the role the committee plays. Another important point is that individuals and groups in Australia had, and still have, the right to bring to the attention of the CERD committee alleged violations of Australia’s undertakings. There is a recommendation from non-government members that the evidence presented to the committee clearly shows the Native Title Act, as amended in 1998, does conflict with Australia’s international obligations.

We found that the government should amend the Native Title Act through a process of negotiation with indigenous people, with the aim of gaining their informed consent to any such amendments. We recommend that the government, in amending the Native Title Act, implement uniform, decent and enforceable national standards for dealing with native title. We also found that the native title legislation is only one early element of a range of instruments to be drafted over time, and it should be seen as part of the process for a lasting settlement and accord between indigenous and non-indigenous Australians.

Finally, we would recommend that the government, consistent with its obligations, protect Australia’s international reputation, desist from any further attacks on United Nations expert bodies and renew positive dialogue with them. On behalf of the Labor Party committee members in the Senate, Senator McLucas and me, I would like to place on the record our utmost thanks to the secretariat for the role they played in this inquiry. I thank Peter Grundy and Richard Selth, who were both secretaries during this time. More particularly, I want to emphasise the terrific work of both Anne Desoyza and Suzanne Wood in providing us with the research and the draft reports. I also thank the other executive and research assistants in the committee.

Senator WOODLEY (Queensland) (6.26 p.m.)—I want to speak to the Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund’s report 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 Discrimi-
nation. It is an absolutely critical report in the ongoing debate about native title in this country. It is critical from the point of view that it is very clearly divided into two sections. There is a completely divided opinion in this country about native title. While I reject almost all of the government’s section of the report, it is nevertheless important that the government put down its view of its position in this debate.

I am going to concentrate on the report of the non-government members and senators because it is the part of the report that I give enthusiastic assent to. I do recognise that both parts of the report need to be read carefully by people in this country if they are to understand the extent of the debate and the division which we have. I want to add my congratulations to the secretariat. They did an absolutely fabulous job in representing very effectively and fairly both sides of this debate. I also want to congratulate the chair of the committee. While I disagree with the part of the report that she signed off on and while I probably do not accept much of the speech she gave, I want to say that with one of the very controversial issues that is part of the ongoing debate in this country she did a very good job in enabling both sides of the debate to be put fairly, and she should be congratulated for that.

I see my colleague Senator Harradine here. We also ought to recognise that in this debate he played and plays a critical part. While I did not agree with all of the amendments made by Senator Harradine and the government to the original Native Title Act in the 1998 amendment act, without the one amendment that Senator Harradine moved, this debate probably would have been cut off in its infancy. It was the amendment moved by Senator Harradine that gave the federal parliament ongoing scrutiny of proposed state regimes, which has enabled this debate to continue. So, Senator Harradine, you did an invaluable job in making sure that amendment was part of the 1998 amendments to the Native Title Act.

Senator Harradine—It was the longest debate in federal parliamentary history.

Senator Woodley—It certainly was, and it continues. I return to the report of the non-government members and senators. I want to read some of the report to the Senate just to give the flavour of the nature of this report and of the debate that continues. Towards the end of the non-government senators and members report is a chapter headed ‘Is the CERD committee’s decision sustainable?’ I want to read the conclusion:

7.39 On an analysis in the context of the applicable international law the conclusion can be drawn that the findings of the CERD Committee which are relevant to the first term of reference are sustainable. Specifically, the amended NTA as a whole is incompatible with Australia’s international legal obligations arising under the CERD, and international law generally. This incompatibility arises primarily as a result of the process that was followed in implementing the amendments to the NTA, without the informed consent of Indigenous people whose rights and interests are affected by the operation of the NTA.

That whole issue of informed consent is one of the issues under debate. But I am satisfied that, while in the 1993 debate there were some indigenous people who were not happy, at the end of the day they all signed off on that particular act.

The chair of our committee has put to the Senate that the government fulfilled all of its obligations. The problem is, however, that, under international law—and particularly in this area—the whole issue of informed consent is absolutely crucial. We cannot put the proposal that indigenous people have not been discriminated against unless their informed consent has been obtained. I am satisfied that, in the 1998 negotiations over the amendments, although native title representatives were informed, we certainly could not say that their informed consent was obtained. Another issue raised by the chair of our committee was whether or not the act can be amended. I want to address that by reading part of the chapter entitled ‘Amending the Native Title Act’ in the non-government members and senators report:

8.1 The second term of reference for this inquiry requires this Committee to consider:

what amendments are required to the Act, and what processes of consultation must be followed in effecting those amendments, to ensure that Australia’s international obligations are complied with.
Australia has long been a leading member of the international community, but this particular report is evidence of the stain the government has placed on our international reputation. I say that very carefully.

However, this report is not only about taking note of our international obligations but also about the evidence of leading lawyers, academics and churches in this country. Their evidence was overwhelming in support of the CERD committee’s findings and against the proposition put by the government that they had fulfilled all they were required to do under those international obligations. So it is not simply that we are taking account of those people outside of this country whose opinion we can ignore; the evidence was overwhelming from our own people. The opinion of the majority of lawyers, academics and churches was that the CERD committee is correct and the government is wrong. I believe that a majority of Australians are of the same opinion as the CERD committee that the 1998 amendments, known as the Prime Minister’s 10-point plan, are racially discriminatory and invalid.

I want to turn now very quickly to the issue of state regimes, because it is quite clear that any state regime that is based on section 43A of the amended Native Title Act is invalid. This report clearly shows that basing a state regime on that 1998 act calls that state regime into question. The report states in paragraph 8.24:

... it is open to the Commonwealth Government to take a policy decision not to approve any alternative State or Territory future act regimes. These alternative regimes, as described in Chapter 6, would, if approved by the Commonwealth Attorney-General, allow State and Territory Governments to replace the RTN with lesser procedural rights. Given the CERD Committee’s concerns about the changes to the right to negotiate, it has been suggested that there should be no further determinations made under these provisions pending the outcome of negotiations with Indigenous people.

And with that I agree. The final comment of the report is worth recording:

9.24 No doubt, as discussed above, dialogue with the CERD Committee would assist with Australia’s understanding of its international legal obligations. However, as discussed in Chapter 8 and noted in the submission by the Aboriginal and Torres Strait Islander Social Justice Commissioner:

The first priority ... is to establish a better informed basis for amendment through consultation and negotiation with Indigenous people.

Senator HARRADINE (Tasmania) (6.36 p.m.)—I am not sure what time—

The ACTING DEPUTY PRESIDENT (Senator Knowles)—Senator Harradine, the time has actually expired. If you would like to make a contribution, you may seek leave of the Senate to do so.

Senator HARRADINE—I seek leave to make a very short statement.

Leave granted.

Senator HARRADINE—In due course, I will give a response to some of the points made in this report, particularly those made in the non-government section of the report. But I wish that senators would put themselves in the situation of that particular time. We were faced with the real likelihood of a race based double dissolution election at a time when, if you remember, the One Nation Party had ascendancy. In the election subsequent to the decisions in respect of the native title amendments, it had received 20 per cent of the vote in Queensland and obtained 11 seats. Multiply that throughout Australia—probably you could not multiply that one for one throughout Australia—and you can see what the outcome could have been. It was absolutely essential that I did what I did and did it on behalf of all Australian people, not least the indigenous people. This piece of legislation related to that matter.

The Queensland Labor Party is operating under those amendments to bring forward an alternative right to negotiate scheme. That is currently before the parliament as a disallowable instrument. No doubt that discussion will take place in August. I wish to emphasise that the then chairman of ATSIC indicated to me that this was the best I could do. Of course, you could take that various ways, but I think that was a genuine expression of at least some sort of an appreciation of the fact that the thing was pulled out of the fire at that time. It was, after all, the longest debate since Federation in this parliament. I want at
some stage to make further comments on this matter. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

NOTICES

Presentation

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

That the following matter be referred to the Economics References Committee for inquiry and report:

- Mass marketed tax effective schemes and investor protection, with particular reference to:
  - (a) the adequacy of measures to promote investor understanding of the financial and taxation implications of tax effective schemes;
  - (b) the conduct of, and the adequacy of measures for controlling, tax effective scheme designers, promoters and financial advisers; and
  - (c) the Australian Taxation Office’s approach towards, and role in relation to, mass marketed tax effective schemes.

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

That the Senate authorises the Economics References Committee to investigate whether a more detailed inquiry into banking practices and the adequacy of protection for elderly and mentally disabled persons is warranted, the committee’s investigation to include the conduct of public hearings if required.

COMMITTEES

Membership

The ACTING DEPUTY PRESIDENT (Senator Knowles)—The President has received a letter from a party leader seeking a variation to the membership of a committee.

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


BILLS RETURNED FROM THE HOUSE OF REPRESENTATIVES

Message received from the House of Representatives agreeing to the amendments made by the Senate to the following bill:

Youth Allowance Consolidation Bill 1999.

INDIRECT TAX LEGISLATION AMENDMENT BILL 2000

Consideration of House of Representatives Message

Message received from the House of Representatives agreeing to the requested amendments made by the Senate to the bill.

Third Reading

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

SOCIAL SECURITY AND VETERANS’ ENTITLEMENTS LEGISLATION AMENDMENT (MISCELLANEOUS MATTERS) BILL 2000

Consideration of House of Representatives Message

Message received from the House of Representatives indicating that the House has not made the further amendment requested by the Senate.

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

Motion (by Senator Newman) proposed:

That the committee does not press its request for a further amendment not made by the House of Representatives.

Senator SCHACHT (South Australia) (6.43 p.m.)—Madam Chair, does the message deal with my amendments to the Social Security Act relating to portability or the veterans’ disability pension?

The CHAIRMAN—It is the veterans’ one, I understand, Senator Schacht.

Senator SCHACHT—I have to say that the opposition is disappointed that the government has missed the opportunity to have further discussion about reaching an agreement on the issue of removing the anomaly, which everyone agrees is there, that the disability pension no longer be counted for income test purposes for social security benefits. I am disappointed that the government would not assist even technically to overcome the difficulties of drafting an amendment. The government pointed out to Senator Bartlett on two different occasions that his amendments apparently created other anoma-
lies or would not do what he expected his amendments would do.

When I discussed with the clerks of the Senate—who always offer their fullest possible assistance—the possibility of having their assistance in drafting an amendment that would carry out what I wanted to do on behalf of the opposition, they had to say that there was no way they could draft an amendment for the opposition without being able to consult with the technical experts in the Department of Veterans’ Affairs and the Department of Social Security. If, without having been able to consult with those experts, they were to put out an amendment, the minister then would get up and say, ‘You’ve made another mistake.’ I have to say, Minister, I think it is unfortunate that you have said no to the suggestion not only of an amendment but also of the officers being made available to assist us in at least getting such an amendment technically right. You could have agreed to both suggestions and then, if you had still wanted to, voted against the amendment. That would have been fine. This lack of cooperation on that matter is disappointing. In sorting out issues which are to the benefit of veterans, such as this one is, I have always attempted to take a broader bipartisan position.

Minister, you gave an indication that the next time the government would consider this it would be in the budget context. That is 11 months away. I believe that those in the veterans community are getting a little more restless at the thought of having to wait 11 months more. This morning I attended the Victorian RSL state conference, as did the minister, where the issue of this disability pension was raised informally. The minister made a comment about it. I also made a comment about it, saying that we as an opposition would still try on this. But, with this message having come back, it is clear that the government is not going to budge on it. I had a discussion with a number of people from the RSL there today and I indicated that reluctantly, if that were the case, we would not insist on our amendment being carried.

But I want to give fair warning: I have now sought the assistance of the RSL. I have asked the RSL to use its resources in cooperation with the opposition to draft an appropriate amendment. With the next bill that comes to this place in the spring session, whether social security and/or veterans entitlement, we again will be putting forward this amendment to achieve the removal of this discrimination, this anomaly that has been there for a long time. I agree with the minister: when my party was in government we did not fix the anomaly. On a lot of these issues, I have always acknowledged that the governments of the day have not responded to what the veterans have wanted. I also have to say, Minister, that it was made clear to me today in private conversation that the removal of this anomaly is of pretty high priority in the veterans community. I do not blame them for that. I think the sooner we get this fixed, the better. Therefore, the opposition will not insist on that amendment. I say to Senator Bartlett and his staff: thank you for your heroic efforts in trying to draft an amendment to achieve our purpose. But to be criticised by the government for not getting it right I think is a bit rich when it has all the expertise and would not give us any advice on the matter.

