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

PETITIONS

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

Global Whale Sanctuary
To the Honourable the President and Members of the Senate in Parliament assembled
The Petition of the undersigned shows that concerned Australians and their international counterparts overwhelmingly support the introduction of a Global Whale Sanctuary.

Whales are still not protected from commercial whaling. They have no guaranteed safe haven in the waters of our planet. Greenpeace is campaigning for a Global Whale Sanctuary to ensure there is a safe future for whales. There has been a moratorium on commercial whaling since 1986, but rogue nations Norway and Japan continue to kill over 1,000 whales every year. In June 2000, the International Whaling Commission (IWC) will meet in Australia. This is an ideal opportunity for Australians to show support for an end to commercial whaling. A Global Whale Sanctuary makes economic and ecological sense and sends a clear message of hope that the world is running away from whaling.

Our petitioners request that as we move into a new millennium, the Senate should press the Government to act in all appropriate fora (The International Whaling Commission) to create a safe haven for whales in all waters, through a Global Whale Sanctuary.

by Senator Bartlett (from 28,103 citizens).

Goods and Services Tax: Complementary Medicines and Services
To the Honourable the President and Members of the Senate assembled in Parliament:
The petition of certain citizens of Australia draws to the attention of the Senate, decisions by the Howard Government to apply a 10% goods and services tax to vitamin, mineral and herbal remedies which are listed, along with pharmaceutical medicines, on the Australian Register of Therapeutic Goods.

This decision will disadvantage all Australians who use or provide alternative and complementary healthcare products to maintain and improve their health and well-being, to prevent disease and to manage chronic illness. This is a new tax on those who, by taking care of their health with products and services which are not subsidised, reduce the burden on the health budget.

A tax on health is a bad tax. Your petitioners therefore pray that the Senate recognises that imposition of the GST on therapeutic goods which are listed on the Australian Register of Therapeutic Goods is contrary to the maintenance of our good health and well-being. Our petition requests the Senate to call on the Government to zero-rate these products.

by Senator Bourne (from 26 citizens).

by Senator Forshaw (from 97,233 citizens).

Multilateral Agreement on Investment
To the Honourable the President and Members of the Senate assembled in Parliament:
The petition of the undersigned draws to the attention of the Senate, the deleterious effects of the Multilateral Agreement on Investment.

Your petitioners ask the Senate to call on the Australian Government to:
Make available the draft text of the Agreement
Make a public statement about its intentions with regard to the signing of the MAI, detailing the beneficiaries of the Agreement, and accountability measures for all corporations
Not sign the MAI unless substantive amendment is made, including the observance of international agreements including environment, labour, health and safety and human rights standards
Extend the deadline for signing the MAI to enable full and proper public consultations to be held

by Senator Bourne (from 20 citizens).

Uranium: World Heritage Areas
To the Honourable the President and Members of the Senate in Parliament assembled:
The petition of the undersigned shows that attempts by any Australian Government to mine Uranium at the Jabiluka site in the World Heritage Listed area of the Kakadu National Park are considered unacceptable. We are convinced the proposed mine would recklessly endanger the World Heritage values of the Kakadu National Park and ignores the unequivocal opposition of the Mirrar people to the project.

Your petitioners request that the Senate oppose the intentions of any Australian Government to mine uranium at the Jabiluka site.

by Senator Brown (from 1,254 citizens).
Forest Protection

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

This petition from the undersigned respectfully points out that there is an increasing and urgent demand from the people, to protect all remaining high conservation value forests which support flora and fauna unique to Australia, thus complying with the United Nations Biodiversity Convention to which Australia is a signatory. We have a responsibility to future and present generations, and the necessary reasons, knowledge and technology to act now on the following achievable solutions.

Your petitioners therefore request that the Senate legislate to:

- immediately stop all logging and woodchipping activities in high conservation value native forests;
- ensure intergenerational equity by planning for the rights of future generations, and protecting in perpetuity all biologically diverse old-growth forests, wilderness, rainforests and critical habitats of endangered species;
- facilitate rapid transition of the timber industry from harvesting high conservation value native forests to establishing mixed species farm forestry on existing cleared and degraded lands, using non-toxic methods to protect ecological sustainability;
- maximise use of readily-available plantation timber for industry needs, using appropriate forestry techniques and progressive minimal-waste processing methods, such as radial sawing, and wherever possible, reuse and recycle wood and paper products;
- support incentives for nationwide employment in composting, soil remineralisation programs, and the planting of trees and annual fibre crops, inter-grown with appropriate fruit and nut trees and medicinal plants;
- encourage sensitively-managed, environmental education tourism in appropriate forest areas, with full respect for natural ecosystems, Aboriginal cultural heritage, sacred sites and other sites of significance;
- progressively utilise technological expertise and resources transferred from the military sector, to help implement these tree planting solutions; and to motivate the international community to follow this example.

And your petitioners as in duty bound will ever pray.

by Senator Brown (from 9,011 citizens).

Workplace Relations Legislation

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

This petition of the undersigned draws to the attention of the Senate the unfairness of the Workplace Relations Amendment Bill 2000. This Bill, amongst other things, would prevent unions who 'pattern bargain' from taking protected industrial action and would terminate their bargaining period.

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 workers.

by Senator Campbell (from 11 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 Lundy (from 23 citizens).

Goods and Services Tax: Sanitary Products

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

The Petition of the undersigned are gravely concerned that given currently tampons, pads and liners have attracted no taxes in Australia since 1948, the introduction of the GST will find an additional 10 per cent on these products.

Your Petitioners ask that the Senate insist the Minister include the above mentioned products in the GST free list. Currently condoms, sexual lubricants, suntan cream, and folic acid tablets are under consideration by the Health Minister to be GST free while continence pads are exempt. The fact that half of the Australian population experience menstruation for 30-40 years of their life through no choice of their own means that these products should be included in the GST-free list.

by Senator Lundy (from 12,858 citizens).

Petitions received.

NOTICES
Presentation

Senator COONAN (New South Wales) (9.31 a.m.)—On behalf of the Standing Committee on Regulations and Ordinances, I
give notice that, at a later hour of the day, I shall withdraw business of the Senate notice of motion No. 1 standing in my name for today for the disallowance of the Great Barrier Reef Marine Park Aquaculture Regulations 2000, as contained in Statutory Rules 2000 No. 6. In doing so, I thank the minister, Senator Hill, for his cooperation and, in particular, his undertakings to meet the committee’s concerns. I seek leave to incorporate in Hansard the committee’s correspondence concerning these regulations.

Leave granted.

The correspondence read as follows—

Great Barrier Reef Marine Park (Aquaculture) Regulations 2000
Statutory Rules 2000 No.6
9 March 2000
Senator the Hon Robert Hill
Minister for Environment and Heritage
Parliament House
CANBERRA ACT 2600
Dear Minister


[Correspondence concerning Statutory Rules No.5 was incorporated in Hansard on 19 June 2000 when the Committee gave notice to withdraw its notice of disallowance on those Regulations.]

Statutory Rules 2000 No.6

The Committee notes that subregulation 5(7) requires the Minister to “make publicly available” the reasons for his or her decision to accredit a Queensland law. However, the subregulation does not indicate what means the Minister may or must use in making this information publicly available. The Committee also notes that this is in contrast with other provisions in regulations 5, 6 and 7 which require the Minister to publish in the Gazette a notice of a decision about accrediting a Queensland law, revoking that accreditation or limiting the application of an accredited law. It is also in contrast with the comment in the Explanatory Statement, that an accreditation “must be in writing, published in the Gazette, and be accompanied by a statement of reasons for the decision”, a comment which at least suggests that the statement of reasons must be published in the Gazette.

Paragraph 6(6)(b) permits the Minister to allow the revocation of the accreditation of a Queensland law not to take effect for up to a year after notice of the revocation has been given. The Committee is concerned that this is a long time for a Queensland law effectively to be in limbo, and seeks your advice on the reasons for the provision.

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

By virtue of paragraphs 11(1)(a) and (b), an aquaculture facility that was operating on 1 October 1999 will be liable to the penalties imposed by regulation 9 if there is a significant change to the operation after these Statutory Rules come into operation. The Committee notes that regulation 11 does not provide any definition of what constitutes a significant change, and (subject to the comments made in the next paragraph) it is up to a court to decide whether a change has been significant. The Committee seeks your advice on whether criminal liability should be spelt out more clearly.

The Committee notes that subregulation 11(5) provides that the Great Barrier Reef Marine Park Authority may advise an operator, in answer to a request from the operator, whether a proposed change is significant, and that answer is to be taken, for the purposes of paragraphs 11(1)(a) or (b), to be conclusive. The Committee would appreciate your advice on whether this provision permits the Authority to oust the judicial function of deciding whether a criminal offence has been committed.

Regulation 17 permits the Authority to send to the operator of an aquaculture facility a notice requiring the operator to show cause why the Authority should not direct the operator to cease discharging aquaculture waste from the facility. Subregulation 17(1) provides that the regulation applies to a facility which is licensed under an accredited Queensland law, but a law in respect of which the Minister has revoked that accreditation, although the revocation has not, at the time of the show cause notice, taken effect. The Committee seeks your advice on the basis for the Authority
stepping in and, at least, requiring an operator to show cause, when the operator is, by definition, complying with the then effective Queensland law. The Committee notes that this regulation must be read with paragraph 6(6)(b), noted above, under which the Minister may postpone the revocation of the accreditation of a Queensland law for up to a year after he or she has given notice of the proposed revocation.

Paragraph 26(2)(a) obliges the Authority to make a decision on an application submitted by a proposed operator of a new aquaculture facility. The Committee notes, however, that neither that paragraph, nor the remainder of regulation 26, imposes any time limit on the Authority within which it must come to that conclusion. It also appears that it is not required to decide that matter as soon as practicable after it has received all the necessary information. The Committee seeks advice on whether a time limit should be imposed for the consideration of applications.

Subregulation 39(1) allows the Authority to various kinds of action against an operator if “there is reason to believe that a breach of … a condition is about to happen”. The Committee inquires how the Authority will determine that a breach of a condition is about to happen. In doing so, it should be noted that the Explanatory Statement considers that this regulation applies only “where it appears to the Authority that the holder of a permission is not complying with the existing conditions of a permission.”

Regulation 48 permits the Authority to waive the payment of fees which would otherwise be payable for an application. In making that decision, the Authority may consider any relevant matter, but there is no provision for the external merits review of the exercise of that discretion. Regulation 51 contains a list of other decisions of the Authority which are subject to such review. The Committee seeks advice on the reason for omitting the decision to waive fees under regulation 48.

Yours sincerely
Helen Coonan
Chair

Senator Helen Coonan
Chair
Standing Committee on Regulations and Ordinances
Parliament House CANBERRA ACT 2600
Dear Senator Coonan
17 April 2000


Great Barrier Reef Marine Park (Aquaculture) Regulations 2000

The Great Barrier Reef Marine Park (Aquaculture) Regulations 2000 (“the Aquaculture Regulations”) were also gazetted on 23 February 2000. The purpose of the Aquaculture Regulations is to control the discharge of waste from aquaculture operations which may affect plants and animals in the Great Barrier Reef Marine Park (“the Marine Park”).

Sub-regulation 5(7) of the Aquaculture Regulations provides that the Minister must prepare, and make publicly available, a statement of reasons for his or her decision to accredit a law of Queensland. By sub-regulation 5(5), the Minister must publish notice of his or her decision in the Commonwealth Government Gazette and, by virtue of sub-regulation 5(6), an accreditation has effect from the day the notice of the decision is published in the Gazette. It is not usual for a statement of reasons to be published in the Gazette. Publication of the decision will give notice of the decision to the public at large, and then a request for a statement of reasons can be made. Unlike legislation such as the Administrative Decisions (Judicial Review) Act 1977 (Cth) and the Administrative Appeals Tribunal Act 1975 (Cth), a person does not need to prove locus standi to be entitled to a statement of reasons.

Under regulation 6 of the Aquaculture Regulations, the Minister may revoke an accreditation under regulation 5 where the law no longer provides the requisite degree of protection. Revocation of the accreditation of a Queensland law must be notified in the Gazette (sub-regulation 6(4)) and has effect on the day stated in that notice (sub-regulation 6(5)). Sub-regulation 6(6) provides that the day upon which the revocation takes effect must not be earlier than on the day on which the notice is published and must not be later than one (1) year after the day on which notice is published. Sub-regulation 6(6)(b) provides for a maximum period for which revocation must take effect. This provision does not cause the accredited Queensland law to be in limbo, but rather allows time for administrative arrangements and other steps to be taken so that there is a smooth transition from operation of the Queensland law to operation of the Aquaculture Regulations. In appropriate circumstances, the Minister may decide that revocation should take effect more quickly.

Sub-regulation 11(1) provides that regulation 9 prohibits the discharge of aquaculture waste from a facility that was operating on 1 October 1999 only if, after that day, the volume of aquaculture waste discharged is significantly increased, or the nature or composition of the aquaculture waste.
discharged alters in a significant way; “that is, a way that makes the waste significantly more likely to pollute water in a way harmful to animals and plants in the Marine Park, or that makes the waste significantly more harmful to such animals or plants”. The operation of sub-regulation 11(1) is further qualified by sub-regulation 11(2) which provides that “an aquaculture facility was operating on 1 October 1999 if aquaculture products were produced in the facility and were sold before that day”. Regulation 11 makes reference to “1 October 1999” as this was the date by which the exposure draft of the Aquaculture Regulations had been made available to Industry and other key stakeholders. That is, by 1 October 1999 industry was ‘on notice’ that regulations would be introduced and it is therefore an appropriate ‘cut-off’ date by which to define those facilities in respect of which discharges of waste will not be regulated.

The Committee is incorrect in stating that there is a measure of retrospectivity in the application of the Regulations. The Regulations would be retrospective if they sought to apply to discharges of waste that occurred prior to the Regulations entering into force. They do not do this. The Regulations apply only to discharges of waste that occur after the commencement of the Regulations.

In respect of sub-regulation 11(1)(b), the phrase “significant way” is qualified by the words “that is, a way that makes the waste significantly more likely to pollute water in a way harmful to animals and plants in the Marine Park, or that makes the waste significantly more harmful to such animals or plants,”. In the case of both subregulations 11(1)(a) and (b), the Authority has developed administrative arrangements for the determination of “significance”. Details of these administrative arrangements are available to operators. Operators are able to gain increased operational certainty through contacting the Authority for advice under subregulation 11(4) and seeking copies of the administrative arrangements. Criminal liability for discharging aquaculture waste into the Marine Park without a permit or satisfying one of the other exemptions provided for in the Aquaculture Regulations, is contained in regulation 9. Reference is specifically made to regulation 9 in subregulation 11(1), and sub-regulation 9(2) expressly provides that the prohibition contained in that provision is subject to Part 3. The Aquaculture Regulations already provide operators with sufficient notice of the criminal liability provisions.

Under sub-regulation 11(4) of the Aquaculture Regulations, an operator of an aquaculture facility mentioned in sub-regulation 11(1) may ask the Authority’s advice as to whether a proposed increase in volume, or change in composition, of waste is significant for the purposes of paragraphs (1)(a) or (b) or both. Under subregulation 11(5), if in reply to such a request the Authority advises an operator of an aquaculture facility seeking reasons why the facility should not be directed to cease discharging waste that the proposed increase or change is not significant for the purposes of paragraph (1)(a) or (b) or both, the proposed increase or change is taken not to be significant. Sub-regulation (5) is a deeming provision and has the effect that, when its provisions are triggered, sub-regulations 11(1)(a) and (b) do not operate to require an operator to have permission to discharge aquaculture waste into the Marine Park. Consequently, there is no ousting of judicial function as there can be no contravention of either sub-regulations 11(1)(a) or (b) or both. The intention behind sub-regulation 11(5) was to provide certainty to operators by allowing them to rely upon the advice of the Authority.

Regulation 17 applies where the Minister has revoked accreditation of a Queensland law but the revocation has not as yet taken effect. This regulation allows the Authority to serve a notice on an operator of an aquaculture facility seeking reasons why the facility should not be directed to cease discharging waste where the Authority has reasonable grounds for believing that the discharge from the facility is polluting waters of the Marine Park in a manner harmful to animals and plants. This allows almost immediate action to be taken to stop aquaculture waste discharge which may be injurious to animals and plants in the Marine Park without having to delay until revocation of the Queensland law has taken effect. A decision requiring an operator to cease discharge under regulation 17 is reviewable by the Administrative Appeals Tribunal under Part 5.

For the reasons identified above, it may be necessary to allow some time (up to 1 year) for the revocation of an accreditation of a Queensland law to become effective. However, regulation 17 is necessary to ensure the Authority can take action, in the period before the revocation becomes effective, to prevent discharges of waste that may pollute the Marine Park (even if such discharges are in accordance with a Queensland law that has been assessed as no longer meeting the prerequisites for accreditation).

Time limits for the assessment of permit applications and the making of permit decisions are provided for in the administrative arrangements previously referred to. Advice is given to permit applicants within ten (10) days of receipt of their applications as to the level of assessment required. Because permit applications need to be assessed at different levels having regard to environmental...
risk, it was not appropriate for specific time periods to be specified; that is, discharge from large aquaculture facilities may have national environmental significance and need to be assessed at a higher level than discharge from facilities which pose less of a risk to the Marine Park.

Sub-regulation 39(1) allows for the Authority to take certain, specified action if "there is reason to believe that a breach of .... condition is about to happen". The Authority will be able to determine when a breach is about to happen through independent monitoring and disease surveillance which will be a condition of all permits. Monitoring trends that indicate a breach is likely to occur (for example, a disease outbreak is detected in an aquaculture pond and it is likely that these contaminated waters are to be released), the Authority will be able to suspend an operator's permission to discharge into the Marine Park. Once contaminated or polluted waters have been discharged into the Marine Park, it is too late to avoid environmental harm.

Regulation 48 is consistent with similar provisions in the Great Barrier Reef Marine Park Regulations 1983 which are also not subject to merits review. The fees payable under the Aquaculture Regulations are minimal having regard to the actual costs associated with the assessment of permit applications and do not in any way represent full cost recovery.

I trust this letter adequately addresses your queries.

Yours sincerely
Robert Hill
8 June 2000
Senator the Hon Robert Hill
Minister for Environment and Heritage
Parliament House
CANBERRA ACT 2600

Dear Minister

Thank you for your letter of 17 April 2000 providing advice on Committee concerns with the Great Barrier Reef Marine Park Amendment Regulations 2000 (No.1) and the Great Barrier Reef Marine Park (Aquaculture) Regulations 2000.

Great Barrier Reef Marine Park Amendment Regulations 2000 (No.1)
The Committee considered your advice on these Regulations at its meeting today and agreed your response met its concerns.

Great Barrier Reef Marine Park (Aquaculture) Regulations 2000

The Committee also considered your advice on these Regulations and would appreciate further advice on three matters.

First, in paragraph 11(a) and (b) it appears that the determination of what is 'significant' is not addressed in the Regulations but by 'administrative arrangements'. If this is the case, the administrative arrangements would appear to have the same authority as the Regulations. Accordingly, the Committee considers that it would be more appropriate for such a definition to be contained in the Regulation and not in 'administrative arrangements'.

Secondly, the Committee continues to have concerns with subregulation 11(4). The Committee is of the view that the provision allows the Authority to determine what increase in waste discharge is allowable and therefore deemed not to be significant. Thus the Authority appears to have been given the role of making findings of fact normally resolved by a court. As such, it would appear to oust judicial review.

Thirdly, paragraph 26(2)(a) fails to impose time limits on action by the Authority. Again, it appears that such time limits are contained in administrative arrangements. As noted above, the Committee considers that these limits should also be in the Regulations rather than the administrative arrangements.

The Committee would be grateful for your response as soon as possible but before 29 June 2000 when the disallowance motion on the Regulations is due to be considered by the Senate.

Yours sincerely
Helen Coonan
Chair
22 June 2000
Senator Helen Coonan
Chair
Standing Committee on Regulations and Ordinances
Parliament House CANBERRA ACT 2600

Dear Senator Coonan


The Great Barrier Reef Marine Park (Aquaculture) Regulations 2000 ("the Regulations") were gazetted on 23 February 2000. The purpose of the Regulations is to protect the receiving environment (plants and animals) of the Great Barrier Reef Marine Park ("the Marine Park") from biochemical wastes discharged from aquaculture operations.
Sub-regulation 11(a) and (b) of the Aquaculture Regulations provides that the phrase “significant way” is qualified by the words “that is, a way that makes the waste significantly more likely to pollute water in a way harmful to animals and plants in the Marine Park, or that makes the waste significantly more harmful to such animals or plants”. In the case of both sub-regulations 11(1)(a) and (b), the Authority has developed administrative arrangements for the determination of “significance”.

The term “significance” should be interpreted in accordance with the normal rules of statutory interpretation. This term has been the subject of numerous judicial comment.

I note that the Committee considers that it would be more appropriate for consideration of “significance” to be addressed in the Regulations. The term “significance” is not specifically defined within the Regulations or the administrative arrangements. Criteria for determining the environmental significance of the impact of the discharge on the receiving zone (that is, the Marine Park) are specified in the administrative arrangements. Copies of these administrative arrangements are available to operators.

The criteria contained in the administrative arrangements for determining the significance of environmental impacts on the receiving zone must be broad. This is to give decision-makers the capacity to have regard to all the varying characteristics of the specific receiving zone being considered. For example, the environmental sensitivity of the receiving zone may change over time, particularly with regard to assimilative capacity and dilution criteria, and these changes need to be considered on a case by case basis.

Under sub-regulation 11(4) of the Regulations, an operator of an aquaculture facility mentioned in sub-regulation 11(1) may ask the Authority’s advice as to whether a proposed increase in volume, or change in composition, of waste is significant for the purposes of paragraphs (1)(a) or (b) or both. Under sub-regulation 11(5), if in reply to such a request the Authority advises the operator that the proposed increase or change is not significant for the purposes of paragraph (1)(a) or (b) or both, the proposed increase or change is taken not to be significant.

In response to the Committee’s concerns regarding the potential to oust judicial review, I do not believe that this is the case. The conduct of the Authority under regulation 11 will be open to judicial review under the Administrative Decisions (Judicial Review) Act 1974 (Cth). Furthermore, affected persons (including permit applicants) are entitled to request statements of reasons for decisions under this provision.

Time limits for the assessment of permit applications and the making of permit decisions are provided for in the administrative arrangements previously referred to. Advice is given to permit applicants within ten (10) days of receipt of their applications as to the level of assessment required. Because permit applications need to be assessed at different levels having regard to environmental risk, it was not appropriate for specific time periods to be specified; that is, discharge from large aquaculture facilities may have national environmental significance and need to be assessed at a higher level than discharge from facilities which pose less of a risk to the Marine Park.

As noted by the Committee, there is no period specified in sub-regulation 26(2)(a) for the making of permit decisions. This approach is consistent with the Great Barrier Reef Marine Park Regulations which also does not provide specific time frames for decision-making. As a matter of statutory interpretation, there is a requirement for decision-makers to make decisions or take action within a “reasonable period” of time where no time limit is specified by a piece of legislation.

The concern for the Authority if a specific time limit for the making of decisions is to be included in the Regulations, is that this time limit will need to be calculated on a “worse case” basis. This is to ensure that the Authority has sufficient time to:

- adequately assess the proposal (or refer it under either Environment Protection (Impact of Proposals) Act 1974 (Cth) or the Environment Protection and Biodiversity Conservation Act 1999 (Cth) in circumstances where the proposal is likely to have a significant impact on the Great Barrier Reef World Heritage Area);

- undertake native title notification under the Native Title Act 1993 (Cth) (on the basis of the decision in Harris v Great Barrier Reef Marine Park Authority, a period of twenty-eight days for provision of comment is considered not to be unreasonable); and

- conduct a site inspection to validate information contained in the application.

I trust this letter adequately addresses your queries.

Yours sincerely

Robert Hill
28 June 2000
Senator the Hon Robert Hill
Minister for Environment and Heritage
Parliament House
CANBERRA ACT 2600
Dear Minister

Thank you for your letter of 22 June 2000 and for agreeing to make officers of the Great Barrier Marine Park Authority available to brief the Committee on its residual concerns with the Great Barrier Reef Marine Park (Aquaculture) Regulations 2000.

The Committee remains concerned with certain aspects of the Regulations, which we would ask that you address at the earliest opportunity.

First, in relation to paragraphs 11(1)(a) and (b), and the determination of what is ‘significant’, your advice acknowledges that ‘[c]riteria for determining the environmental significance of the impact of a discharge are contained in administrative arrangements’ and that these criteria are broad.

The Committee considers that the Regulations should include a definition of what is a significant increase or change and that this could be based on the criteria currently contained in the Administrative Arrangements, which the Committee found to be clear and comprehensive.

Secondly, with regard to time limits under paragraph 26(2)(a), the Committee considers that it would be appropriate to include a broad timeframe such as ‘within a reasonable time’ for the making of permit decisions.

The Committee would be prepared to remove its notice of disallowance if you were to give an undertaking to address the above concerns at the earliest possible opportunity.

In relation to regulation 11, the Committee is of the view that it would be desirable to examine whether third party rights of review are adequately provided for under the ADJR Act or whether such rights might be more appropriately provided for under the Act and Regulations.

Yours sincerely
Helen Coonan
Chair

29 June 2000
Senator Helen Coonan
Chair
Standing Committee on Regulations and Ordinances
Parliament House CANBERRA ACT 2600

Dear Senator Coonan


In accordance with your request, I am prepared to give an undertaking to address the concerns identified in your letter at the earliest possible opportunity.

Yours Sincerely
Robert Hill

Senator Bartlett to move:
(Contingent on the Senate on any day concluding its consideration of any item of business and prior to the Senate proceeding to the consideration of another item of business):

That so much of the standing orders be suspended as would prevent Senator Bartlett moving a motion to provide that the consideration of the Sexuality Discrimination Bill 1995 [1998] take precedence over all government and general business until proceedings on the bill are concluded.

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

1. That a select committee, to be known as the Select Committee for an inquiry into Lucas Heights Replacement Reactor proposal, be appointed to examine and report by 5 September 2000, on the following matters:

(a) the transparency and accountability of tendering and contracting process for the replacement reactor proposal including:

(i) the quality and accuracy of information on which the preferred tenderer was determined, including a review and assessment of the costing calculations and estimates for the proposal, environmental and public health impact of the replacement reactor proposal, and

(ii) architectural plans and project design, including waste management provisions of the preferred tenderer for the replacement reactor proposal;

(b) the extent to which public consultation is upheld and public sentiment is incorporated under the licensing role of the Australian Radiation Protection and Nuclear Safety Agency and is reflected
through the contracting and licensing process;

(c) the quality and accuracy of information pertaining to the Lucas Heights Research Reactor provided to parliamentary committees;

(d) public access to information on the proposal and community safety procedures;

(e) the adequacy of occupational and public safety protection procedures and nuclear incident and emergency procedures for the Commonwealth Government’s preferred reactor proposal;

(f) the safety and international best practice record in provision of nuclear research facilities of the preferred tenderer;

(g) waste management provisions of the research reactor proposal, with specific reference to:
   (i) proposed spent fuel management arrangements,
   (ii) implications of international reprocessing contracts and waste transport provisions requiring the return of Australian waste, and
   (iii) the requirement for the provision of waste storage sites and suitable waste management strategy before contract finalisation;

(h) the validity of commercial (radio-pharmaceuticals) and science enhancement claims of the Australian Nuclear Science and Technology Organisation and the Commonwealth Government for the replacement reactor proposal in view of the proposals fixed budget.

(2) That the committee consist of 7 senators, 3 nominated by the Leader of the Government in the Senate, 3 nominated by the Leader of the Opposition in the Senate, and 1 nominated by the Leader of the Australian Democrats, the Australian Greens, minor groups or independents in the Senate.

(3) That the committee appoint a Commissioner to assist it with its inquiry and that the Commissioner be a person who is (or has been) a judge of a superior court, or is (or has been) a senior counsel.

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

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

(6) That in the absence of agreement on the selection of a chair, duly notified to the President, the allocation of the chair shall be determined by the Senate.

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

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

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

(10) That the quorum of the committee be 4 members.

(11) That the committee have power to appoint subcommittees consisting of 3 or more of its members and to refer to any such subcommittee any of the matters which the committee is empowered to consider, and that the quorum of a subcommittee be a majority of the senators appointed to the subcommittee.

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

(13) That the committee and any subcommittee have power to send for and examine persons and documents, to move from place to place, to sit in public or in private, notwithstanding any prorogation of the Parliament or dissolution of the House of Representatives.

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

(15) That the committee may report from time to time its proceedings and evidence taken or any interim conclusions or recommendations arising from this inquiry, and may make regular reports on the progress of its proceedings.
Senator McKiernan to move, on the next day of sitting:

That the Senate—

(a) recognises and applauds the role that was played in supporting the Interfet force deployment in East Timor by Australian civilian ships;

(b) welcomes the letter dated 15 October 1999 that was sent to the Maritime Union of Australia by Commander Peter Cosgrove suggesting that, without the help of Australian civilian ships, the deployed forces’ logistics build-up would have been severely hampered;

(c) acknowledges that the role of Australian civilian ships in East Timor continues the significant and enormous role that the Australian Merchant Navy has historically played in the ever increasing peacetime carriage of trade, both internationally and domestically;

(d) recognises that this role has not been without enormous cost, particularly in the Merchant Navy’s service in two world wars, where one in every eight seafarers lost their lives and many more disappeared unrecorded in the ships of many nations;

(e) applauds the International Maritime Organisation’s support and recognition of maritime workers and merchant shipping, including Australian coastal shipping through the celebrations of Maritime Day on 24 September and believes that World Maritime Day be regarded as a day of maritime pride and history; and

(f) requests that the Government promote the flying of the Australian flag rather than flags of convenience.

Senator COONAN (New South Wales) (9.33 a.m.)—On behalf of the Standing Committee on Regulations and Ordinances, I give notice that, 15 sitting days after today, I shall move that the following delegated legislation, a list of which I shall hand to the Clerk, be disallowed.

The list read as follows—


Determination No. 1 of 2000 made under section 52 of the Defence Act 1903.


High Court of Australia Regulations 2000, as contained in Statutory Rules 2000 No.46 and made under the High Court of Australia Act 1979.

Migration Agents Amendment Regulations 2000 (No.1), as contained in Statutory Rules 2000 No.64 and made under the Migration Act 1958.


[Acts Interpretation Act 1901 provisions apply: must be resolved within 15 sitting days after today or the Scheme, Determination, Exemption and Regulations will be deemed to have been disallowed.]

Senator COONAN—I seek leave to make a brief statement.

Leave granted.

Senator COONAN—The 15th sitting day for the instruments of which I have just given notice of motion to disallow would have been 14 August. However, that time frame moves forward to tomorrow against the possibility the Senate agrees to sit. Accordingly, the committee has given notice of motion to disallow these instruments as a protective measure to enable more time for its concerns to be addressed. I seek leave to incorporate in

Hansard a short summary of the matters raised by the committee.
Leave granted.
The summary read as follows—
Dairy Structural Adjustment Program Scheme 2000 made under clause 10 of Schedule 2 to the Dairy Produce Act 1986
This instrument formulates a scheme to grant payment rights to entities who meet the conditions set out in the scheme, the division of payment rights into units, the registration of those units, and the making of payments by the Australian Dairy Corporation to the registered owners of those units.
Under section 37, the Dairy Adjustment Authority may cancel a unit in a payment right if an entity fails to comply with a direction from the Authority to comply with the entity’s undertaking to transfer a unit to a primary producer. However, neither that section, nor any other provision in the Scheme, makes provision for the rights of the primary producer to whom the unit has not been transferred.
Subsection 47(1) provides for the payment of a fee of $50 in various circumstances. However, the Explanatory Statement does not indicate the basis for that fee.
Determination No.1 of 2000 made under section 52 of the Defence Act 1903
The Determination credits notional interest on the 3% productivity benefit contribution. By virtue of clause 2.1 it is taken to have commenced retrospectively on 1 January 2000. Although it appears that it does not detrimentally affect the rights of any person other than the Commonwealth, there is no assurance to that effect in the Explanatory Statement.
Exemption No.CASA EX26/2000
The Exemption contains an unclear provision relating to the operating and flying of a paraglider.
Federal Court of Australia Amendment Regulations 2000 (No.3)
Statutory Rules 2000 No.45
High Court of Australia Regulations 2000
Statutory Rules 2000 No.46
These Regulations increase to $1,000,000 the amount above which ministerial approval must be sought before contracts may be entered into by the Chief Justices of the Courts. The Explanatory Statements to each of these Regulations notes that the previous limit (of $250,000) above which the relevant Chief Justices were required to obtain ministerial approval before entering into contracts, has applied for the last ten years. However, the Statements do not explain the length of time between increases and the reason for the amount chosen.
Health Insurance (1999-2000 Diagnostic Imaging Services Table) Amendment Regulations 2000 (No.1), Statutory Rules 2000 No.59
Health Insurance (1999-2000 General Medical Services Table) Amendment Regulations 2000 (No.1), Statutory Rules 2000 No.60
Item 10 of the Schedule to Statutory Rules 2000 No.59 inserts a description of item 57355 in the Schedule to the Principal Regulations. The Explanatory Statement indicates that this insertion was made because item 57355 “was overlooked when the descriptor for item 57550 was amended in February 2000.”
Item 4 in the Schedule to Statutory Rules 2000 No.60 substitutes a new regulation 48 in the Principal Regulations. The Explanatory Statement observes that this substitution was necessary because the regulation as originally drafted “did not contemplate the situation of a person who successfully appealed a decision of the Credentialing Subcommittee.”
The Explanatory Statements do not provide an assurance that no person has been disadvantaged by the substitution or omission.
Migration Agents Amendment Regulations 2000 (No.1), Statutory Rules 2000 No.64
These Regulations amend the Code of Conduct for migration agents and implement more cost effective arrangements for publishing the details of prospective migration agents. The amendment made by item 7 in the Schedule to these Regulations requires a migration agent to give to a client, before commencing work for that client, an estimate of the fees likely to be charged and the time likely to be taken in performing a particular service. However, the new clause does not require that estimate to be provided in writing.
Migration Amendment Regulations 2000 (No.2), Statutory Rules 2000 No.62
These Regulations amend provisions relating to the provision of various classes of visa. The amendment made by item 206 of the Schedule to these Regulations ensures that an application for a Sri Lankan (Special Assistance) (Class BG) visa must have been made on or before 28 April 2000. Since the Regulations were made on 27 April 2000, this amendment appears to give those intending to apply for this visa no more than a day within which to complete their application.
New item 1217A of Schedule 1 to the Principal Regulations – inserted by item 3206 of the Sched-
ule to these Regulations – imposes a fee of $60 for
the application for the relevant visa. However, the
Explanatory Statement does not indicate the basis
for this fee.

**Therapeutic Goods Amendment Regulations
2000 (No.2)**

**Statutory Rules 2000 No.48**

The Regulations implement recommendations
relating to the therapeutic goods Advertising
Code.

The amendment made by item 12 of the Schedule
– which inserts new subregulation 5Q(5A) – per-
mits the Secretary to the Department to delegate
his or her power to withdraw approval for an ad-
vertisement to the chairperson of the Complaints
Resolution Panel. However, new paragraph
42ZCAI(4)(a) permits that Panel to recommend to
the Secretary that the latter “withdraw the ap-
proval of [an] advertisement”.

New regulation 9, substituted by item 16 of the
Schedule, permits the Secretary to the Department
to publish orders either in the Gazette or on the
Department’s web site.

New paragraphs 9R(1)(b) and (2)(b), inserted by
item 18 of the Schedule, create an offence of pub-
lishing generic information about therapeutic

**Trans-Tasman Mutual Recognition Amend-
ment Regulations 2000 (No.1)**

**Statutory Rules 2000 No.51**

The Regulations extend for a further 12 months
the Special Exemption status of specified goods
covered by Schedule 3 of the Act. The Explan-
atory Statement indicates that Western Australia is
not a participating jurisdiction to the Trans-
Tasman Mutual Recognition Arrangement. Nev-
ertheless, by virtue of item 3 of Schedule 2 to
these Regulations, sections 50 and 59 of the Con-
sumer Affairs Act 1971 of that State are laws,
which are exempt from the operation of the ena-
bling Act.

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

That the Senate—

(a) notes that:

(i) 30 June each year is Red Nose Day, a
major highlight of the public
awareness and fundraising campaign
of SIDSaustralia and its member
organisations,

(ii) Sudden Infant Death Syndrome
(SIDS), or cot death, is defined as the
sudden unexpected death of an infant
or young child, unexplained by
medical history, and is the most
common cause of death in babies aged
between one month and one year,

(iii) medical science does not yet know
what causes SIDS,

(iv) research into SIDS in Australia is on
the cutting edge of research in the
world, with a large number of projects
funded and encouraged by the success
of Red Nose Day,

(v) since Red Nose Day began in 1988:

(A) more than $12 000 000 has been
allocated to scientific research
projects nationally, including fi-
nancial support for post-doctoral
research fellowships, and

(B) there has been a 65 per cent de-
crease in the number of infants
dying from SIDS,

(vi) research must continue to establish the
causes of SIDS and to identify
guaranteed prevention methods, and

(vii) Red Nose Day has created incredible
awareness of the tragedy of SIDS and
that funds from Red Nose Day have
improved counselling and support
services for parents, families and other
affected by the death of a child; and

(b) supports the activities of SIDSaustralia
and their endeavours to find a solution
for SIDS.

**BUSINESS**

**Government Business**

Motion (by Senator Ian Campbell)

agreed to:

That the following government business orders
be considered from 12.45 pm till not later than 2
pm this day:

Primary Industries Legislation Amendment
(Vegetable Levy) Bill 2000

No. 9–Product Stewardship (Oil) Bill 2000 and	hree related bills
NOTICES
Withdrawal
Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (9.35 a.m.)—At the request of the respective senators, I withdraw the following general business notices of motion:

The list read as follows—
103, 105, 125, 137, 144, 147, 215, 300, 311, 312, 329, 382, 385, 392, 398, 401, 403, 404, 415, 423, 432, 449, 453, 460, 467, 470, 475, 478, 481, 492, 494, 503, 505, 522, 537, 533, 538, 544, 546, 551, 554, 555, 559, 560, 563, 564, 567, 570, 576, 586

COMMITTEES
Foreign Affairs, Defence and Trade Committee, Joint Meeting
Motion (by Senator Calvert, on behalf of Senator Ferguson)—by leave—agreed to:
That the Joint Standing Committee on Foreign Affairs, Defence and Trade be authorised to hold a public meeting during the sitting of the Senate on Friday, 30 June 2000 to take evidence into the committee’s inquiry into defence strategy.

NOTICES
Postponement
Items of business were postponed as follows:

General business notice of motion no. 605 standing in the name of Senator Woodley for today, relating to the Australian dairy industry, postponed till 15 August 2000.

General business notice of motion no. 620 standing in the name of Senator Greig for today, relating to Mr Konrad Kalejs, postponed till 15 August 2000.

General business notice of motion no. 618 standing in the name of Senator Allison for today, relating to accessible transport for the disabled during the Olympic and Paralympic Games, postponed till 14 August 2000.

General business notice of motion no. 612 standing in the name of Senator Stott Despoja for today, relating to international trade, postponed till 15 August 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 15 August 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 15 August 2000.

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 15 August 2000.

RENEWABLE ENERGY (ELECTRICITY) BILL 2000
RENEWABLE ENERGY (ELECTRICITY) (CHARGE) BILL 2000
Referral to Committee
Motion (by Senator Allison)—as amended, by leave—agreed to:

Senator Brown—Just on a point of clarification, I would be pleased to know why that date has been altered to August.

Senator Allison—The explanation is that this report is needed in the first week of August so that the government can put in place its measures to implement the scheme by the set date. There has been some discussion about finding times for hearing dates and we have now done that as of late this morning.

COMMITTEES
Economics References Committee Reference
Motion (by Senator O’Brien, on behalf of Senator Murphy) agreed to:
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.

Authorisation

Motion (by Senator O’Brien, on behalf of Senator Murphy) agreed to:

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.

Employment, Workplace Relations, Small Business and Education Legislation Committee Reference

Motion (by Senator Allison) agreed to:

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.

Foreign Affairs, Defence and Trade References Committee Extension of Time

Motion (by Senator O’Brien, on behalf of Senator Hogg) agreed to:

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.

NUCLEAR NONPROLIFERATION

Motion (by Senator Allison) agreed to:

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.

**EXCISE TARIFF PROPOSAL No. 2 (2000)**

Motion (by Senator Cook) agreed to:

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.

**DAYS OF MEETING**

Motion (by Senator Ian Campbell) agreed to:

That the order of the Senate of 30 November 1999 relating to the days of meeting of the Senate for the year 2000, be modified as follows:

Omit: ‘Monday, 11 September to Thursday, 14 September’

Insert: ‘Monday, 28 August to Thursday, 31 August’.

**HOURS OF MEETING AND ROUTINE OF BUSINESS**

Motion (by Senator Ian Campbell) agreed to:

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.

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**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 Compensation Measures Legislation Amendment (Rent Assistance Increase) Bill 2000, allowing it to be considered during this period of sittings.

**THERAPEUTIC GOODS AMENDMENT BILL (No. 3) 2000**

First Reading

Motion (by Senator Ian Campbell) agreed to:

That the following bill be introduced: a Bill for an Act to amend the Therapeutic Goods Act 1989, and for related purposes

Motion (by Senator Ian Campbell) agreed to:

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

Bill read a first time.

Second Reading

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (9.44 a.m.)—I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

I am pleased to introduce the Therapeutic Goods Amendment Bill (No 3) 2000.

The amendments provided for in this bill are necessary to strengthen the role of the Secretary, through the Therapeutic Goods Administration (TGA), in the monitoring of access to unapproved drugs in Australia.

Since 1991 a focus of the therapeutic goods legislation has been to ensure greater access by the Australian community to new drugs through the creation of exemptions to the requirement for all drugs to be entered on the Australian Register of Therapeutic Goods before supply. These exemptions include supply through clinical trials, the Special Access Scheme and Authorised Prescribers.

The resulting exemptions have been very successful in achieving greater patient access to new
drugs. Notification of clinical trials to the Therapeutic Goods Administration under the CTN scheme has resulted in a very marked increase in clinical trial activity in Australia. From less than 50 clinical trials conducted in 1990 there are now well over 400 new clinical trials notified to the TGA each year.

The very success of the programs has led to occasional concern. The nature of notification schemes is such that Commonwealth involvement is minimal. They rely on certification and approval by medical practitioners and institutions. Should the processes of approval be less than rigorous, the legislation gives no ability to the Commonwealth to investigate and take action to ensure patient safety.

The amendments in this Bill will provide additional power to the Secretary to ensure the use, handling and supply of unapproved therapeutic goods is in accord with the terms and conditions applied when the exemption for supply is granted. This greater control will be achieved principally through the Secretary’s new powers to require persons, to whom an approval or an authority has been granted to supply unapproved products, to provide information about how the goods are used. It also provides that, should the information provided warrant it, the TGA could audit the processes used to supply the goods, including the conduct of clinical trials. An amendment also enables the Secretary to release information where necessary, to appropriate authorities in the States or Territories with functions relating to Therapeutic Goods and to medical or pharmacy boards.

The importance of these amendments is that they do not alter the successful processes already established. The provisions for Category A patients remain in place with no change to the process. Category A is the provision that leaves the decision, concerning use of any unapproved products for patients with conditions from which death is reasonably likely to occur within a matter of months, to the patient and their doctor. No approval is required from the Therapeutic Goods Administration, just notification of the use. Similarly the notification of clinical trials, established as the Clinical Trials Notification Scheme, is also not altered in any way.

Some additional amendments are included to give greater recognition to the role of human research ethics committees in the approval and supply of unapproved products. The definition of ethics committees is amended. All ethics committees, in addition to being constituted in accordance with the recently updated National Health and Medical Research Council’s (NH & MRC) National Statement on Ethical Conduct in Research Involving Humans, must have notified their existence to the Australian Health Ethics Committee (AHEC, a subcommittee of the NH & MRC). This will ensure ethics committees overseeing the supply of therapeutic goods have access to documents and guidance of the AHEC.

A further amendment relates to the granting of an authorisation under Section 19(5) of a medical practitioner to become an authorised prescriber, that is, to supply specified unapproved drugs to a specified class of patients. This process removes the need for individual approval for each patient when doctors are likely to treat a large number of patients with the same condition with the same drug. The amendment ensures all authorised prescribers will have received the approval of an ethics committee to supply the drugs prior to the granting of the authorisation.

Ordered that further consideration of this bill be adjourned to the first day of the 2000 spring sittings, in accordance with standing order 111.

ANTI-GENOCIDE BILL 1999

Report of the Legal and Constitutional References Committee

Senator McKIERNAN (Western Australia) (9.44 a.m.)—I present the report of the Legal and Constitutional References Committee on the Anti-Genocide Bill 1999 and related matters, together with the Hansard record of the committee’s proceedings and submissions received by the committee.

Ordered that the report be printed.

Senator McKIERNAN—I move:

That the Senate take note of the report.

The Anti-Genocide Bill 1999 was introduced into the parliament by Senator Brian Greig of the Australian Democrats. In his second reading speech on 13 October 1999, Senator Greig stated:

In 1949 this parliament commenced some business that 50 years later remains unfinished. That business was no less than the prohibition and punishment of the heinous crime of genocide.

Senator Greig is to be commended for drafting a bill that seeks to complete that business by implementing into domestic law the United Nations Convention for the Prevention and Punishment of Genocide, ratified by Australia in 1949. The Polish jurist Raphael Lemkin, who coined this new word for an ancient crime, said in 1944:

"..."
Genocide is one of the most complete and glaring illustrations of the violation of international law and the laws of humanity.

The French existentialist Jean-Paul Sartre has starkly expressed the horrific meaning of the crime in these few words:

The fact of genocide is as old as humanity. To this day there has been no society protected by its structure from committing that crime. Every case of genocide is a product of history and bears the stamp of the society which has given birth to it.

It is no easy task to deal, within rational construct of law, with the irrationality that perpetrates this crime. But a civilised society demands that it have adequate, effective laws to punish and prevent acts of genocide.

Having considered the bill, the committee has accepted, on the weight of evidence before it, that genocide is not a criminal offence in Australia at the present time. The Full Federal Court of Australia has found, however, that, leaving aside the matter of intent, it is possible to make a case that there has been conduct by non-indigenous people towards indigenous Australians that falls within at least four of the categories of behaviour mentioned in the convention definition of 'genocide'. The proposition that genocide has occurred in Australia, or that it could occur, forces us to be vigilant in the future. The committee has concluded in its report, therefore, that anti-genocide legislation in Australia is both necessary and timely.

Australian anti-genocide law should be forward looking, affirming the principle that Australia abhors the crime of genocide and set down clear and certain punishment of its perpetrators. The committee heard compelling arguments from a number of witnesses about the educative role that anti-genocide legislation should adopt as a vehicle that informs people, and informs them about, the horror of genocide. The committee believes that a domestic anti-genocide law ought to be a powerful tool in bringing about change in attitudes towards the crime of genocide in all its manifestations. This bill has opened up the path for discussion of the form that an appropriate law should take. We have concluded that, subject to lawful exercise of the external affairs power under the Constitution, there may be merit in examining those additional matters or alterations contained in the bill which depart from the text of the genocide convention. These and other concrete matters should be explored more fully by agencies with the necessary expertise and greater resources than were available to the committee.

The committee's report indicates the key issues raised by the bill that require further examination. For these reasons, the committee has recommended that the parliament formally recognise the need for anti-genocide laws in Australia and that the bill be referred to the Attorney-General for consideration of the matters identified by the committee in respect of its contents. We have requested that the Attorney-General report his findings to the parliament by 5 October 2000. In conclusion, I record the committee's appreciation for the work put into the development and production of the report by Andrew Endrey, Noel Gregory, Saxon Patience and Deborah Cook, all led by Dr Pauline Moore. I commend the report to the Senate.
in Australia. This particular case has highlighted the reality that the lack of anti-genocide laws within our shores contributes to our country being a safe haven for war criminals. The committee was made well aware of the existing War Crimes Act but, as was discussed in several submissions, this act applies only to World War II and even then only to European theatres of war.

The issue of time and jurisdiction touches on one of the very fundamental questions related to this bill: that of retrospectivity. The bill itself was drafted as prospective legislation; however, the terms of reference for the inquiry allowed for report and investigation into the question of whether retrospectivity ought to be addressed. The committee concluded that Australian anti-genocide law should be forward-looking, affirming the principle that Australia abhors the crime of genocide and set down clear and certain punishment of its perpetrators. This is perhaps the only point on which I would disagree with the committee’s findings. As I detailed in my additional comments to the report:

If Parliaments and the community are to engage in a meaningful discourse about the prevention and punishment of the crime of genocide—then it cannot be done in isolation of the historical facts. Indeed to do otherwise, is to condemn the memory of countless peoples and the worst expressions of inhumanity to irrelevance.

The question of whether or not anti-genocide laws ought to be retrospective drew strong responses from both sides of the debate. Most Holocaust or Shoah survivors and members of Australia’s stolen generations, and their advocates, amongst others, expressed passionately throughout much of the committee hearings that retrospectivity is essential to allow access to justice. Others felt that retrospectivity would open old wounds and create strong social division. Clearly, there is strong sensitivity surrounding the question of the possibility of indigenous Australians taking claims of genocide against the Australian government and its present and past officials, for the policy of removing Aboriginal children from their parents.

The report advocates, as I said, that the bill be prospective and not retrospective—a position that will greatly disappoint many people in the community. That became very clear in the committee process and is reflected in this report. However, the majority of those people who presented written and oral evidence to the committee made it very clear that some form of anti-genocide legislation was better than none, a position that I would endorse. It does mean, however, that when this bill becomes law it will not provide access to justice for survivors of the Holocaust, nor for survivors of other crimes against humanity, whether they be from the former Yugoslavia or East Timor.

In reaching its findings, the committee has expressed the view that domestic anti-genocide law should be a powerful tool in bringing about changes in attitudes towards the crime of genocide in all its manifestations. It became clear during the process that there was considerable misunderstanding and misinformation about the notion of genocide and how it applied. For me, that was particularly emphasised in the submission by the Returned and Services League. As I made very clear in my additional comments, both I and the Australian Democrats found the submission to this inquiry by the RSL to be nothing short of appalling. Far from presenting the committee with considered opinion or relevant information, the RSL submission was little more than vilification. Its argument that gay and lesbian citizens ought to be excluded from anti-genocide legislation is disgraceful, and its refusal to acknowledge that homosexual people were persecuted and slaughtered by the Nazis constitutes Holocaust denial. Indeed, the arguments against gay and lesbian citizens by the RSL were, for the most part, the very arguments that the Nazis used as justification for the murder of gay and lesbian people 50 years ago. Ironically, the vilification of homosexual people by this RSL submission provided the committee, I believe, with the very evidence needed to illustrate that homosexual people have been, and remain, the subject of hatred, myth, misinformation and vilification, which in turn leads to the very dehumanisation of, and violence towards, gay and lesbian people.
I would make the point, too, that we Democrats were considerably disappointed with the response to this inquiry from the Attorney-General and his department. There was no submission by the Attorney-General’s Department to this inquiry, despite the importance and gravity of this particular bill. When the Attorney-General’s Department did send two representatives to answer questions to the committee in Melbourne, it sent the wrong people. I do not think that is good enough and, for that reason, I want to express my disappointment that one of the conclusions that the committee has reached and has reported here today in terms of addressing this bill is that the bill ought to be presented to the Attorney-General’s Department for another three months so that it can comment on aspects of the bill, particularly as it relates to the expansion of the definitions of those groups of people who ought to be covered by anti-genocide legislation—in particular, definitions of sexuality and disability. My feeling is strong that the Attorney-General’s Department ought to have engaged this bill and the committee process which surrounded it, during the period in which that happened and not after. It is fair to say that this bill is now 50 years too late, and a further delay so that the Attorney-General’s Department may now participate is really not acceptable. This work ought to have been done during the committee process, and not after, and the delay is as regrettable as it was avoidable.

In closing, I wish to express the Democrats’ passion for the pursuit of the success of this bill. I, too, would like to offer my thanks to Chairman McKiernan for his cooperation and support, and to the tremendous support staff in the Legal and Constitutional Committee offices—most particularly, Dr Pauline Moore, Mr Andrew Endrey, Mr Noel Gregory and other support staff, who all worked very hard and diligently and produced what I find to be a terrific outcome in terms of the exploration of these issues. I wish to place on the record, too, my thanks to the many people who provided the committee with quality reports. There were some superb submissions from people, with an extraordinary depth of academic research and personal passion, and I thank those people too.
field and in the courts of law. As I was listening to the evidence given in reference to this bill, it struck me just how careful we have to be, as a nation, to ensure that we do not in any way suppress parties or groups that may be vulnerable. The great statement of liberty is that we should support everybody who stays within the law and never try to suppress free speech or those who disagree with us. The very essence of this place is to have debate so that the wisdom of everybody comes across; so something comes across in the sense of being available to the community as a whole. They are very interesting points to think about.

I think this is a bill which, as the two previous speakers have said, will act as a ferment to further legislation which will, hopefully, come before this chamber, and at that point we can have further discussion about the matter. I very much look forward to a contribution by you, Mr Acting Deputy President, at that stage. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

COMMITTEES
Publications Committee
Report
Senator CALVERT (Tasmania) (10.04 a.m.)—On behalf of Senator Lightfoot, I present the 16th report of the Standing Committee on Publications.

Ordered that the report be adopted.

DEFENCE LEGISLATION AMENDMENT (FLEXIBLE CAREER PRACTICES) BILL 2000
First Reading
Bill received from the House of Representatives.

Motion (by Senator Ian Campbell) agreed to:
That this bill be now read a first time.
Bill read a first time.

Second Reading
Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (10.04 a.m.)—I move:

That this bill be now read a second time.
I seek leave to have the second reading speech incorporated in Hansard.

Leave granted.

The speech read as follows—
In accordance with the Government’s intentions to introduce flexible employment practices for members of the Australian Defence Force, the Defence Legislation Amendment (Flexible Career Practices) Bill 2000 amends Defence legislation to:

• extend the Limited-Tenure Promotion scheme to the promotion of officers of the Army to the rank of Lieutenant-Colonel and to the promotion of officers of the Navy to the rank of Commander;
• allow the rejection of a resignation of an officer of the Army, or Navy, which is tendered during an initial minimum period of service; and
• allow members of the Army and Navy to change the nature of their appointment (in the case of officers), or enlistment (in the case of soldiers and sailors), from open-ended to fixed.

The corresponding changes to the conditions of service for members of the Air Force will be implemented by amendment of the Air Force Regulations.

These amendments are part of a strategy to develop flexible employment practices to provide Service Chiefs with an enhanced ability to shape the Defence uniformed workforce.

Ordered that further consideration of the bill be adjourned to the first day of the 2000 spring sittings, in accordance with standing order 111.

COMPENSATION MEASURES LEGISLATION AMENDMENT (RENT ASSISTANCE INCREASE) BILL 2000
First Reading
Bill received from the House of Representatives.

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

Second Reading
Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the
Minister for Communications, Information Technology and the Arts) (10.06 a.m.)—I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

The Bill provides an important additional element of assistance to low-income private renters under the New Tax System.

The Government has decided to increase the maximum rates of rent assistance by 10% with effect from 1 July 2000. This means that the maximum rates of rent assistance for social security, family assistance and veterans’ affairs customers will be increased by 10% instead of the 7% increase announced previously.

This measure will invest an extra $33 million in support for lower income people in our community who are renting private accommodation. Caravan park, mobile home and boarding house residents are among those who will benefit.