From the conversations I had with Senator Bartlett yesterday, I think he realises that there is still a difficulty. Senator Bartlett, I do not like, so to speak, leaving you in the lurch with your amendment because I agree with the principle that you are going for. But I have to say that maybe it is best for both of us to work together and have another go at this in the spring session. Then if we do not support this bill, perhaps we will not be held to ransom in this place by other entitlements to veterans being delayed unnecessarily for a couple of months. Governments on both sides of politics always play this card: you produce the joker from the pack to say, ‘Well, we won’t accept your amendment and you’ll be blamed when people miss out on benefits through your not agreeing to our original legislation.’ You can play that bluff for a while, but in the end I believe that the veterans community will see that card for what it is—a blackmail card. They will see the government’s playing of it as not being acceptable.
We will revisit this in the spring session. At that stage, Minister, I hope you and the Minister for Veterans’ Affairs will be more cooperative in trying to seek a reasonable solution here to what the veterans community want.

Senator BARTLETT (Queensland) (6.49 p.m.)—On behalf of the Democrats, I will not oppose this motion by the minister and I will not insist on our amendment. Certainly I share the disappointment of Senator Schacht and agree with the comments he has made.

Just to clarify it for the record and for those listening, this issue is specifically about what are compensation payments made to veterans which are treated as income by the Department of Social Security but not by the Department of Veterans’ Affairs if veterans are receiving a payment through the veterans’ affairs department. It is clearly an issue that is high on the priority list for veteran’s organisations. Obviously it is not the only concern they have, but it is a significant one. There is no doubt about that.

I very much welcome the commitment of the opposition on this issue to continue to pursue it, as the Democrats will. I note the minister’s comment that the government may consider it in next year’s budget context. But I think those in the veterans community have been waiting a long time, and 11 months is too long a time to continue to wait for what is recognised by everybody as an unjustifiable anomaly—at least I trust that is still the government’s position. Nonetheless, I do note the minister’s comment that it will consider it in that context. I certainly hope the government considers it favourably, whether in that context or the next time that it is brought up again in this chamber. So, given the circumstances that there are other measures in this bill that need to be passed and that the government clearly is not going to be cooperative and is not going to recognise the legitimate concerns of the veterans community on this issue, the Democrats will not insist at this particular time.

Senator NEWMAN (Tasmania—Minister for Family and Community Services and Minister Assisting the Prime Minister for the Status of Women) (6.51 p.m.)—I thank senators for the contributions that they have just made. Perhaps I can just be very brief in reiterating a few points. I think all sides of parliament would acknowledge that Australian veterans do already have one of the most generous compensation schemes in the world, and no-one can dispute the level of care that we provide for our veterans. Successful governments, and this government too, have always looked at the priorities of the veterans organisations. Usually that would mean that we would wait until the national conferences and congresses of these organisations had been held so as to confirm their current list of priorities. Senator Schacht tells me that this is now an issue which is at the top of—

Senator Schacht—It is one of the top issues.

Senator NEWMAN—I am glad you amended that. I thought the other day you said it was the top issue.

Senator Schacht—I did not say that it was the top issue; I said it was one of the top issues.

Senator NEWMAN—I am sure you are right, and it has been one of the top issues for quite a long time. Their priorities, however, have not put that at the top until today. I do not know what their current list of priorities is. For instance, are they going to do anything about the situation that the previous government put them in in regard to war widows’ entitlements going backwards and forwards? That is a most unfortunate history in that area. I am not trying to play politics with it, but I would have thought that that would have been one of the issues pretty high on their list, as well. We will have to wait and see what is the current list of priorities.

Senator Schacht—Veterans’ organisations can actually deal with more than one issue at a time—they can chew gum and march at the same time.

Senator NEWMAN—I am sure Bruce Ruxton could do that even walking backwards, as well. Nevertheless, it is appropriate that the government of the day waits until it sees all the congresses that have met for the year and what is confirmed as their current list of priorities. That is reasonable for the government to do. Successive governments
have done it, and we intend to do that too. I will reiterate for Senator Bartlett’s benefit, although he is not in the chamber at moment, that this government is well aware of the issue that has been raised. It will be kept in mind for the next budget. It will be something that the government will look to redress as it comes to the top of the priority list—a list that reflects the concerns of the veterans’ community.

As to the drafting issue that the opposition spokesman referred to, I was opposition spokesman for veterans’ affairs for some time when we were in opposition, and I cannot remember ever either getting help or seeking help from the government of the day to produce amendments for me. It is a novel concept. The opposition parties have the benefit of excellent support from the Clerks.

Senator Schacht—I said that.

Senator NEWMAN—Yes, and we have said that before. I hardly think that you need to have the assistance of the department to draft your amendments for you, Senator. I find it a novel idea; maybe it is something we should ponder.

Senator Schacht interjecting—

Senator NEWMAN—This is not a question of advice. You were talking about getting your amendments drafted, and I find that a novel concept. You have the ability in the Senate to get that from the Clerks, and very good Clerks they are too.

Senator Schacht—I said that.

Senator NEWMAN—Yes, we are both agreed on that.

Senator Schacht interjecting—

Senator NEWMAN—I think that we have more than canvassed these issues. Question resolved in the affirmative. Resolution reported; report adopted.

Third Reading

Bill (on motion by Senator Newman) read a third time.
(b) video images, whether or not there is accompanying sound.

The amendment narrows the definition of ‘presenter based’, thereby allowing datacasters to make available a wider range of news and related material through on-screen menus.

Senator MARK BISHOP (Western Australia) (7.01 p.m.)—This is a rather technical amendment and the opposition supports it.

Amendment agreed to.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (7.02 p.m.)—by leave—I move government amendments (44) and (48):

(44) Schedule 1, item 140, page 67 (after line 24), after clause 18, insert:

18A Genre conditions do not apply to advertising or sponsorship material

The conditions set out in clauses 14 and 16 do not prevent a datacasting licensee from transmitting advertising or sponsorship material.

(48) Schedule 1, item 140, page 70 (after line 10), after clause 23, insert:

23A Audio content condition does not apply to advertising or sponsorship material

The condition set out in clause 21 does not prevent a datacasting licensee from transmitting advertising or sponsorship material.

The purpose of these amendments is to clarify that the genre and audio content conditions do not apply to advertising and sponsorship material transmitted by datacasting licensees. The proposed amendments clarify the treatment of advertising and sponsorship material transmitted by datacasting licensees. Amendment (44) inserts a new clause 18A in proposed schedule 6 to make it clear that the conditions in clauses 14 and 16 do not prevent a datacasting licensee from transmitting advertising or sponsorship material. Such material would not, in any event, be a category A or category B television program but the provision is included to give greater certainty to potential datacasters. Amendment (48) inserts a new clause 23A in proposed schedule 6 to make it clear that the condition in clause 21 does not prevent a datacasting licensee from transmitting advertising or sponsorship material. The provision is included to give greater certainty to potential datacasters.

Amendments agreed to.

Senator BOURNE (New South Wales) (7.03 p.m.)—I see that amendment (39) on sheet 1827 is exactly the same—or I think it is exactly the same—as opposition amendment (35). So if Senator Bishop would like us to move this together, I would be happy to do that. I move:

(39) Schedule 1, item 140, page 69 (after line 9), after clause 21, insert:

21A Audio content condition does not apply to national broadcaster

The condition set out in clause 21 does not apply to a datacasting licensee if the licensee is a national broadcaster.

In terms of this amendment, I believe that the national broadcasters—I may have this wrong; I hope not—are able to broadcast radio on broadcasting but not on datacasting. I may have that the wrong way around, but we think they should be able to broadcast radio on both broadcasting and datacasting, and this would allow them to do that.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (7.04 p.m.)—I am advised that there is general agreement that our form of words is preferred, but I am seeking to locate our amendments. I understood that our amendments (13), (16) and (51) on sheet EK215 were the preferred form of words. In other words, we support the intent of the amendment, which is to allow the national broadcasters to broadcast their radio programs on their digital television spectrum. It is simply a matter of how you can best accomplish this. It is necessary to amend both provisions of schedule 4 relating to the National Conversion Scheme and the provisions in the Radiocommunications Act relating to use of digital television transmitters for transmitting radio services. So I assume, without having our amendments in front of me, that we go down to a greater level of detail in order to accomplish effectively what is obviously the intent of both the Labor and Democrat amendments.
The TEMPORARY CHAIRMAN (Senator Hogg)—I can assist you with locating those government amendments, Minister. They are on page 3 of the running sheet, and they have already been agreed to.

Senator ALSTON—Perhaps Senator Bourne can indicate—and I know this is a little difficult on the run—to what extent she believes her amendment goes beyond what we now ascertain has already been passed by the chamber. I have indicated what we think this is about—in other words, to provide the national broadcasters with the capacity to broadcast radio programs on their digital television spectrums. As I say, I think we all have the same intent. It is a matter of how you can most effectively achieve it.

Senator MARK BISHOP (Western Australia) (7.07 p.m.)—In respect of Senator Bourne’s comment that the opposition and the Democrats are co-sponsoring the amendment, that is correct. We will withdraw our opposition amendment (35) at the appropriate time. In respect of government amendments Nos 13, 16 and 51, they have already been passed.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (7.08 p.m.)—There may be some confusion as to what the Democrat amendment is. That may be because I have some advice here that does not accurately reflect it. I wonder whether Senator Bourne can tell us what is contained in her Democrat amendment No. 39.

Senator Bourne—It is exactly the same as Senator Bishop’s amendment.

Senator ALSTON—Maybe Senator Bishop can tell us what is in his.

The TEMPORARY CHAIRMAN—Senator Bourne, I think the ball has been passed to you.

Senator BOURNE (New South Wales) (7.08 p.m.)—Thanks very much, Mr Temporary Chairman. I think we have passed those amendments that the minister thinks we have.

The TEMPORARY CHAIRMAN—Yes, that is quite correct, Senator Bourne. We did pass those.

Senator BOURNE—I have gone back to have a look at the minister’s amendments. From memory—and this is difficult on the run—at one point we believed that there was a problem with our amendments and Senator Bishop’s amendments that was fixed by the minister’s amendments. But, having had a look at it, we now believe that our own amendment is in fact superior, which is a pity because the minister’s amendments have already been passed.

Senator Mark Bishop—No, we don’t.

Senator BOURNE—Senator Bishop is shaking his head at me, so he obviously believes that the minister’s amendments are now okay.

Senator Mark Bishop—Yes.

Senator BOURNE—He is nodding at me.

Senator BOURNE—He is nodding at me. That is very good. In which case, it might be just as well to leave it to the minister’s amendments and not worry about our amendment at all. But I would like to hear from Senator Bishop on that.

The TEMPORARY CHAIRMAN—Senator Bishop, we are a little bit confused, so you might help us.

Senator MARK BISHOP (Western Australia) (7.10 p.m.)—I might be able to shed light on this. My understanding is that the ALP and Democrat amendments sought to allow the national broadcasters to datacast radio services and the government amendments sought to allow the national broadcasters to both datacast and multichannel radio services. My understanding is that there have been negotiations between the three parties. We are all agreed that the government’s position is preferable and we all want to support the government’s amendments, and not worry about our amendment at all. But I would like to hear from Senator Bishop on that.

The TEMPORARY CHAIRMAN—Senator Bourne, will you seek leave to withdraw?

Senator BOURNE—I seek leave to withdraw my amendment.

Leave granted.
The TEMPORARY CHAIRMAN—We now move to government amendment No. 46 on sheet EK215.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (7.11 p.m.)—I move:

(46) Schedule 1, item 140, page 69 (after line 5), after subclause (8), insert:

Condition does not apply to incidental or background audio content

(8A) The condition set out in subclause (1) does not apply to the transmission of audio content that is incidental to, or provided as background to, matter displayed on the screen.

The purpose of this amendment is to clarify that the audio content conditions do not apply to the transmission of audio content that is incidental to, or provided as background to, matters displayed on the screen. The proposed amendment clarifies the treatment of audio content that is provided as purely incidental or background sound to matters displayed on the screen. Amendment (46) inserts a new subclause 21(8A) in proposed schedule 6 to make it clear that the prohibition in clause 21(1) does not prevent a data-casting licensee from transmitting audio content that is incidental to, or provided as background to, matter displayed on the screen. The provision is included to give greater certainty to potential datacasters.

Senator MARK BISHOP (Western Australia) (7.12 p.m.)—This is a minor and technical amendment and the opposition supports it.

Amendment agreed to.

The TEMPORARY CHAIRMAN—We now move to opposition amendments Nos 19, 21, 22, 28, 30, 31 and 34 on sheet 1823.

Senator MARK BISHOP (Western Australia) (7.12 p.m.)—This is a minor and technical amendment and the opposition supports it.

Amendment agreed to.

The TEMPORARY CHAIRMAN—You have amended opposition amendment No. 21 on sheet 1823. Are you moving amendments Nos 19, 21, 22, 28, 30, 31 and 34 together? If so, you will need leave. Is leave granted? There being no objection, leave is granted.

Senator MARK BISHOP—I move my amendments in their amended form:

(19) Schedule 1, item 140, page 55 (lines 1 to 6), omit the definition of current affairs program.

(21) Schedule 1, item 140, page 56 (after line 6), after the definition of news bulletin, insert:

news or current affairs program means any of the following:

(a) a news bulletin;
(b) a sports news bulletin;
(c) a program (whether presenter-based or not) whose sole or dominant purpose is to provide analysis, commentary or discussion principally designed to inform the general community about social, economic or political issues of current relevance to the general community.

(22) Schedule 1, item 140, page 56 (line 6), omit the definition of news bulletin.

(28) Schedule 1, item 140, page 62 (line 22), omit paragraph 13(1)(b).

(30) Schedule 1, item 140, page 64 (line 29), omit paragraph (1)(a), substitute:

(a) a news or current affairs program;

(31) Schedule 1, item 140, page 64 (lines 32 and 33), after “bulletin” (wherever occurring), insert “or program”.

(34) Schedule 1, item 140, page 65 (line 31) to page 66 (line 24), after “bulletin” (wherever occurring), insert “or program”.

Amendments agreed to.
The TEMPORARY CHAIRMAN—We now move to opposition amendments No. 20 on sheet 1823 and Nos 26 and 32 on sheet 1823. The indication is that they may be withdrawn.

Senator MARK BISHOP (Western Australia) (7.14 p.m.)—I confirm that.

The TEMPORARY CHAIRMAN—Now we move to opposition amendment No. 27 on sheet 1823. I am at the bottom of page 7 on the running sheet revised 4.

Senator MARK BISHOP (Western Australia) (7.15 p.m.)—I wish to move this amendment because this clause removes the need for national broadcasters to pay a licence fee on datacasting.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (7.15 p.m.)—I would say by way of clarification that we may be in the same situation that we were in previously, when I think that you withdrew an amendment: this is only concerned with the application fee, which will be an administrative matter and will be of very small import. So we are not talking about anything that any body would not be able to afford. We are talking about simply covering administrative costs associated with the allocation of the licence, which will be an administrative matter and will be of very small import. So we are not talking about anything that any body would not be able to afford. We are talking about simply covering administrative costs associated with the allocation of the licence, which is quite a different matter, of course, from the datacasting charge to be applied to broadcasters for datacasting, imposed under the Datacasting Charge Imposition Act. So the government’s view is that it is not appropriate to treat national broadcasters any differently. It is just a process point.

Senator MARK BISHOP (Western Australia) (7.16 p.m.)—Yes. I was talking about the datacasting fee, which you properly describe as essentially an administrative cost. Upon reflection, there is no good reason that the national broadcasters should be treated any differently in that respect, and accordingly I will withdraw opposition amendment No. 27 on sheet 1823, but we will persist with the amendment on the datacasting charge at a later time.

The TEMPORARY CHAIRMAN—We move to opposition amendment 29 on sheet 1823. The indication here is that it may be withdrawn, as it has the same effect as government amendment No. 33 on sheet EK215, which has already been agreed to.

Senator MARK BISHOP (Western Australia) (7.17 p.m.)—The opposition withdraws amendment No. 29 on sheet 1823.

The TEMPORARY CHAIRMAN—We move to opposition amendment No. 33 on sheet 1823, at the top of page 8.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (7.18 p.m.)—Government amendments Nos 36 and 37 have, I believe, already been agreed to, and one would assume that they overtake this amendment. This is to remove the requirement for a 10-minute news, financial market, business or weather bulletin to be presenter based, and we have already done that.

Senator MARK BISHOP (Western Australia) (7.18 p.m.)—The minister is correct. We withdraw opposition amendment No. 33 on sheet 1823.

The TEMPORARY CHAIRMAN—Next is opposition amendment No. 23 on sheet 1823.

Amendment (by Senator Bishop) proposed:
(23) Schedule 1, item 140, page 57 (lines 6 to 18), omit subclause (1), substitute:
(1) For the purposes of this Schedule, an educational program is matter, where, having regard to:
(a) the substance of the matter; and
(b) the way in which the matter is advertised or promoted; and
(c) any other relevant matters;

it would be concluded that the sole or dominant purpose of the matter is to assist a person in education or learning, whether or not in connection with a course of study or instruction.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (7.19 p.m.)—We agree with that.

Amendment agreed to.

The TEMPORARY CHAIRMAN—We move now to government amendment No. 28 on sheet EK215.
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**Senator ALSTON** (Victoria—Minister for Communications, Information Technology and the Arts) (7.19 p.m.)—I seek leave to withdraw government amendment 28 on sheet EK215.

Leave granted.

**The TEMPORARY CHAIRMAN**—We move now to opposition amendments Nos 24 and 25 on sheet 1823.

**Senator MARK BISHOP** (Western Australia) (7.19 p.m.)—The opposition withdraws its amendments Nos 24 and 25 on sheet 1823.

Progress reported.

**ADJOURNMENT**

**The DEPUTY PRESIDENT**—Order! It being 7.20 p.m., I propose the question:

That the Senate do now adjourn.

**Stewart, Mr Chris**

**Senator IAN CAMPBELL** (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (7.20 p.m.)—I refer in my remarks on the motion for the adjournment to some remarks that were made earlier this day by the Leader of the Opposition in the Senate, Senator John Faulkner. He was referring to the situation of a Mr Chris Stewart, who has been the subject of some publicity, I believe, in the Financial Review recently. The speech made by Senator Faulkner in the lunchtime debate today on matters of public interest is yet another in a series of examples where Senator Faulkner comes into this place with, clearly, part of a story where he has ensured that not only has he come in here with a case to put but he has decided to make his case by slurring the reputations of private citizens. He has once again come into this place and sought to damage the reputations of fine, upstanding Australians who happen to have chosen, in a couple of examples, to make their career in the organisation of the Liberal Party of Australia—people who have dedicated their lives to the better government of Australia.

The Leader of the Opposition in the Senate comes in here and makes allegations about people such as the Baillieu family and members of that family who are long since ceased—and refuses, of course, to apologise to that family—and who makes allegations at whim about members of Senator Crane’s family, causing great distress to that family, and again refuses to apologise. This is the bloke who, in question time after question time, absolutely ignores the protocols of the Senate, ignores the President of the Senate, and abuses people at whim. But at least when he comes in here and abuses his colleagues or even abuses the President—or even on occasion yourself, Madam Deputy President—those of us in here have the opportunity to stand up and correct the record, which is done on so many occasions. But today what does he do? He comes in here, under the pretext of standing up for this Mr Chris Stewart, and at the end of his speech slurred the reputations of people such as Mr Lynton Crosby, the Federal Director of the Liberal Party of Australia, and Mark Textor, one of Australia’s most successful international research organisation heads in the history of this nation. He slurred a private citizen, a private business person running a very successful, now international, research organisation. Those people cannot defend themselves. He does this under the guise of trying to have the case of Mr Chris Stewart, a person who was employed by the Australian Bankers Association during one of the worst periods in that association’s history, one of the most embarrassing periods in the history of banking in Australia—

**Senator Conroy**—You’re out of your depth now, Campbell. You’re out of your depth now!

**The DEPUTY PRESIDENT**—Order, Senator Conroy!

**Senator IAN CAMPBELL**—I will not, Senator Conroy, sink to the depths that your leader chose to today by attacking people. I do not know Mr Stewart. Anyone who wants to find out about Mr Stewart can read Mr Stewart’s own testimony before the inquiry into the ‘cash for comments’ affair. All they have to do is read that, and that speaks for itself. I am not going to slip down into the gutter with Senator Faulkner and seek to destroy the reputation of someone such as Mr Stewart in the way that Senator Faulkner does day after day in here when he has got
nothing else to talk about. This is the bloke who has been the spokesman on Public Service matters in this place for coming up to four years now. He has not come up with a policy on Public Service matters, he has not come up with any new ideas on any policy, but when he is running out of muck to sling he comes in here and attacks Mr Textor and Mr Crosby. People will be able to judge Mr Chris Stewart when they look at the testimony that he gave under cross-examination from Mr Burnside. They will make judgments about Mr Stewart’s integrity, honesty and professionalism in the development of the scripts that were used by John laws, the potential conflicts of interest between developing those scripts, receiving money for those scripts, and at the same time being on the payroll of the Australian Bankers Association. Senator Faulkner came in here today and said that Mr Textor is some sort of evil researcher. He tried to say that Mr Textor is evil because he learnt from Richard Worthlin. You will have to ask Senator Faulkner, if you have the chance, who is his favourite American pollster. He accuses Mr Textor of supporting Richard Worthlin. I presume, based on Senator Faulkner’s experience, that he would hitch his bandwagon to Dick Morris. Also, in his speech he created some sort of conspiracy theory.

I think you need to understand why Senator Faulkner came in here in the first place. He came in here to seek justice for Chris Stewart, ostensibly. At the end of his speech, Senator Faulkner said he wanted the Public Service Commissioner, Ms Williams, to look into this matter. So he is seeking justice for this bloke. How do you seek justice for someone in the Australian system before an arbitration tribunal or a court? Do you come into parliament and put the whole skewed story, based on information that Senator Faulkner would probably claim is reliable, with his sordid political spin on it, or do you allow someone such as Mr Stewart, or any other public servant in this nation of ours, to seek justice? Of course not. Senator Faulkner came in here and put his spin on a whole series of events. He said that the sacking of Chris Stewart, this employee of the Australian Bankers Association during the ‘cash for comment’ crisis, had all of a sudden gone offside with the Liberal Party hierarchy because he employed John Utting. But he did not, of course, go into John Utting’s history. I think the great irony in this is that the scripts Mr Chris Stewart wrote for John Laws and others were titled ‘The Whole Story’. I think it is about time Senator Faulkner told us the whole story about the involvement of John Utting and the Australian Labor Party. How did John Utting get his first payment? How did John Utting set up UMR?

Senator Robert Ray—Who made the call?

Senator IAN CAMPBELL—I invite Senator Ray to get up and tell us the whole story about John Utting.

Senator Robert Ray—Happily.

Senator IAN CAMPBELL—He will happily tell us. Is he going to tell us that John Utting, in evidence before the WA Inc royal commission, received his first payment—I think it was $50,000—out of a safe in Brian Burke’s office? Does Robert Ray know that? Of course he is not going to tell us the whole story. He will try to further persecute people such as Mark Textor, who has created a successful research organisation in Australia, who has been a provider of quality research to the Liberal Party of Australia and who has ensured through that success that he is able to run a successful business, not only across Australia but also internationally. But because Mr Textor happens to have worked for the Liberal Party of Australia these people want to come in here and destroy his reputation and destroy the careers of those people who work for Mr Textor’s organisation—

Senator Conroy—What’s Textor’s research telling you now?

Senator IAN CAMPBELL—Just as Senator Conroy will come in here and seek to destroy the lives of business people in Victoria, people who would not have the opportunity to defend themselves in this place. As Senator Ray usually says, when you seek to attack someone on the Labor Party side or make comments about them, there are only 10 yards to walk to courage. Of course, Senator Faulkner will never walk those 10
yards. He will never say what he says in here about Mr Crosby or Mr Sinodinos or Mr Textor, because he is too gutless. Senator Ray will never walk the 10 yards to courage. He will never say outside this place what he says about Mr Textor. What I ask is that, when Senator Ray gets up to respond, he should walk outside and say outside this place what he is going to say. He should tell us the whole story about John Utting and how he got his start in life from Brian Burke, the disgraced former Premier of Western Australia. That is what I encourage him to do: tell the whole story in Chris Stewart's words; tell us the whole story about John Utting, tell us the whole story about Chris Stewart. Do not come in here and slander the reputations of fine upstanding Australians like Mark Textor and Lynton Crosby.