In addition, the Government will put in place an education program for the caravan park and mobile home sector to ensure that both operators and residents are fully aware of the GST tax options and pricing implications.

This 10% increase in the maximum rate of rent assistance, on top of the 4% increase in pensions and allowances, will ensure that low-income members of the community will be protected from any price increases under the New Tax System.

Debate (on motion by Senator Quirke) adjourned.

Motion (by Senator Ian Campbell) agreed to:

That the resumption of debate on this matter be made an order of the day for a later hour today.

COMMITTEES

Rural and Regional Affairs and Transport References Committee

Report

Senator WOODLEY (Queensland) (10.07 a.m.)—I present the report of the Rural and Regional Affairs and Transport References Committee on the inquiry into the development of the Brisbane Airport Corporation’s Master Plan, 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 WOODLEY—by leave—I move:

That the Senate take note of the report.

I want to make a few very brief comments on this report. First of all, I put on the record my thanks to the secretariat for bringing us through what has been a very difficult process—not because the senators are difficult but because there were various opinions on this issue and we wanted to make sure that all of those opinions were recorded and treated fairly. So I give my thanks to Robina Jaffray and Andrew Snedden, who certainly helped to see us through, and especially to Trish Carling, who did an excellent job. I believe we have produced a report which will be read with great interest and will still be argued over, to a great extent. I do not say that we have actually solved all of the issues. There is some agreement in the report about the issues which are outstanding, and I hope that some division between the Labor Party and Liberal senators is also clearly recorded. I found myself in the middle or on one side or the other at different times.

Some critical issues have been raised in this report. One of those critical issues is the vexed question of consultation. In every inquiry in which I have been involved one of the points of debate is always the issue of consultation. By and large, I think the Brisbane Airport Corporation fulfilled the requirements of the act with regard to consultation. Nevertheless, there was—and still is—significant public controversy. Part of the problem is that governments need to address this issue of consultation. When we use the word ‘consultation’ to describe a particular action of government people hear that there is a two-way process happening. I think the normal meaning of the word ‘consultation’ suggests that there is a possibility of both sides supplying information and on the basis of that information both sides consulting and maybe changing their opinion and so on.

I think when governments use the word ‘consultation’ they really are thinking about supplying information. They are not neces-
sarily wanting feedback on that information or necessarily wanting to change their opinion; they are simply wanting to say to people, ‘We have consulted, because we have given you the information about the decisions which have been made.’ I think that is where the problem occurs. It is a misunderstanding on the part of those who hear the word ‘consultation’. All governments and all of us probably need to do a lot of work on this issue. We have suggested that perhaps the act should be amended to provide guidelines—or, if the act is not amended, governments themselves should work very hard on guidelines which would enable people to understand what consultation means. While that would not resolve conflict when people disagree strongly with a decision which has been made, it would nevertheless make it much clearer to people what is meant by the word ‘consultation’.

Another issue which arose and was mentioned in almost every submission was the problem of noise. But the issue, of course, with noise is that all of the evidence really relates to the current runway, not to a future runway. So we have suggested that the minister himself, along with other people, really needs to do something about this. The noise from the current runway is a problem, and the government has to give some attention to that. I noticed that yesterday there was a media comment—I think it was a comment in AAP—that new flight paths had been agreed to and, apparently, that may obviate some of the current problem. I hope so. That is certainly something which must be addressed.

The third point I want to draw attention to, because I do not want to spend a lot of time on the report, is that there is a need to amend the master plan, or perhaps to produce a new master plan, because the master plan currently speaks about a parallel runway, and the proposal presently before us really is for what would be better described as a staggered runway. So I draw attention to that. That is all I want to say, because I know my colleagues want to comment further. I seek leave to incorporate the tabling statement in Hansard.

Leave granted.

The tabling statement read as follows—

RURAL AND REGIONAL AFFAIRS AND TRANSPORT REFERENCES COMMITTEE REPORT ON THE INQUIRY INTO THE DEVELOPMENT OF THE BRISBANE AIRPORT CORPORATION MASTER PLAN

Terms of Reference

On 23 August 1999, the Senate referred to the Rural and Regional Affairs and Transport Committee an inquiry into the Development of the Brisbane Airport Corporation’s Master Plan for the future construction of a western parallel runway, with particular reference to:

(a) whether the Brisbane Airport Corporation (BAC) failed to adequately investigate all runway options, including the adequacy of the BAC’s methodology for evaluating runway options, including the economic, social (for example, comparative numbers of households affected by noise), environmental, public health and public safety impacts of each;

(b) whether the BAC failed to release flight path information to the community and, if so, why;

(c) the role of Airservices Australia and any conflict of interest which may exist between its BAC consultancy role and its obligation to provide advice to government;

(d) the adequacy of public consultation undertaken by the BAC; and

(e) why the Minister for Transport and Regional Services (Mr Anderson) proceeded to endorse the BAC Master Plan.

The Committee’s inquiry into the development of the Brisbane Airport Corporation’s Master Plan required detailed consideration not only of the Master Plan itself, but also of the legislation under which the Brisbane Airport Corporation, and other airport owners, operate.

The focus of the Committee’s deliberations included the requirements under the Airports Act 1996 for master plans and stakeholder consultation and the actual consultation undertaken by the Brisbane Airport Corporation.

During its inquiry, the Committee considered the following major issues:

the requirements of the Airports Act as they relate to the development of an airport master plan, including the purpose of airport master plans and major development plans;

the consultation process required by the Airports Act;

the consultation process undertaken by the Brisbane Airport Corporation in developing the
Master Plan and the approval process for a draft master plan under the Act; and

issues in relation to runway options and the provision of information on flight paths and the role played by AirServices Australia in the preparation of the Brisbane Airport Corporation’s Master Plan.

The Committee identified a number of major problems in relation to the master planning and related processes, including:

- the uncertainty surrounding the primary purpose of an airport master plan and the differing views in the community about the purpose of master plans;

- the lack of understanding about the master planning and major development planning processes; and

- the significant debate amongst sections of the community about the legal status of the Brisbane Airport Master Plan.

This last matter was the subject of legal advice to a number of parties involved in the inquiry, including the Brisbane Airport Corporation, the Commonwealth Department of Transport and Regional Services and the Committee itself.

**Limitations in the Airports Act 1996**

The Committee considers that the difficulties experienced in relation to the planning and consultation processes undertaken in relation to the Brisbane Airport Master Plan have arisen in part because of limitations in the Airports Act 1996. These limitations include:

- the lack of a statement of purpose for both an airport master plan and a major development plan;

- the lack of definition and information about the interrelationship between an airport master plan and a major development plan; and

- the lack of prescriptive information regarding consultation requirements generally, and of appropriately structured processes for conducting appropriate community consultation.

The Committee notes that under the Airports Act, an airport master plan is a planning document designed to identify the options for future development at an airport. However, the Committee is particularly concerned that the Act is silent on a purpose statement for an airport master plan. One of the major deficiencies of the Airports Act, in fact, is that it does not state the precise purpose and impact of a master plan, but leaves it open to interpretation. The absence of such a statement has led to significant confusion within the community and stakeholder groups about the purpose and status of airport master plans.

**Consultation under the Airports Act 1996**

The Airports Act 1996 sets out the requirements for public notification and consultation on the draft master plan and recognition of comments received. The Brisbane Airport Corporation undertook a number of processes to inform residents and stakeholders about the draft Master Plan, including public meetings, newspaper advertisements, the establishment of an information line and website and mobile displays.

The Brisbane Airport Corporation received over 4,000 submissions on the preliminary Draft Master Plan, principally expressing concern about noise levels. Much of the criticism centred around existing noise levels, but some criticism of the amount of information provided by the BAC and the extent to which the corporation had investigated alternate runway options was also evident.

The Committee notes the Brisbane Airport Corporation has undertaken a re-structure of its Brisbane Airport Environment Committee [BAEC] to enhance cooperation between the airport and the general community.

The Committee notes the consultation process undertaken by the Brisbane Airport Corporation with government, local industry and tourism organisations. Notwithstanding the actual consultation that took place, there was a strong community perception that the consultation with the public had been inadequate. The Committee considers that the Brisbane Airport Corporation conducted the public comment phase of the planning process in accordance with the requirements of the Airports Act. However, the Committee considers that, while minimum consultation arrangements are prescribed under the Act, there is nothing to prevent more extensive consultation from taking place.

The Committee is of the opinion that there is a community responsibility on the Brisbane Airport Corporation, as a responsible corporate citizen, to undertake meaningful consultation with the community so that affected groups and individuals can make informed judgements. The Committee does not accept that it is responsible or desirable corporate behaviour to limit consultation to the minimum required under the legislation.

The Committee considers that it would raise public faith in the BAC if the Corporation was to demonstrate willingness to go beyond the minimum legislative requirements to meaningfully consult with and consider the public as it proceeds with airport development. The Committee further notes that one of the principal deficiencies in the consultation process experienced by the local community was the failure of the BAC to advance
to the community a proper, comparative analysis of the various runway options. The lack of this information (including comparative ANEF maps and draft flight paths) impacted on the community’s ability to make a properly informed comment to the BAC and the Minister on the impact of the Corporation’s preferred runway option.

As noted above, the Committee considered the difficulties experienced in relation to the planning and consultation processes undertaken in relation to the Brisbane Airport Master Plan have arisen in part because of limitations in the Airports Act 1996.

Runway options and aircraft noise

Runway options at Brisbane Airport have been the subject of ongoing investigation since planning for the new Brisbane airport commenced. Alternate runway proposals mean changes to aircraft noise patterns. Aircraft noise over built up areas is a sensitive issue and one which all airport owners and/or lessees must be mindful of, particularly where further development is anticipated. The concern expressed by residents about the Master Plan in general and the runway options in particular, underlines the importance of full consultation on development options.

The issue of aircraft noise underlines the importance of full and open public consultation of matters relating to airports and especially of runway options, which are likely to have an impact on noise patterns and noise levels.

The Committee notes the volume of evidence given to the Inquiry about noise from the existing runway and recommends that this be addressed by the Minister. A noise amelioration program, similar to that announced by the Minister for Transport and Regional Services for Sydney Airport, should be considered.

Role of AirServices Australia

There appeared to be a community perception that AirServices Australia had a conflict of interest in providing advice to the Brisbane Airport Corporation as a consultant and then having been required to advise the government on technical matters associated with the master plan. While the Committee found that there was no actual conflict of interest it remains concerned that the potential for the perception of a conflict of interest is there, given the varied nature of AirServices Australia’s responsibilities under its legislation and its commercial operations.

Recommendations

Recommendation 1

1.2 That the Airports Act 1996 be amended to include an object and purpose statement for airport master plans.

Recommendation 2

1.3 That the Airports Act 1996 be amended to specify the relationship a major development plan has to a master plan.

Recommendation 3

1.4 That the Airports Act 1996 be amended to include more prescriptive requirements for community consultation by airport owners and airport-lessees.

Recommendation 4

1.5 That the Department of Transport and Regional Services develop a set of protocols which outline the requirements for community consultation in relation to airport master plans and major development plans.

Recommendation 5

1.6 That Brisbane Airport Corporation conduct more open consultation with affected groups, including community groups.

Recommendation 6

1.7 That the Airports Act 1996 be amended to place a responsibility on airports to disclose draft flight path information prepared by AirServices Australia to the public as part of draft master plans.

Recommendation 7

1.8 That Brisbane Airport Corporation investigate different community consultation models in order to identify the various ways in which more effective community consultation can be conducted.

Recommendation 8

1.9 That the dual roles of AirServices Australia of government adviser and external consultant be critically examined to determine whether there is potential for conflict of interest.

Senator MACKAY (Tasmania) (10.13 a.m.)—I will not speak for a very long period, but I also wish to add to the comments of Senator Woodley. I think it is fair to echo his comments that in fact this report does bring to a close what has been an interesting inquiry—probably like the Chinese curse, ‘May you live in interesting times.’ I would also like to acknowledge the work of the secretariat in assisting us in relation to the inquiry and preparing and negotiating the final report and of course echo Senator Woodley’s comments in relation to Trish Carling,
Robina Jaffray and Andrew Snedden, who were very helpful indeed in relation to this. I would also like to thank—and obviously Senator Woodley cannot do this himself—Senator Woodley, whose guidance and patience I thought were very important and critical in bringing together a report which was quite complex, given the issues and the strength of feeling involved and the rather lengthy gestation period. I think Senator Woodley asserted—and I have no reason to disbelieve him—that this has been going on for many years and is not simply a recent issue.

There are a couple of areas I would like to briefly touch upon in relation to the report. Firstly, I was struck, as were others, by the strength of community concern in relation to the Brisbane airport master plan. That was illustrated by the range of community submissions that we received. It was also illustrated by the more than 200 Brisbane residents who attended the public forum on Tuesday, 16 November, which was held in the afternoon. We in politics know that if you are staging a public meeting at 4 o’clock in the afternoon and you get 200 people, it is not a political exercise. That is an echoing of genuine concern in the community. I would like to use that to refute some of the allegations that have been made by the government in relation to this matter. At the forum we heard first-hand about residents’ experiences of aircraft noise and the concerns that they had about the public consultation during the development of the master plan.

I would like to thank, on my own behalf and on behalf of members of the committee, the community groups which gave an enormous amount of time in appearing before the committee and preparing written submissions. I would like to make special mention of Ban Aircraft Over Residential Brisbane and their president, Ms Jackie Can; the Sheldon Group; Mr Damien Cronin and the Hipwood Road residents; and Mr Barry Wilson and the Rivermouth Action Group. I would also like to acknowledge written submissions from the following individuals and community groups: Ms Mel Flesser, the Anglican Church Grammar School, Ms Sue Pook, Mr Laurie Jeays, Mr Arthur Pierce, Saints Peter and Paul’s School, Nudgee Beach Progress Association, Councillor Kim Flesser, Nudgee Beach Residents and Supporters, Mr Joe Fagan, Mr Neil Roberts MLA, Mr James Lindley, the Brisbane Airport Environment Committee, Bulimba State School P&C Association, Cannon Hill Anglican College and Lourdes Hill College.

There was an awful lot of claim and counterclaim about the alleged politicised nature of this inquiry. It was alleged by one witness in particular that it was a waste of the Senate’s time and resources, and this particular group found it outrageous that taxpayers’ money was being spent to investigate this. I am sure my colleague Senator Quirke will remember that witness only too well. I would like to refute those allegations. The Senate and the parliament of Australia have a role in investigating the concerns of people in the community. That is our job. It is relatively difficult these days to come up with many community issues which do not involve a number of competing interests and differing points of view. One thing the Senate can do, and it does it well, is to provide a forum for Australians to raise concerns directly with the elected representatives of the people.

You just need to look at the level of support for this inquiry to see how the Brisbane community jumped with alacrity at the chance to have their say on this issue and the future of the airport. It is easy for the big end of town to influence decisions through PR consultants and big advertising campaigns, but it is a lot more difficult for members of the community to have access to those sorts of resources in terms of influencing governmental and other decisions.

I would like to acknowledge the intestinal fortitude and the tenacity of the two federal members involved: the member for Lilley, Mr Wayne Swan, and the member for Griffith, Mr Kevin Rudd. Their job is to represent the views of their constituency, and I suspect that, if the shoe were on the other foot, people from the other side of the chamber would be making exactly the same point. As Senator Woodley has pointed out on many
occasions, this is not a new issue. This has been going on for many years. Representations were made to the members and they represented the views of their constituency. That is what we do as members of parliament, and I think it is fair to acknowledge the efforts and the tenacity of those individuals—and perhaps one in particular in this matter. I think they did a great job in standing up for their communities and sticking with what is an extremely complex issue.

With regard to the report itself, I would like to point to the areas where Labor senators have disagreed with the majority. I have to say that, given the complexity of the issue, they were not legion. Firstly, the Brisbane Airport Corporation, in our view, did not conduct a proper public comment phase in the planning process. This goes to the issue of the responsibility of the Brisbane Airport Corporation in its corporate citizenship. This is a corporation which stands to profit significantly from an expansion of the airport, and we are of the view that there is a wider responsibility to hold meaningful consultations with the community so that affected groups and individuals can make an informed judgment.

Labor senators on this inquiry did not accept that it is responsible or desirable corporate behaviour to limit consultation to the minimum required under legislation, particularly when that legislation appears clearly deficient in the area of specifying open consultative requirements. I think this is something Senator Mason and I could agree on. I say that in the full knowledge that this act was initiated by a Labor government, but time moves on. As Senator Woodley has said, the issues these days are complex, and I think that people are much more aware of their own capacity to influence decisions and much more demanding of the political process, and so they should be. I think it is about time that governments of whatever persuasion looked at the nature of consultation and, as Senator Woodley said, ensure more of a two-way street, particularly when big corporations are involved. The BAC is not alone in this type of attitude—another good example would be the banks.

Secondly and finally, I would like to reinforce the findings of the report that there need to be some further refinements of the Airports Act to address some of the areas of concern, again acknowledging that it was a Labor initiated act, supported by the now government. Many of the problems and complaints surrounding the master plan process could have been avoided with a more detailed set of requirements. I think this government and any prospective governments, of whatever complexion, should take this on the chin—and I say that in the full awareness that we may be in government in the not-too-distant future.

The main areas needing attention are those of public consultation and the relationship between a master plan and a major development plan. I hope that, with some goodwill from the government, many of the problems identified in this inquiry can be dealt with adequately in the future. In conclusion, I would like to say that Senate inquiries are not there to serve particular interests relating to the minima of an act but rather to provide a forum for people to have their say, and I think this is something the Senate does very well. I would like to thank all the senators for their assistance in the difficult circumstances of what was really a very good inquiry, particularly Senator Mason, my colleagues, Senator Woodley, and, of course, Senator Parer, who was on the inquiry at that point.

Senator MASON (Queensland) (10.23 a.m.)—Can I first thank my Senate colleagues, who all suffered different pressures and burdens along the way and, particularly, the chairman and the secretariat, who did a terrific job in quite difficult circumstances.

In late August last year, the Senate referred to the Rural and Regional Affairs and Transport References Committee the matter of the development of the Brisbane Airport Corporation’s Master Plan. That master plan, which was approved by the Minister for Transport and Regional Services in February last year, foreshadowed, in general terms, plans for a new parallel runway to be constructed at some point in the future to ease air traffic congestion at Brisbane airport. The concept of a new runway is not new; it was included in the plans of the Brisbane Airport
Advisory Committee as early as 1971. It was again foreshadowed in Brisbane airport’s first master plan in 1983 and has been a part of subsequent master plans ever since. For almost 30 years, the parallel runway was an uncontroversial part of the proposed development of Brisbane airport; it attracted little attention. This all suddenly changed in the run-up to the 1998 federal election when Mr Kevin Rudd MP, federal member for Griffith, and Mr Wayne Swan MP, federal member for Lilley—then Labor candidates—started a campaign to dissuade the Minister for Transport and Regional Services from approving the Brisbane Airport Corporation’s Master Plan, which, again, included the proposal for a parallel runway.

So what changed to suddenly make the parallel runway a controversial issue in the south-eastern and north-eastern suburbs of Brisbane after almost 30 years of silence? Well, the evidence from Mr Rudd and Mr Swan was that what changed was the terms of the Airports Act 1996. In essence, the argument ran, the master plan, which until this time had simply been a planning document, had now become a document which bound the government. According to Mr Rudd, this change in the legal status of the master plan set in concrete the development of a western parallel runway without giving affected residents sufficient input into the decision. Let me repeat: the primary justification for this entire inquiry lies in Mr Rudd’s and Mr Swan’s assertion that the Brisbane Airport Corporation Master Plan determines the issue of runway development at Brisbane airport.

But their interpretation of the Airports Act is wrong and has been clearly demonstrated to be wrong. It is wrong for two very simple reasons. First, the master plan itself is a very general planning document, and the actual construction of a runway requires preparation of a major development plan. A major development plan entails its own very detailed and comprehensive consultation and assessment processes. Secondly, and much more importantly, the master plan itself can be amended if the need to do so arises. In either case, the residents of areas directly affected by the development will—indeed, must—be given ample opportunity for further input. Mr Rudd was notified as early as December 1998 by Minister Macdonald, and subsequently Minister Anderson, about the correct interpretation of the act. No legal advice has been either tendered to the committee or obtained by the committee that accords with the views expressed by Mr Rudd and Mr Swan as to the legal status of the master plan. None. On the contrary, the legal advice obtained by the Department of Transport and Regional Services from the senior general counsel of the Australian Government Solicitor, and by the Brisbane Airport Corporation from Malleys Stephen Jaques, and presented to the inquiry, as well as legal advice obtained by the committee from Emeritus Professor Denis Pearce, clearly contradicts the selective presentation of the law by Mr Rudd and Mr Swan. While Mr Rudd’s and Mr Swan’s understanding of the master plan under the Airports Act is incorrect, that is not really the issue. We all make mistakes, you might say.

The issue is why a former Director-General of the Queensland Cabinet Office and a former secretary of the ALP propounded their view in numerous articles and letters to the community and constituents without adequately checking on the legal status of the master plan. Mr Rudd never took the time to seek advice to check what he himself stated in his own evidence before the committee was the radical change in law underlying his entire public campaign and this Senate inquiry. His actions in continuing to promote to the electorate his own personal opinion, without apparently obtaining any independent legal advice to check its accuracy, are less than might be expected from a responsible member of parliament. It was reckless to demand an inquiry to resolve an issue that would have been settled for him by any competent lawyer, had he chosen to seek legal advice. The resources of the Senate and the committee, both financially and in terms of time, have to a large extent been wasted in this crude political exercise. Mr Rudd’s and Mr Swan’s campaign seems even more ironic in light of the fact that the Airports Act was originally drafted by the Labor Party, as my colleague Senator Mackay mentioned. While it was enacted by the coalition government after coming to power in 1996, I think we would all agree it was done with the com-
complete support of the Labor opposition; there would be no argument there.

The act itself is working. There is no evidence whatsoever of any confusion from the people directly connected with preparing and implementing the master plan: the Brisbane Airport Corporation, the department, the planners and the legal advisers. There is also no evidence of confusion from any of the other seven Australian cities, including Melbourne, Perth and Townsville, where airport master plans have been prepared over the last three years in accordance with the Airports Act. The only place where there seems to be problems is Brisbane. The only people who seem to be confused are Mr Rudd and Mr Swan, and of course the people they have misled.

It is sadly clear that this has been, from start to finish, a purely political exercise. The issue was manufactured, perhaps cleverly, in the run-up to the 1998 federal election and deliberately confused with issues of existing aircraft noise. A Senate inquiry was launched, and throughout all this Mr Rudd failed to exercise his duty of care as an elected member of parliament. He did not check the law once. We have had public meetings, fear and confusion, a major election issue and a Senate inquiry all based on an unfounded and unchecked legal assumption. Mr Rudd, why didn’t you check? You received ministerial advice that your position was wrong and misleading. Why still didn’t you check? You received ministerial advice that your position was wrong and misleading. Why still didn’t you check? Have you spoken to your shadow transport minister, Mr Ferguson? Have you spoken to Mr Brereton, who, over four years ago, drafted the act? Have you spoken to the Labor Lord Mayor of Brisbane, Councillor Jim Soorley? Will they come out and support you? Will they back you up? Will Mr Swan back you up? I know he has gone silent on this issue all of a sudden. Mr Rudd and Mr Swan have merely succeeded in fomenting public dissatisfaction for their own political ends. By sowing confusion in the community, they have caused fear and uncertainty to rise and the property values in their electorates to fall as people needlessly worry about the hypothetical impact of airport development on their homes. In the end, the construction teams are not ready to move and will not move for quite some time. The concerned residents will be given ample opportunity to put their views across when the major development plan is being considered.

This inquiry has achieved little for the residents of the electorates of Griffith and Lilley. Labor started this inquiry, and now the inquiry has come back to haunt them. The legal underpinnings of their case have been proven false and have been knocked out. What is left? Not very much, except over 100,000 residents of Griffith and over 100,000 residents of Lilley who have been misled. One thing is for certain—they will not learn the full truth of this from their elected representatives. If this is what goes for credible and sensible political representation, then the electors of Griffith and Lilley have been badly let down by people in the highest positions of public trust.

Senator QUIRKE (South Australia) (10.32 a.m.)—I will not take up too much of the Senate’s time today, but I must say that Senator Mason has provoked us. He is a very provocative senator, and he certainly provoked us on this. I have to tell Senator Mason, through you, Mr Acting Deputy President, that occasionally when you go fishing and go to a trout farm you do not have to worry too much about the quality of the bait. In Senator Mason’s case, you do not have to worry about any bait at all—you just shove the hook out and he jumps straight on. I am sure copies of the address he has just given will be in the homes of everyone who is concerned about this airport within a matter of days, because Senator Mason has shown an absolute callous disregard for people who are very concerned about what is happening at Brisbane airport. I went through this inquiry, as people know, and I think the BAC went out there and did its best with what it interpreted to be necessary under the act. I think the BAC is concerned about what is happening. Obviously, it has an airport to run. It has purchased an airport, it has to make it function and that is fine. What the people around that airport want is someone who is sensitive to their issues. What they do not want is some-
should not do anything before you run around to your lawyer.

Senator Mason—Why didn’t Mr Rudd check the law?

Senator QUIRKE—I listened to you quietly; now you listen to me. The people around the airport do not want someone running around and saying, ‘I can’t do this. I haven’t got the right legal advice.’ They want someone who will sensitively listen to their complaints and do something about them. That is what elected representatives are supposed to do. Senator Mason may learn that lesson eventually; I am not sure that he has in this exercise. But I will say this: Senator Mason has made it crystal clear where the line of divide on this issue is. If you care about the things that are happening at Brisbane airport, you will support the representatives who take you seriously and not someone who gets up on a soapbox, starts making callous and, dare I say, rather elitist remarks and suggests that you ought to go down and consult your lawyer before you do anything. I do not think that is going to go down too well. I will also say this: I am not normally as provocative as this, but if somebody comes in here and wants to attack other representatives for doing their jobs as they see fit then they deserve it. What is more, more of it will be meted out. At the end of the day, I do not know where Senator Mason is coming from. I do not know whether he has ever heard of the problems in Sydney. He did not mention Sydney. He mentioned Townsville and a few other places.

Senator Mackay—What about Adelaide?

Senator QUIRKE—There are a few other representatives around the place who are a bit concerned about what is happening in Sydney, and I could list them all. Quite a few of them actually sit on the other side of politics. The mention of Adelaide by Senator Mackay is a good example. In fact, I seem to remember a bill going through this place and the other place, and who put it up? The Liberal member for Hindmarsh, Mrs Gallus! Was she just pandering to a little audience out there? I wonder whether she went to her lawyer first. I wonder whether she went to some Bombay lawyer around the place who gives advice or whether she thought, ‘Maybe I’d better look after my constituents.’ I seem to remember that we actually supported that measure. I seem to remember us saying, ‘Mrs Gallus, you are a kind and considerate person whose heart is in the right place. We think you’re right and we will support you.’

If we had not done that, we would have said, ‘Mrs Gallus, we think you are a kind and supportive person. You are sensitive, but we think you’re wrong.’ Instead of getting up and trying to take some advantage out of the whole thing—which, by the way, is no advantage—the hook was jumped on. I would suggest that, if Mr Rudd and Mr Swan are the sorts of persons that Senator Mason says they are, by about June 30—which is tomorrow—copies of Senator Mason’s speech will be in a lot of hands in those electorates, with some recommendations about how they ought to vote next time around. Senator Mason has a lot to learn about this sort of stuff, and I do not think he ought to be meting out advice to other politicians around the place until he learns that he might win the legal argument. But voting is all about the hearts and minds of the electorate. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

BROADCASTING SERVICES AMENDMENT (DIGITAL TELEVISION AND DATACASTING) BILL 2000
DATACASTING CHARGE (IMPOSITION) AMENDMENT BILL 2000

In Committee
BROADCASTING SERVICES AMENDMENT (DIGITAL TELEVISION AND DATACASTING) BILL 2000

Consideration resumed from 28 June.

(Quorum formed)

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (10.41 a.m.)—by leave—I move government amendments Nos 29 to 31 on sheet EK215:

(29) Schedule 1, item 140, page 58 (line 6), omit “about any or all”, substitute “, or directly-related comment, about any of a wide range of matters, including any”.

(30) Schedule 1, item 140, page 58 (line 18), omit paragraph (b), substitute:
(b) enable and/or facilitate the carrying out and/or completion of transactions;

(31) Schedule 1, item 140, page 58 (lines 19 and 20), omit “little or no emphasis on dramatic impact or entertainment value”, substitute “not a significant emphasis on dramatic impact or entertainment”.

The purpose of these amendments is to enable information-only programs to include, in addition to factual information, directly related comment about any of a wide range of matters, including—but not limited to—those listed in clause 4(1)(a); to facilitate the carrying out of the completion of transactions; and to modify the requirement relating to dramatic impacts in entertainment value to read ‘not a significant emphasis on dramatic impact or entertainment’. The amendments clarify the definition of an information-only program in clause 4 of proposed new schedule 6.

Amendment No. 29 modifies the definition of an information-only program in clause 4 of proposed schedule 6 to allow a datacasting service to provide programs containing, in addition to factual information, directly related comment on a wide range of issues, including matters set out in proposed clause 4(1)(a). Amendment No. 30 modifies the definition of an information-only program in clause 4 of proposed schedule 6 to clarify that a datacasting service can facilitate the carrying out and/or completion of transactions. The current definition of an information-only program includes programs which enable people to carry out transactions. To clarify that, in this context the reference to ‘enable’ is intended to allow all steps in a transaction; the definition is amended to cover matters which are ‘to enable and/or facilitate the carrying out and/or completion of transactions’. Amendment No. 31 modifies the definition of an information-only program to clarify that the program is allowed where there is no significant emphasis on dramatic impact or entertainment.

Senator MARK BISHOP (Western Australia) (10.43 a.m.)—The opposition will be supporting these amendments, subject to the following minor amendment. I move:

After “including”, insert “but not limited to”.

I understand this is acceptable to the government.

The TEMPORARY CHAIRMAN (Senator Calvert)—The question is that that amendment be agreed to.

Question resolved in the affirmative.

The TEMPORARY CHAIRMAN—The question is now that the amendments, as amended, be agreed to.

Question resolved in the affirmative.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (10.45 a.m.)—I withdraw government amendments Nos 35 to 41 on sheet EK215. I seek leave to move government amendments Nos 27, 45, 47, 49 and 50 together.

Leave granted.

Senator ALSTON—I move:

(27) Schedule 1, item 140, page 55 (after line 6), after the definition of current affairs program, insert:

declared Internet carriage service has the meaning given by clause 23B.

(45) Schedule 1, item 140, page 68 (line 2), after “Internet carriage service”, insert “(other than a declared Internet carriage service)”.

(47) Schedule 1, item 140, page 69 (line 9), at the end of subclause (9), add “(other than a declared Internet carriage service)”.

(49) Schedule 1, item 140, page 70 (before line 11), before Division 3, insert:

DIVISION 2A—GENRE CONDITIONS:
ANTI-AVOIDANCE

23B Anti-avoidance—declared Internet carriage services

(1) If:

(a) the whole or a part of a datacasting service provided under a datacasting licence consists of an Internet carriage service; and

(b) one or more persons enter into, begin to carry out, or carry out, a scheme; and

(c) the ABA is of the opinion that the person, or any of the persons, who entered into, began to carry out, or carried out, the scheme did so for the sole or dominant purpose of avoid-
ing the application to the licensee of Division 1 or 2;
the ABA may, by writing, determine
that, for the purposes of the application
of this Schedule to the licensee,
the Internet carriage service is a declared Internet carriage service.

(2) The person, or any of the persons, referred to in paragraphs (1)(b) and (c)
may be the licensee.

(3) A determination under subclause (1) has effect accordingly.

(4) In this clause:
scheme means:
(a) any agreement, arrangement, understanding, promise or undertaking,
whether express or implied and whether or not enforceable, or intended to be enforceable, by legal proceedings; or
(b) any scheme, plan, proposal, action, course of action or course of conduct,
whether there are 2 or more parties or only one party involved.

(5) Schedule 1, item 140, page 93 (after table item 2), insert:

2A that an Internet carriage service
is a declared Internet carriage service
subclause 23B(1) licensee

The purpose of these amendments is to ensure that datacasters do not use the Internet carriage service provisions in the bill as a means of circumventing the genre restrictions by providing a point-to-multipoint broadcasting service. This is a generic anti-avoidance clause. The amendments have the effect of prohibiting datacasters from providing Internet carriage services where they have been determined by the ABA to be ‘declared Internet carriage services’. Concerns have been raised that the provisions of the bill may have had the unintended effect of allowing datacasters to use Internet carriage services to provide point-to-point broadcasting services, thereby circumventing the intent of the datacasting provisions.

The bill currently allows datacasters to provide an Internet carriage service which is exempt from the genre rules. The policy intention behind this is that datacasters should be able to use their spectrum to allow users to have direct connections to the Internet, without the datacasting licensee being legally responsible for the nature of any content accessed and downloaded privately by individuals. However, this exemption does not apply where a datacaster selects and copies content from the Internet and provides it to users, thereby assuming responsibility for the nature of that content. It has been suggested that the Internet carriage provisions in the bill as drafted could have the unintended effect of exempting a point-to-multipoint broadcasting service, where such a service was provided as an Internet carriage service by the datacaster. This could provide a mechanism for a datacaster to provide a high quality broadcasting service while avoiding the genre restrictions.

The amendments provide a mechanism that gives the ABA a broad power to take action should this occur. It inserts new anti-avoidance provisions in schedule 6 of the Broadcasting Services Act, which establish the concept of a declared Internet carriage service that is not allowed to be provided by a datacaster. The ABA can declare a service to be a declared Internet carriage service where the service is a service provided by a datacaster as an Internet carriage service, but where one or more persons enter into, begin or carry out a scheme and the ABA is of the opinion that the person or persons did so for the sole or dominant purpose of avoiding the application of the genre or audio content provisions. The term ‘scheme’ means:

(a) any agreement, arrangement, understanding, promise or undertaking,
whether express or implied and whether or not enforceable, or intended to be enforceable, by legal proceedings; or
(b) any scheme, plan, proposal, action, course of action or course of conduct,
whether there are 2 or more parties or only one party involved.

Senator MARK BISHOP (Western Australia) (10.48 a.m.)—This series of amendments is clearly ancillary to and consequential upon the genre approach of the government in terms of classification that is now part and parcel of this bill. As a consequence of that, it is clearly necessary. The opposition supports the amendments.

Amendments agreed to.
The TEMPORARY CHAIRMAN (Senator Calvert)—We now move to the Australian Greens amendments. Senator Brown, I understand that you have to withdraw an amendment before you move something else. Then you also have to amend something from the floor, don’t you? It is pretty complicated.

Senator BROWN (Tasmania) (10.49 a.m.)—Yes. I withdraw the original Australian Greens amendment No. 2 on sheet 1857 and replace it with revised amendment No. 2. Then I wish to amend the date ‘January 2001’ and replace it with ‘January 2002’ where it appears. I seek leave to move amendments Nos 2 and 3, including revised amendment No. 2, on sheet 1857 together.

Leave granted.

Senator BROWN—I move:

(R2) Schedule 1, page 53 (after line 8), after item 139, insert:

139A After clause 60A of Schedule 4 Insert:

60B Review before 1 January 2002

(1) Before 1 January 2002, the Minister must cause to be conducted a review of the regulatory arrangements that should apply to the digital transmission, free of charge, of community television broadcasting services using spectrum in the broadcasting services bands and whether spectrum access should be provided by:

(a) datacasting licensees as a condition of their licence; or

(b) sharing multi-channel capacity with one or both of the national broadcasters.

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

Senator MARK BISHOP (Western Australia) (10.49 a.m.)—I request clarification from Senator Brown. Is your amendment substantially in the same terms and does it seek to achieve the same purpose as the previous amendment put forward by the Australian Democrats? I am a bit unclear on that point.

Senator BROWN (Tasmania) (10.49 a.m.)—I think I might leave Senator Bourne to explain that. It is substantially similar but it goes a little further. It seeks a ministerial review of regulatory arrangements on digital transmission of community television broadcasting services. But it takes the attitude that these will be free of charge, because that was established in 1998 and does not need to be revisited. This review by the minister should look at:

... community television broadcasting services using spectrum in the broadcasting services bands and whether spectrum access should be provided by:

(a) datacasting licensees as a condition of their licence; or

(b) sharing multi-channel capacity with one or both of the national broadcasters.

It may be in (b) that we have a difference with Senator Bourne.

Senator Bourne—It certainly is.

Senator BROWN—I want to make it clear to the committee that this is a review being sought. It is not mandating anything. If the review is to take place, it is a review to see that community television broadcasting services not only exist but also get some certainty. They have not got certainty at the moment, but they are important. Some eight channels have been established—a new one in Perth in the last year—but they have been given absolute uncertainty by this parliament. It is time they were given certainty; it is time we stopped mucking around as far as community broadcasting is concerned.

Senator Alston—What about grandstanding?

Senator BROWN—I get ‘grandstanding’ twice a day from the minister opposite simply for bringing up an alternative point of view. Let me say that the government does not have a monopoly on points of view in this country of ours. This is a democracy, and we have a multiplicity of points of view. I will continue to bring up points of view that the government does not like. If the government wants to abolish community broadcast-
ers, it should say so. But this motion says to the minister that there is a responsibility on him to foster community broadcasting and to give it certainty.

I am listening to what the other components of the chamber have to say. I thought that it should have been done by now. The Greens wanted this to be completed by the end of this year. But I am hearing that that is not amenable to other people on this side of the chamber so I have changed the date to the end of 2002.

Senator Bourne interjecting—

Senator BROWN—The Democrats agree with that, but not 2001. I cannot understand that. I think this matter is not that complicated. It simply puts it into the next period of government and effectively allows this government to escape the responsibility of doing something definite for community broadcasting in Australia. I have made this amendment to my amendment in the hope that the rest of this amendment will get up.

I say to the Democrats: yes, this does raise the option in a review of looking at sharing multichannel capacity with one or both of the national broadcasters. The question I put to the Democrats, the Labor Party and the government is: where is the defined policy as to how Australian community broadcasting will get its small slice of the digital spectrum? We should be looking at all the options. We should be dealing with an option in the wake of a minister’s report. To close down those options before the minister gets under way seems to me not to be very sensible.

I prefer option (a) under this amendment, which is that datacasting licensees provide part of the spectrum—and it will be a small part—to community broadcasters. The option of sharing the multichannel capacity of the national broadcasters should be there as part of the review. I commend this amendment to the chamber. I want to make sure that we do come up with an option which moves towards the Community Broadcasting Association’s goal of knowing where they stand and entering into the age of digital technology.

Senator BOURNE (New South Wales) (10.54 a.m.)—In response to a couple of things that Senator Brown has said, I point out that we would have been happy with 2001; we are happy with 2002. There is a drafting error in our amendment. It is a drafting error on my part, not on the drafters’ part. I did intend to put 1 January 2002 in my amendment. So I am quite happy with 2002. I would have been quite happy with 2001. If you want to leave it there, I will vote for it, but I do not know whether you will get everybody else to vote for it.

I am having a look at the differences between Senator Brown’s amendments and my own. The differences that I can see are, first of all, that he is assuming that spectrum is free. I would agree with that. In fact, I had that amendment drawn up first. I was given some advice that it was probably unconstitutional, which has now been revised to it being constitutional. That said, fabulous, I will vote for it. The datacasting licensees as a condition of licence provision is excellent. I am into that. My only problem is with sharing the multichannel capacity with the national broadcasters.

Senator Brown has not been following this debate forever, and who can blame him. There are an awful lot of debates I have not been following too. This has been a debate about what should happen, but there are some problems. I cannot vote for that. The ABC and SBS are now legislatively required to broadcast in both HD and SD: the simulcast issue has come up and simulcasting has been agreed to by all parties. The ABC and SBS will also be doing a bit of datacasting and they have been given multichannel. There is no space, there just is not any room, for them in their seven megahertz to fulfil their legislative requirements and also multiplex with community broadcasters.

I know the community broadcasters thought this was a good idea because it would help them for a long time. But I just do not think it is technically possible. I think it is technically impossible for it to happen. Plus, why should our national broadcasters be forced to give up some of their space? Why should we not force the free-to-airs to give up some of their space? I do not see why the national broadcasters should be disadvantaged by this. In fact, what I think should
happen is that community broadcasters and indigenous broadcasters should be given their own space. I find it quite mystifying the way the whole thing is being handled by the government at the moment.

The minister has put out press releases that say all the right things, but nothing seems to be happening. At the committee hearings that we had into the legislation—and Senator Bishop and I were both on the committee—we asked the department about this. The department just kept telling us it would be all right. We would like to know how it will be all right. We do not think it will be all right if there is the possibility of the national broadcasters having to give up their space. They cannot do it and do all the other things that they are legislatively required to do under this legislation within the spectrum that they have. They have enough imposts on them already. We really believe that community and indigenous broadcasters should be given their own spectrum and should be allowed to use their own spectrum as they wish. I would be interested to hear what the minister actually intends to do with community broadcasters. We have seen his press release, but we have not heard a great deal about what is happening.

Senator MARK BISHOP (Western Australia) (10.58 a.m.)—It is my understanding that if the Australian Greens amendment (2) is defeated, Democrat amendment (R32) on sheet 1862 will come forward. My understanding is that the Democrats agree to the proposal to bring forward the review date to 1 January 2002. That being the case, we will oppose the Greens amendment and support the Democrat amendment when it comes forward. Our understanding is that the content of the two amendments is very close, if not identical. On that basis, the merit of the review is clearly understood and agreed by those on this side of the chamber.

As for comments about the community broadcasters, after hearing submissions from representatives of the community broadcasters that they needed access to spectrum, the opposition did make the point in its minority report—and this remains its view to date—that the community broadcasters are entitled to legislative certainty. We think having a specific finite date of report in this review goes a significant way down the road to giving them that legislative certainty. We look forward to looking at the content of the review when it does come down in due course.

Senator BROWN (Tasmania) (11.00 a.m.)—My response to that is: I wonder whether the opposition will accept a review date of 2001. The problem with not having a review date of 2001 is that—

Senator Alston—That is six months.

Senator Mark Bishop—Yes, it’s too short.

Senator BROWN—The year is 2000.

Senator Alston—You want it done within six months.

Senator BROWN—That is right. The information is available on all the matters that are here. If the minister cannot do it in six months, then so be it. Let that speak for itself. I was interested to hear Senator Bourne say that she would be amenable to 2001, and I would have thought that was a reasonable date. The uncertainty goes on, and I would not like it to be barrelled on for another year if we can bring it forward.

This is the other point I would make: it appears that I am not going to get support for the Greens’ amendment, which is the best. When we get to Senator Bourne’s own amendment, it will be seen that it removes the words ‘and whether access to spectrum should be provided free of charge’. I cannot see why we should be going back into that matter. It was resolved in 1998. It is the basis upon which all parties moved forward. The government said in 1998 that it was going to move ahead and provide a conversion scheme for community broadcasting—but nothing has happened. The more ground we go over again, the less likely it is that we are going to get a result.

It has been determined by all parties that this access to the spectrum should be free of charge. I would seek advice from Senator
Bourne and Senator Bishop as to whether we might not, when we move to it, delete that section. Otherwise, I will not be happy with the amendment, and we will get into this difficulty again where we will not progress the issue.

Senator MARK BISHOP (Western Australia) (11.02 a.m.)—Perhaps I can request clarification on that point from Senator Brown and possibly thereafter Senator Bourne. Senator Brown, are you requesting that the reference to the provision of spectrum free of charge be put into or taken out of Senator Bourne’s amendment?

Senator BROWN (Tasmania) (11.03 a.m.)—I am saying that the provision of spectrum free of charge should be taken out. It is there at the moment. You will see it at the end of the first paragraph of Senator Bourne’s amendment. That is 60B(1). The last phrase is ‘and whether access to spectrum should be provided free of charge’. If that could be deleted, I would be much happier with that alternative.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (11.03 a.m.)—Before there is general agreement on it, I would like to speak on this issue. I would apprehend that what Senator Bourne has in mind is not so much whether the community sector should have to pay but whether anyone else might have to pay.

Senator Bourne interjecting—

Senator ALSTON—No. If you have a multiplex arrangement and you reserve a portion of the spectrum for the community sector, the issue is whether the multiplexer has to provide it free of charge. If they do, they will pay less up-front. So I think it is the arrangements that underpin the provision of that guaranteed portion of the multiplexed spectrum that really need to be explored. There is no reason, if you are so confident about all of this, why those issues should not be addressed in that inquiry.

Certainly, in terms of whether it should happen in the next six months, I would simply say that the community sector itself is still not in a position to put forward its own plans for the future. So I think they would appreciate more time. If you had a review before 1 January 2001, they would have to knock up a submission in the next month or two, which they are simply not in a position to do.

More importantly, I think everyone wants to see the outcome of the spectrum clearing arrangements. We are committed to having a review by 31 October of all that might be involved in expediting the spectrum clearing process. Until you know that, until you know what is available and—I think just as importantly—how the system beds down once digital is introduced in 2001, then it is entirely premature to be having this sort of review. You would probably need to have it in another 12 months time anyway.

All I can say is that I accept that the view of Labor and the Democrats is that 2002 is reasonable, and we would not quarrel with that. But we would certainly say that it would be a complete waste of time and money to have one in the next six months.

Senator BOURNE (New South Wales) (11.05 a.m.)—In response to the minister, on the issue of whether the access to spectrum should be provided free of charge: my original idea was that the community broadcasters ought to be able to broadcast on the same basis upon which they broadcast now. So I think it is the arrangements that underpin the provision of that guaranteed portion of the multiplexed spectrum that really need to be explored.
the impression that the view of this parliament is that it should be, but the question of how it can be done would be covered under that review.

Senator MARK BISHOP (Western Australia) (11.07 a.m.)—I will just indicate to the chamber that the insertion of the word ‘how’ in lieu of the word ‘whether’ appears to address the concerns raised by Senator Brown and maintains consistency with the expressed undertakings deriving from the 1998 framework legislation. If Senator Bourne in due course wishes to amend her amendment to that effect, the opposition is quite comfortable with that.

The TEMPORARY CHAIRMAN—Perhaps we could dispose of the Green amendment.

Senator BROWN (Tasmania) (11.08 a.m.)—I seek leave to withdraw my amendment, regretfully.

Leave granted.

Senator BROWN—I want to clarify the amendment to the date: where 2003 appears twice in Senator Bourne’s amendment, it will become 2002.

The TEMPORARY CHAIRMAN—We now move to Democrat amendment R32 on sheet 1862. Senator Bourne, could you please explain what you had in mind?

Senator BOURNE (New South Wales) (11.08 a.m.)—I would like to amend amendment R32, as circulated, to remove 2003 wherever it appears and to replace it with 2002, and in 60B(1) in the last line where ‘whether’ appears to replace that with ‘how’, so it would read:

...using spectrum in the broadcasting services bands and how access to spectrum should be provided free of charge.

Accordingly, I move:

(R32) Schedule 1, page 53 (after line 8), after item 139, insert:

139A After clause 60A of Schedule 4
Insert:

60B Review before 1 January 2002
(1) Before 1 January 2002, the Minister must cause to be conducted a review of the regulatory arrangements that should apply to the digital transmission of community television broadcasting services using spectrum in the broadcasting services bands and how access to spectrum should be provided free of charge.

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

Senator MARK BISHOP (Western Australia) (11.09 a.m.)—The opposition supports the amendment.

Amendment agreed to.

The TEMPORARY CHAIRMAN—We now move to opposition amendment (46) on sheet 1823.

Senator MARK BISHOP (Western Australia) (11.09 a.m.)—I move:

(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”.

Opposition amendment (46) goes to the timing of the reviews. It brings forward the review date for what we categorised as the group A reviews, which include spectrum use, simulcast period duration, subscription TV services, and regulatory and revenue arrangements for datacasting transmission licences and commercial television licences in underserved areas. I will not speak to the merit of that proposal. It is on the record from previous discussion.

Amendment agreed to.

The TEMPORARY CHAIRMAN—We now move to government amendments (1) and (2) on sheet EK218.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (11.10 a.m.)—by leave—I move:

Schedule 1, page 51 (after line 20), after item 137, insert:
Paragraph 60(1)(d) of Schedule 4

Paragraph 60(1)(d) of Schedule 4

(2) Schedule 1, item 139, page 53 (after line 8), after clause 60A, insert:

60B Review 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 purposes of paragraph 6(3)(c) of this Schedule (which deals with the duration of the simulcast period).

(2) The Minister must cause to be prepared a report of a review under sub-clause (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.

The Labor Party’s proposed amendments bring forward the completion date of all reviews currently scheduled for completion by 31 December 2005 by one year to 1 January 2006. Discussion on this matter was deferred. These amendments would work together with Labor amendment (46), which has just been carried, so that the completion date of one review—the review of the length of the simulcast period—becomes 1 January 2006.

I will elaborate: the Senate postponed discussion of Labor amendment (46) to allow consideration of concerns raised by Senator Bourne about bringing forward the date of the 2005 review into the length of the simulcast period. Labor amendment (46), just passed, would have the effect of bringing forward the completion date of all reviews currently scheduled for completion by 31 December 2005, that is, the reviews into the length of the simulcast period, whether free-to-air broadcasters should be allowed to provide other forms of broadcasting services such as pay TV, multichannelling by commercial broadcasters and whether all parts of the broadcasting spectrum have been efficiently planned and structured.

Senator Bourne indicated support for Labor’s amendment that was concerned about bringing forward the date of the review into the length of the simulcast period. Government amendments (1) and (2) will work together with Labor amendment (46) so that the date of completion of the review into the length of the simulcast period is 1 January 2006 and the date of completion of the other reviews is 1 January 2005. Amendments (1) and (2) do not directly modify the words of Labor’s amendment to achieve the change to the review dates that I have outlined. It is necessary for the Senate to agree, as it has just done, to both Labor amendment (46) on sheet 1823 and these government amendments.

Senator BOURNE (New South Wales) (11.12 a.m.)—I would like to thank both the government and the opposition for taking account of my concerns and naturally I will vote for it.

Senator MARK BISHOP (Western Australia) (11.12 a.m.)—On the basis that the government and the Democrats have apparently reached an understanding on this issue, I think the opposition is happy to support it.

Amendments agreed to.

The TEMPORARY CHAIRMAN—We now move to opposition amendment (57) on sheet 1823, which is opposing item No. 140.

Senator MARK BISHOP (Western Australia) (11.13 a.m.)—The opposition opposes item 140 in the following terms:

(57) Schedule 1, item 140, page 92 (lines 5 to 25), clause 57, TO BE OPPOSED.

I have not spoken to this as yet. This goes to the rights of administrative appeal and determinations of the ABA to be subject to existing appeal and review arrangements. Clause 57 in schedule 6 of the bill denies interested parties the ability to access stay powers or to seek interlocutory injunctive relief in relation to decisions of the ABA. The exclusion of stay proceedings and interim interlocutory relief relating to decisions of the ABA concerning datacasting licences, we believe, needs to be removed from the act to ensure normal avenues for judicial review of ABA decisions are not precluded. This is particularly important in the context of the significant implications of these ABA decisions. Labor opposes the exclusions in the bill to restore the usual avenues for general review.
When this matter was raised—I think the representatives of Fairfax at the Senate in-quiry raised the issue that their rights were about to be denied—we had some discus-sions and I made a mental note at the time just to make reference to it in our report. When the eventual negotiations were going to take place with the government and the Australian Democrats, I had presumed it was one of those matters that was capable of resolution by negotiation because in this area it does go to a fundamental issue of law and a fundamental issue of rights. The two issues that are interwined are, firstly, property rights and the necessary protection of those rights expressly provided for in our Constitution but, more importantly, by way of custom and practice in this country and, secondly, the right of parties, in exercising their rights in judicial appeal proceedings, not to have those rights taken away from them and a possible benefit they might derive from the exercising of their rights being denied to them prior to the completion of the appeal proceedings.

I am very surprised that we have to go to debate on this issue. The issues at stake do involve significant sums of money. If a data-caster, for example, wishes to datacast a par-ticular program and is restrained from doing so after review by the ABA, the aggrieved party who is denied that right simply has to stop going about his or her lawful business. They still have appeal rights to the Federal Court or higher to have the decision of the ABA overturned, but they do not have the ability to protect their rights being denied to them prior to the completion of the appeal proceedings.

With due respect, I understand that the Democrats and the government are of the view that aspirant datacasters should not be able to seek interlocutory injunctive relief or access stay powers to protect their rights. When this matter comes on for vote, the opposition will oppose it, and I put those mat-ters on the record.

Senator BOURNE (New South Wales) (11.17 a.m.)—I should put on the record as well that if there had been a middle way to do this I would have preferred that too, but we did not have the ability. We looked for one but we were told that the time and effort involved in determining another amendment that would have looked after our concerns were so huge that being a small party without the resources to do so we could not do it. Out of the two positions that were available to the party room, the party room decided to agree with the government on this. The reason for that was that there is an expectation that whoever gets those datacasting licences may well be somebody with lots and lots of money. We would expect that because they are going to cost a lot of money. Despite everybody saying that they do not want to do it, they may well put on a broadcasting channel over the datacasting channel. If that happens and they do not take that broadcasting chan-nel off immediately, then it is most unlikely that if they are on air for a year or 18 months, or however long it takes, they would then be able to be removed at all. Thus the original intention of the 1998 bill would have been thwarted, that there be no new broadcasters until 2007. With that in mind, we did look at amendments. We tried to find something that would have a reasonable time. Then we were asked: what is a reasonable time and how can you determine how fast the courts will work? That is a good point. How can we? We did not know. We found that we were unable to write an amendment which satisfied us. I regret that. I wish we had been able to, but we were not. We just do not have the re-sources. So we ended up having to determine between the two, and we determined to go with the government’s original amendment.

Senator MARK BISHOP (Western Aus-tralia) (11.20 a.m.)—In response to Senator Bourne’s point, I do not wish to comment
about the Democrats being underresourced. The more important comment she made was in the latter part of her speech when she said essentially that, after the ABA have issued a determination on a particular issue, an aggrieved party might be well funded and choose to litigate. It may take some considerable period of time before that matter is resolved in a higher court and, in the meantime, they would have the ability to datacast or broadcast their particular product and, hence, essentially gain improper advantage in the marketplace. That was really the kernel of Senator Bourne’s argument. In response to that, an application for interlocutory injunctive relief or an application for stay is not automatic. There is no automatic granting of those by the court that you apply to. It is a discretionary matter in most jurisdictions, determined on merit. So once a decision of the ABA is made on a particular issue, if the aggrieved party is dissatisfied, they can apply to either stay or get injunctive relief. The court they apply to has a discretion to allow the matter or to refer it. My recollection is that that is always done on merit. So, essentially, in the merit decision, the review tribunal or review court would make a prima facie assessment of the worth or otherwise of your argument. I am not aware of whether Senator Bourne or her advisers were aware of that. So I put that on the record.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (11.22 a.m.)—I understand the concerns that people have and, clearly, we are not wanting to interfere with people’s rights of appeal. It is really a matter of what should prevail in the interim. As Senator Bourne rightly says, this area is replete with gaming opportunities, and there are those who can use litigation as a business tool very effectively. The courts do not need much encouragement to have the time that an appeal comes on take what we might regard as inordinate length. If that is the case, what you do not want is a situation where there may be every incentive for someone to drag their heels and at the same time effectively be doing something which the ABA has already ruled that you cannot do and which an appeal court might ultimately agree on. It then provides opportunities for pressure to be brought to bear in other quarters; whereas what we would be keen to see is the legal process dealt with as expeditiously as possible. So something along these lines would provide every incentive to the courts themselves to ensure that the appeal is heard very speedily.

The TEMPORARY CHAIRMAN (Senator Murphy)—The question is that the item stand as printed.

Question resolved in the affirmative.

The TEMPORARY CHAIRMAN—We now move to Democrat amendments Nos 45 and 46 on sheet 1827.

Senator BOURNE (New South Wales) (11.23 a.m.)—These two amendments on technical standards were covered by government equipment amendments that were moved yesterday. I am being nodded at, in which case I withdraw those amendments.

Senator MARK BISHOP (Western Australia) (11.24 a.m.)—by leave—I move opposition amendments Nos 58 and 59 on sheet 1823 together:

(58) Schedule 1, item 140, page 95 (line 16), omit “2004”, substitute “2003”.

(59) Schedule 1, item 140, page 95 (line 17), omit “2004”, substitute “2003”.

I have also spoken to these amendments previously in the debate, so I will not repeat those comments.

Amendments agreed to.

The TEMPORARY CHAIRMAN—We now move to Democrat amendment No. 50 on sheet 1827.

Senator BOURNE (New South Wales) (11.24 a.m.)—The next three amendments from the Democrats, the ALP and the government are all similar on ‘use or lose your datacasting spectrum’. Having looked at all three, I think it is the case that the government’s position is similar to my own but also that it is probably better drafted. It is probably better that I go with the government’s position on that. The ALP’s position is quite different, and I will mention why I would rather not vote for the ALP’s position as I understand it. In the worst possible case, it allows a datacaster to run a service for one day and then go off air for 30 days and then run it for one day and then be back off air—
which is a bit similar to what happened to poor old Radio Australia with the Cox Peninsula, but not what we really wanted. So I do not think it is a particularly good idea to do it that way. I think that the amendment that both the government and the Democrats are moving similarly is a better one. Because I think the government’s position is better drafted than my own, I think I will withdraw mine in favour of the government’s.

The TEMPORARY CHAIRMAN—Okay. You are withdrawing yours and you are not supporting the opposition amendment but you are supporting the government’s amendment.

Senator MARK BISHOP (Western Australia) (11.26 a.m.)—The opposition understand the will of the Senate, and so we will withdraw our amendments Nos 36 to 38 on sheet 1823.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (11.26 a.m.)—by leave—I move government amendments Nos 11 to 16 on sheet ER232:

(11) Schedule 2, item 25, page 108 (after line 25), after paragraph (g), insert:

(ga) a condition that the licensee, or any person so authorised, will transmit a datacasting service during the whole or a part of each day in the period:

(i) beginning on the commencement referred to in paragraph (g); and

(ii) ending immediately before 1 January 2007;

(for this purpose, disregard a particular day if, in that period, there are fewer than:

(iii) 180 days; or

(iv) if the ABA, by writing, notifies a greater number of days—that greater number of days;

on which there has been no transmission of a datacasting service under the licence);

(12) Schedule 2, item 25, page 109 (after line 5), after subsection (1), insert:

(1A) The ABA must not notify a longer period for the purposes of paragraph (1)(g) unless the ABA is satisfied that there are exceptional circumstances that warrant the longer period.

(13) Schedule 2, item 25, page 109 (before line 6), before subsection (2), insert:

(1B) The ABA must not notify a greater number of days for the purposes of paragraph (1)(ga) unless the ABA is satisfied that there are exceptional circumstances that warrant the greater number of days.

(14) Schedule 2, item 35, page 113 (line 2), after “(g),” insert “(ga),”.

(15) Schedule 2, item 36, page 113 (line 13), after “(g),” insert “(ga),”.

(16) Schedule 2, item 36, page 114 (line 7), after “(g),” insert “(ga),”.

These amendments insert a ‘use it or lose it’ provision to ensure that datacasting transmitter licensees continue to provide a service and do not simply commence and then shut down a service and thereby hoard the spectrum. These amendments modify the current provisions in the bill which require a datacasting transmitter licensee to commence a service within 12 months of allocation of the licence unless granted further time by the ABA. Amendment No. 11 requires that datacasting transmitter licensees must, after commencing the service, continue to transmit daily until 1 January 2007. The transmitter may only be off the air during that period for a cumulative total of 180 days unless there are exceptional circumstances. That is amendment No. 13. Amendment No. 12 limits the ability of the ABA to specify a start-up period longer than 12 months. The ABA must not so specify unless it is satisfied that there are exceptional circumstances. Amendments Nos 14 to 16 are minor consequential amendments to the Radiocommunications Act.

Amendments agreed to.

Senator BOURNE (New South Wales) (11.29 a.m.)—by leave—I move Democrat amendments Nos 2, 52 and 53 on sheet 1827:

(2) Page 5 (after line 23), after item 17, insert:

17A Paragraphs 13(1)(a) and (b)

After “broadcasting services” (whenever occurring), insert “and/or datacasting services”.

(52) Schedule 3, page 120 (after line 3), before the heading preceding item 1, insert:

Australian Broadcasting Corporation Act 1983
Amendments Nos 2, 52 and 53 are the ones that would move the things that refer to the ABC and the SBS out of the BSA and back into their own acts—the ABC Act and the SBS Act. This is, I would have thought, a fairly technical thing. It does not change responsibilities—the responsibilities are changed with No. 41—so I hope that I have support for this.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (11.29 a.m.)—The bill contains provisions at clauses 39 and 40 of schedule 6 which will enable the ABC and SBS to provide datacasting services. They may do so directly or through a subsidiary company or other business arrangement. These provisions will have the same effect as more directly amending the charters of both the ABC and SBS. The government accepts that it may be more appropriate that these additional functions are directly reflected in the enabling legislation of each of the two national broadcasters. However, the government considers that there are problems with how the Democrat amendments propose to achieve this; in particular, the amendments would need to make it clear that the function of providing a datacasting service was under and in accordance with the conditions of a datacasting licence.

This requirement is necessary to ensure that the ABC and SBS are subject to the same rules as other persons providing a datacasting service. There are a number of ways in which this could be achieved. It could, for example, involve making reference to the relevant regulatory regime which will apply through the Broadcasting Services Act or through replication of some or all of those provisions in the ABC and SBS acts. The government therefore undertakes to examine the most effective means of amending the ABC and SBS acts to reflect the new statutory functions, and to bring forward further legislation at the earliest opportunity. The proposed amendments would also deal with the code of practice and complaints arrangements to provide similar mechanisms to those which apply to the ABC and SBS in relation to their broadcasting services.

Senator MARK BISHOP (Western Australia) (11.31 a.m.)—I thank the minister for that explanation and those comments. In respect of the Democrat amendments seeking to remove the ABC and SBS from the regulatory framework for datacasting, whilst Labor thinks it is appropriate that where possible the ABC and SBS should be governed by reference to their own respective acts, we do prefer that this be done in a considered and detailed fashion rather than on the fly during this debate. We have noted the government’s undertakings on the record, and accordingly we will oppose the Democrat amendments.

Amendments not agreed to.

Senator BOURNE (New South Wales) (11.32 a.m.)—I move Democrat amendment No. 41 on sheet 1827:

(41) Schedule 1, item 140, page 81 (line 22) to page 82 (line 19), omit clauses 39 and 40, substitute:

39 Application of Parts 4 and 5 to national broadcasters
Parts 4 and 5 do not apply to a national broadcaster.

I should probably at this point remind the minister that we heard his comments on this right back at the beginning, and I at least am well aware of them. However, I do not agree with them. My amendment would put the responsibility for dealing with datacasting laws back to the ABC and SBS boards. I know it is a fact that the ABC Act and—I am pretty sure, but I have not looked it up—the SBS Act require the boards to carry out the functions and the duties of the corporations and ensure that they are performed efficiently and with maximum benefit to the people of Australia. Those boards also have duties to maintain the independence and integrity of the corporations, and to provide accurate and impartial news and information services and ensure that they comply with legal requirements. The boards are accountable to the people of Australia through parliament—parliamentary committee inquiries and individual members of parliament—and they are also required to meet legislative requirements under a number of other acts.

If datacasting were inserted into the ABS and the SBS acts, as proposed by this amendment that we are discussing now, the ABC and SBS boards would have a duty to follow the datacasting regulations that we have already defined in the Broadcasting Services Act. The way it works at the moment is that the ABC Act—and I think it is the same with the SBS Act—requires the ABC to provide its code of practice to the ABA. Complaints about the ABC can be made to the ABA after completion of the ABC’s internal complaints procedure. The ABA can recommend how the ABC should respond, but the ABC is not required to comply. The ABA may report the matter to parliament, which may act on that report. The fact is that that is what happens now, so this would not be a huge difference from what happens now; in fact, it would be almost the same as happens now.

If datacasting were inserted into those acts, that would be covered in exactly the same way, by exactly the same procedures, as currently happens with complaints. That approach does not mean that either the ABC or SBS is free of regulation or oversight but that the ABC and the SBS are answerable, as they always have been, to the parliament and not necessarily to the ABA. It gets to the ABA eventually, and so would my amendment get it to the ABA eventually, but until that point it would be covered exactly the same way as the complaints procedures are covered now within the ABC and SBS acts. So it is not a huge change to the way things are dealt with now. In fact, the huge change in the way things are dealt with now would be if we disagree with my amendment No. 41.

Senator MARK BISHOP (Western Australia) (11.35 a.m.)—As always, I have listened carefully to Senator Bourne but, with all due respect, again we would rather these matters be considered in a detailed provision over time, so we will oppose the amendment.

Senator BROWN (Tasmania) (11.35 a.m.)—As with the last amendment, I support Senator Bourne’s amendment.

Senator BOURNE (New South Wales) (11.36 a.m.)—I have one comment. I take Senator Bishop’s point, but if he thinks it should be dealt with in a detailed way over time, can he tell me when he thinks that will happen?

Senator ALSTON (Victoria—Deputy Leader of the Government in the Senate) (11.36 a.m.)—I think what Senator Bishop is referring to is the undertakings that I have already given in relation to the last matter to ensure that these matters are dealt with in a coherent and consistent manner. When I reflected on the changes that Senator Bourne proposes to make to the Broadcasting Services Act, it seemed to me that by amending the definition of national broadcasters in section 13 you would then include them under a regime which is entirely exempt.

If you bring datacasting into section 13, then subsection (5) says that they are not governed by the BSA regime, and that is not how we think datacasting should operate. We do not believe there should be different obligations on the ABC and SBS compared to other datacasters. But the general review and the undertakings we have given I think will enable us to deal with them in a much more effective way, rather than simply allowing...
SBS and the ABC to regulate their own data-casting. There would be a risk that those boards might apply different interpretations, which would lead to uncertainty about the scope of the regime. It is all very well to say, ‘Yes, you can come back into the parliament and complain about it.’ We all know the constraints that are involved in that. You are not likely to get up in question time and raise the matter. You might put something on notice. It becomes a sort of low-grade irritant. The industry, quite understandably, is concerned about people going off on frolics of their own. In addition, the amendment would have a major technical flaw, as consequential changes are not made to the relevant transmitter licence provisions in the Radiocommunications Act, which require the national broadcasters to hold a BSA datacasting licence before the transmitters can be used to transmit a datacasting service.

Senator BOURNE (New South Wales) (11.38 a.m.)—I have just one comment on that. It occurs to me that with a lot of the things we have gone through in this bill there has been a bit of confusion—it is a bit of a confusing and complex bill; I have to admit that—and what we have ended up doing in pretty well every case is being conservative about what we end up voting on. I have not really got a problem with that. If there is confusion, you are probably better off doing that. But what that has led to is—and I think this is the third case of this—the minister giving undertakings to do things, which I am sure he will do. That is good, but there is no legislative basis for him doing them. More to the point: if, by some strange quirk of fate, he is not the minister after the next election the next minister may or may not do those things. I am sure if the next minister is a member of the coalition, then they would take up what he is doing. If I am the next minister I will certainly take up what he is doing—and, boy, will it be interesting.

Senator BOURNE—Thank you, Senator Brown. I imagine that Senator Bishop is in favour of all of these reviews—in fact, I think he has said that he is. It just strikes me that we are taking an awful lot on faith. We are being very conservative in what we do, because we are not really sure of what is going on. I just wanted to make that point. I will take it on faith. I think I am absolutely right; I cannot see why you are not voting for it. But I will assume that the government and the opposition—or the Democrats, or perhaps the Greens; who knows?—will carry through all of these undertakings when the time comes. I just wanted to put that point on record.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (11.40 a.m.)—Can I just say we do not make undertakings lightly. Mine are not expressed in a personal form; they are on behalf of the government. In the extraordinarily unlikely eventuality of the other side ever coming to power, I am sure I am authorised on behalf of Mr Smith—and all of those other contenders who parade in this chamber and elsewhere who might like to be in his shoes—that they will have the same honourable approach.

Senator MARK BISHOP (Western Australia) (11.41 a.m.)—I thank the minister for those comments. Did the minister give an undertaking on when that process would be concluded, prior to the commencement of the digital broadcasting?

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (11.41 a.m.)—I am advised that there is a very good prospect we will be able to bring legislation forward in the next sitting.

Amendment not agreed to.

Senator Alston—May I say we don’t expect a change of government in that time.

The TEMPORARY CHAIRMAN (Senator Murphy)—When you get the call, Minister, you can make some comment. We are now dealing with opposition amendments Nos 1 to 4 on revised sheet 1860.

Senator MARK BISHOP (Western Australia) (11.41 a.m.)—by leave—I move opposition amendments Nos 1 to 4:

1) Schedule 1, item 140, page 68 (after line 6), after clause 20, insert:

20A Genre conditions do not apply to certain content copied from the Internet.
The conditions set out in clauses 14 and 16 do not apply to the transmission of matter if:

(a) the matter is content that has been copied from the Internet; and
(b) the content is selected by the datacasting licensee concerned; and
(c) there is in force an exemption order under subclause 27A(1) in relation to the transmission of the matter.

In determining the meaning of the expressions television or television program, when used in a provision of this Act, subclause (1) is to be disregarded.

Schedule 1, item 140, page 69 (after line 9), at the end of clause 21, add:

Condition does not apply to certain content copied from the Internet

(10) The condition set out in subclause (1) does not apply to the transmission of matter if:

(a) the matter is content that has been copied from the Internet; and
(b) the content is selected by the datacasting licensee concerned; and
(c) there is in force an exemption order under subclause 27A(1) in relation to the transmission of the matter.

Schedule 1, item 140, page 74 (after line 19), at the end of Part 3, add:

DIVISION 4—EXEMPTION ORDERS FOR CONTENT COPIED FROM THE INTERNET

27A Exemption orders in relation to content copied from the Internet

(1) If the ABA is satisfied that:

(a) matter is proposed to be transmitted by a datacasting licensee; and
(b) the matter is content that is proposed to be copied from the Internet; and
(c) the content is proposed to be selected by the datacasting licensee; and
(d) if it were assumed that clause 20A and subclause 21(10) had not been enacted:

(i) any breach of the conditions set out in clauses 14 and 16 and subclause 21(1) that would arise from the transmission of the matter would be of a minor, infrequent or incidental nature; or
(ii) the transmission of the matter would not be contrary to the purpose of clauses 14, 16 and 21;

the ABA may, by writing, make an exemption order in relation to the transmission of the matter.

(2) If the ABA receives a request from a datacasting licensee to make an exemption order in relation to the transmission of matter by the licensee, the ABA must use its best endeavours to make that decision within 28 days after the request was made.

Schedule 1, item 140, page 93 (after table item 4), insert:

4A refusal to make an exemption order

Opposition amendments Nos 1 to 4 go to ‘Genre conditions do not apply to certain content copied from the Internet’. Just briefly by way of introduction, the opposition is of the view that we need a system whereby datacasters intending to construct walled gardens must seek a determination from the ABA giving approval for the walled garden content, with the ABA to consider whether the content would represent a broadcasting service. It is a pre facto certification approval process that is outlined in the amendments. It ameliorates the government’s restrictive provision by allowing walled gardens where material would not represent a broadcasting service. It recognises that datacasters may provide Internet material via walled garden Internet services. We need a limited number of options whereby limited spectrum is used, otherwise there would be system overload, and reasonably anticipate the future of datacast services involving Internet, whilst maintaining undertakings previously given and understood for broadcasters. So the series of subclauses (1), (2), (3) and (4) go to the process whereby datacasters seek to establish walled gardens and copy content from the Internet and seek prior approval from the ABA that the material is appropriate for datacast and is not broadcast material. This, we believe, is a worthwhile amendment to the government’s regime.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (11.44 a.m.)—I want to just say I understand that the Democrats will support
this as well. All that I would add is that we will obviously be monitoring the process. We understand this has a limited effect but, if it turns out to be much wider than any of us expect, then we would be prepared to come back to the parliament at short notice.

Senator BOURNE (New South Wales) (11.44 a.m.)—The Democrats will be supporting this, with a couple of amendments that the opposition has made. It does go a little way towards broadening what will be available, and I think that is good. I can only say that, if the opposition has thought better about voting for my amendment to their proposition, please bring it back—we will do it. If not, this is an interesting extension on what we have got. So, yes, we will be voting for it.

Amendments agreed to.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (11.45 a.m.)—by leave—I move government amendments Nos 1 to 4 on sheet EK217:

(1) Schedule 1, item 69A, subclause (2B), omit “or a datacasting licensee”.

(2) Schedule 1, page 19 (before line 21), before item 70, insert:

69B Before subclause 7(3) of Schedule 2

Insert:

(2C) Each commercial television broadcasting licence is also subject to the condition that the licensee will provide information to a national broadcaster (within the meaning of Schedule 4):

(a) in a timely manner; and

(b) at no cost; and

(c) in a form (and accompanied by any necessary digital systems information) that reasonably enables its inclusion in an electronic program guide;

if required to do so by that national broadcaster for the purpose of compiling information for an electronic program guide.

(2D) For the purposes of the application of subclause (2B) to information provided to a commercial television broadcasting licensee, electronic program guide has the same meaning as in subclause 6(24) of Schedule 4.

(2E) For the purposes of the application of subclause (2C) to information provided to a national broadcaster, electronic program guide has the same meaning as in subclause 19(24) of Schedule 4.

(3) Schedule 1, page 38 (after line 10), after item 123, insert:

123A Before clause 36 of Schedule 4

Insert:

35A Provision of electronic program guide information

(1) Each national broadcaster must provide information to a commercial television broadcasting licensee:

(a) in a timely manner; and

(b) at no cost; and

(c) in a form (and accompanied by any necessary digital systems information) that reasonably enables its inclusion in an electronic program guide;

if required to do so by that licensee for the purpose of compiling information for an electronic program guide.

(2) Each national broadcaster must provide information to the other national broadcaster:

(a) in a timely manner; and

(b) at no cost; and

(c) in a form (and accompanied by any necessary digital systems information) that reasonably enables its inclusion in an electronic program guide;

if required to do so by that other national broadcaster for the purpose of compiling information for an electronic program guide.

(3) For the purposes of the application of subclause (1) to information provided to a commercial television broadcasting licensee, electronic program guide has the same meaning as in subclause 6(24).

(4) For the purposes of the application of subclause (2) to information provided to a national broadcaster, electronic program guide has the same meaning as in subclause 19(24) of Schedule 4.
(4) Schedule 1, item 140, at the end of clause 20B, add:

(2) Subclause (1) does not require a datacasting licensee to transmit information about programs transmitted by a commercial television broadcasting service unless the commercial television broadcasting licensee concerned has requested the datacasting licensee to transmit that information.

(3) Subclause (1) does not require a datacasting licensee to transmit information about programs transmitted by a national television broadcasting service unless the national broadcaster concerned has requested the datacasting licensee to transmit that information.

The purpose of these amendments is to revise the amendments made in relation to electronic program guides to require that each commercial television broadcaster will provide the national broadcaster, if required by that broadcaster, with information to enable it to compile an electronic program guide in a timely manner, at no cost, and in a reasonable form.

The amendments also impose a converse obligation on national broadcasters to supply such information to commercial television broadcasters and to other national broadcasters if required to do so by the broadcasters. The amendments add an additional provision to those moved by the Democrats subsequent to the opposition amendment on EPGs being agreed. The amendments build on the obligations listed in the Democrats amendment, which require commercial television broadcasters to provide EPG information if required by another commercial television broadcaster or datacasting licensee.

Amendment (2) requires commercial television broadcasters to provide such information to national broadcasters and to other national broadcasters if required to do so by the broadcasters. Amendment (3) also imposes a converse obligation on national broadcasters to supply such information to commercial television broadcasters and to other national broadcasters if required to do so by the broadcasters. Amendment (4) makes it clear that datacasters are not obliged to transmit information in their EPGs about commercial television broadcasters’ programs or national broadcasters’ programs unless requested to do so by that broadcaster.

Amendments agreed to.

The TEMPORARY CHAIRMAN—The question now is that the bill, as amended, be agreed to.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (11.47 a.m.)—Before we get to that point, there are some other matters that I think require a bit more consideration. Therefore, I move:

That the committee report progress and ask leave to sit again.

Senator BROWN (Tasmania) (11.47 a.m.)—I wonder if the minister would be good enough to acquaint the committee with what the other matters are.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (11.47 a.m.)—by leave—There are several matters arising which we want to reflect on. I do not particularly want to canvass them all in the chamber, because we may not decide to go down particular paths. But I think it is always helpful if we can at least reflect on matters before we proceed. Obviously we will be talking to other parties if that is appropriate.

Senator BOURNE (New South Wales) (11.48 a.m.)—by leave—I do not think I have ever been involved in a bill where this has happened. I find it a bit strange that there are other things to reflect on. I do not know what there is to reflect on. We have finished the bill as far as I can see, and we should just go to the third reading and be done with it.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (11.48 a.m.)—by leave—There is one matter that we dealt with quite recently in relation to the stay, where Senator Bourne expressed concern that, whilst she was conscious of the fact that this was moving away from normal natural justice provisions, there did not seem to be a middle way. I think there is a middle way—

Senator Bourne—Why didn’t you tell us at the time?

Senator ALSTON—Because I need to reflect on it, and I need to discuss it with some other people. So that is one matter that I think we would all benefit from if we had the op-
portunity to have a look at another form of words.

Senator BROWN (Tasmania) (11.49 a.m.)—by leave—Just to clear the air, I wonder if the government could indicate when it would like the committee to reconvene and how long this consideration will be. Is it going to be today, or are we looking at August?

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (11.49 a.m.)—As soon as possible.

Question resolved in the affirmative.

NEW BUSINESS TAX SYSTEM (INTEGRITY MEASURES) BILL 2000
Second Reading
Debate resumed from 27 June, on motion by Senator Ian Campbell:

That this bill be now read a second time.

upon which Senator Cook had moved by way of amendment:

At the end of the motion, add:

“but the Senate condemns the Government for:

(a) its lack of integrity for failing to tackle tax avoidance through the use of family trusts;

(b) the flawed implementation process of the various new taxation arrangements;

(c) the scandalous waste of taxpayers money on the promotion of new taxation arrangements; and

(d) the fundamental unfairness and complexity of so much of the new tax arrangements”.

Senator BROWN (Tasmania) (11.50 a.m.)—I just want to conclude my remarks on the New Business Tax System (Integrity Measures) Bill 2000 by saying that the changes being made here have indeed been a triumph of community networking and consultation among the parties on this side of the House and, indeed, the government. When the arts community realised that it was going to be severely penalised by the new tax system, it went into action and appealed to all parties. Let me congratulate all parties. Finally, the government having realised that there would be majority opposition to their position, have made changes which mean that the effects of the Ralph tax solution, which is detrimental to the arts community, are going to be ameliorated.

I reiterate that the Greens believe that even the level of $40,000 that is being used here to allow poorer artists to escape the loss of their tax deductibility ought not be there. We should not have such a restriction on the arts community, and there are, as other speakers have also said, penalties for the farming community, which concern me greatly. I reiterate that this is a triumph for the Senate and should be marked down as such. The Democrats, the opposition and, finally, the government have all come aboard here to alter what I think was an unforeseen impact, which would have been hugely detrimental to the arts community and, therefore, to the wider Australian community. In particular, I want to recognise the artists themselves and their representatives. I will not name them, but there are quite a number of them. They have worked remarkably efficiently and quickly; their information has been good; it has been convincing. When the arts community protested in Sydney, in Brisbane, outside the parliament here and elsewhere in Australia—I know the arts community in Tasmania was very concerned about this and let me know about it—it had the impact of feeding back into this chamber and allowing the Senate to put to right something that was very wrong. I congratulate all parties, and I am glad of this outcome.

Senator McGAURAN (Victoria) (11.53 a.m.)—As you are well aware, I am just filling in here until Senator Kemp comes to the chamber.

Senator Carr—He’s lost again!

Senator McGAURAN—He is surely on his way. In doing so I thank Senator Brown for his very rare but most appreciated compliments to the government for accepting the change in regard to the arts community. It is one example of how the government really do focus on these issues. Where changes are needed we will duly implement them, and this is one such case. Senator Ridgeway has been party to this change; compliments to Senator Ridgeway for representing the arts community. No-one from the other side
should say that we do not have gentle care in the introduction of this legislation. On that point, I again very much thank Senator Brown for his compliments to the government.

Senator KEMP (Victoria—Assistant Treasurer) (11.55 a.m.)—To sum up this second reading debate, the New Business Tax System (Integrity Measures) Bill 2000 contains two very important integrity measures. The review of business taxation, chaired by John Ralph, recommended the measures, and the government announced on 11 November 1999 that it would adopt them. The measures will limit the extent to which taxpayers can use non-commercial losses to reduce the tax paid on their other income and require that prepayments for services under tax shelter arrangements be deducted over the period during which the services are provided rather than being immediately tax deductible. These measures are part of a range of reforms that the government are legislating as part of their new tax system, and I know that these measures enjoy your strong support, Mr Acting Deputy President.

Senator Cook—The tongue is in your cheek!

Senator KEMP—I do not always agree with Senator Murphy, but from time to time we will discover some common ground, particularly in relation to integrity measures. Unhappily, Senator, in relation to you that has not always been the case.

The ACTING DEPUTY PRESIDENT (Senator Murphy)—Minister, it would be useful if you were to address the bill.

Senator KEMP—I will just say a couple more words: R&D syndicates. Having said that—

Senator Cook—This is an unfair attack and an unprovoked one.

The ACTING DEPUTY PRESIDENT—Order, Senator Cook!

Senator KEMP—I was under acute pressure, Senator. You understand that.

The ACTING DEPUTY PRESIDENT—Minister, you should address your remarks through the chair.

Senator KEMP—I am being diverted; you are quite right, Mr Acting Deputy President. Already the government has legislated key reforms, such as significant cuts in capital gains tax and company tax. In addition, the government has introduced a number of capital gains tax reforms to encourage more investment in small businesses, in particular in venture capital. The government’s reforms will stimulate investment and encourage higher economic growth and more jobs. I am pleased that the measures contained in this bill will pass the Senate today.

I want to now turn briefly to a number of issues which were raised by other senators during the debate. A number of members spoke regarding the need to address the concerns of artists in relation to this bill. The Australian Democrats have circulated an amendment to provide an exemption from the operation of the non-commercial losses measure included in the bill being debated here today. The exemption will apply to individuals carrying on a professional arts business, whose assessable income from sources other than their professional arts businesses is less than $40,000, excluding net capital gains. The $40,000 threshold for artists, as with that applying to primary producers, will not be indexed. In the context of discussions with the Australian Democrats the government has decided to support this amendment when it is moved.

Senator Sherry—Surprise, surprise. Another GST backflip.

Senator KEMP—We are a consultative government. If Senator Sherry does not want to support this amendment for artists, that is all right.

Senator Sherry—we do, we do. It is another backflip.

Senator KEMP—I do not know why he is complaining, then.

Senator Sherry—Why didn’t you support it in the first place?

Senator KEMP—An amendment is being moved, and we are supporting the amendment. Senator Sherry says he supports the amendment, and he is making a fuss. The logic of this escapes me, Senator. I know it has been a long session—
Senator Sherry—It will get even longer.

Senator KEMP—Let me assure you, the government will long out-sit the Labor Party. Again, we have been diverted by senators. Senators have also raised entity taxation and claimed that the government was not progressing the issue. That was a very unfair assertion. The government first canvassed change to the taxation of entities in a new tax system as far back as August 1998. The issue of how entities should be taxed was also one of those considered by the review of business taxation, which consulted extensively with business over a 12-month period. The review made its recommendations to government late in 1999. The government has accepted the review’s recommendations on the taxation of entities and announced last year that it would apply the new rules from 1 July 2001. Since then, the government had been consulting on the implementation details of the new arrangements consistent with the consultation on other business tax measures and with the consultative processes of the Ralph review. I commend the bill to the Senate.

The ACTING DEPUTY PRESIDENT (Senator Murphy)—The question is that the second reading amendment moved by Senator Cook be agreed to.

Question resolved in the negative.

Senator Brown—I would like to have my vote in favour of the opposition amendment recorded.

Original question resolved in the affirmative.

Bill read a second time.

In Committee

The bill.

Senator RIDGEWAY (New South Wales) (12.01 p.m.)—by leave—I move Democrat amendments Nos 1 and 2 together:

(1) Schedule 1, item 3, page 5 (line 35) to page 6 (line 4), omit subsection (4), substitute:

Exceptions

(4) The rule in subsection (2) does not apply to a *business activity for an income year if:

(a) the activity is a *primary production business, or a *professional arts business; and

(b) your assessable income for that year (except any *net capital gain) from other sources that do not relate to that activity is less than $40,000.

(5) A professional arts business is a *business you carry on as:

(a) the author of a literary, dramatic, musical or artistic work; or

Note: The expression “author” is a technical term from copyright law. In general, the “author” of a musical work is its composer and the “author” of an artistic work is the artist, sculptor or photographer who created it.

(b) a *performing artist; or

(c) a *production associate.

(2) Schedule 1, page 11 (after line 3), after item 3, insert:

3A Subsection 995-1(1)

Insert:

professional arts business has the meaning given by section 35-10.

I will not revisit too much of the second reading debate other than to say that I think the outcome is a good one. It is an indication and an expression of support for artists and primary producers, who both suffer real hardship to make a living from their professions. Most importantly, it sends a very clear message to artists that they do make a significant contribution to the cultural life of Australia and that that often cannot be calculated solely in dollar terms. The amendments being put forward by the Democrats send a strong message to all artists that, as representatives of the Australian community, we want to acknowledge the contribution that they make to our lives and we want to support and foster their efforts into the future. It has always been clear that professional artists have been lobbied to be treated in the same manner as farmers because they expect to earn their income. It is a powerful message that indicates that artists do not want to rely on welfare payments alone.

Through the amendments that are being put by the Australian Democrats, artists will be able to maintain the understanding that they negotiated with the Australian Taxation Office in 1997. They will also be able to legitimately claim their non-commercial losses
as artists against their non-art income. As the government stated only last week, we as politicians need to demonstrate our support for the arts and to foster this growth industry. These amendments are an important step in fulfilling that commitment. The effects on taxation revenue need to be mentioned. It will be only marginal when we consider that many professional artists earn only a few thousand dollars per year, but the benefits to all Australians will be a stronger, flourishing, professional arts community. I believe this is a win for artists, a win for Australian culture and a win for the economy. I thank the government for their acceptance of these amendments. The effects on taxation revenue need to be mentioned. It will be only marginal when we consider that many professional artists earn only a few thousand dollars per year, but the benefits to all Australians will be a stronger, flourishing, professional arts community. I believe this is a win for artists, a win for Australian culture and a win for the economy. I thank the government for their acceptance of these amendments.

Senator BROWN (Tasmania) (12.04 p.m.)—I just point out to the committee that Democrat amendment No. 1 is the same as Greens amendment No. 2. I do not think it is in conflict with it, as the running sheet shows. I will be supporting these amendments, even though I do not support the $40,000 stricture that comes up in amendment No. 2. I would have preferred that that limitation not be put there, but I recognise that is the majority will of the committee and therefore accept it. I once again want to say that I really have not seen this as jockeying; I have seen it as a great deal of positive politics. I join Senator Ridgeway in congratulating the community groups that have got us all together to put through something really worth while for Australian art and artists.

Senator COOK (Western Australia—Deputy Leader of the Opposition in the Senate) (12.05 p.m.)—The opposition will be supporting these amendments. In supporting them, I acknowledge the remarks made by Senator Ridgeway who, in closing his supporting remarks for the Democrat amendments, indicated that Australian artists should get the credit for achieving this. They have obviously lobbied effectively because the view now being taken in the chamber by all parties is that they should get the credit for it. That is absolutely true: Australian artists should get the credit for achieving this outcome. I made remarks about this in my speech in the second reading debate, but I want to say that the Australian artistic community are an important element of our national character. They, more than most, define Australian personality, Australian culture and Australian aspirations and give voice and expression in many artistic forms to what it is to be Australian. By their collective efforts over time, they have attained worldwide respect for the quality of the work they do and the place Australia occupies in the artistic world.

This is a group of people who more often work, as the surveys tell us, for an annual income ranging from $6,000 to $15,000—certainly, below $20,000. They do so driven by a need to not only express artistic inspiration but also fulfil the objectives of which I have spoken. They very often put those desires and needs ahead of their own personal livelihoods. So we are not talking here about a group of people who meet the classic definition of tax avoiders. This is a group of people whose character and attitude is vastly different from the sleazy, top end of town operators who have discretionary income, enabling them to find ways through the loopholes in the tax act. Therefore, the national legislature should give recognition to what is happening here and meet the needs of nurturing a stronger artistic community rather than impose cost burdens on them through a tax net that is cast to stop malpractice. In this case, that tax net would catch a community that are critical to our national personality and a community that are not tax avoiders. For those reasons, we support these amendments.

Senator KEMP (Victoria—Assistant Treasurer) (12.09 p.m.)—The Australian Democrats have moved amendments to provide an exemption from the operation of the non-commercial loss measures included in the New Business Tax System (Integrity Measures) Bill 2000. The exemption will
apply to individuals carrying on a professional arts business whose assessable income from sources other than their professional arts business in that year is less than $40,000, excluding net capital gains. In the context of recent discussions with the Australian Democrats, the government decided to support these amendments. The $40,000 threshold for artists, as with that applying to primary producers, will not be indexed. However, the government will monitor the appropriateness of the threshold, like all other thresholds in the Income Tax Act.

Amendments agreed to.

The TEMPORARY CHAIRMAN (Senator Murphy)—We now move to the Australian Greens amendments. As I understand it, Senator Brown, you are not seeking to move your amendment No. 1.

Senator BROWN (Tasmania) (12:10 p.m.)—I will not be moving Australian Greens amendment No. 2 and the consequent amendments. I would like to move Australian Greens amendment No. 1, but it would appear to me to be in conflict with what we have just passed. Therefore, I doubt it would get the support of the Democrats, the Labor Party or the government.

Senator Kemp—You’ve got it in one, Bob.

Senator BROWN—I will accept that, although I stay faithful to that amendment. I want to make a few other comments. Pick up the paper any day and you will see huge prices, millions of dollars, changing hands for works of art in Australia. We should see legislation in this place to see that the lives and labour of wonderful creative people are not simply capitalised on by people dealing in art. It is not beyond the limits of the imagination of the parliament to devise a system whereby, when works of art change hands, those who created them—or their descendants—should be rewarded as well. I put that to the Assistant Treasurer. I hope the government will look at that.

I also want to say how pleased I am to be going to Oklahoma City in a couple of weeks time to visit the International Photography Hall of Fame, where there is a display by the world renowned Tasmanian wilderness photographer Peter Dombrovskis, who died a few years ago in the Western Arthurs on yet another photographic trip into Tasmania’s world heritage wilderness. As you will know, Mr Temporary Chairman, Tasmanian wilderness photographers since the 1840s have been at the forefront of global wilderness, landscape and seascape photographic expertise.

Peter Dombrovskis is the first Australian—indeed, the first person in the Southern Hemisphere—to be recognised in the International Photography Hall of Fame, and that display is a posthumous recognition of the creative and incisive mind of this great Australian. It is a pity the display did not take place while he was alive, but it is something that we Tasmanians and all Australians can be very proud of, and I am looking forward to it.

The TEMPORARY CHAIRMAN—Senator Brown, to clarify: you are not seeking to move Australian Greens amendment No. 1. Are you also withdrawing the other amendments?

Senator BROWN—That is the case.

The TEMPORARY CHAIRMAN—Thank you.

Bill, as amended, agreed to.

Bill reported with amendments; report adopted.

Third Reading

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

GOODS AND SERVICES TAX: PETROL PRICES

Senator KEMP (Victoria—Assistant Treasurer) (12:15 p.m.)—I seek leave to incorporate in Hansard a statement regarding the tabling of economic modelling relating to petrol pricing.

Leave granted.

The statement read as follows—

Tabling of economic modelling relating to petrol pricing:

On Tuesday, the Senate approved a motion calling upon the Assistant Treasurer to table, no later than 4 pm on 28/6/2000, a copy of the economic modelling, including the methodology and assumptions, relating to petrol pricing.
It is not possible for me to comply with this request for a number of reasons.

The modelling of the price effects of the Government’s original A New Tax System (ANTS) statement was done using the PRISMOD model of Treasury and released as part of the ANTS document in August 1998.

That material is on the public record.

Whilst successive governments have presented the results of the PRISMOD model at various times, the model itself represents a working document.

Governments have never made such working documents public.

The approach taken in relation to this issue by the Government is in accordance with that taken by previous Labor Governments before 1996.

Senator COOK (Western Australia—Deputy Leader of the Opposition in the Senate) (12.15 p.m.)—by leave—The government has just put down a statement relating to a motion I moved calling for the government to table its model that the Prime Minister’s assertion is based on that petrol companies need not put up oil prices as a consequence of the GST. This chamber asked the government to put down in this chamber what the proof of that prime ministerial assertion is and to table the model that has not thus far been revealed to the public, so that we can scrutinise the truth of the Prime Minister’s assertion that it shows that petrol prices need not rise.

This is not a light issue. This is a fundamental issue that everyone who drives a motor vehicle in Australia that consumes petrol will have to confront from midnight on Friday. This goes to the basic heart of the question of the integrity of the government. The oil companies say that, according to their calculations, the pass-through effect of the GST on their operations means that they have the ability to pass on savings of only 0.1c to Australian motorists. The Prime Minister bases his assertion that prices will not rise on the belief that there is a capacity of the oil companies to pass on 1.5c per litre in savings.

The point here is at several levels. At level one, who is telling the truth? We do not know that until we see the actual model that the Prime Minister relies on to make his assertion. The point at level two is: did the Prime Minister actually mislead the Australian community by saying—in his now infamous quote—‘petrol prices need not rise’ in his election manifesto while making speeches that ‘they will not rise’ and avoid the distinction that he was telling an untruth to the Australian public to mislead them and to encourage them to vote for a GST? This is a fundamental question of prime ministerial integrity and the honesty of the government in its dealing with Australian electors. It is a fundamental question, because many people may have voted for the GST, believing the Prime Minister. They will now be disappointed that they will pay increases—and quite significant ones if they are large consumers of petroleum products—when they believed prior to that there would not be any such increase.

I think the question of prime ministerial integrity is beyond doubt: there is none. There is none because this was the Prime Minister that promised there would never ever be a GST—and in two days time there will be. But the question of integrity goes further: did he tell the truth about his GST? The only way in which he can establish that is to now table the information upon which he has based the assertion. The government has just put down a statement saying that the Prime Minister will not table the model.

This raises a question that was referred to in the editorial of the Australian Financial Review yesterday. Yesterday, the editorial writers in the Australian Financial Review dismissed prime ministerial integrity in one paragraph. I do not have the quote in front of me, but essentially what they said was the fact that the Prime Minister will not make his calculations available to the Australian community explains why people distrust and disbelieve him about his comments on petrol pricing. For the modulated tones of an upmarket financial newspaper, the Australian Financial Review, that is a condemnation in stinging terms of the Prime Minister’s integrity. We saw yesterday in the Daily Telegraph—the newspaper with the biggest circulation of any in Australia—the headline ‘GST failure’ accompanied by the sub-
headline ‘PM can’t deliver on petrol price guarantee’ with an article written by their senior Canberra journalist, Malcolm Farr, reporting that the Prime Minister has been caught out in what is, in fact, a misleading of the Australian community.

A select committee of this Senate conducted an inquiry into the GST and reported early last year. In conducting its inquiry, it invited submissions from interested parties around Australia. Submissions were given by the Australian Automobile Association and by the RAA in South Australia. Both of them in their submissions pointed to the fact that the cost of petrol prices would rise as a consequence of the GST, and both of them backed up that point—not as an assertion—with economic modelling. The economic modelling they relied on was from the economic consultancy Econtech, which is the consultancy run by Mr Murphy, the Prime Minister’s favourite economic modeller. In the debate that we had about the GST, the government relied on private sector modelling by Mr Murphy and his company Econtech. The Australian Automobile Association and the RAA also engaged Econtech to conduct modelling for them about the impact of the GST on petrol pricing and how that would impact on consumers. As a consequence of the modelling by the Prime Minister’s preferred modeller in the private sector, they found that the impact would be much higher than what the government was saying and that there would be a lack of capacity for the oil industry to absorb the costs. They put the figure, as I recall, at between 8c and 9c per litre more.

They also reported that the cost of petrol would rise more quickly in the country than in the city because of the cost of haulage of petrol supplies to locations remoter than the urban sprawl in Australia, a matter that we in the opposition have pursued with the government for some time now and which the government has partially responded to by providing a supplement to the excise, which will go some way but not all of the way to answering the problem. Country people will be even worse off because, while assistance has been rendered, the problem has not been solved. There is still price disparity.

They were the two submissions that we had before us in this chamber. What did the government do in dealing with those submissions? It rejected them on the basis of its PRISMOD model. The PRISMOD economic model is a model kept by the Australian Treasury. They ran all the calculations about the GST through the PRISMOD model. It is PRISMOD that the Prime Minister refers to when he says that the government has its own private modelling and that therefore his assertions are true. All we were asking in this motion was that the government put the detailed calculations on the table so that we could see what the PRISMOD model says. The government is saying no, it will not.

Senator Sherry—They are covering it up.

Senator COOK—That is exactly right, Senator Sherry. This is in fact a cover-up. We know that, for all the awkward and sticky questions about the GST on how the calculations are arrived at, the ultimate defence of the government is to say: ‘Our modelling shows ...’. But will they show us their modelling? No, they will not. In this motion we called for it to be presented and what did they do? They declined to do so. The issue that is therefore raised is, once again: is this government telling the truth? We have caught them out here. Where else are they misleading the Australian community? In what other areas of the sprawling unfair tax that is the GST have the community been misled that have not yet come to public notice? I am afraid there will be a penalty before we find that out. The penalty will begin to be paid at midnight on Friday when Australians transfer from the existing tax system to the GST system and, as they pay the new GST, they will become savagely aware of how badly misled they have been about the impact of the GST.

Through parliamentary scrutiny over a number of months we have been able to catch them out here. Where else are they misleading the Australian community? In what other areas of the sprawling unfair tax that is the GST have the community been misled that have not yet come to public notice? I am afraid there will be a penalty before we find that out. The penalty will begin to be paid at midnight on Friday when Australians transfer from the existing tax system to the GST system and, as they pay the new GST, they will become savagely aware of how badly misled they have been about the impact of the GST.

They will become sadly cynical about the government as well. This is the government that has spent $430 million of taxpayers’ money to explain the tax to the community. What have they done? They have explained the tax cuts and failed to remind the commu-
They have conducted a public relations campaign to purify their tax. They have conducted a political campaign to justify what they have done. They have raided the public purse to fund their campaign for political purposes.

They know the community is rejecting this tax. They know that the experience of ordinary Australians is that prices have already begun to rise ahead of the tax and that Australian consumers are paying higher prices by increases in anticipation of the new impost. They know that Australian consumers believe that the GST will rise in percentage terms over time because that has been the record wherever in the world a GST has been introduced. Whatever the percentage is now, inevitably it will go up, because everywhere else the percentage has gone up. They know that. They know too that the government have botched the introduction of this tax. Just this week we have racked up the 2,000th amendment to the GST legislation that was introduced into this chamber last June. Ahead of the introduction of this tax, before we get started, there have been 2,000 amendments by the government to their original bill. They know that the Australian Taxation Office—the office that is charged with the duty of interpreting the meaning of the law and advising taxpayers of their taxable obligations—is well behind in providing information to taxpaying applicants about the meaning of the law and what their tax liabilities will be. If the tax office cannot tell them, who knows what obligations they have? How can taxpayers who cannot be informed of their obligations because of the backlog of complaints and private rulings in the tax office be expected to observe the law? We know that this is part of the botched introduction of this tax. We know that there are still hundreds of thousands of companies who have not yet been issued an Australian Business Number. The delay in being issued with a business number, which is essential to their operations under the new system, is preventing those companies getting themselves into order to meet the tax.

But all of this comes down to the simple proposition: the government have relied throughout the Senate inquiry, throughout the growing public concern about this tax and throughout their now bitter argument with the Australian oil industry on their computer model in the Department of the Treasury, the PRISMOD model. We are simply saying, ‘Table the findings of the model,’ and the government are saying, ‘No, we will not.’ I want to spend a moment on what the oil companies have said. They have said that the savings that the model is alleged to have predicted are not there. The ACCC, the price police, the body required by the government to oversee proper behaviour in terms of this tax, has begun to look at whether the oil companies are right. There are a lot of things that can be said about oil companies in Australia. I am certainly not one who has defended many of their practices, and I will not now. But they do have a fair idea of what it costs them to produce a litre of petrol. They are prepared to open their books for the ACCC to prove their assertions. They are not afraid of tabling their calculations and having them subjected to independent audit and scrutiny.

It is the government that refuses to table its calculations to show that what it asserts to be the truth is, in fact, the truth. It is a shameful display of a lack of accountability to this parliament and, through this parliament, to the people of Australia by this government in its refusal now, today—just ahead of the Prime Minister’s address to the nation tonight on how good this tax is supposed to be—to produce the evidence to justify whatever high-flown assertions he will make in his national exposure on public television tonight to yet again tell Australians how good this tax is. ‘Put up or shut up’ is what this parliament has said to the government, and the government has shut up. That is disgraceful. (Time expired)
tions (Consumer Protection and Service Standards) Amendment Bill (No.1) 2000 seeks to make a range of amendments to the Telecommunications (Consumer Protection and Service Standards) Act 1999 in order to provide for: firstly, the initial development of a framework for competitive tendering for universal service obligation services; secondly, a framework to issue a $150 million tender to extend local call facilities to some remote parts of Australia; and, thirdly, adjustment of the mechanism for calculating the cost of the USO so that the minister can nominate a figure representing the cost of providing that service for three years in advance.

Turning firstly to the universal service obligation, the USO is fundamentally important to ensuring the delivery of minimum levels of telecommunication services to rural and regional Australia. The changes proposed by this bill are a step towards significant change to the framework for the provision of universal telecommunication services to all Australians, irrespective of where they live or work. In the context of the key role that the USO plays in the provision of telecommunication services throughout Australia, the opposition has identified a range of issues that arise from provisions in the bill.

At the outset, it is important to note that Labor is concerned that the government is not engaging in the process of possible reform of the USO with clean hands. Service levels have declined with the partial privatisation of Telstra, particularly in rural and regional areas. We believe that the government has ignored these areas, in its ideological obsession with the privatisation of Telstra. There are serious inadequacies in service levels in some parts of Australia. Changes to the existing USO arrangements must not be at the expense of genuine improvements in service levels in regions already suffering from inadequate service. Since the partial privatisation of Telstra, the government has sought to portray its competitive tendering framework as the solution to declining rural and regional service delivery. Competitive tendering has also been put forward as an argument favouring the pursuit of full privatisation of Telstra.

There are limitations to the government’s approach to the USO tendering arrangements. Firstly, the government’s plan is limited to two pilot projects in undefined areas. The results of the projects will not be known for a number of years. The success or otherwise of these pilots will not be known prior to the full privatisation of Telstra, should the government achieve its goal within its proposed time frame. Secondly, Telstra is required to remain as a safety net provider of last resort in the areas to be covered by the pilot projects. This decision by the government acknowledges the necessary and unique role of Telstra in the delivery of services to rural and regional Australia and, therefore, the folly of pursuing full privatisation.

The opposition continues to condemn the government’s continued push for the full privatisation of Telstra. Full privatisation will inevitably result in a decline in services to rural and regional Australia. There is insufficient detail of how specific service difficulties faced in USO serviced areas will be addressed by these changes. The high cost and limited availability of broadband or data services represents a significant barrier to use of the Internet and other emerging digital services by rural, regional and remote communities. As a result, Labor senators believe that the universal service obligation must be upgraded in the future to encompass access to minimum digital data services. This government is ignoring the growing need for reliable data services for Australians in remote or isolated communities.

Turning now to calculating the cost of the USO, the bill allows the minister to determine the universal service cost for up to three years in advance, generally based on estimates provided by the Australian Communications Authority. The contentious issue of calculating the cost of providing the USO has been debated for some time, as the cost is borne by industry by way of an ex post facto levy based on a calculation of cost by proportion of market share. The ACA reviewed the framework for determining the USO cost in 1999 in the wake of the $1.8 billion claim for the cost by the universal service provider, Telstra. These amendments complement legislation enacted by the parliament in 1999 in
advance of an ACA review. That legislation incorporated a temporary provision allowing the minister for communications to make a determination concerning the cost of providing the universal service for the years 1998–99, 2000-01 and 2001-02 for the purpose of providing industry certainty.

Concerns have been raised that the bill reduces the ACA’s role in developing and administering a methodology for the calculation and collection of the USO cost and levy. Also of concern is that the bill confers a power on the minister to require the ACA to use a particular methodology or formula for determining the cost. The opposition believes that any ministerial determination regarding the cost of providing the USO, whether in full or in part, should be based on advice from the Australian Communications Authority. Furthermore, such ministerial determinations should be made by way of disallowable instrument.

Turning now to the local call zone tender, the government has proposed to issue a $150 million tender for the supply of infrastructure for untimed local call services to remote areas currently without this service. Telstra raised concerns in its submission that provisions in the bill would see the successful bidder or bidders for the $150 million tender automatically become the nominated universal service provider for the area covered by the tender. Consequently Telstra would potentially be relieved of any ongoing responsibilities in those areas.

Valid concerns have been raised that consumers in such areas may suffer adverse consequences if, for any reason, the tender project should fail. The project goes further than the two competitive tendering trials proposed in respect of the USO in that Telstra could be replaced as the universal service provider in those areas. Labor does not believe that a successful tenderer for the $150 million extension of local call zone projects should automatically become the nominated universal service provider for that area. This is particularly so when these provisions go further than the government’s competitive tendering proposals.

Provisions in the bill which confer a power on the Minister for Communications, Information Technology and the Arts to determine a successful bidder for the $150 million local call zone project have also been the subject of concern. Proposed new sections 20(2A) and 26A(2A) of the bill provide that, in making universal service provider declarations:

The minister is not limited to considering only the person’s suitability to provide the services that must be provided to fulfil the universal service obligation.

The bill does not define what other matters the minister must consider. The scope of the minister’s power to make declarations under these sections is of particular concern as it seems overly broad and provides little guidance as to what matters would be considered important in determining who provides a universal service for a given area. Labor believes that any prospective universal service tenderers should be selected on the basis of clear, defined and objective criteria. These criteria should be detailed in the legislation.

Turning now to carrier information proposals, the bill allows universal service providers to ‘require the former provider to give to the [incoming] provider specified information ... that will assist the [incoming] provider in doing something that the [incoming] provider is or will be required to do by ... this part’. The proposals appear to Labor to allow unnecessarily broad access to an incumbent carrier’s information. In particular, Telstra submitted to the Senate committee in its inquiry into the bill that the provisions were ‘objectionably wide’ because they are not limited to information that is required to carry out an obligated service, they do not limit what the incoming carrier can do with the information, they allow the minister to declare what information must be provided but do not allow the minister to declare that certain information need not be provided, they do not allow the Australian Communications Authority to declare a request unreasonable, and they do not allow the former provider to recover costs for the preparation and delivery of information. Other concerns raised include that the broad nature of the information provisions increase the potential for ambit requests designed simply to seek commercial information and that any deter-
mination by the minister should be by way of a disallowable instrument.

The information framework should, in Labor’s opinion, reflect the commercial sensitivities of the information that may be sought. It is also important that the framework should address only the specific needs of an incoming carrier which are relevant to carrying out specific, obliged services or functions. Labor believes that the Australian Communications Authority should be given the power to declare a request for information unreasonable on appeal from an affected carrier. Labor believes that, consistent with freedom of information principles, carriers should be able to recover the reasonable costs of complying with a request for information.

In summary, Labor has identified several key concerns with the provisions of the Telecommunications (Consumer Protection and Service Standards) Amendment Bill (No. 1) 2000. Labor is concerned to ensure that levels of universal telecommunications service are not compromised by changes to existing USO arrangements, that ongoing upgrades to the service levels required by the USO ensure access to minimum digital data services, that determinations by the minister of the cost of providing the USO should be based on advice from the ACA and made by way of disallowable instrument, that successful bidders in the government’s $150 million tender for the supply of infrastructure for untimed local call services to remote areas will not automatically become the nominated USP for that area, that any prospective universal service tenderers are selected on the basis of clear, detailed, objective and legislatively defined criteria, that the breadth of the carrier information proposals is limited to information specifically relevant to an incoming carrier’s obliged services or functions to reflect commercial sensitivities, that the ACA has power to declare a request for information unreasonable on appeal from an affected carrier, and that carriers should be able to recover the reasonable costs of complying with a request for information, consistent with freedom of information principles. Labor has had amendments drafted to give effect to those matters, and they will be circulated in due course.

Debate (on motion by Senator Newman) adjourned.

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

Second Reading

Debate resumed from 28 June, on motion by Senator Ian Campbell:

That these bills be now read a second time.

Senator O’BRIEN (Tasmania) (12.43 p.m.)—I simply indicate to the chamber that the opposition supports the passage of the Product Stewardship (Oil) Bill 2000 and associated bills without amendment.

Senator ALLISON (Victoria) (12.44 p.m.)—I seek leave to have my remarks on these bills incorporated in Hansard.

Leave granted.

The speech read as follows—

The genesis of these bills was Democrat concern about some of the side effects of the excise on diesel that came out during a Senate Inquiry into the environmental effects of tax reform. We were concerned that recyclers of waste oil might be disadvantaged.

Hence we negotiated the general concept of product stewardship arrangements with the Government last year. The idea to address the problem of waste oil in the environment, encouraging its greater collection, recycling and reuse.

The proper disposal of waste oil has been a problem in Australia, although we are better than many other countries. Oil can be very polluting if it gets into our water courses, and there are millions of litres of used oil that are unaccounted for in Australia.

The purpose of the legislation is to establish a product stewardship system for waste oil, thereby introducing an excise style levy (5c/litre, raising about $25m) on lubricating oils (domestically produced and imported), which will then be collected from producers by the ATO, and disbursed monthly to recyclers.
Recyclers will receive subsidies according to the volume of recycled oil they sell, the quality and the intended use of that oil (processing to a higher grade oil will attract a higher subsidy). This will be important in ensuring that waste oil is processed to its highest and best use.

The 5c levy should not cause undue problems for anyone. We would expect there to be some sharing of the cost between the producers and consumers, and this is entirely appropriate if behaviour is to be changed. Not only will less oil be dumped or inappropriately used, there should be more and better recycling.

The Advisory Council will provide an avenue whereby the industry can provide advice to the Minister. The membership will represent the diversity in the industry, particularly among the recyclers. We should get sensible advice that pushes the industry ahead in terms of its environmental performance.

I also look forward to seeing it help in the development of a Code of Practice for the recycling industry.