Stewart, Mr Chris

Senator ROBERT RAY (Victoria) (7.30 p.m.)—For the first time tonight I feel sorry for Mark Textor, because the best he can do is have Senator Ian Campbell come in and put down that pathetic defence today. I must say this: I do not—and Senator Faulkner does not—make comment on the suitability of Chris Stewart's appointment to that post in Defence. We do not make a judgment as to whether he was a suitable or unsuitable candidate. The facts are: it was the headhunting firm on behalf of the Department of Defence that approached Mr Stewart for the job. Mr Stewart did not approach the headhunting firm or the Department of Defence for this appointment. He was little surprised, I guess, that he was approached. What was the first thing Mr Stewart did? He said, ‘You'd better be aware I worked for the Australian Bankers Association and there is a lot of controversy about my role in the cash for comments affair.’ So the headhunting firm knew. The headhunting firm informed the Department of Defence. Nevertheless, Mr Stewart was called in for an interview. The issues surrounding the controversy of the Australian Bankers Association are yet again discussed. Once he has passed that hurdle, Mr Stewart is called before an interview panel of three SES officers—including Ms McKenry, who I think has behaved relatively properly in all of this—and is interviewed for the job. Again, Mr Stewart’s role with the Australian Bankers Association is taken up.

If Senator Ian Campbell is to be believed tonight, Mr Stewart was not a suitable candidate. Well, why did the headhunting firm approach him? Why did the Department of Defence interview him? Why did the Department of Defence appoint him? Indeed, as we heard today—and it is not disputed by Senator Campbell today—initially Mr Stewart was reluctant to take the job because the package was not what he expected. What happens the moment the Department of Defence finds out that he is in doubt? They up the package and they offer him a higher package. He is then appointed. It is circularised in the department that he has been appointed. They ask him to start a few days early, before the appointment is gazetted. The appointment goes to gazettal and is due to begin on 1 June. Indeed, two or three weeks after that Mr Stewart gets a letter from the Public Service Commissioner. Guess what it says? ‘Congratulations on your appointment. Welcome to the Australian Public Service.’ So the process of Senator Campbell’s government has actually gone ahead and chosen a person who Senator Campbell comes in here tonight and says is not a suitable person. There was full knowledge—absolute and full knowledge—about Mr Stewart’s work history when he was appointed to that post in Defence.

This is not the first example of someone being arbitrarily dismissed by Minister Moore. On the last occasion on which this occurred it was the secretary to the department, and it cost hundreds of thousands of dollars in pay-off in terms of entitlements and hundreds of thousands of dollars in legal fees to get Mr Moore’s way in that case. The strong point that I thought Senator Faulkner made this morning is not that the Department of Defence and the Defence secretary of their own volition sacked Mr Stewart. No, they did not. They did so under pressure from Minister Moore’s office and the Prime Minister’s office. My understanding is the sequence went like this: once there was some publicity around Mr Stewart, the senior political staffer in the Prime Minister’s office rang Mr
Moore’s office and demanded that this person cease employment.

If Mr Stewart was employed in the full knowledge of past employment difficulties, we are entitled to ask why it was that suddenly he was no longer acceptable? We will not back off from our allegation that he was not acceptable for political reasons. We know how petty, how vindictive, this government is. You can see it in their appointments. You can see it in their terminations. There has never been a more Nixonian government in this Commonwealth of Australia than the Howard government. This is the reason why cabinet takes tens of minutes, up to hours, to go through the appointments list. You only have to look at some of the appointments they have made. If you have been on the finance committee of the New South Wales Liberal Party, you will get appointed somewhere, no matter what the conflict of interest is.

In these circumstances we know that Mr Textor has had long arguments with Mr Stewart, because he did not employ him. But I thought the most interesting thing was the accusation by Mark Textor: ‘Don’t employ John Utting; the research will go directly to the Labor Party.’ I have never seen any research come to the Labor Party other than what we have paid for, but it is quite clear that is the modus operandi of Mr Textor. Whatever research he gets—be it government funded, be it privately funded, be it working for the Bulletin for the amazing just five-week period before an election campaign—it all obviously finds its way into the Liberal Party of Australia.

But if Senator Campbell has doubts about these issues—and he is entitled to—let’s have a proper inquiry into it. Let’s set up a parliamentary inquiry into the circumstances of the employment of Mr Stewart and his dismissal. Let’s bring people under oath to see what evidence the Secretary of the Department of Defence—or the divisional head—will give. Let’s hear under oath who made the phone calls to have Mr Stewart dismissed. Senator Campbell complains about people’s reputation being damaged. What damage has been done to Mr Stewart? He has been employed and then sacked arbitrarily? That will make his opportunities for further employment much more difficult.

I do not defend his role in the Australian Bankers Association or the cash for comments affair, but I like to think that, having gone through that period and the inquiries, he is entitled to make a fresh start. This fresh start was not at his initiative but at the initiative of a headhunting firm and the Department of Defence. It is not unusual, in terms of this allegation, that it was Mr Sinodinos that picked up the phone and Mr Sinodinos who rang John Moore’s office and demanded that this individual be sacked. He was given no natural justice; there was no fair process in the way this was done. I am disappointed that a secretary or a department would act in response to such a phone call. If, when I was the minister—not that it ever occurred—some prime ministerial staffer picked up the phone to me and told me I had to go ahead and sack someone for a capricious reason, I would have made sure not only that I would have rejected those advances but that there would have been a sacking. And that would have been the staffer who picked up the phone and made that phone call to me. This is a capricious sacking; it is one that really needs investigation.

Senator Campbell raised it tonight. Great! Let’s bat all the way through, Senator Campbell. Let’s have a Senate inquiry into the circumstances of the hiring and firing of Mr Stewart. But I will bet anything you would vote against that, and I will bet anything that you would oppose any such inquiry, because the last thing you want is witnesses coming along—and I have no doubt that the witnesses in the defence department would come along and tell the truth. There is too much honour in the Department of Defence for them to come and lie for this sleazy, underhand government.

Senator Campbell objects to Senator Faulkner raising these issues. The reason you are so sensitive about Mark Textor is that he is a grubby operator. You only have to go back and look at those tapes of the focus groups in the Northern Territory. He is not only feeding them grog; when they ask who he represents, he lies. He says he is representing southern interests when he is being
employed by the Liberal Country Party in the Northern Territory. He lied to them on tape—the very tapes he was honour bound to destroy but are now in circulation.

Senator Ian Campbell—Madam Deputy President, I raise a point of order. It is quite clear that the use of the words 'lies' and 'lied' is unparliamentary. It has been ruled in that way on a number of occasions, and I think you should uphold that ruling.

The DEPUTY PRESIDENT—Not when it relates to someone who is not in this place. There is no point of order.

Senator ROBERT RAY—Senator Campbell again shows his inexperience and incompetence. He did lie, Senator. It is on tape, and I invite you to view the tapes. You will see him lie to those people in the focus groups. I now call for a Senate inquiry into the disgraceful circumstances of the dismissal of Mr Stewart. (Time expired)

Jubilee 2000 Campaign

Senator WOODLEY (Queensland) (7.40 p.m.)—In the light of those last two speeches, the subject I want to speak on tonight is a little bland. However, the worldwide Jubilee 2000 campaign for debt cancellation is a very important issue for millions of people in the world. It is of particular interest to the Australian public as well as to many of my colleagues in this place, a number of whom have also spoken about it. In fact, more than 45,000 Australians have signed a petition that will go to the G7 meeting in Japan urging real debt relief. I say ‘real’ because, a year ago in Cologne, the seven richest nations promised to write off $US100 billion of the $US260 billion debt owed to the West by the poorest countries in the world. This promise led most of us to believe that the very poor countries would experience some alleviation of their crippling debt situation. To date, pretty much all of those countries are still waiting. It is particularly sad because the G7 gained significant media attention when the headlines announced their generosity; yet countries are still waiting for relief and are still suffering while they wait.

Jubilee 2000 has identified 52 of the poorest countries in the world as being in urgent need of debt cancellation. These countries, of which 37 are in Africa, owe a total of $US376 billion. About half of this is owed directly to individual governments, mainly Japan, the US, Britain, Canada, France, Germany and Italy—in other words, the G7. Most of the rest is multilateral debt, owed to the World Bank and the International Monetary Fund, which are effectively run by the G7 governments. Only about 10 per cent is owed to private banks. Not all poor countries qualify for debt relief, though. Some are considered not poor enough and others are considered not indebted enough. I was recently sent an article from the UK Guardian. The article talked about some issues currently being faced by Haiti. That country has a debt of $US1.2 billion and this debt, while crippling, is not large enough to qualify the country for entry into the highly indebted poor country initiative, or HIPC. Haiti does not have basic services, and its education and health systems are inadequate. The Guardian article quotes a schoolteacher who sums up some of the problems in Haiti:

The government pays nothing toward the school. Not even a piece of chalk. There’s rarely any electricity. It gets diverted to wealthy people in Pentonville. Down here we suffer from tuberculosis and malaria.

According to the Jubilee 2000 campaign, there are clearly identifiable problems with the current debt program. These are as follows. It is not fast enough: to date only five countries have gone through the process. It is not deep enough: in fact, debts have been cut by only 40 per cent. It is not broad enough: there are clearly countries that do not have the capacity to maintain their credit commitments and yet they are not included in the HIPC system. Also, it is not a fair and transparent process.

I am speaking tonight about this issue because there are two significant events about to happen which are crucial for the debt reduction campaign. On 23 June, the United Nations Summit on Social Development starts in Geneva. I must say as an aside that I am disappointed that this government has failed to send a high level delegation to this important summit. The summit is particularly significant because it was at the United Nations social summit in Copenhagen five years
ago that the HIPC initiative was first proposed as a solution to the debt crisis. The current Copenhagen Summit for Social Development Plus 5 is an extraordinary meeting of the United Nations General Assembly, involving several heads of state as well as development ministers, and is a key place to reiterate that the targets for poverty reduction are unrealistic without debt cancellation. The United Nations Secretary-General, Kofi Annan, has already called for a new approach to handling the debt problem, including the establishment of a debt arbitration process to balance the interests of creditors and sovereign debtors and to introduce greater discipline into their relations. Now the United Nations has to work with creditors and debtors to make this vision a reality.

The second event crucial to the debt debate is the G7 meeting in Okinawa in July. The G7 finance ministers meet prior to that in Fukuoka on 8 July, and they will settle most of the key decisions that will be announced at Okinawa two weeks later. Jubilee 2000 is expecting that the finance ministers will try to reiterate the 100 per cent pledges that they have already made individually and let everyone think that the debt problem has been solved. I support the Jubilee 2000 message that the G7 countries are still collecting debt payments and must immediately stop taking money from the poorest countries.

Rather than just call for more debt reduction, we need to focus on the need for the G7 to push for reform to the HIPC initiative. I should acknowledge that the Australian government has started to place pressure on the IMF and the World Bank to produce fast delivery of HIPC cancellation, and I commend them for this. However, I would like to see them go further. Three countries that were identified in the original HIPC initiative still have a debt with Australia. The Australian government has said that it will cancel outstanding debt from two of these countries. The three are Nicaragua, Ethiopia and Vietnam. However, the government will do this only once the countries have been through the HIPC initiative. I would like to see the debt cancelled now. We know that the HIPC initiative is faulty, so we need to agitate for its reform, but we also need to say that we will not abide by its constrictions. We want to see poverty relief, and we want to see it now.

As I have said, the HIPC initiative is plagued with problems. It is designed by creditor nations and is controlled by them. Clearly, this leads to creditors wrangling over who gets what and when. The focus on poverty reduction is thus reduced, and other issues such as conflicting agendas, lack of consensus and the minimising of cost become the primary focus. Vietnam is a good example of the limitations of HIPC. It currently does not qualify for debt relief, despite its poverty. Jubilee 2000 believes—and I concur—that, given our close bilateral ties with Vietnam, we should be lobbying the multilateral finance institutions and the community of bilateral creditors to take a closer look at the Vietnamese case. In addition, we should negotiate a bilateral agreement to have repayments from Vietnam flow to mutually agreed development projects.