While this bill does not deal with the $60m GST package that was negotiated for transitional arrangements, it is necessary to have it in place before that issue is addressed.

This is a revolutionary scheme for Australia, and one that can be usefully considered for some of our other waste problems, such as tyres.

Question resolved in the affirmative.

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

PRIMARY INDUSTRIES LEGISLATION AMENDMENT (VEGETABLE LEVY) BILL 2000

First Reading

Bill received from the House of Representatives.

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

Bill read a first time.

Second Reading

Senator TROETH (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (12.45 p.m.)—I move:
That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

This Bill seeks to amend the Primary Industries Levies and Charges Collection (Vegetable) Regulations to clarify the rate of levy intended to be struck on vegetables that were grown and processed by the producer, between 1 March 1996 and 30 June 1999.

The Bill gives effect to a Government and Industry agreement that the procedure used for calculating the levy on vegetables grown and self-processed should be based on the cost of goods sold (using Australian Accounting Standards in force immediately before the vegetables were processed) rather than the inflated value added price at first point of sale (after processing).

The vegetable levy is intended to be imposed on fresh vegetables, but, in the circumstances described, these vegetables were processed first, and therefore had a significantly higher value added price at their first of sale and thus attract a higher than normal levy assessment. This is considered to be unfair.

The Bill recognises the situation for growersprocessors who process vegetables and where there is no sale prior to the harvested product being converted into another good (such as processing cucumbers into pickles).

The Primary Industries Levies and Charges Collection (Vegetable) Regulations provided that where it was not feasible to use a surrogate market price, the calculation of levy payable would be based on data from the organisation’s financial records to substantiate the basic product value prior to processing, using the Australian Accounting Standards calculation of Cost of Goods Sold.

The rate of levy is being re-set to 0.5% of this value.

As levy on vegetables grown and self-processed after 1 July 1999 is imposed under Schedule 15 to the Primary Industries (Excise) Levies Act 1999, that levy assessment is unaffected by this Bill.

The value for calculating the levy is now either the actual sale price at the first point of sale or the cost of goods sold, depending on circumstances. This Bill ensures that all vegetable levy payers (since the start of the levy) are treated equally.

The Bill does not create any new administrative burden for levy payers.

Senator FORSHAW (New South Wales) (12.45 p.m.)—I wish to indicate on behalf of the opposition that we do not oppose the Primary Industries Legislation Amendment
(Vegetable Levy) Bill 2000. The purpose of the bill is set out in the explanatory memorandum and in the second reading speech that has been incorporated by the Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry, Senator Troeth. The first paragraph of the explanatory memorandum states:

The Bill seeks to amend the Primary Industries Levies and Charges Collection (Vegetable) Regulations to clarify the rate of levy intended to be struck on vegetables that were grown and processed by the producer, between 1 March 1996 and 30 June 1999.

Those dates are important because the bill has a retrospective effect. But the purpose is to correct an inequity that occurred during that period with some fresh vegetables that were processed by the grower. Normally the levy is imposed on fresh vegetables at the first point of sale. But, for instance, in the circumstance where cucumbers have been processed into pickles by the grower, the cucumbers attracted a significantly higher value added price which has, in turn, led to a higher than usual levy assessment. This bill gives effect to an agreement between the industry and the government to correct that inequity. Therefore, we are not opposed to the passage of the bill. However, I do understand that there is another issue which my colleague Senator O’Brien will inform the Senate of with respect to his home state of Tasmania. On that basis, I leave my remarks at this point, indicating that we are not opposed to the passage of the bill.

Senator O’BRIEN (Tasmania) (12.48 p.m.)—The Primary Industries Legislation Amendment (Vegetable Levy) Bill 2000 is a necessary piece of legislation to correct an anomaly for vegetable growers, a particular anomaly that was drawn to the attention of the government and the opposition in relation to just that situation which Senator Forshaw referred to—a grower who processed his own pickles from his own crop. But we find that, with the correction of one problem for rural industries, another one emerges. I have received a copy of correspondence sent by the seed potato organisation in Victoria, Seed Potatoes Victoria. Being from Tasmania, it is not surprising that I am speaking about potatoes, but it just so happens that Victoria is the major producer of seed potatoes for this country. According to this organisation, Victoria produces somewhere in the vicinity of 85 per cent of certified seed potatoes for Australia and somewhere in the vicinity of 35,000 tonnes of certified seed potatoes annually. A situation has been drawn to our attention which relates to the changed view of the tax office in relation to the GST implications for seed potatoes. I wanted to read into the Hansard some comments from Seed Potatoes Victoria made in correspondence which is dated 22 June this year. It says:

Following from our telephone conversation this morning I feel that I must write to you to explain more fully the implications of the decision by the Australian Taxation Office (ATO) to reverse the Goods and Services Tax (GST) status of seed potatoes to be no longer GST Free. This is a decision which will undermine the work of the last 60 years to develop a certification system for potatoes, a system that has benefited both the industry and consumers.

It then goes on to talk about the importance of the seed potato industry in Victoria, both to Victoria and nationally, and that there was an early indication from the tax office that seed potatoes would not attract a GST. The fact of the matter is that that has now been changed and individual growers have been told that they must collect a GST on the sale of seed potatoes. Further on in the letter, Mr Tony Pitt, the author of the letter, says:

Price and quality are the key drivers of the marketplace for potatoes. The volume of certified seed sold each year will be dependent on the relative price of certified seed potatoes compared to potatoes which can be used for planting but are not certified. The impost of a 10% Goods and Services Tax on potatoes sold with certification labels will clearly drive buyers towards other products. Some of this will be to unlabelled seed and some will be to potatoes not produced within certification protocols. Some of this will be to unlabelled seed and some will be to potatoes not produced within certification protocols. The 10% will be redeemable by the buyer as a tax credit, but this is a very competitive industry and there will clearly be a marketplace rejection of the product with 10% added at the time of sale in comparison to that which has no GST. Potato buyers act on the price that they pay today, not on what they might get back in three months time. It is an industry run on credit lines and credit limits. The extra 10% will commonly result in purchase of a cheaper product. There is no way to differentiate potatoes sold to a buyer for either fresh consumption or for planting
other than through a certification label and so that
the non labelled product will have a clear advan-
tage in the marketplace. The legislation may
stipulate that GST equally applies to both certified
seed and unlabelled seed but it will be impossible
to enforce the latter with the way our industry
operates.

What is clearly suggested is that some pro-
ducers produce potatoes which can ostensibly
be sold for consumption but which in reality
can be purchased for use as seed. Obviously,
a potato planted in the ground will generally
germinate, whether or not it is certified for
seed or sold ostensibly for consumption. This
is an issue which this organisation raises. Mr
Pitt puts what he describes as a worst case
scenario for the industry. Anyone would
readily concede, as he does, that it is one of
the more pessimistic views of what might
happen. Nevertheless, he felt that it ought to
be recorded that the possible outcome of this
changed GST implication for this industry
could be as follows. He says the likely reperc-
cussions of the decision in a worst case sce-
nario are:

Trade in certified seed declines by 15% as result
of cash flow preference to purchase other potatoes
for planting;

Trade in non labelled seed increases by 15% as a
means to now jointly avoid part of the certifica-
tion levy and the GST;

Certification fees drop by 30% overall which
takes the certification authority below the critical
volume of fees required to support the certifica-
tion system;

The certification system collapses due to financial
constraints. Private certification schemes will
probably develop to replace the current scheme;

Export trade in certified seed collapses because
importing countries will not recognise the integ-
rely of privately run schemes;

The work done in developing a certification
scheme in potatoes for the past 60 years is lost as
personnel and expertise leave to find other areas
of employment;

Ultimately consumers suffer in the long term as
disease levels rise again in potato districts and
quality and farm productivity decline.

Mr Pitt goes on to say that, whilst he advises
this as the most pessimistic scenario, there
will definitely be an impact on the market-
place and that the biggest potential loser is
Australia as a whole, because inefficiency in
production from introduced and unnecessary
bias in seed purchase and potential loss of
export markets are a real threat. He finishes
by saying, with regard to the tax office treat-
ment of the GST application to seed potatoes:
If this was not a grey area we surely would not
have been advised previously by the ATO that
seed potatoes were not subject to the GST.

That is a very interesting point. The confusion
that exists for important parts of Austra-
lian rural industries remains. One has to say
that the differentiation of advice between the
head body and individual farmers has created
a lot of confusion and concern. My state of
Tasmania is a major grower of the potato
crop. Annual production is in the order of
400,000 tonnes, which is about one-third of
our national production. In Tasmania, most of
that production goes into the processing sec-
tor; but the production of seed potatoes—
while not on the scale of the industry in
Victoria, obviously—is still an important
industry in Tasmania, and the seed potato
producers industry is now being confronted
with the GST.

This is yet another of the problems that
this so-called simple tax is causing. The im-
lications are emerging day by day that,
clearly, were not contemplated when this tax
was introduced. There are very many impli-
cations for rural industries with the introduc-
tion of the GST—which will become appar-
ent in the ensuing months. At the end of the
day, the government’s pronouncement that
the GST will be good for rural industries will
be proven to be baseless. Having said that,
the opposition will be supporting this legisla-
tion. We do not wish to have any unforeseen
consequences of the application of levies to
vegetable production causing damage to rural
industries and we will therefore be support-
ing this legislation without amendment.

Senator TROETH (Victoria—Parlia-
mentary Secretary to the Minister for Agri-
culture, Fisheries and Forestry) (12.58
p.m.)—in reply—I thank honourable senators
for their comments—although one would
have to suspect that Senator O’Brien’s com-
ments could be interpreted as a very wide
interpretation of ‘vegetables’, which is what
this bill deals with. I would point out to him
that one would expect that serious growers
would be looking for certification as part of
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their quality assurance arrangements. The GST in that instance becomes a side issue. Growers are looking to provide a quality product, and seed certification is part of that quality assurance program. However, we are here to correct the anomaly which disadvantaged those vegetable growers who choose to process their vegetables on the farm before the first point of sale happens. In the previous way that this levy arrangement operated, they have been disadvantaged. The only way to retain equity among all growers was to adjust the rate back to the commencement of the levy, which was 1 March 1996. I do stress, however, that this covers transactions between 1 March 1996 and 30 June 1999. It is to correct the anomaly that occurred then and to redress the disadvantages suffered by those growers during that time. I commend the bill to the Senate.

Question resolved in the affirmative.

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

SALES TAX (CUSTOMS) (INDUSTRIAL SAFETY EQUIPMENT) BILL 2000
SALES TAX (EXCISE) (INDUSTRIAL SAFETY EQUIPMENT) BILL 2000
SALES TAX (GENERAL) (INDUSTRIAL SAFETY EQUIPMENT) BILL 2000
SALES TAX (INDUSTRIAL SAFETY EQUIPMENT) (TRANSITIONAL PROVISIONS) BILL 2000

Second Reading

Debate resumed from 5 June, on motion by Senator Ellison:

That this bill be now read a second time.

Senator SHERRY (Tasmania) (1.02 p.m.)—This is probably the last time that the Senate will consider legislation in respect of sales tax, commonly known as wholesale sales tax, or WST. Given that this is the principal tax being replaced by the goods and services tax, which commences on Saturday 1 July, it is an appropriate time to make some observations about the many misleading and inaccurate criticisms of the wholesale sales tax, particularly when compared with the so-called advantages of the goods and services tax.

Firstly, I will go to a brief history of the wholesale sales tax. As many know, it was introduced in 1930. The fact that it was introduced in the 1930s is often used as a point of criticism, but of course income tax was introduced into this country prior to 1930 and we are not abolishing it. Since the tax was introduced, it has been significantly improved to give effect to a range of government policies, including concessions and provisions to measures that prevented the double taxation of goods. These policies have led to the introduction of multiple rates of tax, which occurred in 1940, to put more of the revenue raising effort onto luxury goods. There are a wide range of exemptions for goods used by particular persons or by particular organisations, such as schools and charities, and there are exemptions or reduced rates of tax on goods used as inputs in goods producing industries.

The WST is a single-stage tax on goods manufactured in or imported into Australia for use in Australia. It applies only to goods but is not limited to the sale of goods. It is important to note that the sales tax does not apply to most services, fresh food, water and energy—in other words, most essential goods. It does not apply to housing and buildings, although some fittings are taxed, goods manufactured principally from second-hand materials which are sold as second-hand goods, and goods that are to be exported from Australia. The tax applies at the wholesale level. This means that the standard 22 per cent sales tax rate is often less of a tax burden, for instance, than a 10 per cent GST would be on the full retail price. The concessional wholesale sales tax rate of 12 per cent is almost always considerably less of a tax burden than a 10 per cent GST, because the GST applies through the chain of supply through to retail prices.

Manufacturers and wholesalers register and quote their certificate numbers to buy goods tax free. Generally, only manufacturers and wholesalers are liable to pay the tax, not
retailers. Charities, hospitals, schools and other exempt bodies can buy goods tax free by presenting a conditional exemption certificate. The sales tax is self-assessed. Manufacturers with sales above certain thresholds and all wholesalers are required to calculate and pay the appropriate tax on their transactions on a monthly or quarterly basis. Manufacturers are required to pay wholesale sales tax only where their annual tax liability is more than $1,000 or their total annual turnover is more than $50,000. As I said earlier, most essential goods are exempt from the sales tax. Some of the exemptions include food and clothing—they apply unconditionally. Others are conditional upon the goods being used by particular persons such as government departments, schools or charities or for particular purposes, such as use in an agricultural industry.

Setting aside the two special wholesale sales tax rates introduced by the Howard government in 1997 for alcoholic drinks, there are five main rates of tax that can apply to goods: the zero rate, which applies to most necessities; the concessional rate of 12 per cent—introduced by the Menzies government in the 1950s as I understand it; the normal rate of 22 per cent; the higher rate of 32 per cent; and the special rate of 45 per cent, which applies only to that part of the value of a luxury car which is above the luxury car threshold, which in 1997-98 was $57,721.

The wholesale sales tax is not perfect, but no tax is. There are a number of products that are currently free from the wholesale sales tax. Such articles are baby equipment such as prams, cots, safety harnesses, baby foods, wedding dresses—along with other clothing, bicycle helmets, coffins, caskets, urns, tampons, sanitary pads and wedding rings. There is a considerably longer list, but I give those as a number of examples.

There are a number of advantages to a wholesale sales tax. Firstly, and importantly, it allows some goods to be taxed at a lower rate than others. This means that Australians pay less tax on the necessities of life, many community organisations and charities can be exempted and luxuries can be taxed more heavily. Other advantages of the wholesale sales tax include the fact that it is not levied on a range of essential items such as food, clothing and electricity. It is a very cheap tax to collect and administer. It costs only about 0.5 per cent of the revenue collected. It also works. It will raise more than $15.447 billion this financial year at a very low administrative cost. It is flexible: it can cope with exemptions and differentials and can be used for special situations such as the 1997 state franchise tax crisis. Finally, it is levied on wholesale not retail prices.

The WST is very cheap to administer. The main reasons for this are the small number of tax collectors—that is, businesses or enterprises regularly lodging returns—and the simplicity of documentation required with respect to WST returns; for example the data on total sales minus sales to exempt buyers. There are only about 75,000 active tax collectors of the wholesale sales tax lodging returns. We do know that under the GST, which replaces a wholesale sales tax, there will probably be two million-plus more taxpayers collecting the GST. Under a GST, every business, every farm and every enterprise is collecting and remitting the GST to the Taxation Office. Business returns are significantly more complex, with data required on inputs purchased and GST paid on those inputs, as well as sales information and further details to deal with complications such as sales of second-hand goods, spending on vehicles, phone bills, et cetera, where there is some personal use. Because the WST is cheap for the Taxation Office to administer, the Taxation Office can use its scarce resources to target tax evasion throughout the system rather than being bogged down in processing GST returns. There will be about an extra 3,000 tax collectors as a result of the GST.

There have been a number of false claims made about wholesale sales tax. It is interesting to note that the government, in the manifesto propaganda document that it took to the last election, made strong criticisms of the wholesale sales tax system. It said on page 8 of that document:

The current tax system is ineffective. It provides a crumbling base from which to derive the necessary revenue to fund essential government services, including those provided to rural and
regional areas, as well as those provided through the social security system. It is totally inconsistent to be committed to maintaining or increasing current levels of expenditure on social security but to be opposed to fair and systematic reform of a crumbling tax base.

That was some of the criticism by the Liberal-National Party in respect of the wholesale sales tax. It is somewhat ironic that they are criticising the so-called crumbling tax base and the moneys that are needed to be spent in respect of social security when this government has consistently cut moneys in the areas of social security, education, health and, in particular, rural and regional areas.

It is also interesting to note that the government propaganda document criticising the wholesale sales tax does not contain any revenue forecasts about what would occur with the retention of the wholesale sales tax. It is no wonder the government did not include revenue forecasts in that propaganda document. If we go to the revenue forecasts in this year's budget strategy and outlook papers, we see that paper No. 1 shows that the claim that the WST is part of a crumbling tax base is simply untrue.

One of the arguments put is that WST is in decline because it is based on a manufacturing economy which is in decline, and not the services economy, which is growing. This is also not true. Revenue from wholesale sales tax has been increasing from 1989-90, when it raised $10.13 billion, to the last year of collection, when it raised $15.4476 billion. Why is this? In a report known as the Monash model provided to the Senate Select Committee on a New Tax System, Messrs Dixon and Rimmer commented:

The bulk of indirect taxes are collected on consumption and intermediate usage of goods and services. In our base case forecast, collection of consumption taxes is projected to grow at about the same rate as gross domestic product.

And why is this? Sales tax applies to many fast-growing consumption items—for example, electronic equipment, scientific equipment, cars and entertainment. So the wholesale sales tax is indirectly taxing a large part of the growing services sector.

In the debate on the goods and services tax replacing the wholesale sales tax, the issue of replacing state payroll taxes appears to have got lost. As we know, state payroll taxes are to continue. While the GST is replacing the wholesale sales tax, which has continued to collect adequate revenue for government, it is not replacing a whole array of other indirect taxes. An example is the excise duty on unleaded petrol. That has certainly been in the media recently. Under a GST regime the excise duty on unleaded petrol continues. It will collect just over $5 billion in the 1999-2000 financial year. That increases to $5.9 billion in 2000-01—an increase of 18.8 per cent.

Another example is that of beer. Recently, we have had some controversy about the Prime Minister's commitment that beer prices were going up by only 1.9 per cent, or thereabouts. In 1999-2000, the excise on beer was $892 million. It rises to $1.44 billion in the year 2000-01—an increase of 61 per cent. There are similar figures in respect of spirits. Tobacco excise taxes increase from $1.74 billion in the year 1999-2000 to $5.124 billion in 2000-01—a massive increase.

So we had the argument that the GST would be introduced to replace all of those indirect taxes and that we would end up with a simpler tax system. I see Senator McGauran in the chamber, the well-known representative of the National Party which has accepted this line of argument and a line of other arguments that are directly contrary to the interests of people who live in rural and regional Australia. I say to the Senator that I will get to that issue. Along with the GST, we have a new wine equalisation tax that will collect $549 million in the year 2000-01. The GST was to replace the so-called inefficient indirect taxes. It has replaced the wholesale sales tax but it has not replaced excise duties, and we have a new wine equalisation tax that will collect $549 million.

It is interesting to note that, after the introduction of the GST, some indirect taxes will remain. Those indirect taxes, on top of the GST, will raise more revenue: some $24.1 billion in the next financial year. That is almost double what the wholesale sales tax will collect in its last year of operation, which is approximately $15.4 billion. As an interesting aside, the budget papers show that the inequitable income tax cuts, to which the
government is fond of referring, start on 1 July. Those income tax cuts will reduce revenue to the government, which this financial year was $72.3 billion, to $67.7 billion in the next financial year. It is interesting to note that the reduction in income taxation revenue to the government to $67.7 billion in the next financial year is slightly more than the amount that was collected by the government from income tax in the year 1998-99—that is, $67.3 billion. So the reduction in income taxation revenue to the government from income tax occurs for only one year and then that amount starts to grow again. To top it off, taxes on superannuation—that is, taxes on the retirement incomes of Australians—increase from $3.9 billion this financial year to $5.2 billion in the next financial year.

So at the dawn of the new era of the GST, which commences on Saturday, we have ended up with large indirect taxes remaining—that is, excise taxes in respect to alcohol, cigarettes and petrol. Why did the government keep these indirect excise taxes rather than get rid of them when the GST is imposed? The government gains a windfall in tax revenue collection because excise taxes are indexed in line with increases in the consumer price index—the cost of living. That is pushed up by the GST. As a consequence, the government ends up collecting hundreds of millions of dollars a year more in revenue from excise taxes than it would otherwise have collected. We have seen the recent controversies surrounding beer and petrol prices.

We also have the introduction of a new wine equalisation tax, collecting about a billion dollars in revenue each year. It is interesting to note that that billion a billion dollars in revenue from the new wine tax exceeds the amount collected by all the other taxes that are being abolished—the other seven or eight taxes—excluding the wholesale sales tax. Income taxes will still raise more revenue for the government in 2000-01 than they did in 1998-99. Payroll tax continues. We have added a massive new tax on just about everything, the goods and services tax, which raises $24 billion a year.

What do we have with this GST that is supposedly to replace the inefficient, outdated wholesale sales tax? We have a new, inefficient and very costly tax to collect, particularly for the 2.5 million Australian businesses—particularly small businesses, farmers and the like—who for the first time have become tax collectors. This tax costs more to collect than the wholesale sales tax ever did. We end up with a goods and services tax that is riddled with more anomalies, inconsistencies and exemptions than the wholesale sales tax ever had. We end up with a $430 million propaganda campaign telling us that the dawn of the new era on Saturday is all a good thing for Australians.

Senator PATTERSON (Victoria—Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs and Parliamentary Secretary to the Minister for Foreign Affairs) (1.20 p.m.)—In the dying hours of the wholesale sales tax, I presume Senator Sherry felt it necessary to defend it. I do not know what he is going to do after 1 July. Anyway, he defended the wholesale sales tax, which is ramshackle. Can he explain why there is wholesale sales tax on strawberry Quik and not on chocolate Quik, why there was a High Court challenge to the levying of wholesale sales tax on cotton wool buds, or why there was a High Court challenge to the levying of wholesale sales tax on in-ground swimming pools, which was overturned. If Senator Sherry wants to defend that ramshackle old system, then I suppose I will let him. However, when the senator’s party accepts the GST on 1 July, we will repeat his speech to him and ask him whether he will cross the floor and lead the party in the Senate to call for the return of the wholesale sales tax. I do not know how the senator can live with making that speech after his party declared that it is going to accept the GST.

Anyway, given that this bill is non-controversial, Senator McGauran and I showed enormous restraint and did not interject on the senator. I asked Senator McGauran not to interject, but he was itching to interject. We were tempted sorely to interject on that amazing, outdated and outmoded speech. Senator Sherry can go backwards with IR and he can go backwards with tax and he will go backwards out the door at the next election. But let us get on with these packages of bills here today. I appreciate the
cooperation of honourable senators opposite, at least in accepting the bills. I do not necessarily agree with Senator Sherry’s speech, but I commend the bills to the chamber.

Question resolved in the affirmative.

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

INTERNATIONAL TAX AGREEMENTS AMENDMENT BILL (No. 1) 2000

Second Reading

Consideration resumed from 22 June, on motion by Senator Boswell:

That this bill be now read a second time.

Question resolved in the affirmative.

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

Sitting suspended from 1.25 p.m. to 2.00 p.m.

QUESTIONS WITHOUT NOTICE

Goods and Services Tax: Women’s Health

Senator CROWLEY (2.00 p.m.)—My question is to Senator Newman, the Minister assisting the Prime Minister for the Status of Women. Is the minister aware that the government has frequently claimed that health is GST free? Can the minister confirm, however, that there will be a GST on calcium supplements, despite women continually being warned to take measures to prevent the serious health condition osteoporosis? Can the minister also confirm that, despite the plea from many thousands of women, tampons and sanitary products, which have never been taxed before, will still be hit with the GST? In light of these facts, is it still the Howard government’s view that women’s health will be GST free?

Senator NEWMAN—This question quite obviously should have been directed to the minister who has prime responsibility for implementation of the GST or, alternatively, to the Minister representing the Minister for Health and Aged Care. But, as I assist the Prime Minister on the status of women, Senator Crowley has chosen to ask me. I would endorse her comments about the importance of getting a message through to women that they should look after their calcium intake, no matter what their age. It is very important. We can all do that by drinking milk, for example, and eating yoghurt—all of which are totally GST free—and this should become a lifelong habit.

I am concerned if Senator Crowley is making light of the substantial tax assistance that women are going to have out of the tax reforms. Senator Crowley’s question would in fact imply that women are not going to have the means to buy the products that they are currently buying. The facts are that the substantial tax reforms, the reduction in the rate of tax, the fact that people will not be paying tax on the first $6,000 of their income and that older people will not be paying tax until they have reached over $14,000 mean that people are going to have a lot more money in their pocket with which to buy the things they need. Many items have been covered by the GST health exemption, but I assume the items that Senator Crowley is referring to have not been on the GST free side of the line. But, having said that that may be so, women can afford to buy them because they have the means with the compensation arrangements under the A New Tax System to buy them out of the extra dollars they will have in their pocket after 1 July.

Senator CROWLEY—Madam President, I ask a supplementary question. I remind the minister that the government claims frequently that health is GST free. Is the minister further aware of the additional cost women will experience because of the imposition of the GST on breast pumps, nipple shields, washable bra pads and Haberman feeders? Won’t these price increases also affect women unfairly, highlighting the inherently inequitable nature of this 10 per cent tax?

Senator NEWMAN—If we had time here today to engage in a reminder session for the ALP of all the items on which they had wholesale sales tax—

Senator Patterson—Toilet paper.

Senator NEWMAN—Toilet paper, for example; one usually regards that these days as being an essential of life, but the Labor Party obviously does not. Certainly when wholesale sales taxes were put up regularly
without any information going to the public there was never a cent of compensation. Men and women are getting compensation to deal with the most significant change to our tax system that Australia has ever seen. The troglodytes who sit opposite are so determined to point out things that they do not like about the system that they have quite failed to recognise that this is an excellent, important, significant change to the administration of our country whereby people will be taxed on what they buy, not on their earnings.

(Time expired)

**Goods and Services Tax: Education**

**Senator McGauran** (2.05 p.m.)—My question is to Senator Ellison, the Minister representing the Minister for Education, Training and Youth Affairs. Will the minister inform the Senate of the benefits of the A New Tax System for Australian students and their families? Is the minister aware of any alternative approaches on this matter?

**Senator Ellison**—This is a very important question for all Australians, and Senator McGauran is right in raising it because there have been a lot of misleading reports in the press, and particularly in the ‘scare a day’ campaign we have had from the opposition. Education is the big winner under the A New Tax System. Education services are GST free, university HECS debts are GST free, TAFE course fees are GST free and university fees are GST free. In fact, costs across the board will fall for education. Treasury calculates that when you unchain Labor’s unfair wholesale sales tax you reduce the cost of education by almost $1 billion over the next four years. That is a reduction of over $1 billion over the next four years, which is good news for the education sector in Australia. When we look at schools we see that where a school charges a fee for the supply of an education course that consists of tuition, facilities and other curriculum related activities and instruction, this is GST free. Accommodation at boarding schools and rural students hostels will be GST free. School excursions, school camps and other extracurricular activities relating to school curriculum will be GST free. Non-profit tuckshops will be input taxed and outside the GST system.

When you unchain the unfair tax system that Labor imposed—that wholesale sales tax system—on stationery, computers, calculators and sporting equipment, you get cheaper prices for Australia’s students. The tax concessions that apply to charities will also apply to government schools, ensuring consistent treatment across the government and non-government school sectors. Importantly, revenue from the GST goes directly to state governments, which will deal directly with education demands placed on them in those states. This means increased revenue and resources for education in the states.

There has now been a ruling, I am pleased to say, in relation to adult and community education. This complements the determinations made by the Minister for Education, Training and Youth Affairs. It includes adult and community education courses that are funded or recognised by state and territory governments and similar courses offered by non-profit adult education providers. It covers tertiary courses that include vocational education and training courses accredited by the states and territories. Importantly, it relates to English, Asian and European language courses that are recognised by state and territory governments and would be covered by these determinations. In fact, what this ruling by the Taxation Office has done is assist those providers in assessing what is GST free. It relates to adult and community education courses that are likely to add to the employment related skills of people undertaking the course. Of course, that is very important for those mature age students who want to gain employment.

This government has spent $17 million assisting various organisations in getting ready for the new tax system. This new tax system is good news for the education sector. It spells increased assistance by way of Austudy and youth allowance for Australia’s students, and it also provides over $1 billion in cost cuts over the next four years for the education sector in this country. This is excellent news for all Australians.

**Goods and Services Tax: Petrol Prices**

**Senator Conroy** (2.09 p.m.)—My question is to Senator Kemp, the Assistant Treasurer. Is the minister aware that in March
1999 Mr McIntosh of the Australian Automobile Association in evidence to the Senate Select Committee on A New Tax System stated:

According to research undertaken by Econtech for AAA, indirect taxation reform will generate cost savings in petroleum production, transport and distribution. This will amount to 0.3 cents to 0.6 cents more in the country compared with the city, but the savings will not generally be enough to offset the direct impact of the GST...

Is the minister further aware that only this morning on the AM program Mr Jeff Metcalfe of the AAA stated with regard to petrol prices:

They'll definitely go up, there's no doubt about that. In fact, the Econtech modelling shows that prices will go up in the first six months of the GST by about 1c a litre...

Can the minister confirm that the Prime Minister's preferred modeller, Mr Chris Murphy, is in fact right, that petrol will go up as a result of the GST, or does the government again claim Mr Murphy is just wrong?

(Time expired)

Senator KEMP—Thank you to Senator Conroy for that question. I will make a couple of general comments before I get to the specifics. The date of 1 July is very important. It heralds the start of new tax reform. Frankly, this is a great change for Australia. It has been hard going to get there, mainly because of the appalling approach of the Labor Party to taxation reform. On 1 July the importance of this change will become apparent to the Australian community—those who are not convinced at this moment. It will deliver very significant benefits for Australian families, for business. Also 1 July heralds the fact that the Labor Party from 1 July supports the GST. That is what the Labor Party has said. Senator Cook said, 'Up to 1 July if you bring it in, we vote against it. After 1 July the GST forms part of the Labor Party policy.' Mr Beazley has said it will not be repealed.

Senator Faulkner—No-one believes you.

Senator KEMP—Mr Beazley says that, Senator Faulkner. Mr Beazley, your leader, has said that the ALP will not be repealing the GST. That has been dead clear. Mr Beazley has always indicated there may be some rollback. But if you roll something back, the question is: what do you roll forward? Will the Labor Party be pulling back our major tax cuts?

Let me turn to the specifics of the question from Senator Conroy. With the introduction of the goods and services tax the government will reduce the excise on petrol and diesel so that the pump prices of these commodities for consumers need not rise. The government has announced diesel cuts for petrol and diesel together, with the Fuel Sales Grants Scheme, which will fully offset the impact of the GST. It is also important to note—this was not mentioned by Senator Conroy—that the cost of fuel to business will fall by approximately 10 per cent due to the availability of input tax credits. Schemes to lower the cost of fuel—such as the Diesel and Alternative Fuel Grants Scheme and the Diesel Fuel Rebate Scheme—all lower the net taxation of fuel.

As I said, the tax reform is good for Australia. It is good for business. It is good for families. It is not surprising that Mr Beazley has indicated that he will not repeal the GST. That now forms part of Labor Party policy. I know Senator Cook and I have had our differences over the years—that is well known; there have been some pretty strong comments made at times between Senator Cook and me—but I do not argue with Senator Cook that from 1 July the goods and services tax forms part of the Labor Party’s policy. The big issue is the rollback—what is Labor going to do about the roll-back; which taxes are they going to raise to pay for their roll-back? That is the issue.

Senator CONROY—Madam President, I ask a supplementary question. I ask again, Minister: does the government continue with its claim that the Econtech modelling is wrong? If so, why is the government refusing to release the Treasury modelling on the price of petrol so motorists can compare its results with the Econtech figures that the Automobile Association released today?

Senator KEMP—You may have your views, and we will see what comes out of Labor Party policy and the roll-back. We have our views and I have stated those views. In relation to the modelling—
Senator Conroy—Table it!

Senator KEMP—Excuse me, Senator Conroy. In relation to the modelling, I have just followed Labor Party precedents. Why don’t you hang me for that, Senator Conroy? I have just followed the precedents set by the Labor Party. You must be joking.

Information Technology: Employment

Senator TIERNEY (2.15 p.m.)—My question is to the Minister for Communications, Information Technology and the Arts, Senator Alston. Will the minister inform the Senate on how the government is assisting the growing information technology sector to provide new jobs and improved living standards for all Australians? Is the minister aware of any alternative policy approaches and what would be the impact of these if they were implemented?

Senator ALSTON—Senator Tierney quite rightly identifies the IT&T sector as a crucial element in being not only a clever country but also a prosperous and expanding country. Indeed employment levels in the IT&T sector grew some 12 per cent last year, with some 17,500 new jobs. We have introduced a number of very important initiatives, such as those building on IT strengths—$158 million worth in fact. There is also the BARN—Building Alternative Rural Networks—initiative, a $70 million project. Both initiatives were opposed by the Labor Party. Then of course there is our historic capital gains tax reform. All of these initiatives are very good news indeed. If you contrast that with what the alternative approach is, the latest effort—which I think really takes the cake—is a press release that I saw yesterday headed ‘Launch of Australian parliamentary Internet group: a nonpartisan forum’. Senator Kate Lundy said:

It is my hope that, by inviting my parliamentary colleagues to participate in a nonpartisan, informative forum, Australian policy makers ...

Et cetera, et cetera; mere words. This event actually took place at 12 noon yesterday. Who was invited? Let me first of all tell you who turned up. Mr Beazley was there, but my information is that not a single other parliamentarian was there. Did the media turn up? A couple of them turned up—Senator Lundy’s preferred preselection newsletter, the Canberra Times, was there. But did any of them run it? No, of course they didn’t. It did not get a run anywhere. Senator Lundy no doubt saw this as a market opportunity because you have Mr McMullan out there as nominally the shadow minister for technology who never says boo on the subject. I suppose she thought, ‘Why not? I’d better try to impress the leader and tell him that I have something going for me, and I have this nice little idea.’ The only trouble is that the idea was suggested by the Internet Industry Association. They wanted a genuine nonpartisan forum in parliament house to discuss these issues. They said that they would organise it for yesterday, but Senator Lundy said, ‘No, leave it to me. I will fix it up and invite everyone.’

So they came along thinking that was what was going to occur. What did they discover last night? They discovered that Senator Stott Despoja had not been invited. So they smelt a very big rat, and they rang my office in the morning to find out that we had not been invited either. Do you know what time the invitations were received for a 12 noon meeting? They were received at 12.49 p.m.—that is when they came in on the Internet. I presume from that that either Senator Lundy deliberately boycotted her own colleague Senator Bishop—no doubt she sees him as a bit of a competitor in this area, so no doubt he was not invited—or else of course these people were invited and they deliberately boycotted the function because they knew it was a very shabby stunt. This is a matter of very serious concern to us because Senator Lundy has form. She went along to the Internet Industry Association and was introduced as the shadow minister for youth and sport affairs and the shadow minister for assisting the shadow minister on information technology in relation to information technology. They fell about laughing when the penny dropped that Labor did not even have a spokesman in the area.

I am thinking of referring this matter to the ACCC for misleading and deceptive conduct. But probably we can rely on industry self-regulation because I think, after this very shabby job application from somebody who...
has not asked a question on youth affairs in the 18 months since the last election, she is clearly doing 'a Cheryl'. She is saying to Mr Beazley: 'I am sick of this; I want out of here. I want to be promoted to a job that we haven’t got at the moment. Please consider me.' So poor old Kim turns up—you know, the Kim and Kate show, Y2K, they were the only two there—and the end result was that this did not get a run anywhere.

The PRESIDENT—Order! Minister, the time for answering the question has terminated.

Senator Alston—It was utterly counter-productive and, I am afraid, a very big career-limiting mistake.

The PRESIDENT—Order, Minister!

Senator Robert Ray—Madam President, I raise a point of order. Time and time again Senator Alston defies your request to sit down. He did it again today and he has been doing it for numerous question times. He always goes an extra 15 seconds after you call him to order. I think if he cannot get the timing of his pre-prepared character assassination jobs to within the four minutes, you should sit him down.

The PRESIDENT—I call Senator McKiernan.

Child-Care Benefits: Information

Senator McKIERNAN (2.20 p.m.)—My question is directed to Senator Newman, the Minister for Family and Community Services.

Senator Faulkner interjecting—

The PRESIDENT—Order! I need to hear Senator McKiernan’s question.

Senator McKIERNAN—Can the minister confirm that there are widespread errors and gaps in the information sent by her department to child-care services on families’ entitlements to the new child-care benefit, which commences next Monday? Can the minister confirm that many centres have been sent information which has between 10 per cent and 90 per cent of the families missing, that some centres have been sent no information and that others have been sent details for families who are unknown to them? Will the minister take responsibility for this fiasco and what urgent action will she, as the senior minister in the portfolio, take to remedy this complete botch-up of the new child-care benefit system?

The PRESIDENT—Senator Faulkner, it makes it hard to hear a question on your side when you are talking loudly while it is being delivered.

Senator NEWMAN—I thank you for that, Madam President, I think Senator McKiernan was almost completely drowned out by his leader. Nevertheless, I got the gist of your question, Senator. Yes, there have been mail-out problems with the child-care benefit, and I am disappointed in that. But I would point out to you that this is one of the most significant changes in Australia’s history, not just for my department but also for the tax department and Centrelink. Millions of people who have entitlements under my portfolio have had a succession of information items going to them over the last few months. In March, for example, the families were sent out a mail-out of a form they were required to fill in to be able to claim entitlements for the new family tax benefits and for child-care benefit.

I am advised by my department and by Centrelink that the department has put in place measures which will ensure that any family currently receiving child-care assistance will continue to pay the reduced child-care fees. Services have been sent a great deal of information over the last six months, and more material is going out to them in a phased way, which should end by tomorrow. So they will be in a position to help them estimate fee reductions which will apply from 1 July. Families using approved child-care services will not miss out on the higher assistance through the new child-care benefit. All families will be getting the full entitlements within two weeks, and most will be getting them next week. The higher fee reductions will be backdated to 1 July. There have been problems; I acknowledge that. It is estimated that the problems have affected assessments for about 10 per cent of the families using approved child care, which is approximately 40,000 families. The explanation I have been given is that some listings of assessment information sent to the child-care
services were incomplete. That is being corrected urgently, and it is expected that automatic re-assessments will be completed by Centrelink tomorrow, and the information will be with child-care services next week.

Centrelink are also aware that call demand as a result of the new tax system and the problems arising from the data errors with the child-care benefit have created significant additional load for the call centres, and Centrelink are taking urgent steps to increase their call centre capacity. I might point out that they have already had hundreds of extra people trained up for the implementation of these new family tax benefit and child-care benefits. They are now increasing the call centre capacity by extending the hours of operation, by interactive voice response options, by offering callbacks if a customer prefers not to wait and utilising non-call centre staff to handle overflows.

I am very sorry that this has caused confusion and some extra administration for child-care services, but it will be fixed quickly and the new system will be much better for services once they are fully implemented. I must say that I have been very heartened in this last week by child-care service organisations who say that they have been extremely well served by the implementation information that has gone to them. There has been a continuous stream of information and the provision of seminars. Despite the noise that is coming across the table, I hope you can hear this, Senator, because clearly you are interested in the answer, even if your leader is not.

Senator McKIERNAN—Madam President, I ask a supplementary question. I thank the minister for her answer. I accept your assurance that they will be compensated in time, but how long will individual families have to wait for those payments to come through to those who have missed out on the information that was supposed to have been sent to them in the last few weeks? What is the possible excuse for the massive botch-up? Surely we are living in an age in which technology should be able to avoid this sort of fiasco?

Senator NEWMAN—I understand the main problems were data problems; they were not problems of sending information to the families. That was undertaken—completely, I understand. The two main problem areas are that sometimes families did not complete their forms properly—

Senator Faulkner—Do you accept responsibility?

Senator NEWMAN—Senator Faulkner, will you go away and sleep for a few weeks? The other problem is that there has been some incorrect coding of the data, which has led to incorrect assessments going to the centres. Let me make the practicalities clear, Senator. The problem will mean that not all parents will get the new CCB fee relief immediately, but they can still get their existing fee relief entitlement during this interim week or so until the new fee relief is calculated by the service. In order to enable the services to assist them to quickly get them reassessed, there has been a mail-out of a ready reckoner to help them estimate the fee relief. (Time expired)

Boobera Lagoon

Senator RIDGEWAY (2.27 p.m.)—My question is to the Minister for the Environment and Heritage, Senator Robert Hill. Minister, today you announced that you have overridden the decision made by your colleague, Senator Herron, in 1998 to put in place a moratorium on waterskiing, boating and other recreational uses of Boobera Lagoon in the north-west of New South Wales, a place of cultural significance, as recognised under the federal heritage protection act. Minister, you also acknowledge in your media release that your decision today will guarantee the Aboriginal people of Toomelah that this most sacred of places will be desecrated by another two years of waterskiing. How can the minister and this government justify this decision against its own reports recommending cultural heritage protection?

Senator Hill—As the honourable senator will know, I reaffirmed the fact that this is a significant Aboriginal area, that waterskiing amounted to desecration and therefore confirmed that waterskiing will have to cease. That is, of course, painful for the community that has used the area for waterskiing for over 50 years—and, for family activities and the like, there are few such opportunities in that
area of regional Australia. Nevertheless, it is necessary for the community to accept that pain because of the cultural and spiritual significance of the lagoon to the Aboriginal people. They, in turn, will be disappointed. I accept that they are going to have to wait for just under a further two years before the ban on waterskiing will come into effect. The reason for that, as the honourable senator will know, as he has apparently read my press release, is that the independent reporter advised that the previous order had allowed an unrealistic time for the development of an alternative waterskiing site and that the period should be extended until May 2002.

The community has in the last 18 months or so progressed the matter, and a report on a feasibility study for the development of an alternative site at Goondiwindi was in fact delivered this month, so it has got to that stage. The community now has a period until 2002 to progress the matter to development of the alternative site. I think doing that will help develop broad based community support for the change that is going to have to occur in relation to the use of the lagoon. Building that broad based community support is going to be very important.

I have noted that the Aboriginal Land Council now has a draft management plan, which the Commonwealth has also assisted through funding. It will be important over the next 18 months to communicate that effectively to the broader community and to endeavour to bring that community on side for the very dramatic change that is going to occur in the usage of the region. I have also suggested that, during this intervening period, the New South Wales government might exercise its responsibilities as a manager and put in place appropriate restrictions on the usage of the lagoon, as might apply in terms of the times of day that it could be used, the number of boats that might be used and the area of the lagoon that might be used. There is no doubt that this is a difficult issue, but I think the advice I have accepted and the determination I have made will best enable a transition to a situation where a new management regime is put in place that has the potential for broad based community support.

**Senator RIDGEWAY**—Madam President, I have a supplementary question. Minister, is it not true that the decision taken by Senator Herron in 1998 was due to take effect this coming Saturday? Is it not true that your new order overriding Senator Herron’s order will push back any protection effect a further two years? How do you justify this decision when again your own government report identifies an alternative waterskiing site 100 kilometres down the road at Glenlyon Dam and a further five alternative water bodies in the region that have not been ruled out as inappropriate? Is it not true that the Deputy Prime Minister sought guarantees from you on behalf of local groups to ensure that waterskiing would occur for a further two years?

**Senator HILL**—A number of representations have been received asking whether the period might be extended to allow the development of the alternative site. As a result of those representations, I sought the advice of an independent reporter. The independent reporter advised that in all circumstances the period should be extended until May 2002. As I have said, I hope that this will allow the community to come together on this issue in order that the transition might take place with the least pain and in order that the community as a whole might positively and constructively look to manage the lagoon in a different way in the post-2002 environment.

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

**Senator LUNDY** (2.33 p.m.)—My question is to Senator Kemp, the Assistant Treasurer. I refer to the minister’s press release of 21 June with regard to the abuse of taxpayers’ privacy as it relates to ABN information and his statement:

‘Only some of the ABR information will be publicly available to assist people finding out if they are dealing with registered entities.’

Given that the minister has clarified what will be publicly available, can the minister now inform the Senate just which of the 14 ABN information items listed in the ABN registration guide under the heading ‘Publicly available material and your privacy’ will actually be onsold by the government for $20 per record?
Senator KEMP—Let me go through the information available from the ABR on the business entry point web site: the ABN, the status of the ABN, trading name, legal name, entity type, state or territory in which the business is registered, postcode, GST registration status and whether the organisation has deductible gift recipient status. In the case of companies, the ACN or ARBN is available.

Senator LUNDY—Madam President, I have a supplementary question. The minister just re-answered the question previously asked and failed to answer the specific question. I ask him to answer the question I asked, and I also ask: can the minister confirm that his press release states: Bulk information will only be provided on a case by case basis to help with the implementation of the ABN in business accounting and record keeping systems.

Just what constitutes bulk information, and what is the government’s definition of ‘a case by case basis’?

Senator KEMP—We have indicated that bulk information, as you said, will be provided only on a case by case basis.

Senator Lundy—What does that mean?

Senator KEMP—Bulk means in bulk, actually.

Senator Vanstone interjecting—

Senator KEMP—You are quite right, Senator Vanstone, bulk means bulk. That is what it means, Senator Lundy.

Drugs: Heroin-Amphetamine Type Stimulants

Senator KNOWLES (2.36 p.m.)—My question is to the Minister for Justice and Customs, Senator Vanstone. The minister would of course be aware that some South-East Asian drug dealers are now including heroin in amphetamine type stimulants in an attempt to hook young drug users on this highly addictive substance. Will the minister inform the Senate how the government’s Tough on Drugs strategy is responding to this extremely worrying threat?

Senator VANSTONE—I thank Senator Knowles for the question. She has had a longstanding interest in law enforcement and issues related to illegal drugs. I can confirm that Australian law enforcement has been advised that heroin has been found in amphetamine type stimulants sourced from South-East Asia’s Golden Triangle. The instances that have been recently reported are of heroin refineries clearly diversifying into production of these ATSs, amphetamine type stimulants.

I understand the new tablets are meant to be crushed and smoked in preference to being taken orally or processed to be taken intravenously. The growth in this area is driven by the exorbitant profits because of the increased demand for these types of stimulants and the lower production costs. Amphetamine type stimulants can be produced in clandestine labs year-round. Producers do not have to have any regard to crop yields or weather conditions. It is quite easy to produce. ATS manufacture is also facilitated by very easy access to the precursor chemicals in some of the neighbouring countries. Experts argue that the inclusion of heroin in the amphetamine type stimulants is designed to enhance addiction in very early years. If that is true, the drug traffickers have sunk to new levels of greed and moral turpitude.

These ATS-heroin tablets are embossed with markings that represent the originator. It shows that the gall the traffickers have is quite breathtaking. It may also be designed to facilitate the amphetamine type substance distribution to existing heroin users. Either way, the important point is that poly drug use is extremely dangerous for addicts. Poly drug use is rising in Australia. Poly drug use is clearly implicated in a significant number of overdose deaths of Australian addicts. It is important for people who see themselves as great reformers to bear in mind that safe injecting rooms will not protect Australians from these new heroin-ATS combinations, nor from the dangers of poly drug use. They will do nothing in that respect.

Fortunately, there have not yet been any confirmed reports of these tablets reaching Australia—although our friends in law enforcement in South-East Asia have had seizures at airports that service direct flights to Australia, so it may not be long before they do surface here. The Australian Federal Po-
lice and Customs have been alerted to these very disturbing developments by our good friends in law enforcement in South-East Asia. It is a timely warning to drug traffickers that we have excellent relationships with law enforcement groups in Asia and in other countries at which these drugs are targeted.

There is international cooperation to deal with these people. We maintain very close intelligence links with agencies in South-East Asia that are at the moment battling an epidemic of these amphetamine type stimulants. We have the best border protection in the region in terms of prohibited drugs. Seizure rates of prohibited drugs of all types have increased markedly under the Tough on Drugs strategy. For amphetamine type stimulants, water seizures have increased from 41 kilograms in 1995-96 to 115 kilograms in 1998-99 and over 225 kilograms so far this financial year. The revelations concerning heroin and ATS are a simple message to law reformers that there is no room for complacency.

Goods and Services Tax: Application

Senator COOK (2.40 p.m.)—My question is to Senator Kemp, the Assistant Treasurer. With the GST being introduced on Saturday, will the minister take this opportunity to reiterate the undertakings previously given by the government that nobody will be worse off under the GST, no price will go up by the full 10 per cent, petrol will not rise as a result of the GST, the price of beer across the bar will rise by 1.9 per cent only, no business will close as a result of the GST, the inflationary impact of the GST will be no more than 1.9 per cent and the GST will not be applied to any residential rents?

Senator KEMP—Thank you, Senator Cook, for that question. Senator Cook is correct: the GST does start on 1 July. He got that right. What he did not say is that the GST will then form part of the ALP policy. I suspect that we are moving to a bipartisan policy on the GST. I do not hold out great hopes, but that happens to be the Labor Party policy. Let me take some of the matters that were raised by Senator Cook. There was a great deal of modelling done by various groups on the impact of the ANTS package, Senator Cook, of which you will be aware.

Senator Faulkner—Table it.

Senator Conroy—You know what Treasury said about PRISMOD—100 per cent pass through from day one.

The PRESIDENT—Order! Senator Kemp, please proceed.

Senator KEMP—I am trying to focus on the question that Senator Cook asked me, and I am constantly being distracted by Senator Conroy and Senator Faulkner. The ALP, through its work on the various Senate committees, conducted a great deal of modelling by private groups, not groups that were answerable to the government. It could not identify any demographic which was worse off as a result of the GST under any reasonable assumptions. We are very proud of the reform package.

Senator Cook—Madam President, I rise on a point of order. This minister can run, but you should not let him hide. I have asked whether the government would reiterate seven undertakings that it has given. There are two minutes left for the Assistant Treasurer’s answer—that is less than 30 seconds of undertaking—and he has not yet answered any of them. Would you please direct him to do so.

The PRESIDENT—There is no point of order.

Senator KEMP—It is true I can run faster than Senator Cook, but I would never bother to hide from Senator Cook. Senator Cook, we are always happy to debate you.

Senator Cook—When are you going to answer the question?

Senator KEMP—One of your key questions was whether I stand by the view that people are not going to be worse off as a result of tax reform. I am quoting to you the extensive modelling which has been done, commissioned by members of the Labor Party in committees, which failed to show under any reasonable assumptions that any demographic group would be worse off. I am going to go further than that. This is a very generous compensation package. It will provide great benefits to Australian families.

If Labor are going to keep the GST, which we understand is the case, and they do not
believe this compensation package is sufficient, the question is: what are the ALP going to do? The focus of the attention will turn to Labor and the complexities and the contradictions that are going to emerge as a result of the Labor Party’s policy.

Let me turn to the general issue: this government takes its commitments very seriously. The government always takes every possible step to ensure that its commitments given in an election are kept. Where there have been problems, it is not a result of the government; it is a result of this Senate sometimes blocking the key government commitments made during the election. The guilty party in this is the Labor Party. There is no question that a number of major promises that we went to the election on and that we received the mandate for were blocked in this parliament by the Labor Party. Let me assure you, Senator Cook, that this government takes its commitments very seriously. (Time expired)

Senator COOK—Madam President, I ask a supplementary question. I have just heard—you stand up and you posture all over this chamber, but the truth of the matter is you do not tell the truth.

Papua New Guinea: Weapons Trading

Senator GREIG—My question is to Senator Vanstone, the Minister for Justice and Customs. I ask the minister whether she is aware of reports this week by Papua New Guinea’s police minister that ‘guns for use in tribal warfare and crime were being swapped for marijuana in the smuggling trade between Papua New Guinea and Queensland’. In light of this, I ask the minister if she is satisfied that Australia has adequate aerial and sea surveillance to monitor traffic between PNG and the Australian mainland. Can the minister confirm that light aircraft are flying into Australia at an altitude difficult to detect by radar or is this trade conducted primarily by sea? Will the minister inform the Senate of the extent of this trade and of what types of weapons are being traded—are they hand guns or military assault rifles?

Senator VANSTONE—I thank the senator for the question because he has raised an issue that is of concern to the government and of concern very much to the local member, Warren Entsch. The bad news for the senator is that this issue was raised by the government and the local member some 18 months or two years ago. It is not a revelation; it is not new. It is as a consequence of that and other things that we have increased surveillance of our coastline. We have a new helicopter for the Torres Strait region, for example, at great expense—a very substantial piece of equipment. I think it can fly at 200 and something kilometres an hour and it has a searchlight underneath that will light up a football field. This type of expensive equipment is required in the Torres Strait because of this type of trade. If you have been up
there, Senator Greig, you will understand; if you have not then I recommend you go to Thursday Island and take a trip from there up to Saibai Island, which is the one closest to Papua New Guinea, and you will see the capacity for island hopping in nothing more than an aluminium dinghy. It is of concern not only to the government and to the local member but also to the local indigenous communities who, if you visit them, will tell you that they believe their culture is being destroyed by marijuana coming into their cultures.

The short answer is I have not seen the comments by the person to whom you refer. The government has been aware of the problem for some time, as has the local member. It is as a consequence of that that we have shifted more equipment and resources up there. For example, we have a Federal Police officer up there as a liaison officer and we have a Customs officer. They were not there in the past. In addition to that, we have more equipment up there, including the helicopter, and an increased surveillance capacity because it is a very difficult surveillance task, especially at night. I do not raise the business of the helicopter having the floodlight under it for fun. If anyone has been there and seen these small islands, the short distance between them and the easy capacity to travel around them at night relatively speaking undetected, you would understand the importance of that type of equipment. I do not have the exact figures of how much we have put up there. I can assure you that we have attended to the problem as best we can. It is not something that has been, as I understand, wiped out but it is something that is under constant surveillance by the government.

Senator GREIG—Madam President, I ask a supplementary question. Despite the additional resources which the minister claims have been devoted to this region, is it not the case that there is evidence to suggest that this trafficking is increasing?

Senator VANSTONE—I do not have advice that it has recently increased. I will make some inquiries. If that advice is available, I will make Senator Greig aware of it.

**Goods and Services Tax: Home Help**

Senator McLUCAS (2.51 p.m.)—My question is to the Minister representing the Minister for Aged Care. Does the minister recall that an answer he recently tabled on behalf of Minister Bishop stated ‘privately funded community care services involving the supply of personal care will be GST free’? Contrary to this assurance, can the minister confirm that as of 1 July frail older Australians who privately purchase essential home help services, including assistance with shopping, cooking and cleaning, will be slugged with the GST? Won’t the Howard government’s GST just force many of these older Australians out of their homes into nursing homes where such services are GST free?

Senator HERRON—I thank Senator McLucas for the question. The simple answer is no to the latter part, it will not force anybody out. The correct answer is that when we inherited the whole program of aged care we were 10,000 places short in the aged care industry, which we are rapidly making up. We have addressed all of the problems that have been referred to. The compensation that is occurring in relation to aged care is across the board, as I mentioned the other day. There is more than adequate compensation for the extra expenses for services that were previously not taxed. It is a goods and services tax. But more important than this, the changes that will occur on Saturday are the most innovative changes to the economy of this country in our lifetime. The spin-off from that will go right through the community as a whole. It will benefit everybody in this country. The compensation to pensioners through the provision of aged care will make up the deficit that we inherited in that period.