Australia is also owed money by other countries that do not qualify for HIPC but are in the expanded Jubilee 2000 list of 52. These nations are the Philippines, Nepal and Bangladesh. We also have only to take a look around our region to see that, unless we take some time now to ensure the design and establishment of sensible procedures, there could easily be a debt problem in the Asia-Pacific region. East Timor, Papua New Guinea, Fiji, the Solomon Islands, Indonesia, the Philippines and Thailand are just some of the nations which could be at risk. With the upcoming G7 meeting, we think it would be appropriate to use our relationship with Japan, which is the chair of the G7, to ask them to cooperate with other G7 nations in placing debt on the summit agenda.

Along with the 45,000 Australians who have supported the Jubilee 2000 campaign, the Democrats would like to deliver the following message to the G7 in order to drive the debt process forward. There should be a commitment to implementing the rhetoric that places poverty reduction as the overriding criterion for the HIPC initiative. HIPC nations that are able to meet reasonable poverty alleviation plans should not have HIPC debt cancellation stalled because of an inability or an unwillingness to meet the struc-
tural adjustment criteria. Appropriate conditionality should be employed—that is, conditions that pertain to poverty alleviation targets and planning and have been agreed to by civil society in a fair and open process. We also call on the multilateral financial institutions to announce the cancellation of 100 per cent of the debts of HIPC's. Finally, we call on the international community to review and reform the systems that have led to the current debt crisis. (Time expired)

Parliamentary Privilege

Senator LIGHTFOOT (Western Australia) (7.50 p.m.)—After listening to the debate on my monitor in my office tonight, I think that it is one of the new lows in my parliamentary career to see and hear the denigration of people who cannot defend themselves. Compared with those in this place, they do not have the capacity to use parliamentary privilege, which is so often misused here and is misused in a most nefarious and evil way by Senator Faulkner and Senator Conroy in particular. I think it is a sad day when this has to go on, much to the mirth of Senator Conroy. I think that compounds the nefarious behaviour of Senator Conroy. He laughs at the discomfort and at the discredit that he brings to this place, and so does Senator Faulkner. That aspect of it is compounding the evil.

The very genesis of this was probably in the Burke era, during the eighties. Madam Deputy President, you may remember who governed the states that were the most influential in Australia at the time. Western Australia was governed by Brian Burke and the Laurie Connell clique. You would remember John Cain and Joan Kirner. You would remember John Bannon in South Australia. The result of their governments was that Australia lost its credit rating, that Australia became an international pariah with respect to its politicians and that ‘politician’ became a dirty word during those times.

Senator Conroy—How’s Joh Bjelke-Petersen, you hypocrite.

The DEPUTY PRESIDENT—Order! Senator Conroy, you have been using unparliamentary language. Would you please withdraw it.

Senator Conroy—I withdraw.

Senator LIGHTFOOT—Madam Deputy President, you would remember, as everyone in this chamber would remember, the discredit that those people brought on politics not just in their respective states but nationally. We became an international pariah. Altogether, they aggregated over $10 billion of losses to Australian taxpayers—Western Australia in particular. But what happened in Western Australia? Western Australia Inc. not only spawned the likes of Mr Burke, Laurie Connell and others but it spawned the likes of John Utting and Don Anderson. And who are John Utting and Don Anderson? John Utting’s career as a Labor Party pollster was borne out of WA Inc., the same as Carmen Lawrence MP was borne out of WA Inc.

Senator Conroy interjecting—

The DEPUTY PRESIDENT—Order, Senator Conroy.

Senator LIGHTFOOT—I do not like raking over old coals but, when you start attacking decent people in the Liberal Party of Australia, I have to come in here and defend them. The Liberal Party of Australia has been a great part of my life. I have never ever seen the party, the parliament, politics or politicians sink to the depths that Senator Faulkner and Senator Conroy sink to. I find it absolutely disgraceful that I have to use the truth of recent history to come in here and defend decent people—and they are decent people. Mark Textor is a decent man with a decent family and a decent career, and jealousy is a curse. Senator Conroy, you have attacked Mr Ron Walker, a very decent man—yes, an ambitious man, and he has done well, and that is the curse of it. You should not do well in our free enterprise. According to the other side, there should be no reward for effort, no pursuit of excellence and no accumulation of wealth.

Senator Conroy interjecting—

Senator LIGHTFOOT—Yes, Madam Deputy President, you are deaf—I can see that—to Senator Conroy’s constant interjections, and it is something that you should have stopped, but you seem incapable of it.
The DEPUTY PRESIDENT—Senator Lightfoot, you had better do some withdrawing, because that was a reflection upon the chair. I had been asking Senator Conroy to cease, and he had ceased prior to your unseemly reflection upon the chair.

Senator LIGHTFOOT—I do not intend to withdraw.

The DEPUTY PRESIDENT—Senator Lightfoot, I would ask you to think very seriously about that.

Senator Conroy—Reconsider, Ross.

The DEPUTY PRESIDENT—Senator Conroy, I would ask you to remain silent. Senator Lightfoot, I would ask you to reflect upon that decision.

Senator LIGHTFOOT—I have reflected, and I withdraw. There is the Teachers Credit Society in Western Australia, spawned from the same Labor Party that sits across the chamber here. What happened to that? It cost the Western Australian taxpayers millions of dollars. Insurance companies collapsed through the corruption of the Labor Party in Western Australia, and it is part of a national organisation. Only the Labor Party of Australia has the power to intervene in state politics. We in the Liberal Party do not have the power to do that. But I am not denigrating decent people. These are well-known people who have been convicted and who have spent time in jail. Those that have not—like Joan Kirner, John Cain and John Bannon—are equally guilty. Just because they did not go to jail does not mean that they have not been discredited in a most alarming way. But you cannot attack people in here under the yellow cloak of parliamentary privilege and not expect that to be turned on you. You use fire to attack fire. I do not like saying these things about Senator Conroy—or about Senator Faulkner in his absence. I do not like saying that they are terrible people and that they misuse parliamentary privilege in a most nefarious way.

The DEPUTY PRESIDENT—Do not reflect upon them, thank you.

Senator LIGHTFOOT—It is disgraceful. It is disgusting that you should denigrate, under the protection of this noble place, and try to bring down very decent people. They do not share your background of solidarity with the trade union movement and all that goes with that. But they are self-made men, they are successful men and they are decent men with decent families. They have not done anything near the degree of what those avaricious eighties brought out in the Labor Party.

You talk about Mark Textor. He is a highly successful man and a great ratings man. But what about John Utting’s career, if he is a counterpart to Mark Textor? And what about Don Anderson, if he is a counterpart to Textor? They were spawned by WA Inc. That is where they got their money from—Brian Burke’s number one account, the account that Brian Burke kept in cash in his drawer. It was paid for out of that; it was paid for with cash that they knew themselves came corruptly to Brian Burke. That is the fundamental difference between us on this side and those on the other side. We only respond to things like that. It is a disgrace. It does not do you on the other side any good at all. It does not do me any good at all either. You can laugh, but I do not like getting up here talking in this fashion. But I must fight fire with fire. As I see it now, you are the enemy, and we are in the trenches. (Time expired)

Senate adjourned at 8.00 p.m.

DOCUMENTS

Tabling

The following government documents were tabled:

Human Rights and Equal Opportunity Commission—

Treaties—List of multilateral treaty action under negotiation or consideration by the Australian Government, or expected to be within the next twelve months, June 2000.

Tabling

The following documents were tabled by the Clerk:

Lands Acquisition Act—Statements describing property acquired by agreement under sections 40 and 125 of the Act for specified public purposes [2].
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Department of Finance and Administration: Contracts with Gavin Anderson and Kortlang (Question No. 1929)

Senator Robert Ray asked the Minister representing the Minister for Finance and Administration, upon notice, on 17 February 2000:

1. What contracts has the department, or any agency of the department, provided to the firm, Gavin Anderson and Kortlang since March 1996.

2. In each instance: (a) what was the purpose of the work undertaken by Gavin Anderson and Kortlang; (b) what has been the cost of the contract to the department; and (c) what selection process was used to select Gavin Anderson and Kortlang (open tender, short-list, or some other process).

Senator Ellison—The Minister for Finance and Administration has provided the following answer to the honourable senator’s question:

Answers supplied by the Department of Finance and Administration (DOFA), and its Agency, the Office of Asset Sales and IT Outsourcing (OASITO) are:

1. DOFA engaged Gavin Anderson Kortlang (GAK) to assist with communications work associated with Government Business Enterprises.

2. (a) DOFA engaged Gavin Anderson Kortlang (GAK) to assist with communications work associated with Government Business Enterprises.

   OASITO: Provision of specialist media and communications consultancy services to the Telstra 2 Share Offer including final instalment collection process to be completed in November 2000.

   (b) DOFA: Invoices have not yet been finalised, but on current estimates the total cost will be between $15,000 and $22,000

   OASITO: The cost to date has been $1.449 million, including disbursements.

   (c) DOFA has established a communications panel for this type of service. No member of the panel was deemed suitable for this assignment. DOFA was aware that GAK had the required expertise, and so approached GAK. Value for money was established in the selection process.

   OASITO: A select tender process was used, with invitations based on advice from the Government Communications Unit and OASITO’s knowledge of potential providers.

Transport and Regional Services Portfolio: Agency Boards (Question No. 2144)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 10 April 2000:

1. How many agencies within the Minister’s portfolio are administered by a board.

2. Are all members of the above boards appointed by the Governor-General on the advice of the Executive Council; if not, who is responsible for making board appointments.

3. In each case does the Remuneration Tribunal have a role in the setting of fees, allowances and other benefits for members of the boards; if not: a) under which section of the relevant legislation are such fees, allowances and other benefits authorised; and b) how is the value of these fees allowances and other benefits determined.

4. In each case, what is the nature and value of fees paid to board members.

5. What other benefits, such as mobile phones, home computers and home phone/facsimile machines, are provided to board members by virtue of their membership of a government board.

6. What class of air travel, what standard of accommodation and what car allowances are paid to board members and, in each case, what is the value of these benefits and who determines that value.

7. Are board members entitled to, or do they receive, any spouse benefits; if so, what is the nature and value of these benefits.
On how many occasions since January 1998 have the above fees, allowances and other benefits been varied; b) what was the reason for each variation; and c) what was the quantum of each variation.

If variations to fees, allowances and other payments to board members were not determined by the Remuneration Tribunal, who determined the quantum and timing of each increase.

Do board members qualify for, and are they paid, superannuation benefits; if so, are such payments additional to, and separate from, other allowances they receive.

Do board members receive any additional allowances if they are appointed to board sub-committees; if so, are such additional benefits provided for in the relevant legislation.

Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

1—
National Capital Authority (NCA) has been included as a ‘board’ for the purposes of this Question.

The Australian Rail Track Corporation (ARTC) is a Corporations Law Company, fully Commonwealth owned and administered by a board.

The Civil Aviation Safety Authority Australia (CASA) is administered by a board.

Australian River Co. Limited (ARCo) is administered by a board of four directors.

Maritime Industry Finance Company Limited (MIFCo) is administered by a board of directors.

The Australian Maritime Safety Authority (AMSA) has been included as a ‘board’ for the purposes of this question.

The Stevedoring Industry Finance Committee (SIFC) has been included as a ‘board’ for the purposes of this question.

The Australian Maritime College (AMC) has been included as a ‘board’ for the purposes of this question.

National Rail Corporation (NRC) is a corporations law company, of which the Commonwealth is a shareholder along with NSW and Victoria. A Board administers the company.

Albury-Wodonga Development Corporation (AWDC) has been included as a ‘board’ for the purposes of this question.

Airservices Australia (AA) has been included as a ‘board’ for the purposes of this question.

Casino Surveillance Authority (CSA) has been included as a “board” for the purposes of this question.

2—
NCA - All National Capital Authority members are appointed by the Governor-General on the advice of Executive Council.

ARTC - The Shareholder Ministers (Minister for Finance and Administration and Minister for Transport and Regional Services), acting together, appoint normal members of the Board. The General Manager of the Corporation is also a member of the Board and is appointed by the Board.

CASA - Members of the Board are appointed by the Minister for Transport and Regional Services.

ARCo - Appointments are made by the Minister for Transport and Regional Services and/or the Minister for Finance and Administration as joint shareholder Ministers.

MIFCo – The Minister for Transport and Regional Services is responsible for making the MIFCo board appointments.

AMSA - All members of the Board are appointed by the Minister for Transport and Regional Services.

SIFC - Appointments are made by the Minister for Transport and Regional Services.