As I mentioned the other day, there are certain matters that are GST free. The minister has informed me that today she has signed off on the complete list of items. I am happy to provide that to Senator McLucas at the end of question time. All the regulations have been signed off in relation to these matters. If
there are any specifics that are not included in that, I am happy to get back to her.

Senator McLUCAS—Madam President, I ask a supplementary question. Is the minister aware that two elderly Queenslanders, referred to recently in the press, state that this will leave them $10 to $20 a week worse off? Given that the government’s proposed compensation for age pensioners is less than $7.50 a week, how does the government expect older Australians to pay the GST on privately purchased essential home services?

Senator HERRON—If it is true—and I accept Senator McLucas’s statement about two Queenslanders—I would be happy, if she provides the names of those people, to look into that for them.

Senator Mackay—Oh yeah, like you’re going to do that.

Senator HERRON—If there are two people, I am happy to refer them to the minister so that those specific instances can be looked into. You cannot take the case of two people from the whole of Australia and extrapolate that into the whole of the aged care industry, which is what Senator McLucas appears to be doing. It may well be that those people have been misinformed by the scare campaign of the Labor Party. I am looking forward to, when the GST settles in, them coming back in a couple of months time and congratulating us on the dramatic changes that have occurred in the Australian economy as a result of the introduction of the new tax system.

Whaling: Sanctuaries

Senator CHAPMAN (2.55 p.m.)—My question is directed to the Minister for the Environment and Heritage and Leader of the Government in the Senate. The minister would be aware that Australia is currently hosting the 52nd meeting of the International Whaling Commission in Adelaide. Will the minister inform the Senate of the steps that the Howard government is taking to promote global protection of whales?

Senator HILL—Nature conservation may not be of interest to the Labor Party but it is to the government. Next week the members of the IWC will vote on a proposal from Australia and New Zealand to establish a South Pacific whale sanctuary. The proposed sanctuary will complement existing sanctuaries in the Indian Ocean and Southern Ocean. The South Pacific sanctuary will protect blue whales, southern right whales, sperm whales and humpbacks as well as species lesser known in this region, including minke and fin. Populations of these species are a small fraction of their original numbers because of commercial whaling.

The proposed sanctuary will ensure that these majestic whales are protected in their feeding grounds around Antarctica as well as in their breeding grounds in the South Pacific. Whilst getting three-quarters of the vote—which is what is necessary under the IWC rules—at the first try will be extremely difficult, the government is nevertheless pleased with the support that it is receiving. It is pleased with support it has received from the South Pacific. The South Pacific Forum has voted in support of the sanctuary proposal. I can now indicate to the Senate that the Hon. Sandra Lee, the minister from New Zealand, will be joining me in Adelaide to present the case as will the Hon. Elliot Morley, the UK fisheries minister.

I am pleased also to inform the Senate that the initiative will be co-sponsored by the United Kingdom, the United States of America, France, Italy, the Netherlands, Brazil and Monaco. The sanctuary will deliver both biodiversity conservation and economic benefits to communities in the South Pacific. Whale watching in Tonga already generates significant economic benefits for local Tongan communities and there is potential for the whale watching industry to expand in the South Pacific if whale numbers can recover. I am also pleased that the Australian community has expressed its overwhelming support for the sanctuary and for the government’s ultimate goal of a permanent end to commercial whaling. Last week I received a petition from Greenpeace signed by 137,000 Australians in support of a global sanctuary. A coalition of environment groups and community groups is actively supporting the sanctuary proposal and I take this opportunity to express the government’s appreciation.

I also take the opportunity to announce that the government is providing over
$380,000 in funding for projects to enhance protection for whales in Australian waters. These projects will bring together federal and state governments, scientists, community groups and the fishing industry to further protect humpback, southern right whales and blue whales. The projects include: surveying the ecology and feeding behaviour of blue whales in Victorian waters with the assistance of local fishermen, identifying important habitat of the southern right whale for protection, enhancing protection for whales in the Southern Ocean and monitoring humpback whales along the Queensland coast and Western Australian coast.

The coalition has a proud record of whale conservation. It was the Fraser government that first banned commercial whaling in Australian waters. The Howard government has again taken up the cause of whale conservation both domestically and internationally. There is no need to kill whales. We do not need whales for food or any other product and we certainly do not need to kill whales in the name of science. We will continue to push for a permanent global ban on commercial whaling so that the great whales can roam the world’s oceans free from the threat of commercial exploitation. Madam President, I ask that further questions be placed on the Notice Paper.

ANSWERS TO QUESTIONS WITHOUT NOTICE

Goods and Services Tax: Application

Senator COOK (Western Australia—Deputy Leader of the Opposition in the Senate) (3.00 p.m.)—I move:

That the Senate take note of the answers given by the Assistant Treasurer (Senator Kemp), to questions without notice asked today, relating to the goods and services tax.

In 30 hours and 59 minutes, the GST will be introduced into Australia—a shameful tax, an inequitable tax and a dog’s breakfast of a tax. After spending $430 million to publicise this tax, the Prime Minister at 7.30 tonight will go on television to try to tell Australians once more that this tax is good for them. We sought from him an unequivocal guarantee that the government would deliver on its commitments. Let me just reiterate what it was that we asked the minister. We asked the minister whether he would confirm the government’s promise that nobody in Australia will be worse off under the GST. Did he confirm that promise?

Senator Faulkner—No.

Senator COOK—No, he did not. We asked him whether he would confirm the promise that the government has put on the record that no price will go up by the full 10 per cent. Did he reaffirm that promise?

Opposition senators—No.

Senator COOK—No, he did not. We asked him whether he would reaffirm the promise given by the government that petrol will not rise as a result of the GST. Did he confirm that promise?

Opposition senators—No.

Senator COOK—No, he did not. We asked him whether he would confirm that the price of a beer across the bar will only rise by 1.9 per cent—a promise given by the Prime Minister, a promise that the minister today sought to crawl out of. But did he confirm that undertaking by the Prime Minister?

Opposition senators—No, he did not.

Senator COOK—No, he did not.

The DEPUTY PRESIDENT—Order!

Senator COOK—We asked him whether he would confirm the promise—again given by the Prime Minister, John Howard—that no business will close as a result of the GST. Did he confirm that promise?

Opposition senators—No.

Senator COOK—No.

The DEPUTY PRESIDENT—Order! I only need one senator speaking at a time. I do not need the chorus, thank you, Senator Cook.

Senator Sherry—You cannot blame him.

The DEPUTY PRESIDENT—I will blame the rest of you on my left.

Senator COOK—You can greatly understand, Madam Deputy President, our frustration on this side that question time is supposed to be a time in which the executive is...
accountable to the parliament. All we sought from the minister was reaffirmation of commitments that the Prime Minister made to the Australian people before the last election. Would he do that with less than 31 hours to go until the introduction of the GST?

Opposition senators—No, he would not.

Senator COOK—No, he would not. But let me continue. We asked him whether he would reaffirm that the inflationary impact of the GST will be no more than 1.9 per cent—something that the government says its model proves to be the case. Did he reaffirm that today?

Opposition senators—No, he did not.

Senator COOK—No, he did not. We asked him the seventh question for reaffirmation. The government has said that residential rents will not rise, and I asked him whether the GST will not be applied to any residential rents. In a long-winded answer, evading the question, did the minister answer that?

Opposition senators—No, he did not.

Senator COOK—No, he did not. The DEPUTY PRESIDENT—Order!

Senator COOK—As I have said, in under 31 hours, this dog’s breakfast of a tax will be visited on Australians. This is an inequitable tax. This is an unfair tax. What does the government propose to do about it? It proposes to spend taxpayers’ money—$430 million of Australia taxpayers’ money—to try to convince Australians that this is a tax that will benefit them. What have the advertisements been about? They have been about politically selling this government. Shamelessly, the government have reached into the taxpayers’ purse to fund, at $430 million, a series of bolstering advertisements to pretend that the GST benefits ordinary Australians. They have not told Australians about the tax; they have only told them about the tax cuts. They have not told them whether they will be better or worse off or that household budgets will end up with most Australians being behind the eight ball.

The fact that this government today, on the eve of this tax coming in, will not reaffirm in any way any of the commitments it made to the Australian community before the last election can mean only one thing: this government stands condemned in the eyes of Australians. This government stands utterly condemned. (Time expired)

Senator KEMP (Victoria—Assistant Treasurer) (3.06 p.m.)—This is the last parliamentary day before the new tax reform system comes in. I have seen on the TV Senator Cook getting up, day after day, belting it around. So I thought today I would come down and respond to what Senator Cook is on about. Let me make it very clear: the government always—

Senator Cook—Madam President, I raise a point of order which goes to relevance. If the minister is responding, will he answer those questions now?

The DEPUTY PRESIDENT—There is no point of order.

Opposition senators interjecting—

The DEPUTY PRESIDENT—Order on my left, please. I would like to hear the minister. You will not know whether your questions are being adhered to if we do not have some silence.

Senator KEMP—Thank you, Madam President. I am very happy to reaffirm the commitments that this government has made, Senator, and I reaffirm them now.

Senator COOK—Unequivocally?

Senator KEMP—I reaffirm the commitments that this government has made, Senator. This government always seeks to fulfil its commitments. I pointed out in my answer that of course you did play with the truth on the issue of bar prices.

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

Senator KEMP—Madam Deputy President, I am being provoked. In this list that Senator Cook read out, he did play a bit fast and free with the bar prices—

Senator Cook—I did not.

Senator KEMP—Yes, you did, Senator. Having, I hope, satisfied Senator Cook, I reaffirm the government’s commitments. Let
me make this clear: we are within hours of an historic major tax reform. The Labor Party has fought this for months and months. The public is going to learn that the Labor Party has actually signed on to the GST. Having tried to fight it all the way and having created great scare tactics, the Labor Party has signed on. Mr Beazley has said that he will not be repealing the GST. That is what he said. No one can deny the veracity of that comment; that is absolutely true. In fact the hypocrisy of the Labor Party position is that the Labor Party says that this tax is bad, but it is going to keep it.

Senator Cook—We are not.

Senator KEMP—That is your policy, Senator. The Labor Party has indicated that there will be some roll-back. If you seek to roll back some things, the Labor Party will have to explain how it is going to fund those roll-backs. That is why with this massive assistance coming through to Australian families—the tax cuts and the family assistance package that commence on Saturday—people will become nervous. When the Labor Party talks about the roll-back and about billions of dollars, billions of dollars have to be found from somewhere. Let me make a prediction: the Labor Party will seek to raise income taxes. That is what the Labor Party will be seeking to do because there is no other way that it can responsibly fund its roll-back. You, yourself, Senator Cook, have proudly puffed out your chest on a number of occasions and said, 'The Labor Party is a high taxing party.' These are not my words; these are your words, Senator Cook.

Senator Cook—They are not my words.

Senator KEMP—They are your words, and Senator Cook will be proven to be correct. The Labor Party is posing major threats to the major tax cuts that are coming through and to the family assistance package. I hope, in the days and weeks to come, that Labor Party senators and members will be asked to guarantee the largest tax cuts in Australian history that we will be delivering from 1 July.

Senator Faulkner—Nobody believes you.

Senator KEMP—Senator Faulkner, they will believe you when you say that you are going to raise taxes because that is exactly what the Labor Party always did when it was in government. Senator Faulkner and Senator Cook were ministers in the Keating government, and it raised taxes. If the Labor Party ever gets the chance again, that is exactly what it will do. We are faced with the position that the Labor Party is going to have to come clean. It stands up here day after day, complaining about this, complaining about that, but will it be a part of the roll-back? Senator Crowley today listed a whole range of health products. Are these part of the roll-back or not? That is the question, and these matters are going to be constantly pursued. The Labor Party will have to provide answers to those questions. We are very proud of this tax package. (Time expired)

Senator CONROY (Victoria) (3.12 p.m.)—There are some days when you have to admire Senator Kemp’s persistence because he knows that he has nothing but a fig leaf to try to cover this government’s embarrassments about the GST. As promise after promise after promise has been broken by this government, Senator Kemp has had to come up with a new line, and you have to admire him for sticking to it. ‘The Labor Party is going to keep the GST’ is all that he has been saying for weeks now in parliament.

But what have we seen? This is nothing more than a smokescreen. We have seen the petrol promise: Prime Minister John Howard in August 1998 in an address to the nation said, ‘The GST will not increase the price of petrol for the ordinary motorist.’ The challenge tonight is: will he say that again? And the answer is: no, he won’t. We all know now that petrol prices on the weekend, from 1 July, will be going up between 1c and 2c because this government has broken its promise. It has nowhere to run and nowhere to hide—it has broken its promise. Even Allan Fels, when he has been called in to make the petrol companies give up the 1½c to 2c, will not swallow this one. It cannot even get its
poodle Fels to make the oil companies give the 1½c.

Then there is beer—and we have already seen Senator Kemp, again, get the fig leaf out to cover himself. This is what the Prime Minister said on the John Laws program: ‘There’ll be no more than a 1.9 per cent rise in ordinary beer.’ There was no dissembling about packaged beer. There was no mention of that on the John Laws program. But what are we seeing? An eight per cent increase. Then yesterday we saw that bank fees and charges are set to rise—slugged again. This government again ran and hid behind who? Allan Fels. Allan Fels has already been in negotiations with the banks, and this government knows that when Fels finishes his investigation the government will be exposed again. The government told us before the last election that banks would save $600 million, which amounted to about a four to five per cent fall in the costs for banking that it said would be passed on to customers in lower fees and charges. What did Westpac get up to yesterday?

Senator Cook—Put them up.

Senator CONROY—Not only put them up but put them up by the full 10 per cent on fees for all the major small businesses. The Prime Minister himself is on record as saying that in the area of small business there is not much competition. Never was he more right than when it comes to dealing with bank fees and charges on small business—another lie, another broken promise. On the Sunday program he was like a rabbit in the spotlight. Laurie Oakes had him absolutely pinned. Laurie Oakes kept asking, ‘Where will these cost savings come from for the oil companies?’ He said, ‘Treasury have done some modelling about it.’ We have all seen the Treasury modelling. It is actually displayed in the ANTS package. The Prime Minister and Senator Kemp continue to refuse to acknowledge that when Treasury does its modelling it uses a model called PRISMOD.

We had a lengthy debate with Treasury about the assumptions that underpin the economic model called PRISMOD. What Treasury admitted was that it assumes 100 per cent flow through of all cost savings on day one—that is, 1 July. That is the same as saying that companies will knock down their refineries and build new ones and sell every truck and buy new ones—replace every single item that they have. That is the only way you can get this 100 per cent assumption to work in the real world. We all know that that is an absolute farce, and John Howard knows that that is a farce. But will he cough up? Will he admit it? No. The PRISMOD modelling projects cost savings in the long run—in five to eight years. John Howard is saying, ‘Petrol companies will give you today savings that they are going to make in five years time.’ He knows he cannot do it. There is no law that allows him to do it. The ACCC will not do it. Allan Fels will not do it. But what was the other great lie? The government will not let the petrol price differential widen between city and country. What is happening now? The petrol price differential between city and country is widening. (Time expired)

Senator LIGHTFOOT (Western Australia) (3.17 p.m.)—For Senator Cook to say that the GST is going to go and for the Leader of the Opposition in the other place to say that it is not going to go is more than just a dichotomy.

Senator Cook—What are you talking about, Ross?

Senator LIGHTFOOT—Well, you have the two fiscal bandits who said that the 1995-96 budget was a balanced budget, and now these two fiscal bandits are again saying something quite opposite: one is saying that the GST is going to be kept and the other one is saying that it is not going to be kept. What is going to happen? I will tell you what is going to happen: the GST will stay. We know that this is a Howard-Lees-Beazley GST and it is going to stay. But it is going to be rolled back, and why is it going to be rolled back? Because we have promised to reduce income tax rates to 30 per cent for 80 per cent of the wage earners—and we represent the wages earners of Australia. There is no question that the Liberal Party and the coalition represent the wage earners of Australia. We will reduce income tax rates to 30 per cent; you will put them up again. They will go north. That is what you will do—roll back the GST and income tax will go north again. What will happen with the halving of capital gains tax?
Your side introduced capital gains tax when you were in government. We had abolished capital gains tax for most transactions; you will make sure that the capital gains tax rate of 25 per cent goes north again. What will you do with company tax? We propose to drop company tax from 36 per cent to 30 per cent; you will increase company tax—it will go north again. How are you going to cover it? You have already promised that you are going to give local government 6½ per cent of the GST going to the states. So you are not going to give all the GST back to the states when you get into power—God forbid.

The DEPUTY PRESIDENT—Address the chair please, Senator Lightfoot.

Senator LIGHTFOOT—They are going to give 6½ per cent to local government, Madam Deputy President. What else is going to happen to the GST? This is fiscal banditry at its worst. You cannot be trusted with the till. You know it and the people of Australia know it. The people still smart and the government still smarts when we remember that there was going to be a balanced budget in 1996, but what did we find? We found that there was a $10 billion Cook and Beazley black hole left there for us to counter. We had to counter that. Now, as Senator Conroy said, that is the lie.

In the few moments left to me, let me turn to spending. Senator Cook opened his contribution here this afternoon by saying that the whole affair cost $430 million. I think the previous quote was $431 million, but $1 million has never been anything to you guys over there, not on your side. In fact, all that was spent was $46 million. That is a lot of money, but it is hardly more than 10 per cent of what you said was actually spent. The balance, $349 million, was spent on trying to counter the propaganda that you had told our small businessmen—

The DEPUTY PRESIDENT—Address the chair please.

Senator LIGHTFOOT—I am looking at you, Madam Deputy Chairman.

The DEPUTY PRESIDENT—Well, you are not using the correct titles.

Senator LIGHTFOOT—That was the lie. You cannot accuse people of lying when you speak and then not expect that to come back and bite you.

The DEPUTY PRESIDENT—Senator Lightfoot, can I please ask you to address the chair and not use the word ‘you’ because it actually refers to the chair when you use it in the way you have been using it.

Senator LIGHTFOOT—Thank you, Madam Deputy President. Let me talk about petrol excise. Woolworths are going to make sure—

Senator Hogg—Don’t pick on Woolworths.

Senator LIGHTFOOT—You may not like Woolworths, but I think they are a reasonably good company, an honest company. They have put their prices out—all their prices are now pre-GST and post-GST. I think they are an excellent company, probably underpriced on the share market as well. I would advise motorists to look around.

Senator Hogg—We have a stock market report. How many shares have you got?

Senator LIGHTFOOT—I do not have any Woolworths shares, incidentally: I must declare that. I would advise motorists to look around. Woolworths are not going to raise the price. The price of petrol is going to remain the same. But, if the international price of oil goes up, of course the price of petrol will go up. The rough figures are that, if it goes up $1 a barrel on international prices, then it goes up about 1c at the pumps. With the massive discoveries of oil throughout the world, petrol is certain to come down and, with the reduction in the price of oil per barrel, of course the price is going to come down at the pumps. I come from Western Australia—if I could just reinforce that—and we are the biggest producers of—(Time expired)

Senator MURPHY (Tasmania) (3.22 p.m.)—That was a very interesting contribution.

Opposition senators interjecting—

Senator MURPHY—I have to say that, despite my colleagues’ view to the contrary. What we are actually debating here are the attempted answers from Senator Kemp to questions by Senator Cook. We are debating a very serious issue, because we are about to
see the introduction of a new tax system, known as the GST. And what is important—

Senator Hill—Why don’t you wait and listen to your mate? That’s a bit of a vote of no confidence.

Senator MURPHY—I have to say that I do note the number of government senators in the chamber at the moment and, in particular, I note that there are no National Party senators in this place: they are the ones who are supposed to represent the people who are likely to be hurt most by the introduction of this new tax. I want to go to a few of the issues. There is nothing wrong with the government wanting to introduce change. But it is important, when you proceed to do that, to tell the people the truth about what you are going to foist upon them. If there has been one thing that has become clear in all of this, it is that you are about to foist upon them the greatest hoax of all time.

As Senator Conroy pointed out, Senator Kemp might be able to run but he cannot hide, and he keeps trying to bring out the fig leaf. Well, the fig leaf might cover Senator Kemp, but it will not cover this hoax. We only have to go back to the statements previously made by government ministers, the Prime Minister and, indeed, government members—be they senators or members in the other place. I want to go back and keep reminding the government of what the Prime Minister said back in August 1998, as Senator Conroy has already pointed out. This goes to the question of petrol prices and this is about a government keeping its promises. We keep hearing from the government that they are going to keep their promises. Well, let me put this to the government senators who are absent from the chamber. This is the Prime Minister talking:

The ordinary motorist will not pay any more for petrol.

We then go to the Treasurer, who said that no petrol price would rise as a result of the GST. We can go to the financial services minister, who actually went a step further and said that petrol prices would fall. Of course, Mr Vaile also said that petrol prices would not rise. We have got so many examples of that. Indeed, in a most recent interview on the Sunday program a reporter put a question to the Prime Minister:

But, nobody except the government says there’s a one and-a-half cents per litre savings.

This is in respect of the government’s claim that there is somehow 1½c per litre that the oil industry can pass on to the consumer. The reporter said, correctly:

The Business Council of Australia says maximum half a cent.

The Prime Minister said:

Well, I don’t know how the Business Council can argue that.

The reporter said:

They say they’ve got independent modelling.

The Prime Minister said:

Well, we had modelling done too, perhaps we should exchange models.

Well, I challenge the Prime Minister to exchange models. We have been asking for that modelling to be made publicly available. Of course, the reporter said:

Will you release that publicly?

The Prime Minister said:

Well, it’s the usual Treasury modelling.

The ‘usual Treasury modelling’ is something we have to look at, because some usual Treasury modelling was leaked recently and it went to the question of the effect of the GST on rents. The government had previously claimed that rents would only go up somewhere in the order of two per cent—that was going to be the price effect of the GST. When the modelling became publicly available, what did it show? Over double. That is a real challenge for the government here. If the Prime Minister wants to claim to be so honest, and if the Treasurer and the other government members want to claim that what they are telling the people is the truth, the whole truth and nothing but the truth, then release the modelling. That is what you should do. You should front up to your responsibility and, if you are going to foist a hoax upon the people of this country come Saturday, then you ought to own up to it and be honest with them, for a start—because that is what you are trying to do.

Finally, with regard to bank fees, the Colonial State Bank, which is now to become
the Commonwealth Bank, may not have made a public statement about putting up their fees, but they have certainly written to every business, advising them of significant changes. I have not quite worked out whether they are 10 per cent or not, but they are going to change and increase their cost to business. I would like to table a letter that reflects those changes.

Leave granted.

Question resolved in the affirmative.

NOTICES
Withdrawal

Senator COONAN (New South Wales) (3.28 p.m.)—Pursuant to notice given at the giving of notices today, on behalf of the Regulations and Ordinances Committee I now withdraw business of the Senate notice of motion No. 1 standing in my name for today, for the disallowance of the Great Barrier Reef Marine Park Aquaculture Regulations 2000, as contained in Statutory Rules 2000 No. 6. I seek leave to move a motion to refer the provisions of certain bills to a committee.

Leave not granted.

COMMITTEES
Treaties Committee
Report: Government Response

Senator HILL (South Australia—Leader of the Government in the Senate) (3.29 p.m.)—I present the government response to the 15th report of the Joint Standing Committee on Treaties. I seek leave to incorporate the document in Hansard.

Leave granted.

The document read as follows—

Government Response to the 15th Report of the Joint Standing Committee on Treaties

The Government appreciates the committee’s consideration of the wide range of treaty actions considered in its 15th Report. The Government response to the recommendations made in the Report in relation to the four treaty actions considered is provided below.

The Hague Convention on Intercountry Adoption
The Government notes the Committee’s support for Australia’s ratification of the Hague Convention on Intercountry Adoption. This Convention was ratified on 25 August 1998 and entered into force for Australia on 1 December 1998. The Government offers the following response to the three recommendations put forward by the Committee in relation to this Convention.

2.65 The Joint Standing Committee on Treaties recommends that:

the Commonwealth, in consultation with the State and Territory Governments, and with all relevant groups, define the separate roles of the accredited bodies and the parent support groups as part of the implementation process.

The Government agrees to consult with State and Territory Governments on the Committee’s proposal for recognition and definition of the role of parent support groups in intercountry adoption. But policy development and administration in adoption matters in Australia has traditionally been the responsibility of State and Territory Governments. The Commonwealth Government does not consider that Australia’s ratification of the Hague Convention should be the occasion for a substantial change in responsibilities in this area. The role of accredited bodies is a matter for each State and Territory to determine, subject to the principles agreed to by the Community Services Ministers Council in the "Commonwealth State Agreement for the implementation of the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption" (April 1998). A decision to formally recognise or define the role of parent support groups in the intercountry adoption area is a matter for the Council.

2.67 The Joint Standing Committee on Treaties recommends that:

the Commonwealth coordinate a process with State and Territory Governments and all relevant organisations to ensure that all current intercountry adoption agreements comply with the requirements of the Convention prior to the expiry of the three year transitional period.

The Government will undertake a review of current bilateral arrangements relating to intercountry adoption to ensure consistency with the Convention. Decisions on whether bilateral arrangements should be formalised (para 2.50) and whether parent support groups should be involved in this process (para 2.51) are matters on which the
views of State and Territory Governments need to be obtained.

2.69 The Joint Standing Committee on Treaties recommends that:

the Attorney-General’s Department act to improve the consultation process regarding the implementation of this agreement so that it is timely and includes all interested parties.

The Government considers that the consultation process followed in relation to the implementation of the Hague Convention on Intercountry Adoption has been completed in a timely fashion and appropriately took account of the views of interested non-government organisations.

In relation to the consultation undertaken prior to implementation, the Government notes that, pursuant to the Community Services Ministers Council decision, the States and Territories undertook their own consultation processes in their respective jurisdictions. While the consultation processes were consequently varied, these variations did not result in any failure by State, Territory or Commonwealth agencies to identify or consider any significant issues relating to the implementation of the Convention. Subsequent to implementation, the Commonwealth, States and Territories have engaged in broader non-government organisation (NGO) consultation on a range of issues arising from the arrangements for the Convention.

The Government wishes to clarify information as to the process by which the legislation implementing the Convention was made available to interested parties (see para 2.56 of the Committee’s report). The Commonwealth Regulations were circulated by State and Territory Governments to NGOs in December 1997. The NGOs then provided their comments to State and Commonwealth agencies. In March 1998, the Office of the Commonwealth Attorney-General wrote to interested NGOs to advise that, while some change would be made to the Regulations, there would be no changes in relation to the significant matters raised in the NGOs’ comments. A copy of the draft Commonwealth Regulations was made available to the Committee on 30 March 1998. As soon as Commonwealth drafting priorities allowed, a revised version of the Regulations was distributed to NGOs and the Committee in late May 1998.

Denunciation of ILO Convention No. 9

The Government notes the Committee’s views on the denunciation of ILO Convention No. 9 and provides the following responses to its recommendations.

3.45 The Joint Standing Committee on Treaties notes the information it has received, and recommends that ILO Convention No. 9 be denounced.

The Government welcomes the Committee’s support for its denunciation of ILO Convention No. 9. Australia’s instrument of denunciation was deposited with the ILO on 31 August 1998 to take effect from 31 August 1999. The instrument of denunciation was accompanied by a Statement of Reasons (text follows), in accordance with usual ILO practice.

ILO Convention No. 9 Placing of Seamen, 1920, provides that the business of finding employment for seafarers shall not be carried on by commercial enterprise for pecuniary gain and that fees shall not be charged, directly or indirectly, for finding employment for seafarers on any ship. It provides for the establishment and operation of an adequate system of public employment offices for finding employment for seafarers without charge. Such officers are to be organised and maintained either by representative associations of shipowners and seafarers jointly under the control of a central authority, or by the national government. Australia became a party to the Convention on 3 August 1925.

The Government of Australia has decided to denounce the Convention, following a process of consultation and consideration in relation to reforms aimed at improving the international competitiveness of Australian shipping. These reforms were recommended to the Government by an advisory body, the Shipping Reform Group, comprising key maritime industry executives.

In March 1997, the Government received the Shipping Reform Group report recommending significant and constructive reforms aimed at halting the rapid reduction in the Australian trading fleet and ensuring the survival of the industry. A critical element of these reforms involved proposals to the labour market for seafarers, including the extension of company-based employment to all seafarers. Consequently, the industry based employment arrangements for ratings, which were then administered by the Government in consultation with the shipowners’ and seafarers’ organisations, would be abolished.

The report concluded that the industry employment arrangements for ratings seafarers failed to provide the flexibility necessary for Australian ship operators to compete effectively with overseas operators. They were found to inhibit employment continuity for seafarers, increase training costs, prevent transfer of ratings between each ship operator’s vessels, involve both inadequate selected arrangements and barriers to promotion for seafarers and impose on the industry additional administrative costs of the system.
In addition, independent reports to the Government highlighted an adverse impact of the industry employment arrangements on occupational health and safety outcomes in the maritime industry. The introduction of company-based employment for all seafarers was seen by the industry as important in helping to reduce the current high incidence of work-related injury and disease. This results from the improved selection of seafarers to suit the physical demands of particular seagoing jobs and allowing specialised training to be provided to seafarers who have a full time commitment to their employment with a particular ship operator.

The Government concluded that implementation of the labour market reforms, including company-based employment, recommended by the Shipping Reform Group was essential to improve the efficiency of Australian shipping. In view of the industry proceeding to negotiate implementation of these reforms, the Government decided to withdraw from further involvement in operating the particular public employment services for seafarers which were part of the substantive requirements of ILO Convention No. 9, as from 1 March 1998.

Accordingly, it is necessary to denounce ILO Convention No. 9, as recruitment and placement of seafarers in Australia are not being conducted in the manner required by the Convention. It is no longer relevant to Australia’s shipping industry and has become redundant with the abolition of the system of public employment offices for seafarers.

Under company-based employment arrangements, seafarers are to be recruited and placed through direct contact between shipowners and seafarers, which may include private arrangements between shipowners’ and seafarers’ organisations and private agencies.

In accordance with ILO Convention No. 144, Tripartite Consultation (International Labour Standards), 1976, the Australian Government has consulted with the relevant representative employer and worker organisations, including the Australian Chamber of Commerce and Industry (ACCI) and the Australian Council of Trade Unions (ACTU), concerning the denunciation of ILO Convention No. 9.

The ACCI advised that it had no objection to the Government’s proposed course of action. Both the ACTU and the Maritime Union of Australia (MUA) commented that there had been insufficient consultation with the shipping industry on the proposal and they did not support the denunciation of ILO Convention No. 9. The MUA also objected to the denunciation proceeding unless the Government agreed to progress other measures recommended by the Shipping Reform Group (including fiscal support for the shipping industry) at the same time. The MUA also protested against the Government’s decision to withdraw from administration of the industry employment system prior to the industry finalising company based employment arrangements.

The Government firmly believes the move to full company employment of seafarers and the dismantling of the industry-based employment system for ratings, which was intrinsic to Australia’s ability to demonstrate compliance with the ILO Convention No. 9, are crucial reform measures. The Government is convinced that this denunciation, which arises in an environment quite different to that applicable when the Convention was adopted and ratified, is a necessary adjunct to this reform as its provisions are no longer appropriate to the modern Australian shipping industry.


3.46 The Joint Standing Committee on Treaties also recommends that:

proper consideration be given to the adoption of ILO Convention No. 179 with the aim of ratification by the time ILO Convention No. 9 is denounced.

Following consultations, the Department of Employment, Workplace Relations and Small Business carried out an assessment of ILO Convention No. 179, Recruitment and Placement of Seafarers, 1996 which revealed significant compliance issues with the Convention, in particular the requirement for the competent authority to “closely supervise all recruitment and placement services”.

It would be contrary to the Government’s treaty-making policy to initiate ratification of an ILO Convention without establishing that there is compliance with its provisions, and that compliance will be able to be maintained. As the Government is not able to demonstrate compliance with the ambitious provisions of ILO Convention No. 179, Australia is not considering ratification.

ILO Convention No. 179, other ILO maritime instruments and an accompanying report, were tabled in the House of Representatives and the Senate on 9 December 1998, in accordance with Australia’s obligation under Article 19 of the ILO Constitution, which requires member States to
bring newly-adopted instruments to the notice of the "competent authority".

**Dissenting Report**

The 15th Report of the JSCOT included a Dissenting Report on the proposal to denounce ILO Convention No. 9. The conclusions of, and Government response to the Dissenting Report are as follows.

1.45 The Federal Government has acted with undue and unnecessary haste in its decision to denounce ILO Convention No. 9. No consultation occurred prior to the Government’s decision to denounce the treaty. Such consultation as has occurred since that decision was made has been totally inadequate and in the case of the WA, which represents workers in the relevant industry, has been non-existent.

This assertion is inaccurate. The Government fulfilled its ILO obligation to consult with the most representative employer and worker organisations. The ACTU is representative of workers in relation to all ILO matters and the ACTU advice of 25 March 1998 incorporated the views of its affiliates including the WA.

1.47 Having made the decision to denounce ILO Convention No. 9 however, it is now imperative that the Government acts swiftly to ratify ILO Convention No. 179.

For the reasons expressed above, the Government is not considering ratification of ILO Convention No. 179.

**Comprehensive Nuclear Test Ban Treaty**

The Government notes the support of the Committee for the ratification of the Nuclear Test-Ban Treaty which was ratified on 9 July 1998.

4.59 The Joint Standing Committee on Treaties recommends that:

*once the Comprehensive Nuclear Test-Ban Treaty Bill 1998 is enacted, the Presiding Officers write jointly to the President of the United States Senate to acquaint that Chamber with the views of the Australian Parliament, as expressed in the Act, and urge them to take all steps to facilitate and expedite ratification of the Comprehensive Nuclear Test-Ban Treaty by the United States of America.*

The Government welcomes the above recommendation which is fully consistent with the Government’s policy on the CTBT and its own actions. Further, the Government notes that ratification of the CTBT is an objective shared explicitly by the US Administration. The Joint Communiqué issued at the conclusion of the 1998 Australia-United States Ministerial Consultations on 31 July 1998 made clear US and Australian commitment to the CTBT: “The United States congratulated Australia for its ratification of the CTBT. Both sides expressed strong support for the development of the Treaty’s institutional structure in Vienna...”.

In accordance with the above recommendation, a letter was drafted, and subsequently sent to the President of the United States Senate.

**Investment Protection and Promotion Agreement with Pakistan**

The Government is unable to accept the recommendation of the Committee relating to the Investment Protection and Promotion Agreement with Pakistan.

6.44 The Joint Standing Committee on Treaties recommends that:

*ratification of the Agreement between Australia and the Islamic Republic of Pakistan on the Promotion and Protection of Investments not take place at least until the Australian Government announces publicly the resumption of Ministerial and senior official contacts with Pakistan.*

The Government notes that, at the time, the above recommendation ran counter to already agreed Australian Government policy on the measures adopted in response to nuclear testing by India and Pakistan. The Investment Protection and Promotion Agreement (IPPA) with Pakistan entered into force 30 days after the Exchange of Notes of 23 April-14 September 1998. Measures taken against Pakistan in response to nuclear testing included the recall for consultation of the Australian High Commissioner from Islamabad, suspension of bilateral defence relations, exclusion of any future non-humanitarian aid and suspension of Ministerial and senior official visits. The commercial bilateral relationship with Pakistan, was, however, maintained. Government policy ruled out taking measures that would impact negatively on Australia’s bilateral economic relationship with Pakistan.

The IPPA is of benefit to a number of major Australian companies including BHP Petroleum, Clough Engineering and ANZ and failure to ratify it could have prejudiced Australian companies engaged in business in Pakistan. The Government was concerned that adoption of this recommendation could have inhibited Australia’s ability to pursue its trade and economic interests with Pakistan effectively.

**Treaties Committee**

**Report: Government Response**

Senator HILL (South Australia—Leader of the Government in the Senate)
— I present the government response to the 27th report of the Joint Standing Committee on Treaties relating to the termination of the Social Security Agreement with the United Kingdom. I seek leave to incorporate the document in Hansard.

Leave granted.

The document read as follows—

GOVERNMENT RESPONSE TO THE 27TH REPORT OF THE JOINT STANDING COMMITTEE ON TREATIES

The Government thanks the Joint Standing Committee on Treaties for the comprehensive consideration given to the termination of the Social Security Agreement with the United Kingdom dealt with in its 27th Report. The Report makes four recommendations relating to this treaty action and the Government response to such recommendations is provided below.

Termination of the Social Security Agreement with the United Kingdom

The Government is pleased to note that the Committee supported the Government’s proposed treaty action in respect of the termination of the Social Security Agreement with the United Kingdom. Formal notice of termination of the Agreement was served on the United Kingdom on 1 March 2000. The Agreement will terminate on 1 March 2001.

The Government offers the following response to the recommendations put forward by the Committee in relation to this Agreement.

2.107 The Committee supports the proposed termination by Australia of the Agreement on Social Security between Australia and the United Kingdom of Great Britain and Northern Ireland.

The Government notes that the Committee supports its proposed action.


2.112 The Committee recommends that the Minister for Family and Community Services take appropriate steps to ensure that former residents of the United Kingdom, who migrated to Australia with the expectation that their prior contributory service to the United Kingdom’s National Insurance System would be counted as qualifying residence for access to Australian social security benefits, are not disadvantaged by the proposed termination of the Agreement on Social Security between Australia and the United Kingdom of Great Britain and Northern Ireland.

The Government recognises that these people have made major life changes in migrating to Australia and may have done so with the expectation of receiving top-up income support from Australia under the provisions of the Agreement.

The protection measure will allow people who migrated to Australia on or before the date formal notice of termination was served on the UK.

The Government has set the cut-off date for protection as the date that official notification of termination was served on the UK, rather than the date of the announcement of Australia’s intention of terminating, in recognition that some people may still have migrated in good faith after 13 July 1999.

2.115 The Committee recommends that the Minister for Family and Community Services provide it with regular reports on the measures being taken to inform interested people and organisations of the effect of terminating the Agreement on Social Security between Australia and the United Kingdom of Great Britain and Northern Ireland.

The Minister for Family and Community Services will provide the Committee with reports on measures being taken to inform interested people and organisations.

To date, the Department of Family and Community Services (FaCS) has sent information letters to over 50 pensioner and community organisations in both Australia and the United Kingdom. See Attachment.

It has also arranged to have articles placed in the June 2000 edition of the Age Pension News, which is sent to all pensioners in Australia, and the October 2000 edition of Australian Pension...
News, which is sent to all Australian pensioners overseas.

FaCS has updated its website to include information on the effects of termination for existing Agreement pensioners, potential migrants from the UK and people from the UK in Australia. The Department of Immigration and Multicultural Affairs (DIMA) has included a link to the FaCS site on its website.

DIMA overseas posts have been providing information on the forthcoming termination of the Agreement to prospective migrants since October 1999. This information was updated in March 2000 when formal notice of termination was served.

2.120 The Committee recommends that the Minister for Family and Community Services consider delaying formal notification of the Australian Government’s intention to terminate the Agreement on Social Security between Australia and the United Kingdom of Great Britain and Northern Ireland until 13 July 2000.

The Government notes the Committee’s final recommendation on delaying formal notification but did not consider it reasonable or necessary because:

- it contradicts the rationale for taking termination action, which was to send a strong message to the UK that its policy of non-indexation is unacceptable and will not be tolerated any longer

  - it is worth noting that the British Australian Pensioners Association (BAPA) opposed delaying notice of termination because of the need to send a strong message to the UK Government;

- it prolongs the period during which Australian taxpayers are required to meet the costs that rightly should be met by the UK government;

- people intending to migrate have already been given reasonable notice of termination

  - termination will not take effect until almost 20 months after Australia’s intention to terminate the Agreement was publicly announced; and

  - the Department of Immigration and Multicultural Affairs commenced providing information to prospective migrants in the UK in October 1999—it is likely that few people will arrive in Australia in the future without knowing about the proposed termination of the Agreement; and

- Aged migrants from the UK are required to be supported by their sponsors and are all covered by assurances of support.

ATTACHMENT

PENSIONER AND COMMUNITY ORGANISATIONS THAT HAVE BEEN SENT INFORMATION LETTERS ON THE TERMINATION OF THE SOCIAL SECURITY AGREEMENT WITH THE UNITED KINGDOM

AUSTRALIA
Brotherhood of St Laurence
Association of Independent Retirees, Inc
Australian Council of Social Service
Welfare Rights Centre
Australian Pensioners and Superannuants Federation
Combined Pensioners & Superannuants Association
British and Australian Pensioners Association
National Seniors Association
Australian Catholic Social Welfare Commission
Australian Council of Retiree Organisations
Council on the Ageing
Federation of Ethnic Community Councils of Australia

UNITED KINGDOM
The National Federation of Retirement Pensions Associations
The National Pensioners Association
Confederation of Occupational Pensioners Associations (COPAS)
The Public Service Pensioners Council
British Association of Former United Nations Civil Servants (BAFUNCS)
The Civil Service Pensioners Alliance
The Civil Service Retirement Fellowship
The First Division Pensioner's Group
The National Association of Retired Firefighters
The National Association of Retired Police Officers (NARPO)
National Association of Schoolmasters and Union of Women Teachers Retired Members Association (NASUWT)
The National Federation of Post Office and BT Pensioners (NFPOBTP)
The National Health Service Retirement Fellowship
Leave granted.

The document read as follows—

GOVERNMENT RESPONSE TO THE RECOMMENDATIONS OF THE JOINT STANDING COMMITTEE ON FOREIGN AFFAIRS, DEFENCE AND TRADE: REPORT ON THE LOSS OF HMAS SYDNEY

Recommendation 1. The Committee recommends that the Australian Government review the operations of the Archives Act 1983 in regard to World War II material, with a view to providing full public access to all material. (para 3.12)

All Commonwealth records dating between 1939-1945 are in the open access period (ie over thirty years old) as defined by the Archives Act. Any member of the public has the right to apply to see them and be provided with access unless the records, or portions of them, contain material that the Archives Act provides should remain exempt in which case they are entitled to a statement of reasons setting out why exemptions have been applied.

Of the 21.6 shelf metres held by the National Archives that are potentially relevant to those interested in HMAS Sydney a proportion has been assessed by the Archives. Of the material assessed, the Archives has released for public access all the records directly relevant to the HMAS Sydney.1

Reviewing the operations of the Archives Act is not the strategy the Government would adopt to achieve the outcome sought by the Joint Standing Committee. Such a review would presumably encompass all the operations of the Act and might take a considerable time to complete and implement. The Australian Law Reform Commission completed a comprehensive review of the Archives Act in 1998, Australia’s Federal Record (ALRC Report No. 85) – a second review in swift succession would not seem justified.

Recommendation 2. The Committee recommends that a search be undertaken by the Australian Government at the Public Record Office in London for any records of a court or board of inquiry report into the loss of HMAS Sydney. (para 6.120)

The Navy has agreed to commit $20,000 and, although it is unlikely that a search would exceed this amount, will consider further resourcing the archival search if that is necessary for completeness.

Recommendation 3. The Committee recommends the two carley floats in the collection of the Western Australian Maritime Museum be
subject to scientific examination by the Western Australian Maritime Museum in conjunction with the Australian War Memorial. (para 7.49)

The Australian War Memorial understands that the two carley floats in the collection of the Western Australian Maritime Museum are not of the type associated with the carley float in the Memorial’s collection. The Australian War Memorial is willing, in principle, to cooperate on a comparative materials’ analysis of the floats in the two collections.

Recommendation 4. The Committee recommends that the Australian Government continue inquiries to determine if, within the records of the Public Record Office London, there are any records relating to a coronial inquiry undertaken on Christmas Island on the unknown sailor. (para 7.55)

The Government suggests that the Joint Standing Committee’s recommendation is based on the possibility that records of a coronial inquiry may have found their way to the Public Record Office among the records of the British Phosphate Commissioners.

The British Phosphate Commissioners was a tripartite partnership involving Australia, New Zealand and the United Kingdom. The Central Office of the Commissioners was based in Melbourne and the National Archives of Australia (in Melbourne) holds a substantial body of the British Phosphate Commissioners’ records.

Records of each of the British and New Zealand Commissioners and about the respective Governments’ interests in the British Phosphate Commissioners are held by the national archives of each country (ie the Public Record Office and the National Archives of New Zealand). The Public Record Office’s holdings of records of the British Phosphate Commissioners date between 1873 and 1983 and consist of 853 files, maps, photographs etc.

Given the extent of the holdings of the National Archives of Australia the most productive course of action might be to first search the records held in Australia for records about a coronial inquiry. The National Archives has agreed to conduct a preliminary search of the files dating to February and March 1942 to ascertain if any records relate to a coronial inquiry:

Board meeting minutes and decisions of the British Phosphate Commissioners;

Memoranda for Board of Commissioners, single number series;

Subject files relating to island administration and employees;

Subject files correspondence files, alphabetical series;

Confidential correspondence.

Recommendation 5. The Committee recommends that the Minister for Regional Services, Territories and Local Government arrange for an assessment of the condition of the cemeteries on Christmas Island, and provide sufficient additional funding to the Christmas Island Shire Council to allow restoration and maintenance work to be undertaken. (para 7.75)

The Christmas Island Shire has advised a cost of $8000 for rehabilitation work in the old European Cemetery (where the Unknown Sailor is believed to be buried) and $8500 for rehabilitation work in the old Chinese Cemetery. This work is in accordance with recommendations arising from the HMAS Sydney Report.

The Department of Transport and Regional Services has indicated that funding is available for the work to proceed.

Recommendation 6. The committee recommends that:

(a) the Department of Transport and Regional Services and the Department of Defence attempt to locate the grave of the unknown sailor on Christmas Island, by sending a small team (including an archaeologist) to the Island; and

(b) should the gravesite be accurately located, the Minister for Regional Services, Territories and Local Government issue an order for the exhumation of the remains for the purpose of identification. (para 7.90)

Navy Headquarters will participate in action in conjunction with the Office of Australian War Graves and the Department of Transport and Regional Services in an attempt to locate the grave of the unknown sailor. It has not yet been determined whether an archaeologist will be necessary. Subject to legal and other appropriate approvals and clearances, the Deputy Chief of Navy will commence an investigation into the issues relating to the location and recovery of the unknown sailor on Christmas Island, using appropriately skilled personnel. In particular, it is possible that a special Ordinance may have to be made to permit an exhumation order to be issued, should a gravesite be accurately located.
Recommendation 7. The Committee recommends that:

(a) the Christmas Island Shire Council be fully informed and consulted about any proposed exhumation;

The Government concurs with Recommendation 7 (a).

(b) attempts be made to contact the relatives of those also buried in the Christmas Island Old European Cemetery before any exhumation order is made. (para 7.92)

The Government does not support this recommendation, due to funding restraints.

Recommendation 8. The Committee recommends that the Department of Defence provide the families of those lost on HMAS Sydney with a copy of their relative's medical records, such as exist, if requested to do so by the families, at no cost to the families. (para 7.111)

Under the provisions of the Archives Act the medical records of those lost on HMAS Sydney are in the open period and may be sought by any member of the public.

If access were sought through the National Archives by relatives of those serving on HMAS Sydney the National Archives would grant access in full.3 The force of this recommendation is therefore that copies be provided to relatives at no cost.

The National Archives and the Department of Defence will incur the costs of processing the requests for free-of-charge access, including photocopying costs, for those parts of the medical records which are in their respective custody at the time of the request.

Recommendation 9. The Committee recommends that:

(a) should the remains on Christmas Island be positively identified, the Australian Government ensure that the next of kin be involved in the decision-making process regarding the reinterment of the remains and any commemorative activities;

(b) if the remains are returned to mainland Australia for burial, a memorial cairn be erected on Christmas Island marking the original burial site;

(c) if the remains are not positively identified, they be reinterred in an appropriately marked gravesite on Christmas Island. (para 7.130)

It is normal practice for the remains of Commonwealth Service personnel, whether positively identified or otherwise, to be interred in the nearest Commonwealth War Graves Commission war cemetery to the place of death. This policy has been evidenced in recent years by the remains of aircrew recovered from the wreckage of their aircraft in the jungle of Papua New Guinea being buried in the closest Commonwealth War Graves Commission war cemetery to where their remains were found. The Department of Defence arranged in each case for a military funeral service to be conducted at the gravesite, in the presence of relatives.

In the case of the remains washed ashore on Christmas Island, should they be proven to come from HMAS Sydney, there is no way of knowing the place of death, save for at sea. In these circumstances, it is reasonable that the remains be interred in a mainland war cemetery closest to the area of death. The closest war cemetery on the mainland to Christmas Island is the Geraldton War Cemetery. However, it could be argued that it is appropriate that any remains be interred in the Perth War Cemetery.

It is possible the family may wish the remains to stay where they have lain on Christmas Island for the past 57 years. If this were the case, Office of Australian War Graves would, on behalf of the Commonwealth War Graves Commission, mark the grave, record its location and maintain it in perpetuity.

Should any remains be located and removed from Christmas Island, it is not the responsibility of the Office of Australian War Graves to erect a memorial cairn marking the original burial site.

If the remains are identified as an Australian serviceman, but their identity is not established, they should be removed to the closest Commonwealth War Graves Commission war cemetery for burial.

If the remains are not identified as an Australian serviceman, they should be reinterred on Christmas Island. In this scenario, the marking of the grave is not a matter for the Office of Australian War Graves.

Recommendation 10. The Committee recommends that the Royal Australian Navy sponsor a seminar on the likely search areas for Sydney and Kormoran, involving as many of the individual researchers and groups as possible. (para 8.59)

Navy agrees with the proposal to sponsor a seminar in Western Australia which should focus only on issues related directly to the location and discovery of the wreck. Proposals for presentations should be assessed by a committee including representatives from Navy, the Western Australian
Recommendation 11. The Committee recommends that after the search area is more accurately defined, some preliminary surveys be undertaken to try and confirm the accuracy of the wreck locations, prior to a full in-water search. An initial search for HSK Kormoran at or near 26°32-34'S, 111°E, if supported by the seminar, would seem a logical starting point. (para 8.61)

After the seminar the final recommendations will be provided to the Chief of Navy and Maritime Commander for evaluation as to their appropriateness as a basis for a search. Any final decision on Navy involvement will need to take into account the potential size of the search area, Navy capabilities, national tasking requirements and resource implications.

Recommendation 12. The Committee recommends that the HMAS Sydney Foundation Trust and the Australian Government negotiate a Memorandum of Understanding governing the search for, and subsequent protection of, the wrecks of HMAS Sydney and HSK Kormoran. (para 8.94)

The Government questions the need for a separate Memorandum of Understanding (MOU) with the HMAS Sydney Foundation Trust. The Trust signed a Memorandum of Understanding with the Western Australian Maritime Museum in 1997. Prior to signature the then Department of Communications and the Arts and the Department of Defence were given the opportunity to comment on the MOU. At the request of the Department of Communications and the Arts certain points were inserted into the MOU to ensure that it was recognised that the Western Australian Maritime Museum was acting both on its own part and also as an agent of the Commonwealth under the Historic Shipwrecks Act.

Recommendation 13. The Committee recommends that:
(a) the Australian Government provide an initial grant to the HMAS Sydney Foundation Trust of $100,000 to cover activities associated with defining the search area, with a report on its expenditure to be provided to the Australian Government; and
(b) the Australian Government match public donations, on a dollar for dollar basis, up to a total of $2 million. (para 8.96)

The Government does not support the proposal but is prepared to provide assistance as indicated in its responses to the other recommendations in the report.

Recommendation 14. The Committee recommends that:
(a) should the wrecks of HMAS Sydney and HSK Kormoran be located in Australian waters, they be declared wrecks of historical significance, under the terms of the Historic Shipwrecks Act; and
(b) the Minister for the Environment and Heritage make a declaration creating a protected zone around the site of the wrecks. (para 8.104)

Given the extent of public interest in the fate of HMAS Sydney and HSK Kormoran, and the historical significance of their engagement, consideration would be given to declaring the vessels to be historic shipwrecks under s.5 of the Act if they are found to lie within Commonwealth jurisdiction inside Australian territorial waters as defined in s.2(5) of the Act, or within the territorial sea of an Australian External Territory. Additional protection could be provided by the declaration of a protective zone around the vessels under s.7 of the Act.

Should the vessels be found to lie outside the territorial jurisdiction of the Commonwealth, there is currently no international instrument compelling their protection in international waters. A UNESCO Draft Convention on the Protection of Underwater Cultural Heritage is presently in the process of negotiation. It may be some time before this is completed and ratified.

Recommendation 15. The Committee recommends that in addition to consultations with the HMAS Sydney Foundation Trust on a management plan for the wreck sites, the Western Australian Maritime Museum also consult with the Royal Australian Navy, community groups and other stakeholders. (para 8.110)

The Government will endeavour to ensure that all stakeholders are given the opportunity to participate in the development of a management plan for the vessels, should they be located.

Recommendation 16. The Committee recommends that the Commonwealth and Western Australian Governments jointly fund the construction of a memorial to HMAS Sydney, to be erected in Fremantle, with the memorial to be dedicated on 19 November 2001. (para 9.15)

The Government is not opposed to the construction of such a memorial but does not support the recommendation that it be funded wholly by the Commonwealth and West Australian Governments. Such memorials are not usually funded by government except for those few memorials in Anzac Parade, Canberra, erected on behalf of the...
three Services or those small memorials erected in the memorial gardens of the Australian War Memorial.

Major commemorative war memorials, including those designated as national memorials, are funded by public subscription and managed by a committee representing the special interest groups concerned with the particular memorial. Federal and State governments may donate generously to these fund-raising campaigns but do not fund such memorials in their entirety. Such management committees as are elected, or appointed, take responsibility for every aspect of the memorial from design through to dedication. Even in the case of national memorials, the role of government is limited to policy oversight, management of construction contracts and maintenance of the memorial in perpetuity.

The Commonwealth War Graves Commission already officially commemorates those who perished on HMAS Sydney on the Naval Memorials to the Missing in Plymouth, United Kingdom. They are also individually commemorated on the Roll of Honour at the Australian War Memorial.

The Western Australian Maritime Museum is planning a Naval display for the new maritime museum, including reference to the social impact of the loss of HMAS Sydney and the ongoing interest in locating the two vessels involved in the conflict. In addition, the Maritime Museum Library has been collecting records about the HMAS Sydney and will continue to do this.

The Maritime Museum has signed a Memorandum of Understanding with the HMAS Sydney Foundation Trust. In the MOU, the Museum states that it intends to ‘jointly consider ways that the Trustees may establish an active centre of remembrance that may be based within the State’. ‘Centre of remembrance’ is defined as a ‘place dedicated to promoting remembrance of the battle and those lost in the battle, that may provide displays of historical artefacts and information, films, multimedia and or other activities such as research, sponsorship of research, debates or forums’.

The HMAS Sydney Foundation Trust has also committed to create programs of long term commemoration of HMAS Sydney and the sailors who lost their lives in the battle. A virtual memorial, consisting of information technology rather than granite, is among the programs considered by the Trust. Although the Maritime Museum has no plans for a physical memorial to the Sydney, it sees strong potential benefits in a Web Site.

Recommendation 17. The Committee recommends that the Royal Australian Navy create a research grant scheme in the name of HMAS Sydney II and her crew, to the value of $50,000 per annum, to support research into aspects of Australian naval history. (para 9.18)

Navy will investigate the possibility of establishing a research grant scheme.

Recommendation 18. The Committee recommends that the Department of Defence coordinate a service of commemoration for HMAS Sydney II in the year 2001, at the site of the wreck if determined, but also at the new memorial in Fremantle, and in Sydney. (para 9.27)

If action is taken on Recommendation 16, then Navy will meet the cost of the proposed commemorative services in 2001.

1 ‘In a small number of cases portions of some of the records unrelated to the Sydney are not publicly available because they contain sensitive medical or disciplinary information about Service personnel which just happens to occur in the same file or folder as records which relate to the Sydney.’ Richard Summerrell, The Sinking of HMAS Sydney: A guide to Commonwealth Government Records (National Archives of Australia, November 1999), p 9.

2 A carley float, containing a corpse, was recovered off Christmas Island on or about 6 February 1942. An inquest was reported to have been in progress in mid-February. Japanese Forces overran Christmas Island on 31 March 1942. If the report of the inquest had not been transmitted to the Commissioners by then it is unlikely to have survived (Joint Standing Committee on Foreign Affairs, Defence and Trade, Report on the Loss of HMAS Sydney (March 1999), p 101).

3 Were access sought by someone unrelated to the person serving on the HMAS Sydney some exemptions (for example, to certain information about medical conditions or disciplinary actions) might be applied under the provisions of the Archives Act.

Reports: Government Responses

The DEPUTY PRESIDENT—In accordance with the usual practice, I table a report on the parliamentary committee reports to which the government has not responded within the prescribed period as at 29 June 2000. The report has been circulated to honourable senators. With the concurrence of the Senate the report will be incorporated in Hansard.

The report read as follows—
TANDING TO PARLIAMENTARY COMMITTEE REPORTS AS AT 29 JUNE 2000

PREFACE

This document continues the practice of presenting to the Senate twice each year a list of Government responses to Senate and joint committee reports as well as responses which remain outstanding.

The practice of presenting this list to the Senate follows the resolution of the Senate of 14 March 1973 and the undertaking by successive governments to respond to parliamentary committee reports in timely fashion. On 26 May 1978 the then Minister for Administrative Services (Senator Withers) informed the Senate that within six months of the tabling of a committee report, the responsible Minister would make a statement in the Parliament outlining the action the Government proposed to take in relation to the report. The period for responses was reduced from six months to three months in 1983 by the then incoming government. The then Leader of the Government in the Senate announced this change on 24 August 1983. The method of response continued to be by way of statement. Subsequently, on 16 October 1991 the former Government advised that responses to committee reports would be made by letter to a committee chairman, with the letter being tabled in the Senate at the earliest opportunity. The current Government in June 1996 affirmed its commitment to respond to relevant parliamentary committee reports within three months of their presentation.

The list does not usually include reports of the Parliamentary Standing Committee on Public Works or the following Senate Standing Committees: Appropriations and Staffing, Selection of Bills, Privileges, Procedure, Publications, Regulations and Ordinances and Scrutiny of Bills. However, such reports will be included if they require a response. Government responses to reports of the Public Works Committee are normally reflected in motions for the approval of works after the relevant report has been presented and considered. Responses to reports of the Joint Committee of Public Accounts and Audit until recently have usually been made in the form of Finance Minutes which have been tabled by the committee. Such responses are now made in the form of Executive Minutes. Where a response has been made by way of Executive Minute, the date of presentation has been appropriately annotated.

Legislation committees report on bills and on the provisions of bills. Only those reports in this category that make recommendations which cannot readily be implemented through the bill, and therefore require a response, are listed. The list also does not include reports by legislation committees on estimates or scrutiny of annual reports.

A guide to the legend used in the ‘Date response presented/made to the Senate’ column

* See document tabled in the Senate on 28 June 2000, entitled Government Responses to Parliamentary Committee Reports—Response to the schedule tabled by the President on 8 December 1999, for Government interim/final response.

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- Report on the operation of the Australian Taxation Office: 9.3.00, - (No)
- Report on the provisions of the Fair Prices and Better Access for All (Petroleum) Bill 1999 and the practice of multi-site franchising by oil companies: 29.6.00, - (Time not expired)

**Electoral Matters (Joint Standing)**

- The 1998 federal election—Report of the inquiry into the conduct of the 1998 federal election and matters related thereto: 26.6.00, - (Time not expired)

**Employment, Workplace Relations, Small Business and Education References**

- Jobs for the regions: A report on regional employment and unemployment: 30.9.99, *(interim)*, No
- Katu Kalpa—Report on the inquiry into the effectiveness of education and training programs for indigenous Australians: 16.3.00, - (No)

**Environment, Recreation, Communications and the Arts References**

- Access to heritage: user charges in museums, art galleries and national parks: 11.7.98, 8.6.00 (No)

**Environment, Communications, Information Technology and the Arts Legislation**

- Report on the Australian content standard for television and paragraph 160(d) of the Broadcasting Services Act 1992: 17.2.99, 13.4.00 (No)
- Report on the Postal Services Legislation Amendment Bill 2000: 5.6.00, - (Time not expired)

**Environment, Communications, Information Technology and the Arts References**

- Report on the powers of the Commonwealth in environment protection and ecologically-sustainable development in Australia: 27.5.99, *(interim)*, No
- Report on the Jabiluka uranium mine proposal: 30.6.99, *(interim)*, No
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<th>Date response presented /made to the Senate</th>
<th>Response made within time specified (3 months)</th>
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<tr>
<td>CERD and the Native Title Amendment Act 1998</td>
<td>28.6.00 -</td>
<td>Time not expired</td>
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<tr>
<th>Public Accounts and Audit (Joint Statutory)</th>
<th>Date report tabled</th>
<th>Date response presented /made to the Senate</th>
<th>Response made within time specified (3 months)</th>
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<tr>
<td>Review of Auditor-General’s reports 1997-98, Second quarter (Report No. 366)</td>
<td>30.3.99 Executive minutes, 10.5.00</td>
<td>No</td>
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<tr>
<td>Review of Auditor-General’s reports 1997-98, Third quarter (Report No. 367)</td>
<td>30.3.99 Executive minutes, 10.5.00, *(interim)</td>
<td>No</td>
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<tr>
<td>Review of Audit Report No. 34, 1997-98: New submarine project, Department of Defence (Report No. 368)</td>
<td>9.6.99 Executive minute, 10.5.00, *(interim)</td>
<td>No</td>
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<td>Title of report</td>
<td>Date report tabled</td>
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<tr>
<td>Australian government procurement (Report No. 369)</td>
<td>30.6.99</td>
<td>Executive minute, 10.5.00</td>
<td>No</td>
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<td>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)</td>
<td>8.12.99</td>
<td>*(interim)</td>
<td>No</td>
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<tr>
<td>Review of Auditor-General’s Reports 1998-99, First half–Aviation security, costing of services and planning of aged care (Report No. 371)</td>
<td>20.10.99</td>
<td>Executive minutes, 10.5.00, *(interim)</td>
<td>No</td>
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<td>Corporate governance and accountability arrangements for Commonwealth government business enterprises, December 1999 (Report No. 372)</td>
<td>16.2.00</td>
<td>*</td>
<td>No</td>
</tr>
<tr>
<td>Migrant settlement services, fringe benefits tax, and Green Corps–Review of Auditor-General’s Reports 1998-99, Second half (Report No. 373)</td>
<td>16.3.00</td>
<td>*</td>
<td>No</td>
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<tr>
<td>Annual Report 1998-1999 (Report No. 375)</td>
<td>10.5.00</td>
<td>Not required</td>
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<tr>
<td>Financial information in management reports, Control structures of major Commonwealth agencies–Review of Auditor-General’s Reports 1999-2000 First quarter (Report No. 376)</td>
<td>7.6.00</td>
<td>*</td>
<td>Time not expired</td>
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<tr>
<td>Retailing Sector (Joint Select)</td>
<td></td>
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<tr>
<td>Fair market or market failure?: A review of Australia’s retailing sector</td>
<td>30.8.99</td>
<td>8.6.00</td>
<td>No</td>
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<tr>
<td>Rural and Regional Affairs and Transport Legislation</td>
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<tr>
<td>Report on the Albury-Wodonga Development Amendment Bill 1999</td>
<td>5.4.00</td>
<td>*</td>
<td>Time not expired</td>
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<tr>
<td>An appropriate level of protection? The importation of salmon products: A case study of the administration of Australian quarantine and the impact of international trade arrangements</td>
<td>7.6.00</td>
<td>*</td>
<td>Time not expired</td>
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<tr>
<td>Report on the Northern Prawn Fishery Amendment Management Plan 1999</td>
<td>8.3.00</td>
<td>Not required</td>
<td>-</td>
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<tr>
<td>Report on the management of airspace and the decision to terminate the Class G airspace trial</td>
<td>15.3.00</td>
<td>Not required</td>
<td>-</td>
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<tr>
<td>Rural and Regional Affairs and Transport References</td>
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<tr>
<td>The effect of pricing and slot management arrangements at Kingsford Smith Airport on regional airlines communities</td>
<td>31.3.99</td>
<td>13.4.00</td>
<td>No</td>
</tr>
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### Deregulation of the Australian dairy industry
- **Title of report:*** Deregulation of the Australian dairy industry
- **Date report tabled:** 21.10.99
- **Date response presented/made to the Senate:** *(final)*
- **Response made within time specified (3 months):** No

### Report on the development of the Brisbane Airport Corporation’s master plan for the future construction of a western parallel runway
- **Date report tabled:** 29.6.00
- **Date response presented/made to the Senate:** *
- **Response made within time specified (3 months):** Time not expired

### Scrutiny of Bills (Senate Standing)
- **Fourth report of 2000: Entry and search provisions in Commonwealth legislation**
  - **Date report tabled:** 6.4.00
  - **Date response presented/made to the Senate:** *
  - **Response made within time specified (3 months):** Time not expired

### Socio-Economic Consequences of the National Competition Policy (Senate Select)
- **Competition policy: Friend or foe—Economic surplus, social deficit (Interim report):**
  - **Date report tabled:** 12.9.99
  - **Date response presented/made to the Senate:** *(interim)*
  - **Response made within time specified (3 months):** No

### Riding the waves of change (Final report)
- **Date report tabled:** 17.2.00
- **Date response presented/made to the Senate:** *
- **Response made within time specified (3 months):** No

### Roundtable on choice of superannuation funds
- **Date report tabled:** 16.3.00
- **Date response presented/made to the Senate:** Not required
- **Response made within time specified (3 months):** *

### Treaties (Joint)
- **Treaties tabled on 18 March and 13 May 1997 (8th report)**
  - **Date report tabled:** 24.11.97
  - **Date response presented/made to the Senate:** *(interim)*
  - **Response made within time specified (3 months):** No

- **Australia-Indonesia maritime delimitation treaty (12th report)**
  - **Date report tabled:** 2.7.98
  - **Date response presented/made to the Senate:** 29.6.00
  - **Response made within time specified (3 months):** No

- **UN convention on the rights of the child (17th report)**
  - **Date report tabled:** 10.11.98 (presented 28.8.98)
  - **Date response presented/made to the Senate:** *(interim)*
  - **Response made within time specified (3 months):** No

- **The Fifth Protocol to the general agreement on trade in services and five treaties tabled on 30 June 1998 (19th report)**
  - **Date report tabled:** 23.3.99
  - **Date response presented/made to the Senate:** *(final)*
  - **Response made within time specified (3 months):** No

- **Two treaties tabled on 26 May 1998, the Bougainville Peace Monitoring Group Protocol and treaties tabled on 11 November 1998 (20th report)**
  - **Date report tabled:** 29.3.99
  - **Date response presented/made to the Senate:** *(interim)*
  - **Response made within time specified (3 months):** No

- **Five treaties tabled on 16 February 1999 (21st report)**
  - **Date report tabled:** 7.6.99
  - **Date response presented/made to the Senate:** *(final)*
  - **Response made within time specified (3 months):** No

- **Five treaties tabled on 11 May 1999 (22nd report)**
  - **Date report tabled:** 28.6.99
  - **Date response presented/made to the Senate:** *(final)*
  - **Response made within time specified (3 months):** No

- **Amendments proposed to the International Whaling Convention (23rd report)**
  - **Date report tabled:** 23.8.99
  - **Date response presented/made to the Senate:** *(interim)*
  - **Response made within time specified (3 months):** No

- **A seminar on the role of parliaments in treaty making (24th report)**
  - **Date report tabled:** 30.8.99
  - **Date response presented/made to the Senate:** *(final)*
  - **Response made within time specified (3 months):** No

- **Eight treaties tabled on 11 August 1999 (25th report)**
  - **Date report tabled:** 27.9.99
  - **Date response presented/made to the Senate:** *(interim)*
  - **Response made within time specified (3 months):** No

- **An agreement to extend the period of operation of the Joint Defence Facility at Pine Gap (26th report)**
  - **Date report tabled:** 18.10.99
  - **Date response presented/made to the Senate:** 22.6.00
  - **Response made within time specified (3 months):** No
Termination of Social Security Agreement with the United Kingdom; and International Plant Protection Convention (27th report) 6.12.99 29.6.00 No

Fourteen treaties tabled on 12 October 1999 (28th report) 6.12.99 *(final) No

Singapore’s use of Shoalwater Bay, development cooperation with PNG and protection of new varieties of plants (29th report) 15.2.00 (presented 16.12.99) - No

Treaties tabled on 8 and 9 December 1999 and 15 February 2000 (30th report) 3.4.00 - Time not expired

Three treaties tabled on 7 March 2000 (31st report) 10.4.00 - Time not expired

Six treaties tabled on 7 March 2000 (32nd report) 16.5.00 - Time not expired

Social Security Agreement with Italy and New Zealand committee exchange (33rd report) 5.6.00 - Time not expired

DOCUMENTS

Auditor-General’s Reports
Reports Nos 49, 50 and 51 of 1999-2000

The DEPUTY PRESIDENT—In accordance with the provisions of the Audit-General Act 1997, I present the following reports of the Auditor-General:


Report No. 50 of 1999-2000—Follow-up Performance Audit—Management Audit Branch—Department of Defence


COMMITTEES

Privileges Committee

Report

Senator ROBERT RAY (Victoria) (3.31 p.m.)—I present the 92nd report of the Committee of Privileges entitled Matters arising from the 67th report of the Committee of Privileges.

Ordered that the report be printed.

Senator ROBERT RAY—I am tabling this report in manuscript form. Printed copies will be available for normal distribution next week. It will be placed on the Internet this evening. The committee takes this unusual course because of the importance of the issues canvassed in the advices attached to the report. I seek leave to move a motion in relation to the report.

Leave granted.

Senator ROBERT RAY—I move:

That the Senate take note of the report.

Senator ROBERT RAY—I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Membership

The DEPUTY PRESIDENT—The President has received letters from party leaders and an Independent senator seeking variations to the membership of committees.

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

That senators be discharged from and appointed to committees as follows:

Community Affairs References Committee—

Participating members: Senators Bartlett, Crossin, Harris and McLucas for the consideration of the provisions of the Gene Technology Bill 2000

Substitute members:

Senator Murray to replace Senator Bartlett for the committee’s inquiry into child migration
Senator Stott Despoja to replace Senator Bartlett and Senator Forshaw to replace Senator Evans for the consideration of the provisions of the Gene Technology Bill 2000

Employment, Workplace Relations, Small Business and Education Legislation Committee—

Substitute members: Senator Allison to replace Senator Stott Despoja and Senator Crossin to replace Senator Collins for the consideration of the States Grants (Primary and Secondary Education Assistance) Bill 2000

Environment, Communications, Information Technology and the Arts Legislation Committee—

Participating member: Senator McLucas

Environment, Communications, Information Technology and the Arts References Committee—

Participating member: Senator McLucas

Substitute member: Senator McLucas to replace Senator Bolkus for the consideration of the provisions of the Renewable Energy (Electricity) Bill 2000 and a related bill.

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:

Indirect Tax Legislation Amendment Bill 2000

SOCIAL SECURITY AND VETERANS’ ENTITLEMENTS LEGISLATION AMENDMENT (MISCELLANEOUS MATTERS) BILL 2000

Consideration of House of Representatives Message

Message received from the House of Representatives returning the Social Security and Veterans’ Entitlements Legislation Amendment (Miscellaneous Matters) Bill 2000, acquainting the Senate that the House has disagreed to the amendments made by the Senate.

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

Motion (by Senator Ellison) proposed:

That the committee does not insist on its amendments to which the House of Representatives has disagreed.

Senator SCHACHT (South Australia) (3.34 p.m.)—The amendments the opposition moved about a week ago were very carefully thought out and we think had considerable merit. I want to make some comments about the position we are finally taking here on this bill, the Social Security and Veterans’ Entitlements Legislation Amendment (Miscellaneous Matters) Bill 2000, and the view of the government that these amendments not be insisted upon. If this bill is held up—because the Senate would vote to uphold our position—it will be because this government is unwilling to protect the entitlements of aged pensioners, widows and people with disabilities. These are people who will have reduced portability as a result of the changes the government is seeking to make, and they are the reason Labor moved the amendments it did. Labor supports those measures that will see people gain additional entitlements to allowances. We are keen to see these new entitlements delivered, but we do not want to see that paid off by reductions elsewhere.

Our amendments have been carefully constructed not to upset the beneficial measures in this bill relating to portability. We have not breached the process of simplification being undertaken by the government in relation to portability. The government is locating portability rules centrally to assist decision making. Our amendments do not change this process. The government is not moving to a system where every recipient will have identical entitlements. There remain different conditions for different classes of recipients. Within that framework Labor has sought to amend the bill to protect existing conditions where they are to be diminished. The Welfare Rights Organisation, in a submission to the Senate committee, has indicated that there are even likely to be savings to government in some cases where existing portability is retained. This is because some social security recipients will ultimately draw their pensions from other countries when, if they were asked to remain in Australia through stricter portability rules, they would be drawing payments here.

We do not think on financial grounds or any other grounds the government’s intentions are far from Labor’s when it comes to
portability. We are not talking about a great number of people. Many of those we are trying to protect are receiving pensions that will cease to exist in a matter of a few years. We should also be realistic about the fact that not many pensioners have the financial wherewithal to travel overseas. For these reasons, generous portability arrangements are a small entitlement. But that does not diminish the importance of having a flexible mechanism that allows people with sick or dying relatives or a chronic illness themselves the flexibility to travel overseas for extended periods.

There seems little point in the government not agreeing to meet us halfway on this issue. Our amendments are not designed to frustrate the government nor to delay this bill. Their intention is to ensure that in an otherwise positive bill some individuals are not hurt in the process. In conclusion, we believe the government is being a little pig-headed here in not accepting our modest amendments. They are not a great cost to the budget; they affect a small number, as we said before when we first moved these amendments.

However, because the government is unyielding on this matter, we are put in the position where, if the Senate insists on these amendments and the bill does not go through, other benefits and improvements in benefits to recipients will be delayed at least until we return in August. We know that the government would, for its own political purposes, cynically try to say that was our fault. Therefore, with considerable reluctance, the opposition is not going to insist on its amendments. But we still believe the merit of our amendments is excellent, and we are just surprised the government would not accept them to make it a better bill in the end.

Senator BARTLETT (Queensland) (3.38 p.m.)—I will put the Democrats position on the record in relation to this issue of whether or not the Senate should insist on its amendments, which were originally moved by the ALP. Obviously, my position is fairly academic, given the opposition’s decision not to insist on its amendments. But we still believe the merit of our amendments is excellent, and we are just surprised the government would not accept them to make it a better bill in the end.

They are not major, but they certainly would have been of assistance.

I am particularly disappointed that there was no recognition of the value of amendments Nos 4 through to 10. The argument the government insists on—that those amendments, which retain the 12-month non-portability period for former returning residents, rather than two years, are inconsistent with the residence principle of the new system—is a fairly glib way of dismissing what is a fairly important aspect of those amendments that retain the 12 months non-portability and really does not go any way towards acknowledging the reasons why it would be more appropriate to retain that at 12 months.

The government also comments in its reasons that the amendment would also retain a discretion which is presently open to abuse. I hope that is not a sign that the government is now going to feel that every discretionary power of the secretary to the department in relation to other payments is now going to be labelled as a potential for abuse. Clearly, in any system you need a situation with discretion, where you have some flexibility and ability to deal with difficult cases which do not necessarily fit the neat confines of the act. I find that reason that has been given by the House of Representatives as to why they opposed one of these amendments to be fairly inadequate and a bit curious.

However, the bill overall will now go through unamended. It is disappointing that the government is not willing to take on board genuine concerns that are expressed and outlined not just by senators but by groups in the community that work with this very large and complex act every day. However, that is the case, and that is the situation we are faced with. Certainly the Democrats also are disappointed that the government continues to refuse to accept these improvements. Again, amendments Nos 4 to 10 would have been particularly beneficial to have in as amendments to the bill. But that is the way it is. Given that we have a lot of other bills to deal with today, I will not detain the Senate by speaking further on the matter.

Senator NEWMAN (Tasmania—Minister for Family and Community Services and
Minister Assisting the Prime Minister for the Status of Women) (3.42 p.m.)—I thank senators for their contributions. In very brief response to Senator Bartlett, there is no intention by the government to move to remove the secretary’s discretion in the department. There is a change in this piece of legislation, but it does not signal a change of direction on secretaries’ discretion.

Briefly at the beginning, Senator Schacht was perhaps confusing eligibility criteria with conditions on payment. We recognise, of course, that there are many different payments for which there are great variations in the eligibility criteria. But what we are trying to do in simplifying here is to have conditions across the payments consistent in the opportunity that go with the eligibility.

It is very important that I once again emphasise that we have a very significant measure in this bill which has been long wanted by people, and that is the ability to still receive rent assistance and pharmaceutical allowance while out of the country. I certainly have had numbers and numbers of people over the 4½ years I have had this job asking us to review that policy. It is something that could have been on the priority list for the previous government but was not. But it has now reached its place here.

Can I say that I think the opposition’s decision on this legislation is a wise one. This is an important bill. It does have significant measures in it. Simplification may not be quite as sexy as some other things, but in practical terms it is very important for people who need income support from the public purse, and it is very conducive to better and more accurate administration of the system, which of course goes to benefiting those who have applied for assistance.

I also want to emphasise that this is not a savings measure. The simplification of portability is not a savings measure; it is a fiscally neutral measure. Savings from the international payment measure flow from the extension of the requirement to claim a comparable foreign payment to non-agreement countries, not from any other element. Without further ado, I welcome the fact that the opposition is not insisting on its amendments. I commend the bill to the chamber.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (3.48 p.m.)—There are two amendments. The first amendment relates to the issue of the stay of proceedings. The Senate will recall that before the suspension of the sitting for lunch we took the view—I think it was all parties—that there was a concern that the ability to seek an injunction to restrain a decision of the ABA or to put that decision on hold pending litigation or pending an appeal from that decision could mean that many months might elapse, during which time something ultimately found to offend against the regime would still be in place and could lead to other pressures for that regime to become permanent in practice, even to the point of encouraging the parliament to legislate to allow something that the ABA itself had found went beyond the terms of the datacasting regime.

It is clearly a principle of law that one should not be arbitrarily denied one’s legal rights, and principles of natural justice would, I think, come into play as well. It is certainly common practice that courts have a discretion as to whether to grant a stay of proceedings pending the outcome of an appeal. However, in criminal proceedings—say, a murder conviction—it would be very rare indeed if a convicted person were allowed to go free on bail pending the outcome of an appeal which might not come on for many months. I am not even sure that there wasn’t
a time in Victoria when you simply couldn’t, by law, have a stay of proceedings once you had been found guilty, which in effect was a very big incentive for the courts to ensure that the full court dealt with matters very quickly. I cannot speak for current practice because it is now some 14 years since I was last in practice, but certainly I think the principle has always been that one should be very loath indeed to interfere with normal appeal rights and therefore injunctive relief that might accompany those rights. Therefore, I think the view was taken in this chamber that, if there were a middle course, it would enable us to ensure that injunctive relief would be available but not indefinitely to the point where it might effectively overturn a decision of the tribunal in the first instance or the ABA.

So the solution being proposed is that a decision of the ABA could not be enjoined for a period of time greater than three months. After that time, if the matter has not been dealt with by way of appeal, the injunction would lapse and the original decision would be resumed. We do this by way of an amendment to schedule 1, item 140, page 92, to substitute provisions which include the following: that an order must not be made, under paragraph 15(1)(a) or 15A(1)(a) of the Administrative Decisions (Judicial Review) Act 1977 in relation to an eligible decision if:

1. the order has the effect of suspending the operation of the eligible decision for more than three months; or
2. the order and any previous order or orders made under the paragraph concerned have the combined effect of suspending the operation of the eligible decision for more than 3 months.

In other words, you could have a limited stay, pending a hearing. The courts are therefore on notice that, unless the hearings are brought on quickly, you would in effect be reverting to the original decision. That still does not preclude the appeal coming on in due course, but the holding arrangements would have altered. You would then be proceeding on the basis that the ABA’s judgment was the status quo rather than the result of the injunction, which would normally be the opposite. We do think this offers a sensible middle course; it does provide an opportunity for the parties to exercise all their rights, but not in an unlimited fashion. If the wheels of justice turn in the way they should, you will find that appeals are dealt with within that three-month period and these orders would not need to have effect, because you would not reach that point of reversion. So I would hope that these latest amendments—and I am grateful to other parties in the Senate for allowing us time to ensure properly reflect that outcome—will achieve what we had in mind. I seek leave to move government amendments Nos 1 and 2 from sheet DW210 together.

Leave granted.

Senator ALSTON—I move:

(1) Schedule 1, item 140, page 92 (lines 14 to 25), omit subclauses (2), (3) and (4), substitute:

(2) An order must not be made under paragraph 15(1)(a) or 15A(1)(a) of the Administrative Decisions (Judicial Review) Act 1977 in relation to an eligible decision if:

(a) the order has the effect of suspending the operation of the eligible decision for more than 3 months; or
(b) the order and any previous order or orders made under the paragraph concerned have the combined effect of suspending the operation of the eligible decision for more than 3 months.

(3) An order must not be made under paragraph 15(1)(b) or 15A(1)(b) of the Administrative Decisions (Judicial Review) Act 1977 in relation to an eligible decision if:

(a) the order has the effect of staying particular proceedings under the eligible decision for more than 3 months; or
(b) the order and any previous order or orders made under the paragraph concerned have the combined effect of staying particular proceedings under the eligible decision for more than 3 months.

(4) If:

(a) a person applies to the Federal Court under subsection 39B(1) of the Judiciary Act 1903 for a writ or injunc-
tion in relation to an eligible decision; and

(b) an order could be made staying, or otherwise affecting the operation or implementation of, the eligible decision pending the finalisation of the application;

such an order must not be made if:

(c) the order has the effect of staying, or otherwise affecting the operation or implementation of, the eligible decision for more than 3 months; or

(d) the order and any previous order or orders covered by paragraph (b) have the combined effect of staying, or otherwise affecting the operation or implementation of, the eligible decision for more than 3 months.

(5) If:

(a) a person applies to the Administrative Appeals Tribunal for review of an eligible decision; and

(b) an order could be made under subsection 41(2) of the Administrative Appeals Tribunal Act 1975 staying, or otherwise affecting the operation or implementation of, the eligible decision;

such an order must not be made if:

(c) the order has the effect of staying, or otherwise affecting the operation or implementation of, the eligible decision for more than 3 months; or

(d) the order and any previous order or orders covered by paragraph (b) have the combined effect of staying, or otherwise affecting the operation or implementation of, the eligible decision for more than 3 months.

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(d) the order and any previous order or orders made under the paragraph concerned have the combined effect of staying, or otherwise affecting the operation or implementation of, the eligible decision for more than 3 months.

(5) If:

(a) a person applies to the Administrative Appeals Tribunal for review of an eligible decision; and

(b) an order could be made under paragraph 15(1)(a) or 15A(1)(a) of the Administrative Decisions (Judicial Review) Act 1977 in relation to an eligible decision if:

(a) the order has the effect of suspending the operation of the eligible decision for more than 3 months.

(3) An order must not be made under paragraph 15(1)(b) or 15A(1)(b) of the Administrative Decisions (Judicial Review) Act 1977 in relation to an eligible decision if:

(a) the order has the effect of staying particular proceedings under the eligible decision for more than 3 months; or

(b) the order and any previous order or orders made under the paragraph concerned have the combined effect of staying particular proceedings under the eligible decision for more than 3 months.
(d) the order and any previous order or orders covered by paragraph (b) have the combined effect of staying, or otherwise affecting the operation or implementation of, the eligible decision for more than 3 months.

Senator BOURNE (New South Wales) (3.55 p.m.)—The Democrats will support these amendments. I am grateful to the minister for having found—from his back pocket, I understand—amendments which do go a long way towards solving the problems that I had with this. In fact, they are very similar to some that I asked to be drawn up, which was a bit on the difficult side, especially for the time allowed. I must say, though, that the parliamentary draftsman must be one of the most hardworking, efficient and wonderful people on the face of this earth, and I do not know how on earth she has got through as much as she has on this bill in such an incredibly short time. I am grateful for these amendments. Not being a lawyer, I do not know if they do go the whole way towards solving the problems, but I hope they do and I will certainly be supporting them.

Senator MARK BISHOP (Western Australia) (3.56 p.m.)—The opposition has received the amendments and will be supporting them in due course. The only thing we wish to draw to the attention of the chamber is that, in due course, they will probably run up against the inherent jurisdictions of superior courts. In the final estimate, I suppose that is a matter for a high priced lawyer to take the point at the relevant time. They do go some way to addressing the issues that were raised in the Senate committee hearings. On that basis, the opposition has no problems with the amendments as circulated.

Senator BROWN (Tasmania) (3.57 p.m.)—The point I would make here is that, the clearer the legislation is and the more specific the parliament is in laying down guidelines, the less there needs to be a reliance on the ABA and the less there needs to be a reliance on a dispute mechanism dealing with unforeseen decisions coming from the ABA. I cannot help but feel that the whole process here has been one where we have been transferring the obligation to make decisions onto the ABA, and that is not a good process. To then find ourselves having to come up with complicated dispute resolutions after that point highlights that. As the minister said, the difficulty is that, if there isn’t good dispute resolution, you are left in the position where pressure might come upon the parliament to legislate. I do not mind pressure being brought on, and there is no worry about legislating. The thing is that you are doing the right thing by Australian consumers, and the best way to ensure that is done is to do it at the outset. This legislation does not do that.

The CHAIRMAN—The question is that government amendments Nos 1 and 2 on sheet DW210 be agreed to:

Question resolved in the affirmative.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (3.52 p.m.)—by leave—I move:

(1) Schedule 1, page 5 (after line 23), after item 17, insert:

17A At the end of section 18
Add:

(2) A multi-channelled national television broadcasting service (within the meaning of Schedule 4) is not an open narrowcasting service.

(2) Schedule 1, page 20 (after line 22), after item 76, insert:

76A Clauses 2 of Schedule 4
Insert:

multi-channelled national television broadcasting service has the meaning given by clause 5A.

(3) Schedule 1, page 21 (after line 13), after item 79, insert:

79A After clause 5 of Schedule 4
Insert:

5A Multi-channelled national television broadcasting service
(1) For the purposes of this Schedule, a broadcasting service is a multi-channelled national television broadcasting service if:

(a) the service provides television programs; and

(b) either:

(i) the service is provided by the Australian Broadcasting Corporation in accordance with sec-
tion 6 of the *Australian Broadcasting Corporation Act 1983*; or
(ii) the service is provided by the Special Broadcasting Service Corporation in accordance with section 6 of the *Special Broadcasting Service Act 1991*; and
(c) the service is transmitted in digital mode using multi-channelling transmission capacity; and
(d) the only programs delivered by the service are programs to which subclause (2) applies; and
(e) the service is promoted as a service that is distinct from any other broadcasting service provided by the Corporation concerned; and
(f) the service is neither a subscription broadcasting service nor a subscription narrowcasting service; and
(g) the Corporation concerned has given the Minister a written notice electing that this subclause apply to the service; and
(h) if the Corporation concerned transmits the service in a particular coverage area:
(i) the Corporation transmits another broadcasting service in that coverage area; and
(ii) the other service is a national television broadcasting service; and
(iii) clause 19 applies to the other service during the simulcast period for that coverage area.

(2) This subclause applies to the following television programs:
(a) a program (including a news bulletin or a current affairs program) that deals wholly or principally with regional matters;
(b) an educational program;
(c) a science program;
(d) a religious program;
(e) a health program;
(f) an arts-related program;
(g) a culture-related program;
(h) a financial, market or business information bulletin;
(i) a program that consists of:

(i) the proceedings of, or the proceedings of a committee of, a Parliament; or
(ii) the proceedings of a court or tribunal in Australia; or
(iii) the proceedings of an official inquiry or Royal Commission in Australia; or
(iv) a hearing conducted by a body established for a public purpose by a law of the Commonwealth or of a State or Territory;
(j) a public policy program;
(k) a foreign-language news bulletin;
(l) a program about community-based multicultural or indigenous activities;
(m) a children’s program;
(n) a history program;
(o) a program that:
(i) is produced by the Australian Broadcasting Corporation; and
(ii) deals with international news (including analysis of items of international news);
(p) a national program about rural affairs;
(q) an information-only program;
(r) a stand-alone international social documentary;
(s) a stand-alone social documentary that is produced by the Special Broadcasting Service Corporation;
(t) a subtitled foreign-language program;
(u) an occasional stand-alone drama program;
(v) incidental matter.

(3) In this clause: 
*drama program* has the same meaning as in section 103B.
*educational program* has the same meaning as in Schedule 6 (disregarding subclauses 3(2) to (7) (inclusive) of Schedule 6).
*financial, market or business information bulletin* has the same meaning as in Schedule 6.
*foreign-language news bulletin* means a news bulletin the audio component of which is wholly in a language other
than English (for this purpose, disregard minor and infrequent uses of the English language).

**incidental matter** means:
(a) advertising or sponsorship matter (whether or not of a commercial kind); or
(b) a program promotion; or
(c) an announcement; or
(d) a hosting; or
(e) any other interstitial program.

**information-only program** has the same meaning as in Schedule 6 (disregarding subclauses 4(2) to (7) (inclusive) of Schedule 6).

**public policy program** means a program that consists of a lecture, speech, debate or forum, where:
(a) the lecture, speech, debate or forum deals wholly or principally with one or more matters of public policy; and
(b) there is no editing of the substance of the lecture, speech, debate or forum; and
(c) if there is any analysis, commentary or discussion about the substance of the lecture, speech, debate or forum—the analysis, commentary or discussion has a balanced presentation of points of view.

**subtitled foreign-language program** means a subtitled program the audio content of which is wholly in a language other than English (for this purpose, disregard minor and infrequent uses of the English language).

(4) Schedule 1, page 32 (after line 3), after item 110, insert:

**110A Before subclause 19(8) of Schedule 4**
Insert:
Multi-channelled national television broadcasting services

(7B) This clause does not apply to a multi-channelled national television broadcasting service.

(5) Schedule 1, page 36 (after line 16), after item 115, insert:

**115A After subclause 20(1) of Schedule 4**
Insert:
(1A) Subclause (1) does not apply to a multi-channelled national television broadcasting service.

(6) Schedule 1, item 123, omit clause 35, substitute:

**35 Simulcasting requirements**
(1) If there is a simulcast period for a coverage area, a national broadcaster must not broadcast a television program in SDTV digital mode in that area during the simulcast period for that area unless the program is broadcast simultaneously by the national broadcaster in analog mode in that area.

(2) Subclause 19(8) applies to this clause in a corresponding way to the way in which it applies to paragraph 19(3)(c) of this Schedule and subclause 19(7) of this Schedule.

(3) This clause does not apply to a multi-channelled national television broadcasting service.

(7) Schedule 1, item 126, page 44 (line 30), omit “23(8).”, substitute “23(8); and”.

(8) Schedule 1, item 126, page 44 (after line 30), at the end of subclause (4), add:

(c) that service is not a multi-channelled national television broadcasting service.

(9) Schedule 1, item 126, page 47 (line 16), omit “23(10A).”, substitute “23(10A); and”.

(10) Schedule 1, item 126, page 47 (after line 16), at the end of subclause (4), add:

(c) that service is not a multi-channelled national television broadcasting service.

(11) Schedule 2, page 102 (before line 4), before item 14, insert:

**13B Before section 101**
Insert:

**100D NBS transmitter licences—authorisation of multi-channelled television broadcasting services**
(1) If:
(a) an NBS transmitter licence is or was issued to a particular national broadcaster; and
(b) the licence authorises the operation of one or more specified radiocommunications transmitters for transmitting a national television broadcasting service in digital mode using one or more channels; and
(c) the national broadcaster provides, or proposes to provide, another national television broadcasting service; and

(d) the other service is a multi-channelled national television broadcasting service;

the licence is also taken to authorise the operation of the transmitter or transmitters concerned for transmitting the multi-channelled national television broadcasting service in digital mode using those channels.

(2) In this section:

multi-channelled national television broadcasting service has the same meaning as in Schedule 4 to the Broadcasting Services Act 1992.

national broadcaster has the same meaning as in the Broadcasting Services Act 1992.

national broadcasting service has the same meaning as in Schedule 4 to the Broadcasting Services Act 1992.

national television broadcasting service means a national broadcasting service that provides television programs.

NBS transmitter licence means a transmitter licence for a transmitter that is for use for transmitting, to the public, a national broadcasting service.

The purpose of these amendments is to enable the national broadcasters to multichannel certain types of programming. The Senate has already passed Labor amendment No. 1 on sheet 1823, which would have the effect of allowing the ABC and SBS to provide multichannel programs.

These amendments would amend the provisions in Labor amendment No. 1 relating to multichannelling by the national broadcasters and would also make a number of important consequential changes to other provisions of the Broadcasting Services Act that are needed to give effect to such multichannelling. The amendments add a new clause 5A to schedule 4 which provides for a multichannel national television broadcasting service which includes a range of classes of programs, as prescribed in clause 5A(2). Speaking in general terms for a moment, I might just say that the object of the exercise is to enable the ABC and SBS to multichannel—in other words, to provide programs on a second standard definition channel. This would enable them to provide services in a whole range of areas that I think ordinary Australians would instinctively recognise as being very much in the domain of the national broadcasters, particularly in the information and education sectors. The ABC has always quite rightly prided itself on offering quite a diverse range of programming that is outside the mainstream occupied by the commercial networks, and the raison d'être of the ABC in many respects is to be a quality alternative.

This new regime will enable the ABC and SBS to do their own thing but not to do it in such a way that they are simply moving into domains which are very well catered for by the commercial sector, particularly sport, films and the like. The programs that would be permitted under these amendments include: news and current affairs dealing with regional matters, educational programs, science programs, religious programs, health programs, art related programs, culture related programs, financial market or business information programs, programs which broadcast parliamentary proceedings and certain court proceedings, public policy programs—some of these, including public policy programs, are defined in one of the amendments—foreign language news bulletins, programs relating to community based multicultural activity, children's programs, history programs, programs produced by the ABC dealing with international programs, international news, programs about rural affairs, information only programs—and, again, that is as defined in the datacasting regime—stand-alone international social documentaries, stand-alone social documentaries produced by SBS, subtitled foreign language programs and occasional stand-alone dramas.

Quite clearly, it is a very exhaustive list. It provides innumerable opportunities for innovative broadcasting, which I am sure is a principle close to the heart of Senator Bourne in particular. That is something we would expect to emerge from the new digital television era. I have every confidence that all of the broadcasters, particularly those who pride
themselves on having new and distinctive areas which will not necessarily be of interest to mainstream audiences but nonetheless will be recognised for their creativity and inventiveness, will be able to present such programs as a result of the implementation of the legislation and this very extensive list.

Other provisions in clause 5A would ensure that the ABC and SBS still comply with the basic simulcast requirements related to the digital conversion process. Amendment No. 6 amends item 123 of the bill that was substituted by the previously agreed Labor amendment No. 1 on sheet 1823. Amendment No. 11 inserts a new section 100D into the Radiocommunications Act to ensure that the transmitter licences authorising digital television transmissions by the ABC and SBS also allow the transmission of multichannel television services. The other amendments are consequential and ensure, for example, that the HDTV requirements in the bill do not apply to a multichanneled service.

Senator MARK BISHOP (Western Australia) (4.04 p.m.)—As we have gone through the deliberations on the Broadcasting Services Amendment (Digital Television and Datcasting) Bill 2000 over the last five or six weeks, one of the critical issues that the opposition have been keen to pursue is the future of multichannelling for the national broadcasters. It became an important issue in the Senate inquiry, which spread over two days, and has been at the forefront of our thinking and our deliberations as this bill has been discussed in the chamber over the last three days. We were always keen for the ABC and the SBS to have the right to multichannel because we saw it as an emerging development that the national broadcasters should be able to get into to give effect to their charter and to serve the interests of the Australian community. So multichannelling for the national broadcasters has been a key issue, and our policy position remains that the national broadcasters should be able to multichannel in an unencumbered way within their charters.

In the public discussions associated with this bill, we have obviously urged that approach on the government. Even as we have been concluding the committee stage this morning, we have again urged that approach on the government. Over luncheon, there were some discussions among the government, the opposition and the Australian Democrats, and at those discussions the government rejected the proposition that the Australian Labor Party had been putting concerning the future of multichannelling for the national broadcasters. Instead, the government came back with an alternative position, which is essentially a list of items that the national broadcasters would be able to multichannel. As the minister said, those items are referred to in amendment No. 3, subparagraph (2) and relate to the whole range of matters he read out. Essentially, it is a list of items that the national broadcasters, the ABC and the SBS, would be permitted to multichannel. The government urged upon the opposition acceptance of that position. The government advised the opposition and the Democrats that they had had some discussions, consultations or negotiations with the ABC and the SBS and that those two organisations had indicated to the government that they were happy with the list approach of the government, that they accepted it and that it comprehensively covered the fields of activity in which the ABC and the SBS were engaged and wished to be engaged in the future. On that basis, the government urged that the opposition accept the list approach as opposed to the carte blanche approach contained in the bill to date.

We made our own inquiries of the ABC and the SBS, and representatives of those organisations informed us that the position put by the government had been agreed with them and was acceptable to those two organisations. They said that they were prepared to accept the list of items contained in the amending bill before us today and outlined by the minister. So we were not informed of any problem that the ABC or the SBS had in respect of the list approach, and they urged upon us that it should be accepted. In a perfect world, the opposition would have preferred to have remained with the carte blanche approach that was passed in the relevant amendment to the bill earlier today giving the national broadcasters the right to multichannel. But the permissible list does go
to the heart of the activity of both the ABC and the SBS.

The critical issues in the mind of the opposition were, firstly, the resolution of the issue of multichannelling—having had the ABC and the SBS advise us that they were prepared to accept the list—and, secondly, if we had chosen not to accept their advice and to reject the bill brought forward by the government, the determination of a way of avoiding a possible impasse between the two houses if the matter had remained unamended at this stage, had gone back to the House of Representatives, had been rejected in that place and had then been referred back to the Senate. We were unable to come up with a way to resolve that possible impasse, and we are very aware of the importance of this bill—soon to be an act—to the industry generally. For those reasons, the opposition are prepared to support the amendments that are before the chamber today. Whilst the list is quite detailed and might be regarded as exhaustive, it has no impact at all on the material broadcast by the primary channels of both the ABC and the SBS. Whatever material they currently broadcast in terms of drama, sitcoms, movies or whatever is not in any way affected by the bill. With those comments, I advise that the opposition will support passage of these amendments in due course.

Senator BOURNE (New South Wales) (4.10 p.m.)—I find these amendments bizarre. In fact, I find the whole procedure that we are going through at the moment bizarre. We dealt with the whole question of ABC and SBS multichannelling two days ago—or maybe it was yesterday; everything is melting together in my mind. It was quite recently. If the government had an amendment to the Democrat and opposition ABC and SBS multichannelling amendments at that time, why didn’t they bring it up? These are very long, detailed amendments. The government suddenly thought, ‘Oh dear, we didn’t think this would happen. Wow, how did this happen? How did a majority of the representatives of the Australian people suddenly vote for multichannelling for the ABC and SBS? We had no idea that was going to happen. Good gracious, we had better get some amendments together. We had better do it overnight. We had better get them onto the floor of the chamber. We had better not tell anybody about this until lunchtime before we do it and after the bill is finished.’ I find the whole thing quite bizarre.

At lunchtime, for the first time ever, I found out that the government has these amendments which very strongly restrict the amendment which the Labor Party and the Democrats proposed and which was passed very recently by a majority of the Senate. At lunchtime I got this list, and I was told, ‘The government thinks we should vote for it.’ Great. You have to ask why this list is here. What is the problem? Why should the ABC and SBS not be able to multichannel? Are we protecting the commercial free-to-airs? I am sick of that. It is about time we protected the national broadcasters. We have not seen a lot of that in this chamber, particularly over the last few years. This is not protecting the national broadcasters at all.

Like Senator Bishop, I have rung representatives of the ABC and the SBS. The answer I got from them was, ‘Well, it could have been worse.’ It could have been worse. A lot of things could have been worse, but they think it could have been better, too. I do not know whom you spoke to, Senator Bishop, but the people I spoke to both said that they would rather have unrestricted multichannelling. I see absolutely no reason why they should not. Senator Bishop tells us that the bill will go back to the House of Representatives, and the House of Representatives might say, ‘We don’t agree with the ABC and SBS multichannelling amendments,’ and send it back, and we will just stare you down. I can tell you now that they will not.

We are going to get up tomorrow, come hell or high water. If the bill is bounced back, it will be bounced back once, and that will be tomorrow. We would have seen who stares whom down, but we will not now. I can guarantee you that there will be so much pressure from the commercial free-to-air broadcasters put on the government to have the bill passed this week so that they have certainty. This is exactly what I have been told by the government, the opposition, the commercial free-to-air broadcasters and everybody. Certainty is
the thing that is absolutely necessary right now. That pressure will be huge. What will the government do? Will the government say, ‘Okay, we’ll come back in August and decide on this. We might do one of two things. We might decide that we’re going to throw this whole thing out, and we’ll go back to the original bill, and then you’ll be in real trouble, because the ABC and SBS won’t be able to multichannel at all.’

Besides that, a truck would be able to go through the datacasting rules. Do the government want that? No, I do not think so. Do the free-to-airs want that? No, I do not think so. So I do not think that is going to happen. What else could the government do? They could say, ‘This is really outrageous. We demand this bill. You go away and think about it and, if we can’t have this, we’re going to go for a double dissolution on this one.’ Great. I would love to go for a double dissolution on this. Let me go for a double dissolution on whether the ABC and SBS should be protected. Let me go for a double dissolution on whether there should be another free-to-air broadcaster. I do not think that is going to happen either.

I think the easiest thing in the world at this point is to insist on the multichannelling that we actually got yesterday—or it could have been the day before. I keep saying it all melts into one. I think the easiest thing in the world is to insist, and I can guarantee you that what we will end up with, if we do that, is the bill that we have now without this particular amendment. Let me go through a couple of things in this amendment. First of all, there is no national news on the list, except for regional. So ABC and SBS could not do national news, except for regional, on their second channel. Only the ABC, the domestic broadcaster, can do international service—not the SBS. I find that a bit bizarre. Only the SBS, not the ABC, can do local social documentaries. That is a bit bizarre too. Why is it the case? Why are these things happening? Why is this not cast in the negative?

What is it that you are really scared that the ABC and the SBS will do so well that people will stop watching the commercial free-to-airs in order to watch the ABC and SBS multichannelling doing it? Where is the problem? Tell me what the problem is. This is stifling innovation. I think that is exactly what this argument has been all about all along: stifling innovation. That is what this is doing.

From what the minister told me in the meeting that we had, the problem, if I recall, was with movies, sport and sitcoms—soapies or something like that. If the minister were being a bit reasonable about this, he would take it away. However, if he were consistent about this, we would be doing with this what happened with the genre rules. We would be saying, ‘The following are the things we need to protect the commercial free-to-airs or pay TV or whomever we are protecting here. We are not protecting the ABC and the SBS with this one, but we will be protecting somebody.’ We would be saying, ‘Okay, whomever we are protecting, this is what we have to protect them from in the ABC and the SBS. This is what they are scared of. Give me that list of what they are scared of. That is what they should not be able to do, then they can do anything else and then innovation is not stifled.’

I find this absolutely bizarre. If the list is sport, movies and sitcoms, let us have something up here—which I probably won’t vote for anyway—that says, ‘The ABC and the SBS on their multichannels shall not do sport, movies and sitcoms but, anything else, let them go for it.’ Let us have a bit of innovation. Let us show how the ABC can do stuff better than everybody else can—in anything. It is not as though this government is giving the ABC and the SBS $50 million billion gazillion to go out there and show the world how to do things better. And they are still showing the world how to do things better, even with tuppence halfpenny. It is not as though they are being properly resourced, let alone generously resourced. As we have said already in this debate, there is no resourcing from the government for the production of digital television. There is no resourcing for increasing content by the changing over, from analog to digital, of historical documents and footage that the ABC already has; there is zero for that. I would certainly hope it is in the next budget, but I really do not hold out any huge hopes.
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Why is it so scary, why is it so frightening to allow the ABC and the SBS to multichannel? I do not understand it. I do not understand why we have this; I do not understand why the first time I saw it was at lunchtime; I do not understand why it did not come up when this amendment came up. The more I think about it, the angrier I get. I am not going to be voting for this. I am sick to death of us protecting everybody but the national broadcasters. Everybody in the media business in this country, except the national broadcasters, gets protected. I am really sick of it. It is about time we started protecting the interests of the national broadcasters. I do not understand where this came from; I do not understand why it appeared; and I do not understand why it did not turn up when we were doing the amendments. I absolutely most certainly will not be voting for it.

Senator BROWN (Tasmania) (4.19 p.m.)—Kerry Packer could not have written this amendment better himself. This is an appalling backtrack by the Labor Party following a lunchtime huddle with the government. The one saving grace of the procedure in the committee of the whole has been—and I quote Senator Bishop—‘that the national broadcasters should have been given multichannelling without restriction’; yet here we are in a late move to cut the ground from under that. When you look at where the ground is being cut with sport, drama and national news, you will see that, as I said, it could not have been written better by the sectional interests which, on the face of it, are being served by this amendment.

It is an appalling derogation of commitment to a principle that the Labor Party was espousing before lunch. I do not know what the Labor Party was given for lunch and I do not know what the government got for lunch either. But it certainly made a manifest difference to the direction this committee is going in after lunch. I am dismayed that just yesterday the Democrats and the Labor Party knocked each other out when it came to data-casting, but here we now have the government and the opposition locking each other in when it comes to pulling the rug from under the national broadcasters and multichannelling.

Who is going to lose out in this? It is the Australian consumer. It is the people out there who are just beginning to wake up to the opportunities that good handling by their parliament and their representatives of the digital technology would offer. But this parliament—it appears not only this government but also the past government—is still locked into old prescriptions which are going to trammel the opportunities that Australians should have—that is, the opportunities people elsewhere around the world are going to have.

What will be next? An inquiry followed by a prescriptive bill into the Internet and the opportunities that people might get via the Internet from overseas, which is presumably where the technology and information will come from now that there has been this lock down in Australia. You will remember that I began my contribution to this debate the other day by saying, ‘Here is an extraordinary situation where the Greens’—usually said, quite wrongly, I believe, to be those who block progress—‘are saying let’s have freedom in this matter, let’s open it up because that is good for consumers.’ But the further this has gone, the worse it has got.

As I said earlier, the best this committee has been able to do, now under influence of both major parties, is to try to restrict the national broadcasters and move the responsibilities, which this parliament should be taking on its own shoulders, across to the ABA. We will have to come back and unscramble this mess. The technology will not go away simply because there is a lock down being applied to it in the interests of the commercial free-to-air broadcasters, the current cabal that has the monopoly on these services. It will not go away. In 1998 there was a missed opportunity. I spoke about it then and I reiterate now: there was not unanimity then, there is not now and there will be less of it in the future. If the Labor Party is looking to come into government next year, it should take a much less prescriptive view of this new technology on behalf of the Australian people and put some distance between itself and the government. The government is censorious and constricted in the view it has to this new
technology. The Australian people will be the losers. The technology will not go away.

Senator Calvert—I wish you would.

Senator BROWN—I have no doubt that you do wish I would go away, government senator.

Senator Calvert—We have to get the approps through tonight or no-one will get paid.

Senator BROWN—That is not going to cut short a debate on an important matter like this. The threat that the Labor Party caved in to was, ‘Oh my goodness, this might go down to the other House and we will find ourselves in a deadlock.’ I ask the opposition: has the government only to say on any matter in the future, ‘Well, the House of Representatives won’t stand for this,’ and we will cave in up here? You might as well get rid of the Senate. The Senate is here as a house of review and, as I see it, to fix up things when the government gets it wrong and to make things better for the Australian people. That is why they pay our way and that is why they support the Senate. But when the two big parties get together over lunch, the rug gets pulled out from under the Senate as well. So I share Senator Bourne’s dismay and anger about this lunchtime cave-in. There must have been some jam puffs dished up, I think.

It is a loss for the Australian viewer down the line. It will have to be fixed up. The parliament will have to go down the tortuous road in the future of fixing up the mistakes made now. We should be opening up this technology to more players, to more outlets and to more opportunities for the viewer instead of constricting it. The one remitting feature was the breakthrough for the national broadcasters. Now they are being straitjacketed as well. It is an appalling decision for the Labor Party to have locked itself into that lunchtime meeting with the government. Senator Bourne said, ‘One can question why.’ I am not so mystified by all that. I just think it is the wrong way for this house to be going.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (4.27 p.m.)—Perhaps I can just address a few canards and misunderstandings about these amendments. The fact is that, as a result of these amendments, the national broadcasters will actually be allowed to go further than anyone else. They will not be required to provide any original HDTV, unlike the free-to-air broadcasters. They will be allowed to multichannel, which is something that the free-to-air broadcasters will not be allowed to do. This will recognise all the legitimate aspirations of the national broadcasters. It will mean that they will be able to provide all of the services that they would say many times represent the point of distinction between themselves and the commercial networks.

Senator Bourne says that we give the ABC tuppence ha’penny. We in fact provide in excess of $2 billion over three years, and for SBS another $300 million-odd. The essential difference between this very extensive list and full multichannelling boils down to sport, sitcoms, soaps, movies, drama and the like, all of which are very much provided in spades by both the free-to-air networks and the pay television industry. It is just worth noting that, when Senator Bourne says we are constraining the national broadcasters and not protecting them, only yesterday we took a decision to protect the pay TV industry from enhancements so that the networks cannot provide same game/same venue. The whole notion of a ban on multichannelling was to allow what was essentially a fledgling pay TV industry to reach take-off point. That position remains, as far as the free-to-air networks are concerned.

The national broadcasters will be out there able to do a whole range of things that they have not been able to do before and that the free-to-air networks will still not be able to do for some years. So all I can say is: yes, it is not a perfect world, Senator Bourne, but the principle of allowing multichannelling I think was the threshold issue. It is then a matter of what that should involve. If you do allow the national broadcasters to proceed down these innumerable tracks, it seems to me that you are meeting all of the interests they have and allowing them to do all the things that the Australian public would look to the national broadcasters to provide.

Question put:
That the amendments (Senator Alston’s) be agreed to.

The Senate divided. [4.32 p.m.]

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

Ayes………… 41
Noes………… 9
Majority……… 32

AYES

Alston, R.K.R. Bishop, T.M.
Boswell, R.L.D. Brandis, G.H.
Campbell, G. Campbell, I.G.
Chapman, H.G.P. Conroy, S.M.
Cooney, B.C. Crane, A.W.
Crossin, P.M. Crowley, R.A.
Dennan, K.J. Forshaw, M.G.
Gibbs, B. Gibson, B.F.
Hogg, J.J. Hutchins, S.P.
Kemp, C.R. Knowles, S.C.
Lightfoot, P.R. Ludwie, J.W.
Macdonald, I. Mackay, S.M.
Mason, B.J. McGauran, J.J *
McKiernan, J.P. McLucas, J.E.
Murphy, S.M. O’Brien, K.W.K.
Patterson, K.C. Ray, R.F.
Reid, M.E. Schacht, C.C.
Sherry, N.J. Tchen, N.
Tierney, J.W. Troeth, J.M.
Vanstone, A.E. Watson, J.O.W.
West, S.M.