AMC - Maximum membership is 24 of which up to 12 may be Governor-General appointments on the advice of the Executive Council. The balance are elected student and staff representatives or appointed by the AMC Council itself.

NRC - Board appointments are made by Members (Shareholders) of the Company in a general meeting.
AWDC - All members other than the Chief Executive Officer are appointed by the Governor-General on the advice of the Executive Council. The Chief Executive Officer is an ex-officio appointment by reason of holding his/her position as the highest ranked member of staff of the Corporation. The Board of the Corporation is responsible for appointing the Chief Executive Officer to the staff of the Corporation.

AA - Board members, with exception of the Chief Executive Officer (CEO), are appointed by the Minister for Transport and Regional Services. The CEO, who is also a Board member, is appointed by the Board.

CSA - The members of the Casino Surveillance Authority are appointed by the Minister for Transport and Regional Services.

(3)—

NCA - All fees, allowances and other benefits for Authority members are determined and prescribed by the Remuneration Tribunal.

ARTC - The Remuneration Tribunal determines fees for the Chairman and members of the Board.

CASA - The Remuneration Tribunal determines the fees and allowances payable to the Board.

ARCo – The Remuneration Tribunal determines the fees and allowances payable to the Board.

MIFCo – Yes; however, only the independent Chairman of MIFCo receives a sitting fee.

AMSA - Remuneration for AMSA Board members is determined by the Remuneration Tribunal.

SIFC - The Remuneration Tribunal determines the fees and allowances payable to the Board.

AMC - No fees are paid, but travel and accommodation expenses are met out of the AMC operating budget. The AMC is funded by Commonwealth (60 per cent) and non-Commonwealth (40 per cent) sources. The AMC sets travel and accommodation limits, with reference to the AMC Council, based on fair and reasonable travel and accommodation levels.

NRC - Under NRC’s Constitution, any modification to Directors’ fees is a matter for shareholders at a general meeting of the company. Currently, the Directors’ fees (excepting members of the Audit Committee) for NRC are set by the Remuneration Tribunal, at the level of an appointee to a ‘middle ranking’ Federal Government Business Enterprise.

AWDC - The Remuneration Tribunal determines fees and allowances in each case except for the Chief Executive Officer, who does not receive a separate fee as a Board member and whose terms and conditions of employment are determined by the Board under the Albury-Wodonga Development Act 1973.

AA - The Remuneration Tribunal determines the fees and allowances payable to the Board.

CSA - All fees, allowances and other benefits for the members, are determined by the Remuneration Tribunal.

(4)—

NCA - Chairperson fees $31,500 per annum; members fees $12,600 per annum

ARTC - Per annum fee for the part time Chairperson of $50,000 and for part time members of $21,000.

The ARTC lists in its Annual Report, remuneration paid, both directly and indirectly, to Directors of the company. The 1999 Annual Report noted that $340,511 in aggregate was paid to normal members of the Board from the establishment of the Corporation on 25 February 1998 to 30 June 1999. An additional $43,400 in insurance premiums and indemnity payments was paid for the benefit of directors and the organisation. These amounts do not include payments to Directors as reimbursement of costs incurred in undertaking their duties.

CASA - Board members are paid an annual fee, currently $21,000. The Chairperson is paid $50,000 per annum and the Deputy Chairperson $31,500 per annum.

ARCo – Fees per day - Chairperson: $500; Deputy Chairperson: $450; Member: $400

In addition, Deputy Chair – remuneration of $36,500 per annum for performance of executive duties from 1 Nov 1999 to 30 June 2000, if deemed necessary by the ARCo Chairperson.
**MIFCo** - The Chairman’s sitting fee is paid in accordance with Remuneration Tribunal Determination No. 3 of 1999, issued in respect of fees paid to part-time public office holders. Determination No. 3 of 1999 was issued on 8 March 1999 and took effect from 1 March 1999.

In accordance with the above Determination, the **MIFCo** Chairman receives a sitting fee of $550 a day and travelling allowance per overnight stay in Sydney of $350.00; other capital cities $290; and other than a capital city $200.00.

**AMSA** - Remuneration Tribunal Determination 1999/03 provides the following rate per annum fees for **AMSA** Board members:

- The Chairman: $38,000
- The Deputy Chairman: $25,000
- Board Members: $16,600

The Determination also provides for Board members who are members of the Audit Committee to receive an additional fee of $5,000 per annum. The Deputy Chairman and two members of the Board are members of **AMSA**’s Audit Committee.

**SIFC** –

- Fees: Chair – $18,000 per annum set by Remuneration Tribunal Determination 99/03;
- Deputy Chair – Nil (Departmental representative);
- Member – Nil (employer and employee representatives which are honorary positions).

**AMC** – Nil.

**NRC** - Per annum fee for the Part Time Chairperson of $50,000 and for Part Time Directors of $21,000. A travel allowance rate is also determined.

The 1999 Annual Report advised that $543,000 was paid or payable to all Directors of the Company during the 1998-1999 financial year.

**AWDC** -

- Chairperson – per annum fee of $31,500
- Deputy Chairperson – per diem fee of $475
- Member – per diem fee of $400.

**AA** -

- Chairman $50,000 per annum
- Deputy Chairman $31,500 per annum
- Director $21,000 per annum

Travel allowance is set by Remuneration Tribunal Determination 1999/03.

**CSA** - Chairperson fees $31,500 per annum, members’ fees $16,600 per annum.

(5)—

**NCA** – Nil.

**ARTC** - None provided, but costs to Chairman and members utilising personal equipment for ARTC business are reimbursed.

**CASA** - CASA Board members are not provided with other benefits as a matter of course. On the basis of demonstrated need individual members have been provided with the use of CASA owned assets including a mobile phone, facsimile machines, laptop computers and internet connections.

**ARCo** - Apart from a mobile telephone provided to the Deputy Chairman in respect of his part-time executive duties, none of these facilities are provided. Board members are reimbursed by the company for reasonable costs incurred for board purposes.

**MIFCo** – Nil.

**AMSA** - AMSA provides AMSA Board members with telephone, facsimile and/or computer facilities to assist in conducting Board business, if required.

**SIFC** – None provided.

**AMC** – None provided.

**NRC** – None provided.
AWDC – None provided.

AA - Board members receive minor assistance, if required, with the loan of basic office equipment and communication services to fulfil their duties, in relation to AA matters only.

CSA – None provided.

NCA - Business class air travel, in keeping with Remuneration Tribunal provision for Part Time Holders of Public Office equivalent to Senior Executive Service.

Travel allowance of $290 per day is paid to cover food and accommodation set by the Remuneration Tribunal.

ARTC - Reimbursement of travel charges (including accommodation) up to the Remuneration Tribunal determined allowance rate of $350 (Sydney), $290 (other capital city) and $200 (other than a capital city) for each overnight stay away from home. Business class travel and taxi fares incurred in the course of ARTC business.

CASA - Board members use business class air travel. Board members are paid a fixed travel allowance set by the Remuneration Tribunal for overnight travel, with individual Board members making their own accommodation arrangements. Car allowances, where applicable, are paid at the standard Commonwealth vehicle allowance rate.

ARCo - Business class air travel. Travel allowance is paid at the rate of $350 per overnight stay in Sydney, $290 for other capitals, and $200 for other places, as determined by the Remuneration Tribunal Determination 1999/03. Board members are reimbursed by the company for reasonable costs incurred for Board purposes for cars or taxis. Directors are entitled to a mileage reimbursement if they use their personal cars on company business. Since the linking of the Boards of ARCo and the AIDC by having two members in common, most ARCo Board meetings are held in conjunction with meetings of the AIDC Board. To date expenses of the ARCo Chairman and one member have been met by the AIDC.

MIFCo - MIFCo reimburses the Chairman for the reasonable cost of any air travel. The class of travel is not specified.

The Chairman receives a travelling allowance for each overnight stay in accordance with Remuneration Tribunal Determination No. 3 of 1999, see question 4 above.

AMSA - Business class air travel is provided, and taxi or hire cars as required by Board members to attend Board meetings and conduct Board business. Remuneration Tribunal Determination 1999/03 provides that Board members are entitled to receive a travelling allowance for each overnight stay of $350 in Sydney, $290 in other capital cities and $200 in other than a capital city.

SIFC - Business class air travel is provided. Travel allowance is paid at the rate of $350 for each overnight stay in Sydney, $290 in other capitals, and $200 in other places, as determined by Remuneration Tribunal Determination 1999/03. Committee members are reimbursed by SIFC for reasonable costs for cars or cabs incurred for SIFC purposes.

AMC - Business class air travel is provided; accommodation is provided on campus, which is generally the preference of members, or at hotel accommodation in Launceston (approximately $110 per night). Cab fares are reimbursed where necessary. Benefits are set by the AMC based on fair and reasonable travel and accommodation levels.

NRC - Business class travel and reimbursement of other travel charges (including accommodation) up to the Remuneration Tribunal determined allowance, in the course of NRC business. Directors receive travelling allowance of $350 per interstate overnight stay. This allowance covers food and lodging. Taxis, parking and other expenses are reimbursed.

AWDC - Air travel – economy class.

Accommodation – standard not determined, paid for from travelling allowance rates (@ $350 Sydney, $290 Other Capital City & $200 Other than Capital City per night) determined by the Remuneration Tribunal. Car allowances – standard Commonwealth rates for use of own vehicle for travel on official business. Matters not determined by the Remuneration Tribunal are as determined by the Albury-Wodonga Ministerial Council.

AA - While on official business, Board members’ air travel is Business class. The level of accommodation is up to the individual board member as they pay from their Travel Allowance determined by
Remuneration Tribunal Determination 1999/03. If a Board member prefers to travel by their own car, they are paid the lesser of either the airfare or the standard Motor Vehicle Allowance.

CSA - Business class air travel in keeping with Remuneration Tribunal provision for Part Time Holders of Public Office equivalent to Senior Executive Service. Travelling allowance of $290 per day for Perth and $200 per day for Christmas Island. No car allowance.

(7)—

NCA - No and No.

ARTC - No spouse benefits.

CASA - Board members are not normally entitled to spouse benefits. In particular cases, where it is decided by the Board that it is appropriate for a member to be accompanied by a spouse, to attend, for example a function representing CASA, the travel cost for the spouse would be paid.

ARCo - On the rare occasion it is deemed necessary for a spouse to attend a company related function then the company will reimburse reasonable expenses incurred.

MIFCo - No spouse benefits.

AMSA - AMSA Board members do not receive any spouse benefits.

SIFC – No spouse benefits.

AMC - For the annual graduation ceremony, Council members have the option of bringing their partners. Business class travel is provided.

NRC – No spouse benefits.

AWDC - No spouse benefits.

AA - No spouse benefits.

CASA - Members are not entitled to spouse benefits and do not receive any.

(8)—

NCA –

(a) Fees and allowances varied by Remuneration Tribunal on 1 March 1999.

(b) Reassessment of fees and allowances, in particular travelling allowance reduced reflecting actual costs in various cities.

(c) Fees – Chairman increased $29,750 to $31,500 per annum. Members increased from $12,130 to $12,600 per annum. Travelling allowance for Canberra decreased from $320 per day to $290 per day.

ARTC –

(a) Fees and allowances varied by Remuneration Tribunal on 1 March 1999.

(b) Reassessment of fees and allowances, in particular travelling allowance reduced reflecting actual costs in various cities.

(c) Fees increase of $1,500 per annum for the Chairman and $1,150 per annum for other members on 1 March 1999, in accordance with a Remuneration Tribunal determination following a general inquiry into the remuneration of holders of public office. Travel allowance was adjusted at the same time, up $30 (Sydney), down $30 (other capital city) and up $35 (other than a capital city)

CASA –

(a) The fees and allowances set by the Remuneration Tribunal have been varied once, with effect from 1 March 1999.

(b) The reason for the variation was a general review of fees and allowances by the Tribunal.

(c) The overall average increase in fees was 5.5 per cent.

ARCo –

(a) The fees and allowances set by the Remuneration Tribunal have been varied once in the general review of fees and allowances, with effect from 1 March 1999. Other changes advised by the Remuneration Tribunal reflect the changeover from ANL Limited to ARCo, with remuneration shifting from annual fees to part-time fees (refer (c) below). Also, the special arrangements for Mr Anson and Mr Thomson are listed in (c).
(b) The reason for the variation of 1 March 1999, was a general review of fees and allowances by the Remuneration Tribunal.

(c) Remuneration Tribunal variations for ARCo, formerly ANL, are as follows below. During the changeover from ANL, ARCo's remuneration was shifted from annual fees to part time fees. Also, special arrangements for Mr Anson, Deputy Chair, and Mr Thomson, Board Director, should be noted.

(i) Det 1999/3 (Annual Review of fees): increases annual and daily fees by an overall average of 5.5 per cent (effective 1 March 1999)

   ANNUAL FEES: (replaced by Part-time fees 1 April 1999)
   Chairperson: $50,000 (Additional remuneration of $109,600 per annum to Mr Anson for performance of Executive duties until the sale of two ARCo business is completed or 31 March 1999, whichever is sooner).
   Deputy Chairperson: $31,500
   Member: $21,000
   Travel Allowance: Sydney $350, Other capital city $290, Other than a capital city $200

   PART-TIME FEES: (replaced Annual Fees effective 1 April 1999)
   Chairperson: $500
   Deputy Chairperson: $450 (see Det 1999/12)
   Member: $400
   Travel Allowance: Sydney $350, Other capital city $290, Other than a capital city $200.

(ii) Det 1999/12: insertion of new daily fee of $450 for Deputy Chair of ARCo from date of appointment and additional remuneration of $36,500 per annum to Mr Anson from 1 April 1999 to 31 October 1999 for performance of Executive Duties.

(iii) Det 1999/14: Extension of remuneration of $36,500 per annum to Mr Anson for performance of executive duties for the period 1 November 1999 to 30 June 2000 if deemed necessary by ARCo.

MIFCo -
(a) Once, March 1999;
(b) Remuneration Tribunal Annual Review of Fees Paid to Part-time Public Office Holders;
(c) The daily sitting fee was increased from $500 per day to $550 per day resulting in a quantum increase of $50 per day.

   The travel allowance was adjusted from $320 for each overnight stay in a capital city or $165 for each overnight stay in a place other than a capital city by the introduction of a Sydney only rate. The travelling allowance per overnight stay in Sydney is now $350.00; the other capital cities rate is now $290; and other than a capital city rate is now $200.00.

   The quantum adjustment was an increase of $30 per overnight stay in Sydney; a decrease of $30 per overnight stay in other capital cities; and a $35 increase per overnight stay other than capital cities.

AMSA - The Board members’ fees and travel allowance are only varied in accordance with Remuneration Tribunal Determinations. Since January 1998, the Remuneration Tribunal increased annual fees once for part-time office holders by an average 5.5 per cent from 1 March 1999 under Determination 1999/03.

SIFC –
(a) Once, in March 1999.
(b) Remuneration Tribunal Annual Review of Fees Paid to Part-time Public Office Holders.
(c) Det 1999/3 (Annual Review of fees): increases annual and daily fees by an overall average of 5.5 per cent (effective 1 March 1999).

AMC – No variations.

NRC - The fees and allowances have been varied once with effect from 1 March 1999. The Remuneration Tribunal Determination Number 3 of 1 March 1999, which resulted from the general review of fees and allowances, is used as the basis for the setting of fees and allowances. Accordingly, the fees for the Chairman increased by $1,500 (from $48,500 to 50,000 per annum) and Directors by $1,150
(from $19,850 to $21,000 per annum). Interstate travel allowance was adjusted at the same time by $30 for each overnight stay (from $320 to $350).

**AWDC** –
(a) Once.
(b) Remuneration Tribunal Determination - general review of fees and allowances
   - Chairperson – annual fee – $29,750 to $31,500
   - Deputy Chairperson – per diem fee – $445 to $475
   - Member – per diem fee – $380 to $400
(c) Travelling allowance – The quantum adjustment was an increase of $30 per overnight stay in Sydney; a decrease of $30 per overnight stay in other capital cities; and a $35 increase per overnight stay other than capital cities.

**AA** –
(a) The fees and allowances set by the Remuneration Tribunal have been varied once, with effect from 1 March 1999. The Committee allowances were varied in June/July 1999.
(b) The reason for the variation was a general review of fees and allowances by the Remuneration Tribunal.
(c) The overall average increase in fees was 5.5 per cent.

**CSA** –
(a) Fees and allowances were varied by the Remuneration Tribunal on 1 March 1999 by Determination 1999/03.
(b) The variation was due to the Remuneration Tribunal inquiry under subsections 7(3) and 7(4) of Remuneration Tribunal Act 1973.
(c) Fees - Chairman increased from $29,750 to $31,500 per annum and members increased from $15,950 to $16,600 per annum. Travelling allowance - Perth decreased from $320 to $290 per day, and Christmas Island increased from $165 to $200 per day.

(9)—

**NCA** - Not applicable
**ARTC** - Not applicable.
**CASA** - The Remuneration Tribunal determined the increases in fees and allowances.
**ARCo** - Other than fees and allowances determined by the Remuneration Tribunal, payments by the company to Board members are on a reimbursement basis.
**MIFCo** – Not applicable
**AMSA** – Not applicable.
**SIFC** - Other than fees determined by the Remuneration Tribunal, any payments by the Committee to members are on a reimbursement basis.
**AMC** – Not applicable.

**NRC** - Under NRC's Constitution, any modification to Directors' fees is a matter for shareholders at a general meeting of the Company, but variations are benchmarked against Remuneration Tribunal Determinations.
**AWDC** – Not applicable.
**AA** – Not applicable.
**CSA** – Not applicable.

(10)—

**NCA** - Members qualify for, and are paid, superannuation benefits additional to, and separate from, other allowances they receive.
**ARTC** – No.
**CASA** - Board members qualify for and are paid standard employer superannuation payments.
ARCo - Where a Director receives daily fees and salary payments over $450 in any given month, a superannuation contribution of 7 per cent of the gross earnings is made to the respective director’s superannuation fund. This happens every month for the Deputy Chairman (who has part-time executive duties), very irregularly for one other Director and never for the other two Directors who are paid by AIDC.

MIFCo – No.

AMSA – AMSA meets its obligations under the Superannuation Guarantee (Administration) Act 1992 in that it makes a contribution (currently 7 per cent) to a fund nominated by each individual member. That contribution is additional to, and separate from, other allowances Board members receive, and will increase to 8 per cent from 1 July 2000.

SIFC - Chairman only - the superannuation guarantee charge (currently 7 per cent) on fee.

AMC – No.

NRC - NRC meets its legal obligation by paying an amount equivalent to the minimum Superannuation Guarantee Charge, which is paid over and above the amount of a Director’s fee.

AWDC - Chairperson qualifies for superannuation benefits, which are additional to and separate from other allowances received.

AA - Board members receive employer superannuation contributions at the prescribed rate in the Superannuation Guarantee (Administration) Act.

CSA - Members qualify for superannuation. They have not been paid, but this is being remedied and when paid will be separate from other allowances.

(11)—

NCA - Board Members who chair sub-committees are paid $300 per day sitting fees as prescribed by Remuneration Tribunal under “Other Rates, Category 2” for Part Time Holders of Public Office. Travelling Allowance of $290 per day as prescribed by the Remuneration Tribunal, also applies.

ARTC – No.

CASA - Board members who are also members of the Audit Committee are paid an additional $5,000 per annum. This additional benefit is provided under a determination by the Remuneration Tribunal.

ARCo - Yes. Members of the Audit Committee and Insurance Committee receive daily fees and travel allowance as set by the Remuneration Tribunal, and reimbursement of other costs incurred as for Board meetings and other company-related meetings.

MIFCo – No.

AMSA - Remuneration Tribunal Determination 1999/03 provides for Board members who are members of the Audit Committee to receive an additional fee of $5,000 per annum.

SIFC – Not applicable.

AMC – Not applicable.

NRC – Yes, the payment of these amounts is provided for in the Articles of Association.

AWDC – No.

AA – Yes, the members of the Board Safety and Environment Committee receive $10,000 per annum and members of the Board Audit Committee receive $5,000 per annum. This additional benefit is by virtue of a determination by the Remuneration Tribunal.

CSA - There is no provision for sub-committees in the legislation.

**Defence Portfolio: Agency Boards**

(Question No. 2209)

Senator O’Brien asked the Minister representing the Minister Assisting the Minister for Defence, upon notice, on 4 May 2000:

(1) Do chairpersons of any boards that administer agencies within the Minister’s portfolio receive any payments, or other allowances, in addition to those paid to other board members; if so: (a) what is the nature of these additional payments or allowances; and (b) how is the quantum of these additional payments determined.
(2) On how many occasions since January 1998 have the above payments been varied, and in each case: (a) what was the reason for the variation; (b) who determined the quantum of the variation; and (c) what was the quantum of the variation.

**Senator Newman**—The Minister Assisting the Minister for Defence has provided the following answer to the honourable senator’s question:

1. The chairperson of the Defence Housing Authority does not receive any additional allowances or payments other than that paid to other board members. However, the level of his daily sitting fee, as set by the Remuneration Tribunal, is $50 above that of appointed directors.

2. There have been no additional payments or allowances made to the chairperson.

**Veterans’ Affairs Portfolio: Agency Boards**

**(Question No. 2216)**

**Senator O’Brien** asked the Minister for Veterans’ Affairs, upon notice, on 4 May 2000:

1. Do chairpersons of any boards that administer agencies within the Minister’s portfolio receive any payments, or other allowances, in addition to those paid to other board members; if so: (a) what is the nature of these additional payments or allowances; and (b) how is the quantum of these additional payments determined.

2. On how many occasions since January 1998 have the above payments been varied, and in each case: (a) what was the reason for each variation; (b) who determined the quantum of the variation; and (c) what was the quantum of the variation.

**Senator Newman**—The Minister for Veterans’ Affairs has provided the following answer to the honourable senator’s question:

1. Yes; (a) The Chairman of the Council of the Australian War Memorial currently receives $18,000 and the other members of the Council (excluding the three ex-officio members, Chief of Army, Chief of Navy and Chief of Air Staff) receive $8,900 per annum; (b) The rates of payment of these fees are determined by the Remuneration Tribunal.

2. During the period January 1998 to present, Council fees were increased once, in March 1999:

   (a) Remuneration Tribunal Determination 1999/03; the Tribunal reviewed aspects of executive and board remuneration as required by the *Remuneration Tribunal Act* 1973 and determined for part-time office holders including members of the Council of the Australian War Memorial, an average 5.5% increase in daily/annual fees from 1 March 1999.

   In undertaking its review, the Tribunal paid particular attention to the following factors:

   (i) the ability of the Commonwealth to retain and recruit appointees with the necessary skills, expertise and qualities to perform the duties of the offices;

   (ii) economic indicators and increases in wages (including adjustments arising from workplace agreements);

   (iii) fees paid to part-time office holders in State and Territory authorities and in the private sector; and

   (iv) the need for restraint in Government expenditure and public service involved in holding a public office.

   (b) Remuneration Tribunal;

   (c) Council Chairman’s fees were increased from $16,600 to $18,000 per annum, and members’ fees were increased from $480 to $8,900 per annum.

**Aboriginal and Torres Strait Islander Affairs Portfolio: Agency Boards**

**(Question No. 2217)**

**Senator O’Brien** asked the Minister for Aboriginal and Torres Strait Islander Affairs, upon notice, on 4 May 2000:

1. Do Chairpersons of any boards that administer agencies within the Minister’s portfolio receive any payments, or other allowances, in addition to those paid to other board members; if so: (a) what is the nature of these additional payments or allowances; and (b) how is the quantum of these additional payments determined.
(2) On how many occasions since January 1998 have the above payments been varied, and in each case: (a) what was the reason for the variation; (b) who determined the quantum of the variation; and (c) what was the quantum of the variation.

Senator Herron—The answer to the honourable senator’s question is as follows:

(1) The ATSIC Chairman and Members of the Board of Commissioners receive remuneration and allowances as determined by the Remuneration Tribunal. While the entitlements are the same, there are differences in rates as detailed below. Apart from the remuneration and entitlement to a vehicle, all other rates are the same for the Chairman and a Member of the Board of the Commission.

The additional remuneration payable to the ATSIC Chairman is determined by the Remuneration Tribunal and is shown in the chart attached below.