NOES

Allison, L.F. Bartlett, A.J.J.
Bourne, V.W * Brown, B.J.
Greiz, B. Lees, M.H.
Ridgeway, Stott Despoja, N.

* denotes teller

Question so resolved in the affirmative.

The CHAIRMAN—The question is that the bill, as amended, be agreed to.

Senator BROWN (Tasmania) (4.37 p.m.)—I want to say again at this stage that this is a great lost opportunity. This legislation should have been forward looking, it should have been up with best practice overseas, it should have been bringing in new players and it should have been bringing in innovation for the Australian people. The real problem is that so much of the spectrum is being locked up by HDTV and that is not going to leave any opportunity for the flexibility that is in the interests of Australian consumers—that is, flexibility for their pockets as well as for what they want to watch. It is a lost opportunity, and we are going to have to come back and do it again. That is just the way things are going to go. I think the final thing this afternoon of Labor getting together with the government to pull the rug from under the national broadcasters is a piteous end to what has been a pretty inglorious contribution by the Senate to the future of digital technology in this country.

Bill, as amended, agreed to.

DATACASTING CHARGE (IMPOSITION) AMENDMENT BILL 2000

The bill.

The CHAIRMAN—Two sets of the same amendment have been circulated: amendment (1) by the opposition on sheet 1840 and amendment (1) by the Democrats on sheet 1852. They are identical. Who is going to move it?

Senator BOURNE (New South Wales) (4.39 p.m.)—If Senator Bishop is happy about it, I will move the amendment on behalf of the Democrats and the opposition. It exempts the national broadcasters from the fees for datacasting charges. I move:

(1) Schedule 1, page 3 (after line 14), after item 3, insert:

3A Section 3 (definition of national broadcaster)

...Repeal the definition.

3B Paragraph 6(b)

...Repeal the paragraph, substitute:

(b) the transmitter licence is held by the holder of a commercial television broadcasting licence; and

Senator HARRADINE (Tasmania) (4.40 p.m.)—I regret that I was not here when the motion was put that the bill, as amended, be agreed to, but I want to record my opposition to that.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (4.40 p.m.)—For the record, in view of the fact that both Labor and the Democrats are agreed on this amendment, the government’s position is that we believe competitive neutrality principles are important. Before determining the charge, the bill requires the ACA to report to the minister on whether any proposed charge meets those
principles. In addition, any charge determined by the ACA would be disallowable by the parliament. The whole approach adopted is to try to ensure equality of outcome. If competitive neutrality principles mean that the budget of the ABC needs to be increased to enable them to meet that charge, then in one sense you have not affected the status quo. You have still given them an exemption, but you have maintained competitive neutrality. That is always a very desirable principle upon which to operate when you are talking about funding enterprises that have to compete against others who do have to pay charges. I simply say for the record that we would certainly have preferred to follow the scheme of the bill.

Senator BOURNE (New South Wales) (4.42 p.m.)—I would just like to say to the minister that, if he would like to put up an amendment which says that any government of the day will be required to put up the money that the ABC and SBS need for data-casting charges, then I am sure that is something that we would look at. But until that happens I am going to remain with the amendment that we have.

Amendment agreed to.

Bill, as amended, agreed to.

Bills reported with amendments; report adopted.

Third Reading

Motion (by Senator Alston) proposed:
That these bills be now read a third time.

Senator BROWN (Tasmania) (4.43 p.m.)—At this point I would like to sum up: this is such a lost opportunity. The gains for public right in this matter have been so small that I cannot support this bill, and I would like my vote against it recorded.

Question resolved in the affirmative.

Bills read a third time.

FAIR PRICES AND BETTER ACCESS FOR ALL (PETROLEUM) BILL 1999

Report of the Economics References Committee

Senator MURPHY (Tasmania) (4.44 p.m.)—I present an interim report of the Economics References Committee on the provisions of the Fair Prices and Better Access for All (Petroleum) Bill 1999 and the practice of multisite franchising by oil companies.

Ordered that the report be printed.

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

Leave granted.

Senator MURPHY—I move:

That the Senate take note of the report.

I want to make a few brief comments with regard to the conduct of the inquiry that we have proceeded with thus far. The issues raised as part of the inquiry thus far have proved to be quite difficult and far ranging. It is clear, and it has become clearer as we have proceeded down the path, that it is going to be very difficult to get an outcome that might be in the best interests of consumers. I would like to put on the public record that it was interesting to note that the ACCC, the MTAA and others actually supported the thrust of the bill that was referred to the committee and, as was highlighted by the ACCC, there is a need to proceed down a path towards getting more competition at the retail end of the oil industry.

I know that the government has sought to introduce Oilcode but has been unable to get agreement at this point in time in regard to that. But the sites act is not carrying out the role that it was designed to do. There is a lot of concern—and a lot of concern has been expressed to the committee with regard to single site franchisees—with regard to multisite franchise operations. At the end of the day, when the committee proceeds to its final report, I hope we are able to see some progress being made insofar as delivering a better outcome for consumers. We will now see the introduction of a new tax system that is going to have an impact on fuel prices. But insofar as the long-term competition aspects of retailing of petrol in this country are concerned, we must see some changes and we must ensure that, at the end of the day, the objectives of Joel Fitzgibbon’s bill, the fair prices bill, can actually be realised. As I said, the ACCC did say that the bill certainly had some merit with regard to working towards achieving a more competitive objective. I thank the Senate for allowing me to make those few state-
ments. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

**TELECOMMUNICATIONS (CONSUMER PROTECTION AND SERVICE STANDARDS) AMENDMENT BILL (No. 1) 2000**

Second Reading

Debate resumed.

**Senator IAN CAMPBELL** (Western Australia—Manager of Government Business in the Senate) (4.48 p.m.)—As a couple of senators—including the Minister for Communications, Information Technology and the Arts, who wants to sum up this debate on the Telecommunications (Consumer Protection and Service Standards) Amendment Bill (No. 1) 2000—are not here but will be here soon, rather than calling a quorum, which would interrupt a lot of senators who are working busily in their offices, if it is possible for me to speak in this debate without closing the debate, I could certainly make a short contribution while other senators are making their way here.

I think Senator Bishop, in his speech on the second reading, made a very constructive contribution. This legislation facilitates a government program which, in our home state of Western Australia, will see significant benefits to consumers of telecommunications services. This legislation will facilitate the tendering of a program which, for one of the first times on the globe, will deliver untimed local calls to approximately 80 per cent of Australia's landmass, a program which will see $150 million of the proceeds of the second tranche sale of Telstra invested almost exclusively in remote and regional Australia, a program which will herald one of the most significant telecommunications infrastructure projects anywhere on the globe. This region is, by the very nature of it, one of the most sparsely populated regions on the globe. To deliver the potential increase in service quality and the reduction we expect in the price of that service is, of course, a significant achievement. I thoroughly recommend this bill to the Senate and look forward to the contribution of Senator Allison, who I note has joined us and who is catching her breath and who is about to make yet another eloquent contribution to an important debate in this esteemed chamber.

**Senator ALLISON** (Victoria) (4.51 p.m.)—The Telecommunications (Consumer Protection and Service Standards) Amendment Bill (No. 1) 2000 deals with a number of aspects of the provision of the universal service obligation. Specifically, it provides for determination of the universal service cost in advance and provides that the successful tenderer for the provision of untimed local calls in extended zones will become the regional universal service provider. The bill also provides the minister with an unfettered discretion to determine the universal service cost for up to three years in advance.

As a general rule, I must say that the Australian Democrats are wary of ministers being provided with unfettered discretions. In this case, we think that the Australian Communications Authority, as the industry regulator, has the knowledge and expertise to determine the universal service cost. With that in mind, we will be moving an amendment which will require the minister to request the ACA to calculate the universal service cost for the years in relation to which he is proposing to make a determination. The amendment will require that, if the minister determines a figure other than the one arrived at by the ACA, he will be obliged to publish reasons for diverging from the view of the ACA.
From Senator Bishop’s comments before lunch, I understand that the Labor Party will be going one step further and will be moving an amendment to make the determination disallowable. Whilst we do not have any objection to that in principle, we can see serious practical problems with that approach. What would occur if the parliament were to disallow a determination? Would the ACA have to calculate a new figure? Would the minister have to determine a higher figure or a lower figure? A carrier could not be assured of the amount that they would receive for fulfilling the USO until the end of the disallowance period. As we all know, disallowable instruments have legal force until they are disallowed. So you could end up with a situation where a figure is determined and rights accrue to a carrier until the determination is disallowed. The ordinary provisions under the act would then apply, as if no determination had been made. If a further determination was made, different rights would then begin to accrue under that determination. We can see the potential for a substantial degree of uncertainty if a determination were disallowable. Consequently, I foreshadow that we will not be agreeing with the Labor Party’s amendment.

In relation to the $150 million that the government has allocated to the provision of local calls to telephone users in extended zones, the bill will permit the minister to declare that the winner of the tender for the provision of that service is the sole provider of the universal service obligation in those zones. In our minority report to the Senate inquiry into this bill, I raised a number of concerns. The department’s advice is that the successful tenderer will be the sole provider of the USO in the extended zones to which the $150 million will relate. The consequence of this is that, if Telstra is not the successful tenderer, that carrier will be in a position to proverbially pack its bags, its personnel and infrastructure, and go back to the city. I am not suggesting that Telstra would dig up its cables, but there would certainly be the possibility that it would remove its personnel from those areas, given that the company would not be obliged to provide services.

The question that I outlined in the Democrats’ minority report and that I reiterate now is: what if the successful tenderer is unable to continue providing services for some reason? As an example, what if that company cannot make money out of the amount that it is receiving by way of universal service cost reimbursement and becomes insolvent? Or what if the technology used, for whatever reason, fails? That scenario may be an unlikely one, but it is one which creates a little nervousness on our part. Whilst Telstra’s performance in rural and remote areas has left a lot to be desired in the last couple of years, Telstra is a company well known by all Australians and one which most Australians have confidence in as a financially sound and responsible organisation. I flag that as a concern. The Democrats considered the idea of mandating that Telstra retain a presence in the extended zones, but we can see that the cost of Telstra maintaining a presence—as a type of insurance against the successful tenderer becoming insolvent—is an expensive way of guarding against that contingency.

Telstra has submitted that requiring it to remain as a universal service provider alongside the successful tenderer in the extended zones would cost in the order of $59 million a year. Even if the magnitude of that figure were debatable, it is still clear that the cost would be substantial and that Telstra would need to be compensated appropriately. That means a further impost on telephone users. We believe that the more appropriate way of dealing with that concern is through a rigorous selection process involving proper examination of the financial standing of the tenderers and ensuring that they propose to use proven technologies. It has been explained to me that it will not be a case of the successful tenderer simply being accepted and the job of providing phones immediately being handed to that carrier. It is more likely that the handover will be a staged process and that the successful tenderer will not become responsible for providing services until installation is complete and it has been shown that a reliable service is in place.

I want to digress for a moment and consider more generally tendering in relation to telecommunications services. I understand
that this bill is not the one which provides for the two contestability pilots and that that legislation will be introduced in the House of Representatives today. But at this point I want to note one of the comments by the Labor senators in their minority report on the inquiry into this billion. They noted:

The Government has sought to portray competitive tendering of the USO as both the solution to the ills of the decline of services to rural and regional Australia following on from the partial privatisation of Telstra, and as an argument to pursue full privatisation.

The suggestion that the government is portraying competitive tendering of the USO as the solution to the ills of rural and regional Australia is an assessment that the Australian Democrats are inclined to agree with. It seems to us that the only plan that this government has in place to improve services in rural and remote Australia is tendering for services. We cannot see that tendering is going to result in the delivery of vastly improved services in the non-metropolitan areas. What the government should be doing is taking a more interventionist hand on behalf of rural Australia and looking at the level of the standard telephone service. The Democrats will not stand in the way of the government pursuing competitive tendering, although we doubt its potential benefits, but we would like to see the government implementing other strategies to advance technologies available to rural areas.

I referred to the level of the standard telephone service. When the Democrats have criticised the proposal to sell the rest of Telstra, the minister has responded that ownership of that carrier is not the best method of regulating telecommunications but that legislation and the appropriate regulatory regime can operate regardless of Telstra's ownership. The problem is that this government appears to be very loath to impose additional regulatory requirements on the carriers. For some time now the Democrats have called for regular legislated reviews of the standard telephone service, which is the service required to be provided under the USO. A regular upgrading of the minimum service required to be provided under the USO would go a long way to ensuring that rural and remote Australia continues to benefit from technology improvements.

Metropolitan areas receive those new services as a matter of course because it is profitable to offer those services in those areas. But why would a carrier offer a new technology to a remote area if it was not going to be profitable to do so and if it was not obliged to do so by the regulatory regime? It may be that at the end of the review the committee finds that competitive tendering is resulting in the provision of services that are largely comparable to those offered in the cities. If that is the case, then no upgrading of the mandated standard would be necessary. But if rural Australia is falling significantly behind, firstly, the government and the public will have the knowledge that this is the case and, secondly, the government will be in a position to implement an upgrade.

This government's very soft approach in avoiding regular reviews of the standard telephone service and avoiding the issue of upgrading the standard telephone service are other reasons the Democrats are not prepared to permit the Australian public to lose majority control of Telstra. That majority control may not result in the government exercising direct control over the carrier—or 'micromanagement', as the minister refers to it—but at the very least it results in the company being subject to political pressure when it makes decisions which significantly affect the Australian people. The Democrats have circulated an amendment which relates to establishing a committee to review the USO and the customer service guarantee. I foreshadow that I will not be moving that amendment during the passage of this bill. The minister's office has given me a commitment that they will enter into discussions with a view to agreeing on a regular review mechanism for the standard telephone service and customer service guarantee. Should those discussions not result in an outcome satisfactory to the Australian Democrats then we will be in a position to move our amendment during the passage of the bill that was introduced into the House of Representatives today.

In relation to the tender process, the Australian Democrats would like to see the tend-
ers made public. We believe that would put pressure on the decision makers and the minister to choose the best tender for the right reasons. An amendment has been circulated requiring publication of tender documents subsequent to the award of the tender. We acknowledge concerns about the disclosure of commercially sensitive material, and for that reason we have agreed that instead of moving our amendment we will accept a commitment from the minister that the request for tender will require tenderers to include an executive summary of their proposal which will be made public and, I understand, put online. At a minimum that summary will include a description of the range of services that would be available and the method of service delivery. That will at least allow the public to see which tenderers missed out and what those tenderers were prepared to provide. We believe that it will be in the interests of carriers to fully and publicly explain what they are prepared to offer to the consumer.

In summary, the Australian Democrats will not be opposing the passage of this bill but we will be moving a number of amendments to attempt to improve a number of aspects of it. I note that we have held a number of discussions with the minister’s office, particularly in relation to ensuring that there is no chance that the residents of a tendered area will be worse off in terms of quality of service delivery and availability of services than they presently are. We have received those assurances and will be closely watching the events of the tender process. As a concluding comment, I would like to thank the minister and his office for their assistance and for their cooperation in relation to this bill.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (5.04 p.m.)—I thank all senators for their contributions to the debate, particularly Senator Allison. We do note very carefully her comments in relation to the availability of public information about the tenderers, and we certainly accept that there may well be a way in which requests for tenders can include an executive summary of the services to be made public, which would provide additional information to all interested parties.

I would like to quarrel mildly with the proposition that we have been loath to impose additional regulatory requirements on the carriers. We in fact reviewed the standard telephone service, which is the basis of the universal service obligation, in 1996, and subsequently introduced the general digital data capability, which is the ISDN capability, for all those living within five kilometres of a local exchange. The other remaining four per cent have been provided with a special digital data capability—an asymmetric satellite downlink. We first of all introduced the customer service guarantee. There had never been any such thing in this country until we came to office. We have tightened that on a number of occasions. We have not hesitated to take action where we thought it was necessary. We have instituted the Besley inquiry and, to the extent that throws up some constructive suggestions on ways in which we might take the process forward, those matters will be properly considered as well.

I confirm that we are prepared to have discussions with the Democrats, Senator Allison in particular, about reviews in the context of the next USO bill. I think our general proposition would be that we do not want to have automatic reviews irrespective of performance. It may well be that a model that enables parliament or some other body to, in the first instance, indicate whether a review appears to be desirable could be one way of approaching the matter. We certainly do not want to have everyone exhausted by ongoing review processes. But, as I say, we will discuss the nature and extent of those reviews over the next couple of months. The request for tender will set out the format in which tenderers are to provide their responses, including the need to provide a separate executive summary of the proposal which will be made public after a contract has been signed with the successful tenderer. The request for tender will also give guidance as to what is required to be contained in that executive summary, which would include an outline of the types of services proposed and the means by which they would be delivered.

Question resolved in the affirmative.

Bill read a second time.
In Committee

The bill.

Senator ALLISON (Victoria) (5.08 p.m.)—I move Democrats amendment No. 1 on sheet 1856:

(1) Schedule 1, item 6, page 3 (lines 20 to 23), omit subsection (2A), substitute:

(2A) In deciding whether to make a declaration under subsection (1) or (2) in relation to a person and an area, the Minister is limited to considering factors that are relevant to achieving the objects of this Act.

This amendment is self explanatory, and I referred to it in my speech in the second reading debate.

Amendment agreed to.

Senator MARK BISHOP (Western Australia) (5.09 p.m.)—The opposition will oppose schedule 1, item 6. This removes proposed subsections 20(2A) to 20(2D) from the bill. Proposed subsection 20(2B) deems the minister to have made a declaration that a person is a regional universal service provider if an agreement made under sections 56 or 57 of the Telstra Corporation Act is expressed to have effect for the purposes of the subsection. Sections 56 and 57 of the Telstra act allow the Commonwealth to make an agreement with a state or other person granting funds from the untimed local call access reserve. Labor does not believe that a successful tenderer for the $150 million local call zone extension should automatically become the nominated universal service provider for that area. This would mean that the local call zone project goes further than the government’s proposed competitive tendering pilot projects so as to reduce Telstra’s responsibilities as national USP and exclude the extended zones from those responsibilities.

Labor believes that any prospective universal service tenderers should be selected on the basis of clear, defined, objective criteria expressed through legislation. We want to remove from the bill item 6, which provides that successful local calls zone tenderers automatically become regional universal service providers if their local call agreement so provides. We also want to remove proposed subsection 20(2A), which extends the scope of the framework within which the minister declares universal service providers. The proposed subsection provides that the minister is not limited to considering only the person’s suitability to provide the services that must be provided to fulfil the universal service obligations. This, the opposition believes, is overly broad and provides inadequate guidance as to what matters would be considered important in determining who provides the universal service for a given area. With those remarks, the opposition opposes schedule 1, item 6.

The TEMPORARY CHAIRMAN (Senator Murphy)—The question is that item 6, as amended, be agreed to.

Question resolved in the affirmative.

Senator MARK BISHOP (Western Australia) (5.13 p.m.)—The opposition opposes schedule 1, item 9. Proposed subsection 20(10A) provides that the regional USP declarations that the minister is deemed to have made pursuant to proposed subsection 20(2B) are not disallowable instruments. This amendment opposes the item. Labor does not consider it appropriate that successful local call tenderers automatically become USPs, particularly if the deemed ministerial declaration does not constitute a disallowable instrument.

Senator ALLISON (Victoria) (5.14 p.m.)—The Democrats will not be supporting this. As I said in my speech in the second reading debate, we do not think it makes any sense at all for a successful tenderer, having provided infrastructure in an area in which it has won the tender for the $150 million extended time zones, to then exit that area at a particular point in time. We see no reason why there is a need for Telstra to remain in the area. I think it is quite clear, however, that Telstra will remain in some parts of this USO area. They will continue to be competitive in that region, and nobody would suggest otherwise. But to require Telstra to stay there and provide the service is unrealistic and obviously would be extremely expensive. So the Democrats will not be supporting this.

Question put:
That schedule 1, item 9 stand as printed.

The Senate divided. [5.19 p.m.]

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

Ayes………… 37
Noes………… 24
Majority……… 13

**AYES**

Abetz, E.
Alston, R.K.R.
Boswell, R.L.D.
Brandis, G.H.
Campbell, I.G.
Cooman, H.L.*
Ellison, C.M.
Gibson, B.F.
Heffernan, W.
Hill, R.M.
Knowles, S.C.
Lightfoot, P.R.
Mason, B.J.
Patterson, K.C.
Ridgway, A.D.
Tamblyn, G.E.
Tierney, J.W.
Vanstone, A.E.
Woodley, J.

**NOES**

Bishop, T.M.
Carr, K.J.
Collins, J.M.A.
Cooney, B.C.
Denman, K.J.
Gibbs, B.
Hutcheson, S.P.
Landy, K.A.
McKenzie, J.P.
O’Brien, K.W.K.
Ray, R.F.
Sherry, N.J.

**PAIRS**

Ferguson, A.B.
Macdonald, J.A.L.
Payne, M.A.
Eggleston, A.
Minchin, N.H.
Newman, J.M.
Murray, A.J.M.

* denotes teller

Question so resolved in the affirmative.

The CHAIRMAN—Senator Allison, I understand that you indicated in your speech during the second reading debate that there are a number of amendments that you are not going to move. Could you indicate to me what they are so that I do not call you for them, please.

Senator **ALLISON** (Victoria) (5.23 p.m.)—We will not be moving amendments Nos 2 and 5, which are next on the running sheet, and we will not be moving amendments Nos 12 and 13, the last two on the running sheet. I seek leave to move Democrat amendments Nos 3 and 6 on sheet 1856 together.

Leave granted.

Senator **ALLISON** (Victoria) (5.23 p.m.)—I move:

(3) Schedule 1, item 19, page 8 (after line 8), after subsection (5), insert:

(5A) If a former provider has been given notice of a requirement under subsection (2), the ACA may, in writing, direct the former provider to comply with the requirement or with specified aspects of the requirement.

(5B) The former provider must comply with the direction.

(5C) In deciding whether to give a direction under subsection (5A), the ACA must consider whether the requirement made by the notice given to the former provider is reasonable.

(6) Schedule 1, item 49, page 13 (after line 23), after subsection (5), insert:

(5A) If a former provider has been given notice of a requirement under subsection (2), the ACA may, in writing, direct the former provider to comply with the requirement or with specified aspects of the requirement.

(5B) The former provider must comply with the direction.

(5C) In deciding whether to give a direction under subsection (5A), the ACA must consider whether the requirement made by the notice given to the former provider is reasonable.

These amendments relate to the provision of information by Telstra to the new universal service provider. The amendment will make it clear that the ACA is able to force Telstra, or whoever is the former universal service provider, to provide information where the request is reasonable. Any request for information about the existing customers which the ACA determines to be not reasonable will
not be provided, and that which is determined to be reasonable will be provided.

Amendments agreed to.

Senator MARK BISHOP (Western Australia) (5.25 p.m.)—by leave—I move opposition amendments Nos 3 to 5:

(3) Schedule 1, item 19, page 7 (lines 24 to 28), omit subsection (3), substitute:

(3) The information that may be required to be given must be information that will assist the current provider in performing functions or providing services which the current provider is or will be required to perform or provide by or under a provision of this Part. The notice must identify the function or service in respect of which the information is required.

(4) Schedule 1, item 19, page 7 (line 36) to page 8 (line 2), omit subsection (4), substitute:

(4) If a requirement made by a notice under subsection (2) is reasonable, the former provider must comply with the requirement as soon as practicable after receiving the notice. However, if the former provider considers the requirement to be unreasonable, the former provider may refer the matter to the ACA for a determination under subsection (4B).

(4A) In considering whether a requirement referred to it under subsection (4) is reasonable, the ACA may have regard to:

(a) the cost that would be incurred by the former provider; and

(b) whether the current provider has agreed to meet all or part of that cost.

(4B) Having considered a matter referred to it under subsection (4), the ACA may make a determination as to whether or to what extent, the requirement would be taken to be reasonable.

(5) Schedule 1, item 19, page 8 (lines 3 to 8), omit subsection (5), substitute:

(5) The Minister may make a written determination to the effect that, either generally or in a particular case, information of a kind specified in the determination is taken to be information that will assist a person in performing functions or providing services that the person is or will be required to perform or provide by or under a provision of this Part. The determination has effect accordingly.

Opposition amendment No. 3 provides that a former USP may be required to provide information to a current universal service provider. This amendment limits the provision of the bill relating to the information that an incumbent carrier is required to provide to current or incoming universal service providers. The relevant provision in the bill is unnecessarily broad. Labor recognises that the information which is the subject of this provision may be commercially sensitive and that there is the potential for incoming carriers to exploit the provision to gain access to information which is not relevant to the specific obliged services or functions.

This amendment limits the information accessible to that information which will assist the current provider ‘in performing functions or providing services’ which it is required ‘to perform or provide’ under that part. The key point there is the limitation in the amendment which will assist the current provider in performing services or providing services which it is required to perform or provide under that part. The opposition has given a fair bit of consideration to this issue, and we are just not convinced that incoming USPs should be able to access information unrelated to the functions or services which they are contracting to provide.

Opposition amendment No. 5 replaces the government’s proposed section 24A(5). This amendment is consequential to amendment No. 3 and removes the phrase ‘doing a specified thing that the person is or will be required ... to do,’ replacing it with:

performing functions or providing services that the person is or will be required to perform or provide.

So amendment No. 5 flows from amendment No. 3.

Senator ALLISON (Victoria) (5.27 p.m.)—The Democrats will be opposing this amendment. I have read this very carefully, and it seems to me not to advance the situation from what is in the existing bill. Maybe the minister can comment on that. Our amendment at least brings in the question of the ACA involvement and the test of reason-
ableness. As I said, my reading of this amendment is that it seems not to make a lot of difference to what we have in the bill.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (5.27 p.m.)—I am being asked to indicate the government’s attitude. We take the view that the Labor Party’s amendment is narrow. It is confined to performing functions or providing services, and we believe there may be other information that could reasonably be required—for example, for lodge net cost area filings if default methodology is required to be used. In those circumstances, rather than trying to confine information simply to a minimalist regime, we think there ought to be that additional degree of flexibility to ensure that people are properly informed.

Senator MARK BISHOP (Western Australia) (5.28 p.m.)—In response to the issue raised by Senator Allison, our amendments delete the words ‘or permitted’ as well, because our interpretation of the words ‘or permitted’ is that they gave discretion, and we are seeking to make it mandatory or compulsory. It is not just a semantic game. In our view, deleting the words ‘or permitted’ removes the discretion that was embedded in the government’s position.

Amendments not agreed to.

Senator ALLISON (Victoria) (5.29 p.m.)—I move Democrat amendment No. 4:

(4) Schedule 1, item 34, page 9 (lines 26 to page 10 (line 3)), omit the item, substitute:

34 After subsection 26A(2)

Insert:

(2A) In deciding whether to make a declaration under subsection (1) or (2) in relation to a person and an area, the Minister is limited to considering factors that are relevant to achieving the objects of this Act.

This amendment is similar to our amendment No. 1 and relates to the declaration of the digital data service provider. The bill presently provides the minister with very wide discretion to declare the universal service provider. Proposed section 26A provides that the minister is not limited to considering only the person’s suitability to provide the services that must be provided to fulfil the USO. Telstra expressed concern about the width of that discretion in their submission to the inquiry into this bill, and we share their concern about the width of that discretion. This amendment will limit the minister ‘to considering factors that are relevant to achieving the objects of this act’. We believe that that gives the minister substantial discretion but maintains his focus on achieving the objects of the act. As I said, this relates to the declaration of the digital data service provider.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (5.30 p.m.)—The government accept this amendment. All it is really doing is making explicit what is already implied. I would be very surprised indeed if a discretion were able to be exercised that was beyond achieving the objects of the act. That sounds like a classic ultra vires situation to me. We are happy for it to be expressed in that form.

Amendment agreed to.

The TEMPORARY CHAIRMAN (Senator Murphy)—The question now is that item 34, as amended, be agreed to.

Senator MARK BISHOP (Western Australia) (5.31 p.m.)—This item, as amended, opposes the government’s proposed section 26A(2). The proposed clause provides that the minister, in making USP declarations, is ‘not limited to considering only the person’s suitability to provide the services that must be provided’ to fulfil the general or special digital data service obligations. The bill does not define which other matters the minister may or must consider. As such, it provides inadequate guidance as to what matters would be considered important in determining who provides the universal service for a given area. The scope of the minister’s power to make declarations under this proposed section is overly broad. Labor believe that the universal service tenderers should be selected as USPs on the basis of clear, objective, legislated, defined criteria.

Some weeks ago, the minister’s office arranged to give opposition senators a briefing on these particular provisions. We foreshadowed at that time that there seemed to be an unfettered discretion as to the broad powers
given to the minister. Upon further consideration, our position has hardened up. We do not believe it appropriate that the minister should have such a broad discretion in determining suitability. Subject to the previous discussion, it appears to us that the minister of the day can determine matters according to his whim. We believe that such selection should be on the basis of clear, objective, legislated, detailed criteria.

Senator ALLISON (Victoria) (5.33 p.m.)—We will not be supporting Senator Bishop’s opposition to the amendment to item 34. It is my understanding that the previously agreed amendment did what he is proposing to do.

Question resolved in the affirmative.

Senator MARK BISHOP (Western Australia) (5.33 p.m.)—by leave—I move opposition amendments Nos 7 to 9 together:

(7) Schedule 1, item 49, page 13 (lines 1 to 5), omit subsection (3), substitute:

(3) The information that may be required to be given must be information that will assist the current provider in performing functions or providing services which the current provider is or will be required to perform or provide by or under a provision of this Part. The notice must identify the function or service in respect of which the information is required.

(8) Schedule 1, item 49, page 13 (lines 13 to 17), omit subsection (4), substitute:

(4) If a requirement made by a notice under subsection (2) is reasonable, the former provider must comply with the requirement as soon as practicable after receiving the notice. However, if the former provider considers the requirement to be unreasonable, the former provider may refer the matter to the ACA for a determination under subsection (4B).

(4A) In considering whether a requirement referred to it under subsection (4) is reasonable, the ACA may have regard to:

(a) the cost that would be incurred by the former provider; and

(b) whether the current provider has agreed to meet all or part of that cost.

(4B) Having considered a matter referred to it under subsection (4), the ACA may make a determination as to whether, or to what extent, the requirement would be taken to be reasonable.

(9) Schedule 1, item 49, page 13 (lines 18 to 23), omit subsection (5), substitute:

(5) The Minister may make a written determination to the effect that, either generally or in a particular case, information of a kind specified in the determination is taken to be information that will assist a person in performing functions or providing services that the person is or will be required to perform or provide by or under a provision of this Part. The determination has effect accordingly.

Opposition amendment No. 7 brings the information framework provisions for digital data service providers into line with those for universal service providers. Amendment No. 7 limits the provision of the bill relating to the information that an incumbent carrier is required to provide to a current incoming universal service provider. The relevant provision in the bill is unnecessarily broad. Labor recognises that the information which is the subject of this provision may be commercially sensitive and that there is the potential for incoming carriers to exploit the provision to gain access to information which is not relevant to the specific obliged service or function. This amendment limits the information accessible to that information, which will ‘assist the current provider in performing functions or providing services which the current provider is or will be required to perform or provide’ under that part. The amendment removes the ability of the current provider to obtain information that relates to functions or services which it is merely permitted to perform rather than required to perform.

Opposition amendment No. 8 replaces the government’s clause with a new subsection (4), which mirrors amendment No. 2 provisions for former USPs who believe that a request for information is unreasonable. The corresponding clause in the bill provides that, if a former digital data service provider considers a request for information by a current digital data service provider unreasonable,
then the former provider does not have to comply with it. The opposition amendment provides that, where a former provider considers a request unreasonable, the matter may be referred to the ACA for resolution. Proposed subsection (4B), inserted by amendment No. 8, empowers the ACA to make determinations on matters referred to it under the government’s proposed section 26F(4). Proposed subsection (4a) enumerates criteria to which the ACA may have regard in its considerations.

Opposition amendment No. 9 replaces the government’s proposed section 26F(5). This amendment is consequential to amendments Nos 7 and 8 just discussed and provides consistency with the amendments to those other proposed sections. The amendment removes the phrase ‘doing a specified thing that the person is or will be required or permitted to do’ and replaces it with ‘performing functions or providing services that the person is or will be required to perform or provide’. The effect is to reduce the scope of information which current digital data service providers may obtain from former providers. The thrust of our amendments Nos 7, 8 and 9 is to limit the information that prospectively incoming USPs might request from outgoing USPs.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (5.36 p.m.)—The government prefer the Democrat approach to this matter. We have already established the principle that information should be available in relation to the minimum required products and services and, if there are additional matters that it is reasonable and sensible to provide, clearly you will want to assist that process by enabling access to information.

Amendments not agreed to.

Senator ALLISON (Victoria) (5.36 p.m.)—by leave—I move Australian Democrats amendments Nos 7 and 8:

(7) Schedule 1, page 13 (after line 31), after item 51, insert:

51A After paragraph 32(1)(a)

Insert:

(aa) the plan addresses the needs of people with a disability; and

(8) Schedule 1, page 13, after proposed item 51A, insert:

51B At the end of section 32

Add:

(3) In this section:

disability has the same meaning as in the Disability Discrimination Act 1992.

The above amendments relate to disabilities and the universal service plan. They require that the universal service plan submitted by a carrier address the needs of people with disabilities. It is my understanding that Telstra’s universal service plan already contains a substantial section dealing with the provision of disability services. The Democrats are keen to ensure that any new universal service carrier specifically turn their mind to addressing those issues too.

Senator MARK BISHOP (Western Australia) (5.37 p.m.)—The opposition understand the real public interest justification behind these amendments, and we support that. Accordingly, we will support the amendments.

Amendments agreed to.

Senator ALLISON (Victoria) (5.37 p.m.)—by leave—I move Australian Democrats amendments Nos 9 to 11:

(9) Schedule 1, item 70, page 16 (line 23), omit “Note:”, substitute “Note 1:”.

(10) Schedule 1, item 70, page 16 (after line 27), at the end of the note to subsection (1A), add:

Note 2: The Minister is obliged to get advice from the ACA about proposed determinations and some variations of determinations—see subsection (1F).

(11) Schedule 1, item 70, page 17 (after line 25), after subsection (1E), insert:

(1F) Before deciding whether to make or vary a determination under subsection (1A), the Minister must:

(a) direct the ACA to give the Minister advice about the proposed determination or variation; and

(b) consider the ACA’s advice.

However, this rule does not apply to a variation of a determination if the variation is of a minor technical nature.
(1G) The ACA must comply with a direction under paragraph (1F)(a).

(1H) Subsection (1F) does not, by implication, limit the Minister’s powers under section 486 of the *Telecommunications Act 1997* (which deals with public inquiries).

(1I) If:

(a) the Minister has received advice under subsection (1F) about a proposed determination or variation; and

(b) the determination or variation is not made in accordance with the advice;

the Minister must:

(c) publish his or her reasons for departing from the advice in the *Gazette* within 14 days after making the determination; and

(d) cause copies of his or her reasons for departing from the advice to be laid before each House of the Parliament within 5 sitting days of that House after making the determination.

As foreshadowed in my speech in the second reading debate, we believe the ACA is the appropriate body to calculate the USO. Under our amendments, the minister will be required to seek the ACA’s advice about the proposed determination. If the minister departs from that advice when making his determination, he is obliged to provide a statement of reasons as to why, and those reasons must be published in the *Gazette* and tabled in the parliament.

Amendments agreed to.

**Senator MARK BISHOP (Western Australia)** (5.38 p.m.)—by leave—I move opposition amendments Nos 10 and 11:

(10) Schedule 1, item 70, page 16 (after line 27), after subsection (1A), insert:

(1AA) The Minister must not make a determination under subsection (1A) unless the Minister has received advice on the matter from the ACA.

(11) Schedule 1, item 70, page 17, (lines 3 and 4), omit subsection (ID), substitute:

(1D) A determination under subsection (1A) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

These amendments go to the same matters as those just raised by Senator Allison. Opposition amendment No. 10 inserts a new section 57(1AA) into the act. This subsection proposes that the ministerial determinations relating to the calculation in advance of the cost of providing the universal service obligation must not be made unless the minister has received advice on the matter from the Australian Communications Authority. This amendment gives effect to Labor’s belief that the ACA has an important role in calculating the cost of the USO. It is appropriate that the minister’s determination of the universal service cost is based on advice from the ACA and should not be made prior to, or without receiving, such advice. The scope of the minister’s discretion to make determinations relating to the universal service cost up to three years in advance pursuant to item 70 of the bill should be restrained, the opposition believes, by rendering the minister’s determination a disallowable instrument. This is the effect of opposition amendment No. 11, and that is the critical part in the bill which distinguishes our amendments from the Democrats amendments Nos 9 to 11 that have just passed.

**Senator ALLISON (Victoria)** (5.39 p.m.)—As I foreshadowed in my speech in the second reading debate, we will not be supporting these amendments. We believe they could create very considerable uncertainty, and we do not think the use of the mechanism as a disallowable instrument is appropriate. We have already demonstrated that there are lots of scenarios which would make it almost impossible to deal with questions of cost and appropriation, and so on. So we will not be supporting these amendments.

Amendments not agreed to.

Bill, as amended, agreed to.

Bill reported with amendments; report adopted.

**Third Reading**

Bill (on motion by Senator Alston) read a third time.
COMMITTEES
Economics References Committee
Extension of Time

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

That the time for the presentation of the final report of the Economics References Committee on the provisions of the Fair Prices and Better Access for All (Petroleum) Bill 1999 and the practice of multi-site franchising by oil companies be extended to 30 August 2000.

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

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

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

In Committee
Consideration resumed from 22 June.

The TEMPORARY CHAIRMAN (Senator Murphy)—Some of the government amendments to the New Business Tax System (Alienation of Personal Services Income) Bill 2000 have been circulated as requests. The only basis on which the amendments could be requests would be if it is a bill imposing taxation. The bill probably should be classified as a bill imposing taxation. I suggest that all amendments to the bill be treated as requests on that basis. I also note the parliamentary counsel has provided an explanatory note pursuant to an order of the Senate of 26 June.

Senator RIDGEWAY (New South Wales) (5.46 p.m.)—by leave—I move Democrats requests Nos 1 and 2 on sheet 1825:

(1) Schedule 1, item 3, page 22 (lines 1 to 5), omit section 87-5, substitute:

87-5 Diagram showing the operation of this Division

This diagram shows how the Division operates to ascertain whether personal services income is income from conducting a personal services business.
Does 80% or more of your personal services income come from one source?

Are two of the following three tests satisfied?
- the unrelated clients test
- the employment test
- the business premises test

Is there a personal services business determination?

The personal services income is income from conducting a personal services business

The personal services income is not income from conducting a personal services business
These requests essentially relate to entities or individuals that derive personal services income but do not derive 80 per cent or more of their income from one service acquirer. At present such entities need to satisfy one of three tests to be regarded as a personal service business and so avoid having the personal services income attributed directly to the individual.

Earlier in my speech in the second reading debate, I outlined what I believed to be the shortcomings of these tests, particularly the unrelated clients test. The Democrats considered two options: the first was simply to omit the unrelated clients test and require satisfaction of either the employment test or the business premises test; and the second was the one that we have chosen—namely, requiring satisfaction of at least two of the three tests. As I also mentioned in my speech in the second reading debate, we are very disappointed that the government has chosen a completely different approach from that which was recommended by the Ralph report. We appreciate that the government is trying to simplify the personal services business test by testing whether the individual conducts themselves like a business rather than considering whether they conduct themselves in an employee like manner. However, in pursuing that goal of simplification, the result is presently a regime that will present almost no obstacle to any person who is serious about trying to alienate their income through an interposed entity. Whilst we would have preferred a rewriting of this bill in accordance with that which was contemplated in the Ralph report, we are not in a position to insist on that and we accept the political realities of attempting to do that. Consequently, we are by these requests attempting to tighten the arrangements that have been presented to us.

Senator KEMP (Victoria—Assistant Treasurer) (5.49 p.m.)—We will not be supporting the Democrat requests Nos 1 and 2. Request No. 2 would require an individual or entity to satisfy two out of the three, instead of one out of three, tests as to whether they are conducting a personal services business. A business with many clients—for example, a plumber—that has no employees or separate business premises would fail the test. Many contractors who gain less than 80 per cent of income from one source would fail the personal services business test and therefore be subject to the measure. We will be opposing these two requests put forward by the Democrats.

Senator COOK (Western Australia—Deputy Leader of the Opposition in the Senate) (5.50 p.m.)—I might take a moment or two to indicate the opposition’s view of the whole cluster of Democrat requests, including the ones that are immediately before us. That will save me having to go back over each one and repeat the story. The Democrat amendments that are before us now are in the form of requests and are requests Nos 1 and 2 of the schedule that has been circularised. The view of the opposition is that we regard these as important tests in order to filter out the difference between those who are genuinely contractors and those who ought to be properly regarded as not contractors and treated for tax purposes as employees. This is quite a critical part of this piece of legislation.

The difficulty I have—this applies not only to Democrats requests Nos 1 and 2 but also to Nos 3 and 4—is with the filtering mechanism of these tests. If you twin them you make them not filters—if you meet any of the criteria, your tax status is determined—but if you combine a couple of the criteria then from the opposition’s viewpoint you make the tests too stiff and you catch people who might genuinely be real contractors. It is not our intention to do that. We recognise and value the importance of genuine contractors, and that needs to be clear, but we support the intention of this legislation to filter out those who should properly be regarded as other than true contractors. Because the Democrats requests would lift the bar and catch, in our view, genuine contractors, we will not support these requests.

Requests not agreed to.

Senator KEMP (Victoria—Assistant Treasurer) (5.52 p.m.)—by leave—I move
government requests Nos 1 and 2 on sheet EF214:

(1) Schedule 1, item 3, page 24 (line 20), after “entities”, insert “(other than *associates of the individual that are not individuals)".

(2) Schedule 1, item 3, page 24 (lines 27 to 30), omit paragraph (2)(a), substitute:

(a) the entity engages one or more other entities to perform work, other than:

(i) individuals whose *personal services income is included in the entity’s *ordinary income or *statutory income; or

(ii) *associates of the entity that are not individuals; and

I table the document which explains the requests in detail. I suggest that the document has now been circulated in the chamber. These requests will close a potential loophole in the employment test which is one of the tests to determine whether an individual or entity conducts a personal services business and, therefore, is outside the alienation measure. Request No. 1 is really a technical amendment which rectifies an incorrect cross-reference contained in a note to section 84-1. Request No. 2 deals with section 86-80 which currently refers to a person receiving an amount in salary or wages as ‘you’. This is to be changed to ‘the individual’, in line with other sections in subdivision 86-B. The reference to ‘the individual’ will mean the individual gaining or producing the assessable income. My initial thoughts have been confirmed by advisers. These are, as I have said, very technical requests. I urge the Senate to pass them.

Senator COOK (Western Australia—Deputy Leader of the Opposition in the Senate) (5.54 p.m.)—As I indicated at the beginning of the committee stage of this legislation, I was taken somewhat by surprise by the government requests. I had not seen them before. I do not raise that in an accusatory way. I do not know the reason for that. I just make it as an observation of fact. That puts me in a situation of having to come to grips with their significance. I note for the record that the minister has said that they are technical requests and put some emphasis on that point. I also note that our advisers have had the opportunity to confer and the indication I have is that these requests are, as is that these requests are, as described, technical, and that they are acceptable to the opposition. So, on that advice, we will not oppose these requests.

Senator RIDGEWAY (New South Wales) (5.55 p.m.)—On behalf of the Democrats, I point out that, for fairly much the same reasons as Senator Cook, we have had a look at these requests and we regard them as being technical. We will not be opposing them either.

Requests agreed to.

Senator KEMP (Victoria—Assistant Treasurer) (5.56 p.m.)—by leave—I move government requests Nos 3 and 4 on sheet EF214, Nos 1 and 2 on EF215 and No. 3 on EF213:

(3) Schedule 1, item 3, page 28 (after line 33), at the end of subsection (5), add:

; and (d) 80% or more of the individual’s personal services income could reasonably be expected to be, or was, income from the same entity, or from the same entity and that entity’s associates.

(4) Schedule 1, item 3, page 31 (after line 6), at the end of subsection (5), add:

; and (d) 80% or more of the individual’s personal services income could reasonably be expected to be, or was, income from the same entity, or from the same entity and that entity’s associates.

(1) Schedule 1, item 3, page 29 (line 12), omit “subsection (3)”, substitute “paragraphs (3)(a) and (b)”.

(2) Schedule 1, item 3, page 31 (line 20), omit “subsection (3)”, substitute “paragraphs (3)(a) and (b)”.

(3) Schedule 1, item 3, page 30 (line 35), omit “*personal services income is”, substitute “*ordinary income or *statutory income, that is an individual’s *personal services income, is income”.

Requests Nos 3 and 4 will clarify that the commissioner may make only a personal service business determination under the further grounds where an individual or entity receives 80 per cent or more of their income from one source. I table the supplementary explanatory memorandum, which we now have, which explains the requests in detail.
Senator COOK (Western Australia—Deputy Leader of the Opposition in the Senate) (5.56 p.m.)—Mr Temporary Chairman, again I just make the observation for the record that the attendants in this chamber are being well exercised because they have had to run around and now put on my desk, when you called this item, the explanatory memorandum to which the minister has referred. That has not allowed me an opportunity to read the explanatory memorandum. So that causes me to have to work my way through these requests. If I may be indulged for a moment in the process of doing that, I note on the running sheet there is reference to what is now before us, government requests Nos 3 and 4 on sheet 214, sheet 215 and sheet 213. In black type underneath the box amendment/request number, there is a note that government request No. 3, sheet EF214 and request No. 1 on sheet EF215 are in conflict with Democrat request No. 5 on sheet 1825. I indicate on behalf of the opposition that we will be supporting the Democrat request No. 5 on sheet 1825. Therefore, to the extent that the matters before us are in conflict with request No. 5, we will not support them.

I wonder whether it might be best if the minister or maybe you, given your wisdom Mr Temporary Chairman, surrounded by the advice of the clerks, might separate the requests so that we could deal with them separately. That would suit the opposition. I am advised that we are not in the position of being able to finalise our position on the other requests, so I would be grateful to hear what the Democrats might wish to say about it. Otherwise, I will have to take some moments to confer.

The TEMPORARY CHAIRMAN (Senator Murphy)—It might be useful if we postpone these particular requests at this time.

Senator KEMP (Victoria—Assistant Treasurer) (5.59 p.m.)—Yes, I think we should move to deal with Senator Cook’s concerns in an expeditious fashion. I am now looking towards my advisers to see whether, if there were some further consultation, we may be able to deal with the matters that Senator Cook has raised.

The TEMPORARY CHAIRMAN—It also might be helpful to your advisers if we deal with Democrat requests Nos 3, 4 and 5 because, as I understand, the indication from the opposition is that it will be supporting those requests. So that might help to provide some greater clarity for the discussion.

Senator COOK (Western Australia—Deputy Leader of the Opposition in the Senate) (6.00 p.m.)— Perhaps I could advise and be of greater assistance—and I trust that it will be of genuine assistance and not go to greater confusion. It would seem to me that the easiest way through this might be to deal with the Democrat requests. That then will cause the government to know where the balance of the requests stand. I think that is your intention, Mr Temporary Chairman.

The TEMPORARY CHAIRMAN—That is correct.

Senator COOK—But—and this is my anxiety that I now need to express—we would need to deal with the Democrat requests one by one. Because we have a different position on some of them, it would be better if we took them separately.

The TEMPORARY CHAIRMAN—Senator Ridgeway, I assume that you heard Senator Cook’s comments. Perhaps you would like to move those individually, with request No. 3 being moved first.

Senator RIDGEWAY (New South Wales) (6.01 p.m.)—If I can add to what has been said, I will be withdrawing requests Nos 3 and 4. So that clarifies it somewhat more in that request No. 5 is the only one which has to be dealt with. Therefore, I move request No. 5 on sheet 1825:

(5) Schedule 1, item 3, page 27 (line 21) to page 29 (line 12), omit subsections (3) to (7), substitute:

Matters about which the Commissioner must be satisfied

(3) The Commissioner must not make a determination unless satisfied that, in
the income year during which the determination first has effect, or is taken to have first had effect:

(a) the individual meets either or both of the following tests:
   (i) the employment test;
   (ii) the business premises test; and

(b) the individual’s *personal services income is for producing a result; and

(c) the individual is required to supply the *plant and equipment, or tools of trade, needed to perform the work from which the individual produces the result; and

(d) the individual is, or would be, liable for the cost of rectifying any defect in the work performed.

(4) The Commissioner may refuse to issue a determination if, having regard to the common law principles about such matters, the Commissioner is of the view that the work is being undertaken in an employee-like manner.

[section 87-60—determinations for individuals]

Senator COOK (Western Australia—Deputy Leader of the Opposition in the Senate) (6.01 p.m.)—The opposition will be supporting request No. 5. This goes to those people who believe themselves to be contractors but who earn over 80 per cent of their income from one source. The bill in their case provides what might be regarded as test No. 4—that is, that the commissioner can exercise a discretion. In the exercise of that discretion, as the bill stands, the commissioner is required to ‘reasonably be expected to meet’. That is to say, the criteria applied by the commissioner should, in his judgment, reasonably be expected to meet the qualifications of the provision.

As I discern the Australian Democrats’ request, the individual would be required to meet either or both of the tests. That is a stiffening of the level of the test and a reduction in the discretion of the commissioner. But it seems to me that, in these circumstances, both those things are appropriate. We will support the request.

Senator RIDGEWAY (New South Wales) (6.03 p.m.)—I might just add some clarification on the purpose of request No. 5. Essentially it seeks to completely revamp the basis on which the commissioner issues a personal service business determination. I think we all understand that, under the present arrangements, the commissioner can issue a determination if the individual could reasonably expect to meet the employment test or the business premises test or, for some unusual circumstances, could meet one of the three tests. As I mentioned in my speech in the second reading debate, when a business is deriving 80 per cent or more of its personal services income from one source, there is a presumption that the income is rightly income of the individual rather than the interposed entity.

With that particular issue in mind, we would have thought that the criteria of which the commissioner would need to be satisfied would be more stringent than if the business was not deriving 80 per cent or more of its personal service income from one source. Instead, it seems that the criteria are less stringent because it is satisfactory to show a reasonable expectation and unusual circumstances. It leaves open, I believe, that there is a further basis on which the commissioner can make a determination, which becomes known as the fourth test, during the committee inquiry. That test is satisfied if it can be shown that the income is for producing a result and the individual is required to supply tools of trade and is liable for rectifying defective work.

The Democrats have always believed that the fourth test is a reasonable test. Senators will note that it forms the basis of our amendment in that we have also given the commissioner a power to refuse to issue a determination if, having regard to common law principles, he or she is of the view that the work is being undertaken in an employee-like manner. So we believe that this is a far more rigorous test than that which is currently in the bill.

Senator KEMP (Victoria—Assistant Treasurer) (6.05 p.m.)—This request is technically flawed. Therefore, on those grounds alone, it should not be proceeded with. But let me say that we will be opposing it. It would replace the government’s criteria of the test requiring the contractor to satisfy either the employment test or the business
premises test and the further grounds: income for producing a result, supplying the equipment or tools of trade and being liable for the cost of rectifying defects. In addition, the commissioner could refuse to issue a determination if he considers, having regard to the common law principles, that the work is done in an employee-like manner.

Most contractors who get 80 per cent or more of their income from one source would not satisfy the criteria proposed by the Democrat request. Further, the commissioner could effectively reconsider the whole matter of whether an individual is conducting a personal services business, without having regard to any criteria laid down in the bill. The request also excludes the unusual circumstances criterion in the bill which allows a contractor to obtain a personal services business determination if, but for those circumstances, they would have met one of the tests for a personal services business. The test was important to allow contractors who normally contract with the public at large but who take a long-term one-off contract to be considered as conducting a personal services business.

The Democrats’ request going to the grounds for a personal services business determination has been proposed only for individuals seeking determinations. No request has been proposed for a personal services business determination for entities. The government assumes that this is a drafting oversight and, if not fixed, could lead to a vastly different treatment than when income is received by an entity. So we oppose the request.

Senator COOK (Western Australia—Deputy Leader of the Opposition in the Senate) (6.07 p.m.)—I have just heard the explanation by the government as to why it is opposing this. I think the explanation can be divided into two parts, the first part being what the government regards as the technical imperfection and difficulty thus created by that, and the second being the argument on merit as to why the government opposes it—that is, it is an argument categorised as a merit argument. As to the first part of that objection, it is my understanding of the procedure that, if the chamber clearly expresses a view in favour of a request which might create some technical drafting problems, then it is for the government to bring back the correct drafting—and we tick it off—not for it to defeat an intention of the chamber by resorting to arguments about technicality. If that is a correct summary, the first part of the government’s argument therefore is not substantial and should be put aside. On the second part of the government’s argument, which would be under the heading of ‘the merit of the case’, I expressed a view earlier. Senator Ridgeway gave a fuller view than I did. I think the merit of the case expressed by both me and Senator Ridgeway is not dented by the argument put by the government. We would still support the request.

Request agreed to.

Requests (1), (2) and (6) on sheet EF213 (by Senator Kemp) by leave—proposed:

(1) Schedule 1, item 3, page 4 (line 9), omit “Integrity Measures”, substitute “Alienation of Personal Services Income”.

(2) Schedule 1, item 3, page 20 (line 25), omit “you”, substitute “the individual referred to in that section”.

(6) Schedule 1, item 26, page 38 (line 3), after “for”, insert “the entity from”.

Senator COOK (Western Australia—Deputy Leader of the Opposition in the Senate) (6.11 p.m.)—I am in the position of giving you first the good news, which is that we have now had a chance to become familiar with these requests. They are, I think, properly described as technical requests, and we will therefore not be opposing them. The bad news should not really be characterised as bad news because it is not all that bad. I am grateful that I did not earlier criticise the government for its late advice on the requests because I want to indicate now while I am on my feet that the opposition is circulating a request to the chamber.

Senator Kemp—You should always be careful of that.
Senator COOK—I did not criticise you for it earlier, Minister, and I am sure you will reciprocate in the generosity of the last day of sitting before the winter recess.

Senator Kemp—Of not only the last day but every day.

Senator COOK—I am pleased to hear that, but enough of the byplay. I am just indicating to the chamber that we are circulating a request that will be taken, I imagine, as the last request.

Requests agreed to.

The TEMPORARY CHAIRMAN (Senator Calvert)—The question is that item 22 stand as printed.

Question resolved in the negative.

Request (by Senator Kemp) proposed:

(4) Schedule 1, page 33 (after line 8), after item 4, insert:

4A At the end of subsection 104-70(2)

Add:

; or (d) paid from an amount that is personal services income included in your assessable income, or another entity’s assessable income, under section 86-15.

4B At the end of section 104-135

Add:

(7) You also disregard a payment that is personal services income included in your assessable income, or another entity’s assessable income, under section 86-15.

Senator COOK (Western Australia—Deputy Leader of the Opposition in the Senate) (6.15 p.m.)—I acknowledge that the minister has moved this request. I wonder whether he can provide an explanation to the chamber as to the meaning of what it is he has moved. We would appreciate some explanation in the Hansard.

Senator Kemp—Frankly, it is a perfectly reasonable request, Senator.

Senator Cook—We may not think so.