Under Determination 1 of 1993, the ATSIC Chairman is entitled to a fully maintained vehicle equivalent to that available to an Australian Public Service (APS) Departmental Secretary, Executive Vehicle Group Scheme limit of $51,280, while Board members are entitled to a fully maintained vehicle equivalent to that available to an APS SES Band 1 or 2 Officer with an Executive Vehicle Group Scheme limit of $37,200. The contribution by the Chairman and the Members of the Board of Commissioners for a vehicle is the same level of $711pa.

(2) The Remuneration Tribunal has determined the following remuneration increases since 1 January 1998:

<table>
<thead>
<tr>
<th>Effective from</th>
<th>Basic Salary for the Office per annum</th>
<th>Supplementary Remuneration per annum</th>
<th>Total Remuneration</th>
</tr>
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<tr>
<td>1/7/98</td>
<td>$144,973</td>
<td>$11,500</td>
<td>$156,473</td>
</tr>
<tr>
<td>31/3/99</td>
<td>71,670</td>
<td>5,750</td>
<td>77,420</td>
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<td>31/3/00</td>
<td>152,200</td>
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<td>31/3/00</td>
<td>75,300</td>
<td>5,750</td>
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<td>31/3/00</td>
<td>157,100</td>
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</tr>
<tr>
<td>31/3/00</td>
<td>77,800</td>
<td>5,750</td>
<td>83,550</td>
</tr>
</tbody>
</table>

There have been no other variations.

Telstra: Value

(Question No. 2229)

Senator Allison asked the Minister representing the Minister for Finance and Administration, upon notice, on 17 May 2000:

With reference to the Charter of Budget Honesty and accrual accounting which require the Government to accurately value assets:

(1) Why is it that Telstra is valued at close to zero in the Budget when its value is estimated to be $90 billion.

(2) Why was the G3 mobile phone spectrum included as an asset and no other part of the spectrum.

(3) How was the G3 spectrum estimate of $2.6 billion calculated.

Senator Ellison—The Minister for Finance and Administration has supplied the following answer to the honourable senator’s questions:

(1) The valuation of the Commonwealth’s equity in Telstra (50.1%) in the Budget is consistent with the Charter of Budget Honesty and accrual accounting principles. Telstra is valued in the Budget on the basis of the deemed historical cost of the Commonwealth’s equity in Telstra. Australian Accounting Standards provides for assets to be valued on this basis. In addition, it should be noted that the estimate of $90 billion assumed in the question is based on the market capitalisation of 100% of Telstra rather than the Commonwealth’s equity at historical cost.
Australian Accounting Standards defines an asset as “a future economic benefit which is controlled by an entity as a result of a past transaction or event”. The ability of the Commonwealth to control access to spectrum and to derive a cash flow from it qualifies spectrum as an asset of the Commonwealth. As such, all spectrum, not just spectrum for 3G, are assets of the Commonwealth. However, the assets are valued at an historical cost of zero and are not separately displayed in the balance sheet. This is in line with previous practice in relation to spectrum estimates.

The figure identified in the media represents the up-wards revision between MYEFO and the Budget for the anticipated proceeds of a number of auctions of spectrum licences to be conducted in 2000-01. The Government’s decision to disclose the revision was to end the exaggerated speculation on the value of the pending auctions. Three auctions contribute the most to this upwards revision:

1. 3G Mobile Telephone spectrum licences;
2. Spectrum associated with the sale of licences to datacast; and
3. Wireless Local Loop spectrum licences.

Nevertheless, the upwards revision largely reflects an increase in the anticipated proceeds from the sale of 3G mobile telephone spectrum licences.

In determining the revised estimates, a range of factors were considered, including the outcome of recent auctions in Australia and overseas, technological developments and commercial applications, spectrum availability, and market pressure on the Australian telecommunications sector.

Common Law: Acts to Extinguish
(Question No. 2231)

Senator Harris asked the Minister representing the Attorney-General, upon notice, on 19 May 2000:

Has the Commonwealth Government passed any Act of Parliament that has extinguished Common Law; if so, what is that Act.

Senator Vanstone—The Attorney-General has provided the following answer to the honourable senator’s question:

‘Common law’ has a number of meanings. The context of the honourable senator’s question suggests that the ‘common law’ referred to in his question is the law made by judges (case law). Case law is to be contrasted with the law made by or with the authority of legislatures (legislation or statute law). Case law is composed of the legal principles laid down by judges in determining particular disputes between parties. Judges make case law in all areas of the law (criminal law, contract law, family law and so on).

Legislation takes precedence over case law and it is always open to the parliament to extinguish or amend case law. Much of the legislation of the Commonwealth Parliament since Federation has extinguished or amended case law in at least some respect. It would, therefore, be impossible to provide a complete list of legislation of the Commonwealth Parliament that has or may have extinguished aspects of the common law.

Aboriginal Corporations: Winding Up
(Question No. 2232)

Senator Woodley asked the Minister for Aboriginal and Torres Strait Islander Affairs, upon notice, on 22 May 2000:

With reference to the Registrar of Aboriginal Corporation and to investigations by a Brisbane barrister on behalf of the Northern Land Council in the Brisbane Courts:

1. Is it a fact that out of the existing 3,500 Aboriginal Corporations in Australia, 600 have deemed to be defunct.
2. Is the main reason for declaring these 600 corporations to be defunct the non-reply to letters sent out by the Registrar.
3. Are there other reasons for these declarations by the Registrar; if so, what are they.
4. Why does the Registrar use a firm of Brisbane solicitors to deal with corporations holding title to land in the Northern Territory.
5. Is the firm of solicitors being used by the Registrar in Brisbane, Minter Ellison.
(6) Does this firm hold instructions to wind-up 218 corporations.

(7) What are the reasons for winding up these corporations.

(8) (a) What is the reason for pursuing the winding up of these corporations in Queensland; and (b) is the reason because the costs of doing so are lower in Queensland.

(9) Are the savings attributable to taking action in the Queensland courts, $469,800 to wind-up 218 corporations and $1,293,000 to wind up 600 corporations.

(10) How were these savings calculated.

(11) Was the court asked to dispense with advertising and gazetting the applications to wind-up these corporations; if so, why.

(12) By whom was the court asked to allow this dispensation.

*Senator Herron*—The answer to the honourable senator’s question is as follows:

I am unable to provide any informed comment on the results of any investigation that may have been undertaken by a Brisbane barrister on behalf of the Northern Land Council. However, in response to Senator Woodley’s questions the Registrar of Aboriginal Corporations (the Registrar) has advised me that the figures quoted in the question are not correct. In relation to each question the Registrar has advised me as follows:

(1) Currently there are some 2,700 Aboriginal associations incorporated under the Aboriginal Councils and Associations Act 1976 (the Act).

The Act requires each Aboriginal corporation to keep proper accounts and records of its financial affairs and to provide to the Registrar, before 31 December annually, financial and other reports for the previous financial year.

A large number of Aboriginal corporations have failed, over many years, to fulfil their reporting obligations.

Since mid-1998, in an effort to bring about higher levels of compliance with the reporting requirements of the Act, final letters of demand were issued to some 760 Aboriginal corporations that have failed to comply with the Act for three or more consecutive years.

As a result of this follow up activity some 372 Aboriginal corporations were deemed defunct and therefore de-registered.

(2) No. The 372 Aboriginal corporations were de-registered on the basis that the Registrar believed, on reasonable grounds, that they were inactive, did not hold assets, were no longer pursuing their objectives or ceased to function as corporate entities.

(3) This question is answered at item 2.

(4) Since August 1998, Minter Ellison Lawyers, Brisbane, have assisted the Registrar with the follow-up of corporations in long-standing breach of the financial reporting requirements of the Act, and associated legal actions. Therefore the proceedings to wind up these corporations have been initiated in the Queensland Supreme Court.

The Registrar has advised me that for practical reasons and for the purpose of keeping the costs of proceedings to a minimum, winding up proceedings are initially commenced in the State of the legal practitioner who handles the matter for him. However, the Registrar has confirmed that it is his standard practice in respect of all winding up actions, to automatically transfer proceedings to the State or Territory in which the corporation is located at the request of its members and/or where the winding up action is to be defended.

The Registrar has also confirmed that in recent years he has used other legal firms, including the Australian Government Solicitor, to assist him with the winding up of Aboriginal corporations.

(5) Yes.

(6) No. Since mid 1998, Minter Ellison, Brisbane, received instructions in 121 winding up cases. Of these, 21 were subsequently stayed or withdrawn after the corporations concerned complied or undertook to comply with their legal obligations.

(7) Proceedings to wind up the affairs of the 80 Aboriginal corporations referred to above were initiated as a result of their failure to fulfil the financial reporting obligations required under the Act over a number of successive years. This action was taken only after they had failed to respond to concerted efforts by the Office of the Registrar, over a number of years, to bring them into compliance.
(8) (a) This question is answered at item 4 (above).
    (b) Yes.

(9) Yes. However, it should be noted that the number of Aboriginal corporations quoted in the question (ie 218 and 600 respectively) is hypothetical.

The indicative saving is $2,155 for each winding up action.

(10) The indicative saving of $2,155 is calculated as follows:

Comparative Costs

<table>
<thead>
<tr>
<th></th>
<th>Federal Court</th>
<th>Queensland Supreme Court</th>
</tr>
</thead>
<tbody>
<tr>
<td>Initial filing fee</td>
<td>$505</td>
<td>$170</td>
</tr>
<tr>
<td>Hearing fee (daily)</td>
<td>$809</td>
<td>no fee</td>
</tr>
<tr>
<td>Setting down fee</td>
<td>$1011</td>
<td>no fee</td>
</tr>
<tr>
<td>Total</td>
<td>$2325</td>
<td>$170</td>
</tr>
</tbody>
</table>

(11) The answer to this question is no. All applications to the Queensland Supreme Court to wind up the affairs of Aboriginal corporations, based on their chronic failure to fulfil their annual reporting obligations, were gazetted and advertised.

(12) This question is answered at item 11 (above).

**Department of Finance and Administration: Rents Paid**

(Question No. 2246)

Senator Robert Ray asked the Minister representing the Minister for Finance and Administration, upon notice, on 24 May 2000:

(1) What amount of money has the department and any agency of the department paid so far in the 1999-2000 financial year for properties rented by the department and its agencies.

(2) What amount of money has the department and any agency of the department projected to spend on property rents for the remainder of the 1999-2000 financial year.

Senator Ellison—The Minister for Finance and Administration has supplied the following answer to the honourable senator’s question:

<table>
<thead>
<tr>
<th>Department</th>
<th>(1) $</th>
<th>(2) $</th>
</tr>
</thead>
<tbody>
<tr>
<td>Department of Finance and Administration</td>
<td>11,861,812</td>
<td>1,064,237</td>
</tr>
<tr>
<td>Australian Electoral Commission</td>
<td>7,872,296</td>
<td>65,602</td>
</tr>
<tr>
<td>ComSuper</td>
<td>1,195,269</td>
<td>106,943</td>
</tr>
<tr>
<td>Commonwealth Grants Commission</td>
<td>438,167</td>
<td>39,833</td>
</tr>
<tr>
<td>Office of Asset Sales and IT Outsourcing</td>
<td>776,408</td>
<td>70,583</td>
</tr>
</tbody>
</table>

NB: These amounts represent the gross rental paid by the Department and its Agencies. However, the Department has rental revenues of $2,646,832 which is obtained from sub-leased space for the 1999-2000 financial year.

**Department of Agriculture, Fisheries and Forestry: Rents Paid**

(Question No. 2251)

Senator Robert Ray asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 24 May 2000:

(1) What amount of money has the department and any agency of the department paid so far in the 1999-2000 financial year for properties rented by the department and its agencies.

(2) What amount of money has the department and any agency of the department projected to spend on property rents for the remainder of the 1999-2000 financial year.

Senator Alston—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

(1) $14,523,895.

(2) $1,630,130.
Aboriginal and Torres Strait Islander Commission: Rents Paid
(Question No. 2253)

Senator Robert Ray asked the Minister for Aboriginal and Torres Strait Islander Affairs, upon notice, on 24 May 2000:

(1) What amount of money has the department and any agency of the department paid so far in the 1999-2000 financial year for properties rented by the department and its agencies.

(2) What amount of money has the department and any agency of the department projected to spend on property rents for the remainder of the 1999-2000 financial year.

Senator Herron—The Aboriginal and Torres Strait Islander Commission has provided the following information in response to the honourable senator’s question:

(1) As at the end of May expenditure on rent has been $6,426,242.

(2) Expenditure for remainder of the financial year will be $693,284.