Senator Kemp—It is perfectly reasonable for you to request me to explain it. That is what I meant. Items 4A and 4B are consequential amendments to the capital gains and losses, CGT, provisions of the ITAA 1997. The amendments ensure that when income is distributed to a membership interest holder no CGT cost base reductions are required under CGT event E4 (section 104-70, capital payment for trust interest) or CGT event G1 (section 104-135, capital payment for shares). Therefore, new paragraph 104-70(2)(d) and subsection 104-135(7) will eliminate the potential source of double taxation.

Senator COOK (Western Australia—Deputy Leader of the Opposition in the Senate) (6.15 p.m.)—I am not familiar with the actual words in section 104-70, section 104-135 or new paragraph 104-70(2)(d) and all of the other references that have been made. But my ignorance is not shared by my advisers. They recognised those sections and they have provided me with a layman’s explanation of what it is you have just said, Minister. As long as you do not ask me to repeat the advice—because I am not entirely sure I would get it right—I am satisfied that these are technical amendments and we will support the request.

Request agreed to.

Senator RIDGEWAY (New South Wales) (6.16 p.m.)—I move request (6) on sheet 1825:

(6) Schedule 1, item 26, page 37 (lines 26 and 27), omit “or the 2001-2002 income year”.

This is a request which my colleague Senator Murray had foreshadowed in his minority report of the Economics Legislation Committee, which considered this bill. There were a few things he wanted to mention and one was that item 26 of schedule 1 of the bill has the effect of delaying the application of the bill to prescribed payment system entities for two years. We are still not entirely sure why such a long period of delay in the application of the bill to prescribed payment system entities for two years. We are still not entirely sure why such a long period of delay in the application of the bill has been granted. Perhaps this is something that the government might like to explain. We understand that the cost of the delay to revenue is approximately $190 per year. There appears to be some basis for a transitional period of one year but the second year of delay seems to be merely gratuitous. This request seeks to reduce the transitional period to one year.

Senator COOK (Western Australia—Deputy Leader of the Opposition in the Senate) (6.18 p.m.)—I note the hour. I will
—I note the hour. I will not elaborate. We will support the amendment.

Senator KEMP (Victoria—Assistant Treasurer) (6.18 p.m.)—Equally, I note the hour. I will very briefly elaborate and we will oppose the amendment. The government does not agree with the suggestion of the Australian Democrats that the transitional period should be reduced to one year. The main business tax reforms are proposed to start on 1 July 2001, making that an unsuitable time to ask the PPS entities to cope with the alienation changes.

Request agreed to.

Senator COOK (Western Australia—Deputy Leader of the Opposition in the Senate) (6.19 p.m.)—I move opposition request (1) on sheet 1838:

(1) Page 2 (after line 8), after clause 3, insert:

4 Report on operation of Act

(1) As soon as practicable after 30 June 2002, the Commissioner of Taxation must prepare a report on:

(a) the operation of this Act; and

(b) the amounts of revenue collected under the provisions of this Act for the 2000-2001 income year and the 2001-2002 income year; and

(c) a comparison of the amounts mentioned in paragraph (b) with the estimated financial impact published in the explanatory memorandum to the New Business Tax System (Alienation of Personal Services Income) Bill 2000 and two related bills, together with an explanation of any differences between the revenue collected and the estimated financial impact.

(2) Copies of a report prepared under subsection (1) must be laid before each House of the Parliament within 15 sitting days of that House after the completion of the report.

This request has been circulated in the chamber, so I am not required to read all the elements of it. We think reporting on the operation of the act is quite an important function. The Commissioner of Taxation should be instructed in legislation to do it in a manner we have set out here. There are three elements to the reporting. I think it improves the quality of the legislation, and I commend it to the chamber.

Senator RIDGEWAY (New South Wales) (6.20 p.m.)—On behalf of the Democrats, we have had a quick look at the request and acknowledge its late circulation and note that it is in relation to reporting and improving accountability. From that perspective, the Democrats will support the request put forward by the opposition.

Senator KEMP (Victoria—Assistant Treasurer) (6.21 p.m.)—Again, the courtesies in this chamber are just awesome today. Would that we had this every day! The government does not support the request moved by Senator Cook. I note, as Senator Cook has said, that it has been circulated at a very late stage of the debate. I note that the Australian Taxation Office is responsible for the administration of tax laws in Australia. In this role, the ATO does work to ensure compliance with all tax laws. When this bill becomes law, it will be no exception. It is not necessary to have special provisions in the law requiring the commissioner to report to parliament.

Request agreed to.

The TEMPORARY CHAIRMAN (Senator Calvert)—We have to go back to schedule 1 item 3. Minister, you might have to withdraw one or two requests here to bring things back to order. Perhaps No. 3 and No. 1?

Senator KEMP (Victoria—Assistant Treasurer) (6.22 p.m.)—We are trying to work through this somewhat complicated list, so perhaps we could have an explanation of what you are seeking, Mr Temporary Chairman.

The TEMPORARY CHAIRMAN—There are some requests in conflict. No. 3 on EF214 and No. 1 on EF215 are perhaps in conflict and need to be withdrawn

Senator KEMP—Thank you, Mr Temporary Chairman. In the light of the advice I have received from the very talented group of advisers and, indeed, from the Clerk, we will withdraw at this stage those requests; but we obviously give notice that we will be pursuing them in the other place and that they will be brought back before this chamber. I think that procedurally that is the correct way to go.
The TEMPORARY CHAIRMAN—You are withdrawing government request No. 3 on sheet EF214 and No. 1 on sheet EF215. The question is that the remainder of the postponed requests moved by Senator Kemp be agreed to.

Question resolved in the affirmative.

Bill agreed to, subject to requests.

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

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

The bills.

Bills agreed to.


Third Reading


Sitting suspended from 6.27 p.m. to 7.30 p.m.

COMPENSATION MEASURES LEGISLATION AMENDMENT (RENT ASSISTANCE INCREASE) BILL 2000

Second Reading

Debate resumed.

Senator SHERRY (Tasmania) (7.30 p.m.)—This bill, the Compensation Measures Legislation Amendment (Rent Assistance Increase) Bill 2000, along with hundreds of other amendments to the GST package, involves some rental assistance increase. I will go through some of the details a little later. This is one of literally hundreds of amendments to the GST. The Treasurer, Mr Costello, said earlier this year that we would never have to consider any more amendments. This bill comes no closer to helping people living in caravans, mobile homes and boarding houses. Indeed, many of the people in these circumstances will still be going backwards and have every right to feel discouraged. While Labor will obviously be supporting this legislation, the little it adds is better than nothing. We remain appalled at the discrimination that is being shown to renters living in caravans, mobile homes and boarding houses.

The Liberal-National Party government—not the coalition; I like to refer to it as the Liberal-National Party government—have been caught out deliberately misleading the Australian people about the full impact of their new GST, particularly its impact on the most vulnerable in our community. This measure before the Senate proves that the government only ever gives back a fraction of what it takes away. The government, having been found out to be punishing the most vulnerable renters in the community, to save face with its Democrat partners, comes into the Senate offering some site fee payers a miserable, paltry, 16c a day. It is now clear that over half the residents will not get a cent. As if ever such a paltry amount could wipe away the stain or the discrimination of applying a GST to the site fees of some 160,000 low income Australians.

We all recall in recent weeks the public humiliation of the National Party by the Prime Minister. Suddenly we had the Democrats breathing fire and brimstone. They said they were not going to take it any more and they were going to tell the government what to do; but not the National Party. Note: not the National Party. There had not been a peep from the Democrats on this matter until approximately 2½ half weeks ago, despite Labor’s pursuit of this issue over the last 18 months, and particularly that of my colleague Mr Swan in the other place. The original GST deal which the Democrats entered into with the Liberal-National Party, we should remember, allowed the discrimination against caravan park, mobile home and boarding house renters to happen in the first place.
Why did they suddenly have a change of heart? Because the arrangement that they had entered into with the government of ‘what you don’t know won’t hurt you’ was shattered when Laurie Oakes spilled the real Econtech figures on the news two weeks ago. Only a Liberal-National Party government with a senior minister such as the Minister for Agriculture, Fisheries and Forestry, Mr Truss, could describe people living in these circumstances as ‘tourists’; only he could be so arrogant and out of touch on this issue. Unfortunately, this legislation represents all too well the rich doing well and getting very substantial tax cuts and the poor in our community getting the GST. What is especially concerning about this whole fiasco is that the seriousness of this issue seems to be completely lost on many members of the Liberal-National Party government.

The fact is rising rates will cause considerable hardship in our community. Rents are a major item; for many average households rent makes up 30 per cent of the weekly budget. As a result, even small increases in rent have a big impact on households. These increases also have a profound effect on the adequacy of the GST compensation. We should not forget that the current compensation package was designed by the government to compensate for an average 1.9 per cent GST price effect, a price effect that we now know to be a lie. At the last election the Liberal-National Party promised rents would increase by no more than 2.3 per cent at the most. In fact, they argued that the real impact would be 0.7 per cent. But let us put that figure aside for one moment. Only after the leaking of the government’s Econtech report did we discover the grand scale of the government’s misleading of the Australian community.

This independent report, commissioned by the government, was kept hidden for six months, and it revealed rent increases double that which the government promised: in the case of boarding house rents, up 4.4 per cent in the short term; and in the case of general rents, up 4.7 per cent in the long term. I think it is fair to assume, though, that these are optimistic figures from the government’s leading modeller. In the case of boarding house rents, it assumes that the 5.5 per cent GST will only lead to an increase of 4.4 per cent. This is a very optimistic assessment—as we have seen with so many other features of the GST, particularly in recent weeks. Regardless of cost savings, of which there will be very few in this sector, consider this simple fact: to produce a net four per cent increase it assumes boarding house operators will reduce their weekly rent, starting this Saturday, before applying the concessional five per cent GST. I would like the National-Liberal Party to produce one example of a reduction in boarding house rents. Indeed, we have evidence that most actually are increasing their rents the full five per cent.

I will discuss the Econtech modelling in a little more detail a little later. I would like to talk more about the significance of the rent increases admitted to. We have already had the Treasurer confirm on ABC’s AM program—and this was a fairly rambling interview, I have to say, and I am sure Senator Lees, as Leader of the Australian Democrats, read it—that there would be an $8 to $10 increase in an average $200 per week rent, an increase of four to five per cent. He said that this was affordable. But let us consider this: for a dual income family on $45,000 with two kids this rent increase will automatically wipe out almost half of the $25 a week tax cut and increase in family assistance. This leaves the family just $15 to pay for the GST on the rest of their spending, a grand total of $3.75 for each family member. This hardly sounds affordable and leaves their long overdue tax cut in tatters.

I did refer to that interview earlier by the Treasurer. It really was a ramble. One of the interesting aspects of it was he blamed Senator Lees for the problem with rents. He blamed the Democrats, because allegedly they were the ones who, when they did the deal over the GST, were responsible for the deferral of some of the taxes in relation to the commercial sector. The Treasurer falsely blamed this deferral as a cause of the significant increase in rents. Fair weather partners, Senator Lees—they will give you the credit when it suits them, and they will blame you when it suits them.
But let us go back to another family living in Sydney, where the rents are up to $350 per week for an average house. In this case the family would be paying up to $17 per week more, leaving just $7 per week to pay for the GST on the rest of their spending, a grand total of $1.75 per person per week. NATSEM, another economic model, estimates the GST price impact on a family of this type at around $20 per week. It does not take a genius to work out that this family will a big loser.

Let us go to the events of the last two weeks, when the Treasurer announced a patch-up with the Australian Democrats. The whole problem was to magically go away with the bill that we are considering here in the Senate this evening. This bill gives effect to a 10 per cent increase in the maximum rate of rent assistance, rather than the previous seven per cent pledge. The Democrats herald this as a major victory, as did the Nationals—that is, after the Prime Minister, the Treasurer and the cabinet squashed the National Party on this issue. The Nationals had nothing to do with this legislation at all.

Perhaps the first point to make is that working people who will experience rent increases with the GST get nothing from this, since they are unlikely to get rent assistance. Around 5.5 million Australians rent, but only 20 per cent of those get rent assistance. So it does not solve the problem of vanishing tax cuts or compensation. Secondly, it will not even benefit everyone on rent assistance. Approximately one-third of the one million Australians who receive rent assistance get less than the maximum rate. This bill does not give these people one extra cent, because it is only the maximum rate that is being lifted. This is important, because many people in caravan parks and mobile homes parks fall into this category.

It is possible that over half the people in these parks will not get a cent. Their site fees are not sufficient for them to receive the maximum of rent assistance. Consider this—to receive the maximum rate of rent assistance, and thus get some benefit from these measures, residents would have to pay the following weekly site fees: a single person $88, a couple $108.50. Those who have actually been to these places would know that the site fees range in price from around $75 per week to $125 per week. For single people, only those paying mid-range site fees or more would benefit. For couples, only those paying site fees near the upper end will benefit at all from this measures. So it does not even make a decent fist of assisting the people who started this whole debate. The final point to make about the deal is that even for those who do benefit the effect is marginal. Let us take a single pensioner. For those who are entitled to the maximum rate the 10 per cent increase enacted by this bill is worth a paltry 16c per day extra compared to the previous seven per cent increase.

Let us have a look at Econtech. Labor have been pushing for some time to see this report. On 16 February of this year my colleague Mr Swan in the other place asked the Treasurer to produce the modelling that he and the Democrats had agreed on to determine whether those being forced to pay an up-front GST on their rents would be worse off. He refused. He claimed he had not seen such a report. On 8 March in the Senate my colleague Senator Denman again called for the release of the government’s modelling. Senator Newman replied:

I have said several times now that a report was being prepared, and I have also said that I have not seen the report. I am now going to tell the Senate the rest of the answer, which is that it has been passed to the Treasurer, for whom it was commissioned. It will be up to the Treasurer to look at it, study it and discuss matters, if he chooses, with the Democrats—and I imagine if that was his commitment he will be doing so.

So, despite Labor’s attempts at jogging both the government’s and the Democrats’ memories, no-one appeared to know anything about how the GST was going to impact on caravan park, mobile home and boarding house residents. Yet this never once stopped them making the claim that these Australians would not be worse off from 1 July. In Senate estimates hearings on 24 May staff of the Department of Family and Community Services and Senator Newman were asked where the modelling was. Yet again the buck was passed. The Department of Family and Community Services claimed the matter was one for Treasury. In Senate Economics Leg-
islation Committee hearings on 2 June I asked the Assistant Treasurer and officials present to produce the Econtech report. There was a bit of paper shuffling, officials going in and out to ask. They approached the Treasurer’s office, and he refused to release it—no backbone from the Nationals, no comment from the Leader of the Australian Democrats, Senator Lees, and no admission from the government that caravan park, mobile home and boarding house renters would be worse off because of the discriminatory policy that sees them charged 5.5 per cent on their rent and sites fees.

The truth is that this government—the Liberal-National parties—has known for some considerable time that these people were going to be worse off under the GST. In an answer to a written question on notice from the latest budget estimates hearings of the Community Affairs Legislation Committee it has admitted that a draft final report was provided by Econtech to the department on 8 December 1999—question No. 47. These answers also indicate that the Minister for Family and Community Services had seen the report—question No. 46—and forwarded the final Econtech report to the Treasurer on 5 April this year, question No. 51.

This conflicts with the minister’s buck-pass on 8 March when she claimed that this was already with the Treasurer. When details of the report were leaked the contradictions continued. Laurie Oakes announced that the report said that the rents of boarding house residents would go up by 4.4 per cent in the short term as a result of an up-front GST but by only 3.7 per cent if they were input taxed. Later the same day, the Treasurer, who by now had admitted to having the Econtech report, said that the figures were now four per cent and 3.6 per cent respectively. The government also claimed that boarding house renters would be better off paying GST on their rents in the long term. Mr Costello also claimed:

The long-term savings may flow through sooner than assumed by Econtech. A new entrant to the boarding house market or an existing supplier providing services with new buildings or furnishings after tax reform would be able to operate at a lower cost. This competitive pressure would lower all rents.

This sounds exactly like the petrol saga we are going through at the moment. It is obvious from this statement that Mr Costello is completely unfamiliar with the boarding house sector, which has been in decline for the last decade. In fact a day after Mr Costello was hoping for growth, the private group providing some 80 per cent of the boarding house accommodation in Sydney’s inner west, In-West Holdings Pty Ltd, announced that it was withdrawing from the provision of boarding house accommodation. The continued closure of boarding houses across the country is the reason why rents will never drop to long-term levels. They are closing in the face of an increasing number of homeless in the Australian community. This means the central issue, when it comes to the impact of the GST on boarding house rents, is whether you believe that the government has been hiding the report for the last six months. The Leader of the Democrats, Senator Lees, did not believe the government Monday week ago when she said:

In the short term figures are the issue here and they are not good. The long term figures, on the other hand, are based on more heroic assumptions about refurbishment. We know that many boarding houses occupied by the poorest people in our society haven’t been painted, let alone refurbished, since World War Two.

Despite this evidence, the Democrats, desperate for a deal, have been duped into accepting the measure that we have before us this evening—that is, rent assistance compensation for only some of the people who will be affected by this dreadfully discriminatory tax, the GST.

Senator LEES (South Australia—Leader of the Australian Democrats) (7.45 p.m.)—Having listened to Senator Sherry, it is probably a waste of time to go through all the inaccuracies in what he had to say, but I do want to make a couple of corrections and put a few things on the record. When we discussed the new tax package with the government originally our concern was, and indeed remains, those on the lowest incomes. That is why we insisted that basic food be taken out and also, in terms of rents, that a number of measures be put in that original package to partly quarantine the rent of those in public housing to make sure that the four per cent increase in pensions and benefits
pensions and benefits could not be touched for rent. There was also the $45 million that went into SAP, as well as that original $33 million increase in rent assistance.

It is correct that our option for paying to take food out, paying for the food changes in the GST package, was not to leave in place some of those state taxes, but that was eventually part of the compromise. Yes, we were well aware that that had an impact—a small impact but nevertheless an impact—on rents. That is why we insisted on the original increase of $33 million—an increase from four per cent to seven per cent. I am very pleased to see that this bill tonight puts in place our second increase, with the negotiation now up to 10 per cent. Looking at some of the other needs in this sector, I think one point the Labor Party likes to continually skip over is the fact that landlords have a choice. One of the problems is that it seems that, either through lack of information or simply an intent to make as much money as possible for themselves, some of them are simply choosing the option of 5.5 per cent instead of looking at the other alternative, particularly in the boarding houses that I mentioned—some of those, unfortunately, that I have seen in Adelaide, for example, where there has been very little, if any, maintenance done for I don’t know how long. Obviously the better option for them is not the 5.5 per cent but simply to choose for their rents to be zero rated as all other rents are.

If Senator Sherry wants to look through the boarding house report that has been done by Econtech, he will see in the back of it where the various types of boarding houses have been modelled in different ways. For those boarding houses where there is very little, if any, refurbishment the obvious choice is to simply treat those places as all other rental accommodation is treated. But those caravan parks and those places that do spend some money and look after their residents are going to see that the better option is 5.5 per cent. As part of our negotiations with government, all operators of caravan parks, boarding houses and hostels will have this drawn to their attention very clearly. Indeed there will be a report back to this place advising us of what the impact has been and what is actually happening out there after the GST is put in place.

Rent assistance has been an important supplement for those people on very low incomes. If you go through the history books, it goes back to 1956. It originally started just for those who were entirely dependent on pensions. The means test was introduced in 1965, and from 1985 it became known as rent assistance. So this is something that in the past the Labor Party has been quite happy to be associated with. Indeed, in 1991 it was indexed—it was twice yearly indexation—and major changes were made in 1993 which recognised the structure of family types. So it is all very well for the Labor Party to now find a major problem with rent assistance, but it has been a measure put in place and indeed supported by government after government. I look forward to the passage of this bill and to the increasing of rent assistance by the full 10 per cent.

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (7.52 p.m.)—in reply—I will be brief. I thank honourable senators for their contributions. I share Senator Lees’ view that one could probably devote the entire time allowed for the second reading debate in this place to rebutting the many misleading concepts made by Labor spokesmen on this matter. Suffice it to say that Labor and caravans have a long history. They increased the wholesale sales tax on caravans by 10 per cent straight after the 1993 election and did not compensate anybody. They increased the hidden wholesale sales taxes on a whole range of hardware and other products, and input taxes to rental accommodation after 1993 and did not compensate anybody. They increased a whole range of wholesale sales taxes which applied to a whole range of necessities of life in the supermarket in 1993—items such as toilet paper and toothpaste—by over 10 per cent. They did not compensate low income earners who need things like toilet paper and toothpaste every day.

They go around Australia scaring people—scaring old people, scaring pensioners, scaring people in caravan parks. The great thing that will occur in 36 hours time is that all of the people such as Wayne Swan in the
other place will not have that scaremongering game to play anymore. They will actually have to do something different; they will have to do some serious policy work. They will have to start telling the Australian people what they mean by the words ‘roll-back’. They will have to try to convince the Australian people how they intend rolling back some taxes without rolling forward others. The Australian people will demand to know, if you roll back a tax, which one you will roll forward because the people of Australia know that there is no such thing as a magic apple, there is no such thing as a tree with money on it and there is no such thing as fairies at the bottom of the garden. Very sad but very true.

When you seek to spend lots of money and not raise taxes, you end up doing what Labor did year after year, that is, run up tens of billions of dollars worth of debt year after year. We all know that that puts pressure on interest rates, so the mums and dads of Australia, who either pay rents or mortgages or pay off their Bankcards, have to pay back at much higher rates. We remember that, when Labor borrowed and borrowed and spent in their 13 years in office, interest rates on typical home mortgages topped 17 per cent. In some cases, businesses were paying in excess of 30 per cent interest on their business loans. Labor wanted us to believe that you could keep spending and not have to balance the budget.

So, Senator Lees, shortly after 1 July we will need to hear what Labor intends to do in terms of which taxes they are going to roll forward, and we will be able to make true assessments. We will not have to go to Econtech, we will not have to worry about PRISMOD and those sorts of people. We will not have to have these arcane and boring fights about which model is right or wrong. The people of Australia will be able to go into the supermarkets, into the bottle shops and to the petrol stations. Indeed, the people who live in caravan parks have had to put up with these city slicker, glimmer twin type politicians going around trying to scare the daylights out of them. A few months ago was the first time Wayne Swan had been to a caravan park. I have it on good authority that he had never visited a caravan park in his life before. When Mr Swan turned up in his nicely trimmed Italian suit, the people in caravan parks were quite shocked; they thought he was a health inspector or something.

I have had reports from caravan parks around southern Queensland and northern New South Wales of people being shocked and scared by seeing this guy who looked like a tax inspector, a health inspector or a member of the Federal Police turning up and trying to scare them about what will happen to their rents. Wayne Swan is going to have to find a new game to play. The people in caravan parks will know that the new tax system will be very good for them; it will be very good for all Australians. The great thing is that the Labor Party are going to have to find a new game to play. After four years of carping, whingeing, whining and negativity they will have to get down and do some hard work if they are going to be taken seriously. I commend the bill to the Senate.

Question resolved in the affirmative.

Bill read a second time.

In Committee

Senator SHERRY (Tasmania) (7.57 p.m.)—I do not intend to take very long; I have a couple of points that I just want to have clarified. Firstly, with respect to the remarks by Senator Campbell, it was a real ramble, addressing any issue but the issue before us in an attempt to hide, duck and weave on the government’s appalling behaviour on this matter. I do not know whether my colleague Mr Swan had been to caravan parks before; I will pass on the accusation. Senator Campbell asserts it as fact. Mr Swan can defend himself. I do know he has done a very effective job on this matter, and I do know he does not wear Italian suits, Senator Campbell. The only tax inspectors that people in Australia will have to fear after Saturday are those thousands of extra GST tax inspectors who will be roaming the country harassing small business.

A question: why isn’t Senator Newman here to deal with this legislation? Well, this will obviously be my last comment. The parliamentary secretary will not tell us why
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Senator Newman is not here this evening. It is important to make the point that Senator Newman should be here. This whole measure is an embarrassing backdown for the government. More importantly, I alluded to a number of questions that were put on notice, and the conflicting statements by the minister, Senator Newman, on this matter and the cover-up that she participated in with that economic model. The cover-up that the minister participated in—an appalling situation—and she is not here to answer a couple of questions about the conflicting statements she made in that regard.

This is the end of a sorry saga with respect to the performance of this minister and the Treasurer on this matter and the way they covered up the report for six months, but the most sorry part about all of this is the effect on the low income people in particular in Australia who are going to be paying double the rents that they were told by this government prior to the last election they would be paying. As a result of this increase in rents and other factors, many of them will be worse off under the GST.

Bill agreed to.

Bill reported without amendment; report adopted.

Third Reading

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

A NEW TAX SYSTEM (TAX ADMINISTRATION) BILL (No. 2) 2000

Second Reading

Debate resumed from 26 June, on motion by Senator Ellison:

That this bill be now read a second time.

Senator COOK (Western Australia—Deputy Leader of the Opposition in the Senate) (8.01 p.m.)—I rise to speak on the A New Tax System (Tax Administration) Bill (No. 2) 2000 almost 28 hours before the GST is introduced into Australia.

Senator Ian Campbell—On the east coast.

Senator COOK—On the east coast. It is not that hour on the west coast, of course. While we are 28 hours short of the introduction of this new regressive tax into Australia, I take the interjection of my colleague and Western Australian senator Senator Ian Campbell that that is not true of the west coast and the state of Western Australia. One of the big advantages of being a Western Australian is that we do not get the GST until two hours later. Western Australians at least have some sort of holiday from this tax, which other Australians do not enjoy. The bad news is that, when Labor come to office and start rolling it back, we will not get the benefit of the roll-back until two hours later either.

Senator Ian Campbell—If Paul Keating had had his way, we would have had it in 1984.

Senator COOK—I take that interjection. It is the fanciful notion of the government that somehow or other Paul Keating was unhappy with the outcome in 1985. I would suggest that the parliamentary secretary stop making these nonsense interjections. I know it comforts him, but the fact that it is not true does rather defeat the purpose of it.

Senator Ian Campbell—if Paul Keating had his way, we would have had it in 1984.

Senator COOK—You should read what he said at the time.

Senator COOK—No, it is just not true. I know Paul Keating well, and I know what his views on this are. They were best expressed during the 1993 election campaign, which was, as I recall, the election campaign that the current government ‘could not lose’ but actually did. They lost it because the people of Australia rejected the Hewson version of the tax that we are going to have imposed on us in 28 hours—the Howard version of the GST.

This legislation contains a series of amendments to a bill that this chamber carried about a year ago. As we get closer to the dawning of the GST, and on the last scheduled sitting day of the Senate before the winter recess, we still find before us legislation from the government amending its own tax—and this is before the tax itself is implemented. We have now had over 2,000 amendments to the GST legislation. It is as if the government wants to try to confuse the Australian community deliberately. But the fundamental thing about these amendments that just keep on coming—and doubtless they
will continue after the introduction of the tax—is that they change the rules. The big defence that the community has is that, if the government does not know what the tax law is supposed to be, how can taxpayers know what their legal obligations under the tax law are? As I have said, there have been over 2,000 amendments, and this legislation adds to them again this evening. We also have a couple of other bills to come on later tonight which will add even more to the number. If the government does not know what the tax law is supposed to be and if, at this late hour, with only hours to go before the new tax, we are still legislating change, how can the Australian Taxation Office, the body independent from the government but with the statutory obligation of administering the law, know what the law is in order to administer it properly?

That is not the end of the problem. The other difficulty of the Australian Taxation Office is that it is understaffed and, when taxpayers question it about their legal liability, it cannot advise them because the government keeps changing the ground rules. As the tax gathering authority, the ATO also cannot advise people because it has insufficient staff to deal with the technical complexity of formal advice as to what the meaning of the law is. Companies and individuals seeking tax rulings from the Australian Taxation Office find that there is a huge list and that they are well back in the queue. With hours to go until the new tax, we still do not know what the legal obligations are.

On Saturday, when this new tax comes into force, most Australians will be given a sharp jolt, a sharp reminder of what this tax is. As Australians wander off to their Saturday afternoon recreation and go to the Australian football, to the rugby league or to the races, as they go through the turnstiles there will be a new tax of 10 per cent that they did not pay last week but they will pay this week. As people go into the ground to buy the football budget or racing guide to see which players are in which teams or what horses are running, there will be a new cost on the guide of 10 per cent. They did not pay it last week, but they will pay it this week.

As they wander down to the stall to get a hot pie served to them during the interval of the races or of the football, there will be another new tax—10 per cent on the pie. And so it will go. If their kids want to wander over to the stall selling memorabilia for the sporting teams to buy a club jersey, a scarf or a beanie, what will they find? A new 10 per cent tax. They did not pay it last week, but they will pay it this week. This Saturday afternoon will be the time at which the real meaning of the GST dawns on Australians, as they recreate and enjoy their Saturday afternoon of leisure. They will be en masse confronted by a new tax for the first time.

The government, which luxuriates in the belief—emphasised tonight by the Prime Minister’s demanding time to address the nation—that this tax will be good for you, will find that Australians on the first sampling will reject the package in even stronger terms than before. Australians know this Prime Minister said that there would never ever be such a tax and then went back on his word. He said that petrol prices would not rise, and we know they will. He told us that beer would be at a lower price than it will be across the bar now—in fact, it will be some 8c to 9c more expensive. The Prime Minister’s record of deceit and dishonesty on this is now legendary.

What about the most famous commitment by the government concerning this tax—that the percentage of the tax will not rise? Australians are not dumb. One of the great things about Australians is that they see through cynicism and they see through propaganda. Any Australian knows that, in every country of the world in which a GST has been introduced, after its introduction the level of the tax has gone up. So, when the government says that it will not increase it to more than 10 per cent—and this is coming from a government that said that it would never ever introduce it in the first place—there is a massive horse laugh of disbelief as ordinary Australians once again say, ‘The government has it wrong.’

Before I turn to the legislation before us, I should remark on what I have just seen on television. The Prime Minister demanded access to the airwaves tonight to address the
nation on the tax package. This is after the government has spent $430 million of taxpayers’ money trying to publicise the tax in a party political way. As if that were not good enough, as if the government had not unchained the taxpayers’ pockets and dipped into them to pay for the government’s own blatant political propaganda, the Prime Minister went on the airwaves tonight to emphasise the message. If you listened to and watched what the Prime Minister said, apart from the dreary, boring monotone in which he addressed in an expressionless way the Australian community about such vital—using his term—tax reform, what did he say? He said all sorts of things which relate to an election campaign and very few which relate to the tax. He did not explain or sell the tax in any great detail. He used the air time for a party political propaganda broadcast. That is what tonight was about.

He started citing the government’s economic record. One would ask what that has to do with the tax of the present. He went on and eulogised his own so-called prowess at economic management, but what does that have to do with the tax? Why should taxpayers pay for the government to tell them what it thinks its record is like when they are supposed to be being briefed on the tax? This was a blatant exercise in politics, and the sad thing is that this government has dragged down the level of public debate by abusing the powers of its office and using the resources of the tax office to fund party political propaganda. At least the brewers of Australia, who are running an ad with the slogan ‘It’s your shout’, attacking the government for the misrepresentation of our beer prices—and who are, in turn, being attacked by the government—can say that they are paying for the ad themselves. What can the government say? The taxpayers are paying for it.

If Labor keeps making poll points ahead of the government, the government will turn around and get more taxpayers’ money to sell the message even more strongly. This is a disgrace to the national political scene, and it is the beginning of an insidious new approach of the government abusing its responsibilities to taxpayers and using their funds for party political propaganda. Tonight, we got all the old platitudes as if nothing had changed, as if it were not true that rents are going up, as if it were not true that petrol prices will be higher, as if it were not true that beer prices will be higher, as if it were not true that the government promised that no business would go out of business because of the GST and as if it were not true that the government promised that no-one would be worse off, when already many Australians are worse off and many more stand to be worse off.

The fundamental objection we have to this tax is that it is unfair. It hurts those in the most exposed and defenceless positions in our society the most. This is a percentage tax on almost everything, and the so-called compensation for it is in a tax cut which comes in gross dollar terms. Percentages go up with inflation. The value of a gross cut in taxation remains the same and, as time ticks by and as inflation kicks in, the value of the compensation erodes dramatically. Those that get the least compensation are hurt the worst, and they are the ones at the bottom of the scale. That is our fundamental objection to this tax, and we should never shrink from citing it as often as possible.

Let me turn to the provisions of the A New Tax System (Tax Administration) Bill (No. 2) 2000. The bill covers three broad areas of tax law: first, the rationalisation of administrative penalties across different taxes; second, the rules governing who can advise, prepare and lodge business activity statements on behalf of taxpayers; and, third, in a broad category, a plethora of miscellaneous amendments in areas including the new pay as you go or PAYG system, rounding down of tax debts, discretions concerning lodgment of the business activity statements and the imposition of general interest charged on outstanding debts. Broadly, that is what this bill encompasses. As I say, with only hours to go to the GST there are yet further amendments.

I will just address for a moment the rationalisation of administrative penalties across different taxes. This bill proposes to amend the various pieces of tax legislation to introduce a uniform administrative penalty regime that will impose penalties relating to statements and schemes, penalties for the late lodgment of returns and other documents,
and penalties for failing to meet other tax obligations. As a matter of principle, it has to be said that Labor support the objective of a consistent regime across taxes for similar behaviour. The penalty should be the same for similar offences—a principle to which we adhere. However, whether or not the particular penalties proposed by the bill are struck at an appropriate level of penalty for the various categories of offence and for the differing circumstances is a very difficult judgment to make. For that reason, we sought to have an inquiry into the legislation.

The government’s behaviour, in rushing this bill into the House of Representatives with very short notice, did not enable those in that chamber to consult sufficiently well enough with all of the stakeholders affected by these legislative changes. As a consequence—in the Senate, the house of review—it requires us to exercise great caution and discipline in examining whether these changes meet the level of consistency that we adhere to in principle. It is very difficult to say in the circumstances, and the conclusion is still an open one. However, the position of the Labor Party is that we will support this legislation.

We will support it because the government wants to make these changes to the tax law. When Australians reject the GST, never let it be said that this is not the GST that the government wanted; this is the GST the government wanted. By giving approval to these legislative changes, the government will not be able to escape the fact that this is its tax law as it desired it. Of course, when the wheels start to come off the trolley, the government will point the finger, as it has done over recent weeks, to the corner of the Senate chamber where the Democrats sit and blame them for forcing the government to make the changes that have already occurred in the tax act. It was a voluntary decision of the government to accept the Democrat changes and, by voluntarily accepting them, the government has to wear the pain of the complications that those changes bring. They boasted about it tonight as if it were originally the intention to exempt food and do a number of other things. They boasted about it tonight in this deliberately boring monotone of an address by the Prime Minister. Because they boast about it, they certainly have to cop the responsibility for it. Because we believe that the technical changes sought by the government should be supported so the government cannot blame Labor about this tax, and because these technical changes do go to the principle to some extent, we will therefore support them. I now indicate that.

I will not go to a greater consideration of the other parts of the legislation, other than to remark on the changes to the business activity statements. The business activity statements are the basis on which taxpayers in business interact with the tax office. It is effectively a summary of taxation liability that is to be provided regularly by the taxpayer, either monthly or quarterly—in general, quarterly for most small businesses. This then raises the issue about who will be able to advise, prepare and lodge business activity statements for taxpayers. This is precisely the same issue of who is allowed to lodge income tax returns now. Currently, this is restricted to tax agents and lawyers. This bill proposes to allow members of accounting bodies, tax practitioners and the bookkeepers working for them and persons that provide payroll services to be involved in business activity statement advice, preparation and lodgment. This is a broadening to some extent and it appears to have—at least in principle—the backing of a number of accounting firms and the Taxation Institute. The need for broadening arises because there are not enough tax agents in Australia to deal with the reporting requirements of the government’s so-called simplified tax system. As a consequence, we will support those amendments as well.

In conclusion, here we are again, only hours from the new tax system being introduced, adding additional administrative complexity. It is not a defence for taxpayers to say they did not know what the law is, but on this occasion the government just keeps changing the goalposts. How can the tax office be aware of all of the changes and advise those that seek private rulings? It is disgraceful that the government should have so botched the introduction of its so-called monumental changes to the tax system. But
we have become used to the fact that the government just cannot get it right. This bill is proof again tonight that it is still making mistakes that it has to correct at the eleventh hour.

Senator RIDGEWAY (New South Wales) (8.21 p.m.)—I rise to express our overall support for the intentions of the A New Tax System (Tax Administration) Bill (No. 2) 2000. I believe it is the last bill to establish elements of the new tax system before it takes effect this coming Saturday. It deals primarily with compliance and administration by introducing a uniform administrative penalty regime for all taxation laws. This particular bill is the second slab of legislation on the new compliance scheme, with the third slab containing the recommendations from the Ralph report yet to come to the Senate. The regime that is chosen is modelled very closely on the Income Tax Assessment Act provisions but is now to be extended much wider. In our view, it is not a controversial piece of legislation. The only particularly controversial aspects are the provisions that deal with the giving of taxation advice. These amendments aim to allay fears about accountants being overwhelmed by the demand to lodge business activity statements after 1 July.

The bill will allow the following people to lodge business activity statements: professional accountants and tax practitioners, bookkeepers working under the direction of registered tax agents and persons who provide payroll bureau services to employers. The Democrats support these particular provisions. However, we are concerned by further provisions in the bill that expand the range of taxation services which may only be provided by a registered tax agent. These amendments particularly restrict the capacity of people who are not registered tax agents from providing general taxation advice. There are special provisions dealing with lawyers providing advice and so on.

My concern is one that has been raised by the National Tax and Accountants Association in evidence given to the Senate committee about the advice provided by industry bodies. What needs to be highlighted is that, because industry bodies have an annual subscription, they could well fall within the category of persons providing paid tax advice. This would essentially mean that members would no longer be able to obtain tax advice from their industry body or union. Given that much of the GST education campaign effort has been carried out by industry bodies themselves, this would be an unfortunate outcome. In evidence to the Senate committee, the ATO assistant commissioner, Michael Smith, said that the government would introduce amendments to resolve the issue. So far they seem not to have materialised in the form that we expected, although I acknowledge that some changes have been made.

I want to apologise for the lateness in circulation of Democrat amendment No. 1 in my name on sheet 1870. I propose in the committee stage that, in the absence of clarification from the government, I will move an amendment to allow employer and employee associations to provide tax advice to their members. I also indicate at this stage that, whilst I recognise and note the change made by the House of Representatives to section 251L relating to the giving of advice, I want to put on the record that the National Tax and Accountants Association seems to be convinced that the problem is still not fixed. I want to add also that the provision seems a little out of place when it is really supposed to be about increasing the number of people eligible to submit business activity statements rather than restricting the number of tax advisers themselves. On another note, I ask the government to consider whether, even with the suggested change, that provision might in fact be anticompetitive because, at the moment, that is a little unclear.

I want to flag pretty early as well that from what I have seen so far I am not persuaded that the problem has entirely been remedied. I understand that the government has further legislation planned dealing with the new registration provisions for tax agents, but I ask Senator Kemp, on behalf of the government, whether it is not better that this issue be part of that review. During the dinner break—and I presume that this happens on many occasions—I received telephone calls from the Australian Tax Office expressing
concerns about the Democrats’ amendment. Can I ask the government to explain what it sees as the problem with that amendment?

Senator ROBERT RAY (Victoria) (8.25 p.m.)—I will not delay the chamber too long, but Senator Cook made one or two references, in addressing the A New Tax System (Tax Administration) Bill (No. 2) 2000, to the Prime Minister’s address to the nation tonight. I suppose the first thing we could note is that the Prime Minister was a bit twitchy, which always shows that he is under a bit of pressure. But the real story of that address to the nation is that it is poll driven. The words that dripped out of the Prime Minister’s mouth are exactly what is coming through the government polling at the moment. The emphasis that the Prime Minister put on certain concepts was very much driven by public opinion polling.

This government is spending well beyond $2 million across seven different polling exercises to try to assess public opinion and then, in turn, influence it in regard to its tax package. It has given up basically saying that the tax package is good for you as an individual. It has gone back to the theme that it had in August 1998—the only one that in the end it was in the positive with during the election campaign or until the Monday before election day—and that is that it is good for the nation. This is the government’s last sort of bastion, its last defence about the tax package—that it is good for the nation. It is all poll driven. The taxpayers have paid for that as well. One of the biggest polling efforts in Australian history has gone into this particular package.

However, I also wanted to say how excruciatingly embarrassed I was by the Prime Minister’s performance this morning, but I must say I was a tad sympathetic as well because it can happen to anyone. The Prime Minister or his staff—it would not have been the Prime Minister; it would have been his stuff—were thinking in the last four or five days: what stunt can we pull in the Prime Minister’s run around on the Thursday, the last day of parliament, that can get publicity for the GST?

I thought they showed a bit of prescience in avoiding a cake shop. I thought that was probably pretty bright of them. So they went down to Jim Murphy’s grog shop and there, with all the cameras whirring, all the channels present, the Prime Minister got a basket of wine, spirits and beer and put it all in and then added it up. You could see a bit of sweat on the Prime Minister’s brow as he waited for the results. It was like an election night, waiting for the latest results. Then you see that sense of relief on the Prime Minister’s face: here you have it, the price of the goods will be $22 cheaper on Saturday than they were today. Cheers go up. Little apparratchiks around at the Prime Minister’s office relax. This is terrific. Then suddenly they realise that they had inputted a bottle of scotch twice. ‘Oh oh, recount. Get the scrutineers in again.’ They recount the ballot. ‘Oh, it will now be more expensive on Saturday than it was today, Thursday.’

How would you like to be the bright staffer who thought up this particular stunt right now? It was carried on every news program tonight, and I was a bit embarrassed. Even though I am very partisan in my politics, I felt embarrassed that the Prime Minister of Australia would be so humiliated by this recount. Surely an advance man goes out. Surely, if you are going to pull a stunt like this, you count the amount of the grog several times before you actually wheel the Prime Minister in through the door. So they can spend $430 million, but they cannot afford an advance man. That really does border on the pathetic.

Equally pathetic was Senator Kemp’s performance here today when he refused to release the modelling. Let’s face it, that modelling, according to the Prime Minister, is the one verification that the Prime Minister has of being an honest person. We have seen the Prime Minister quote the modelling time and time again, and anything we say on the subject is merely scaremongering. Remember that line, ‘You’re just trying to scare the horses’? Well, we gave the government an opportunity to prove us wrong, to justify its claims that we are scaremongers. The government has the economic modelling that proves it right. But will it produce it? Not at all.
We have seen other organisations produce their economic modelling — economic modelling that shows that petrol prices are in some ways justified, because the savings the government claims are not there. But the government has that opportunity. It still has that opportunity. Senator Kemp now, in a burst of honesty and enthusiasm to try to defend his leader, could produce that modelling and we would have a justification. I hope this minister is not withdrawing that modelling, not supporting his Prime Minister, because he was not picked in March 1996 in the first-round draft. I hope it is not old enmities coming to the surface here. Senator Kemp, I assume, has read the modelling—I assume it backs up exactly what the Prime Minister says—but refuses to table it in this particular chamber. That is very disappointing.

But I want to personalise the GST. I arrived home last Friday and discovered that I was out of pipe tobacco—a great tragedy, as everyone would acknowledge. So I pick up the mail, I pick up the Herald Sun and I walk up the street and get on the tram to go to the tobacconist. The first thing that hits me is ‘tram fares are going up by 9.8 per cent’. Fortunately I had the exact money and I was able to take my tram ride because there had been no price rise as yet.

I open the one letter that I thought might be interesting and find it is from the Melbourne City Council. It is informing me that most council matters are, in fact, not GSTable. That was a relief. But I then read that there is a whole range of commercial activities that are GSTable. If you get your car towed away and have to recover it, you pay GST on it. If you use a parking machine, it is GSTable. If your poor old cat gets caught out at night and is impounded, to recover the cat costs you an extra 10 per cent. If you want to use the local park for a wedding—praise God, I don’t have to go through that again—it is an extra 10 per cent. They did not lift it by six, seven or eight but by the full 10 per cent.

In an absolute state of shock, I shoved that letter in my top pocket and opened the Herald Sun and thought, ‘I’ll read the sports pages. At least I can calm down and relax.’ There is a big advertisement from the AFL telling us not only where the main games are being played on Friday, Saturday and Sunday but also what the price list is post GST. Guess what? Every one of the items has gone up by 10 per cent: seats, admission—the whole thing up by 10 per cent. I thought, ‘Surely the AFL can save on some input costs. Surely with the grass they’re sold to resurface their oval every second day there are some input costs.’ I just wonder exactly what degree of exploitation is going to occur.

But the coup de grace, of course, is that I stumble off the tram and get into the tobacconist and he tells me everything is going up by 10 per cent next Saturday week. That is the only one that I am not sure will go up by exactly 10 per cent, but that was certainly the tobacconist’s view. So here you go, Madam Deputy President: the horror ride on tram No. 8, the horror ride. It is a bit like Colonel Kurtz going up the Mekong: the further you went, the deeper in debt you got.

Senator Cook—Heart of Darkness.

Senator ROBERT RAY—Exactly, Senator Cook. You have always had the literary allusion, that absolute touch, when it comes to these particular matters.

So I just want to finish on one other point. That is, all these matters have been advertised and we are not going to go over all the old ground or the $430 million. But one thing that has not been canvassed in this chamber is that the tax commissioner, Mr Carmody, sought legal advice from the Australian Government Solicitor’s office as to whether the total package of advertising was, in fact, properly funded and legally based. The advice came from the Australian Government Solicitor on 19 May and was written by Mr Henry Burmeister QC and Special Counsel George Witynski. Let me quote from that advice, and I do not think it has yet at least been tabled in this chamber, but certainly it has been sent to a committee via Mr Carmody. It states:

“... The material which he [the Taxation Commissioner] sponsors or distributes would in our view be subject to the same restrictions as material produced in his own name. That is, the Commissioner and his office should not participate in the distribution of overtly political material, such as material criticising opponents of the new tax system.
so far as the distribution of material fell within the legitimate role of the Commissioner and his office, it would be useful if the material were identified in some way with the ATO..."

That is clearly not the case in the booklet distribution. That is clearly not the case in the Prime Minister’s letter. But not only did the legal advice say that the material should not be overtly political, it also said:

Appropriate authorisations ought to be attached to the material sent out.

When we read the Prime Minister’s letter, there is no authorisation on it at all. Senator Kemp has the document there. You could point out in the Prime Minister’s letter where the authorisation is. No, Senator Kemp is not even paying attention; he is off driving ships. Here we have the dilettante minister, off steaming his boats around his bath. Pay attention, Minister; pay attention, please.

The reality is of course that that letter from the Prime Minister ‘to my fellow Australians’—but not in fact personalised any more—had no authorisation on it. They might then ask, ‘Is the authorisation on the main leaflet sufficient?’ It has certainly never applied to any electoral material; you have to authorise every separate item. What I found particularly interesting was that, in the actual booklet that was put out, the authorisation is written by C. Ellison. You have to ask yourself the question: why has every other item of publicity been authorised by the Commonwealth government, but this particular one was by C. Ellison? Does anyone believe that in fact C. Ellison wrote the booklet? Of course he did not. The advertising people wrote it. It is almost, if you like, a compilation of a variety of advertisements. That in itself is a lie. I recommend that anyone go back and read the legal opinions given to this government. It has not complied with them, and it has put itself in harm’s way because of it. You might be sceptical about that, but the last time we had ministers issuing press releases or coming into this chamber pouring scorn on those who challenged the legality of some aspects of this campaign they ended up with egg on their faces. They ended up having to cancel and pulp eight million letters at a great cost to the Australian taxpayer and at great humiliation to themselves.

I started off by saying that I thought the Prime Minister’s address to the nation did not deal with proper tax matters and that it was basically a political exercise. It was poll driven and it did not warrant an address to the nation. It would not be the first one to fit into that category, I readily concede, but I thought it significant that it was so political that only Channel 2 under the stewardship of Donald McDonald and Mr Shier, and with Michael Kroger on the board, actually ran it live.

**Senator Kemp (Victoria—Assistant Treasurer) (8.40 p.m.)—** There have been a number of contributions to this debate. They were poor, average and just awful—in that order. Senator Ray continued his reputation for spleen. Senator Ray criticising someone for being political is just a joke. There is nothing else for Robert Ray but politics. Everything he does is driven by politics. No-one would ever say that Senator Ray makes a big contribution to policy. I might be wrong, but in the big debates we have had in this parliament—the republic, euthanasia—I cannot ever recall any significant contribution to public policy from Senator Ray. He stays away from policy; he is not interested.

**Senator Cook—** You have a bad memory.

**Senator Kemp—** He is not interested—and fair enough. Frankly, Senator Ray, for you to be worried about someone being political—you of all people—is just a joke. You attack individuals all the time. Your speeches are full of vengeful attacks on individuals who may have had some association with the Liberal Party in their lives, and so this immediately means they are the subject of vicious, venomous and often slanderous attacks. That is your style.

**Senator Robert Ray—** When was that tonight?

**Senator Kemp—** I am telling you your style. Don’t get too sensitive. The trouble I find with Senator Ray is that he can dish it out but, every time you get up and want to have a bit of debate with him, he gets terribly sensitive. You attacked a variety of people, so I am just drawing the contrast—what an astonishing thing coming from you! What is the attack on the Prime Minister? The Prime Minister is political. Oh dear! Senator Ray
attacks someone for being political, but then I have always said, Senator Ray, that you are not interested in policy issues. Let us face it, you do not make a significant contribution on that side. On the administration of Public Service, I offer only three words: Collins class submarines. That is all I say, Senator Ray. So every time you stand up and attack people, everybody around here asks, ‘Who was the Minister for Defence during one of the biggest cost blow-outs in Australian history?’

Senator Robert Ray—It did not blow out by a cent.

Senator KEMP—Sorry, I will have to correct myself. Senator Ray said the whole thing—the Collins class submarines—was perfectly managed by him.

Senator Robert Ray—No, I said that it did not blow out by a cent.

Senator KEMP—You are too sensitive, Senator Ray. You can dish it out, but you cannot take it. I am just gently going through your qualities a little bit. You have gone through my qualities 101 times and the Prime Minister’s qualities 101 times. But, boy, are you sensitive. Sorry, Senator Ray, if I have caused you any offence. Let me rest my case. Let us face it, you analyse Senator Ray’s speeches, and they are always attacking individuals—public servants trying to do their job. He has orchestrated a huge campaign on a range of public servants who were trying to do their job. The problem is they are trying to bring in a new tax system, so Senator Ray, not liking policy issues, and I think that is true. You do not take part in big policy debates. I can remember you saying that you were going to bring in a bill to ban the burning of foreign flags, but I do not think that bill ever appeared. That was one area where you did venture into policy at one stage. I remember you saying that.

Senator Robert Ray—At least I’ve had form; you’ve never had any.

Senator KEMP—Your form, Senator Ray, in three words—Collins class submarines. That is your form.

Senator Robert Ray—What do you want to say about it?

Senator KEMP—Well, you were Minister for Defence for six years, weren’t you?

Senator Robert Ray—But what do you want to say about it?

Senator KEMP—Just correct me if I am wrong, but you were Minister for Defence for six years.
Senator Robert Ray—What do you want to say about it?

Senator Kemp—Senator, I think that says it all. Let me return to the legislation. I have been diverted.

Senator Lundy—Even your own colleagues are telling you to get on with it, Kempy.

Senator Kemp—Kate Lundy comes in. Gee, this is tough. Now I know I am in trouble. I have said this before: when Senator Lundy comes in and has a go at you, you know you are in trouble. That is true. Because of that, I will return to the bill.

The bill represents another aspect of tax reform and a very important part of the government’s agenda. As part of tax reform, we all know that there is a GST, a new PAYG regime and then there are streamlined consolidated machinery provisions to support the new tax system. To further the process of streamlining the machinery provisions of the tax law, a process which has advantages for both taxpayers and the tax office, the bill establishes a new uniform penalty regime for all taxation laws administered by the commissioner. The uniform penalty regime was not only desirable in its own right because it makes penalties easier to understand and calculate but also necessary to avoid problems with the BAS, business activity statement. One BAS may cover a range of tax obligations such as PAYG and FBT instalments and GST payments. Therefore, it makes sense that if there is a default in relation to a BAS the default does not attract different rates of penalty. The different payments are covered by a single BAS.

Far from complicating the new tax system, the uniform penalty regime is a step in the direction of simplicity. Apart from anything else, the tax office has calculated that this move will result in a reduction in the number of pages of tax law by about 100 pages. The bill also sets out the classes of tax practitioners who can charge for preparing a BAS. The existing income tax and fringe benefits tax laws basically restrict the right to charge for preparing income tax returns to a registered tax agent. However, it was felt that the right to charge for preparing a BAS should be open to a wider class of practitioners, because there was concern that not everybody who was required to lodge a BAS would have access to or need for the services of a registered tax agent.

Persons who will be able to charge for providing BAS services include members of recognised professional associations representing accountants and tax practitioners, bookkeepers working under the direction of registered tax agents, persons who provide payroll bureau services to employers and Customs agents. Expanding the categories of people who can charge for BAS services should help to lighten the workload for tax practitioners in what is a very busy time for everyone. The bill also sought to restate the existing position in relation to registered tax agents but not to materially change it. These provisions of the bill were amended to meet the requirements of the professions. They substantially replicate the existing law but are more broadly based to take account of the cross-tax nature of the BAS.

There are some other important measures in this bill. Perhaps the chief amongst these is the provisions which extend the income tax deductions for plant and software acquired in preparation for the GST. Deductions will now be allowed for equipment and software which is not installed but in respect of which taxpayers have entered into binding contracts. The final part of the bill is a collection of miscellaneous amendments and machinery provisions arising from the new tax system. On the whole, these are purely technical. A number of other issues have been raised, particularly by Senator Ridgeway, and we may address those in the committee stage.

Question resolved in the affirmative.

Bill read a second time.

In Committee

The bill.

Senator Sherry (Tasmania) (8.50 p.m.)—I intend to be brief. I wanted to raise a serious matter on behalf of a constituent of mine because it does illustrate a particular problem. I do not expect the minister to be able to answer the query this evening, but his officers may be of some assistance. This con-
stituent has authorised the release of his details.

It concerns a Mr John Axton, who is a newsagent in Devonport. He runs Store 44 Newsagency, which is owned and operated by the Llanfair Trust. His accountant applied electronically for an ABN on 31 May. When he spoke to me on Tuesday afternoon, despite four calls to the helpline he had not yet been given his ABN. He is extremely concerned that, without the ABN, there are two serious consequences. One is the issue of the 48.5c tax, but what he considers to be more serious, in the short term at least, is that the suppliers of his newspapers and magazines will not supply him with those goods until he provides his ABN to the newspaper and magazine companies, and time is running out. I would not expect you, Minister, to be able to respond to this matter now, but I would appreciate your officers taking the matter up.

Unfortunately, it does illustrate a couple of very serious matters. Maybe the minister can tell us how many applications for ABNs have not yet been processed? How many applications for ABNs have gone astray or been lost, for whatever reason? Can the minister give an undertaking that the ABN applications that have not been processed so far can be processed by close of business tomorrow afternoon, for obvious reasons?

Senator KEMP (Victoria—Assistant Treasurer) (8.53 p.m.)—Senator, we have made notes of the individual concerned and, in view of the fact that we now have his name, we will see whether we can check first thing tomorrow morning on what has happened and we will try to make contact with him. The officers are hearing this and will pursue this matter on behalf of your constituent. You asked for the number of applications received. The commissioner issued a press statement very recently indeed. With more than 2.7 million ABNs issued and about 2.8 million applications received, I think that provides the general figures that you were seeking, Senator. The commissioner went on to announce what he referred to as safety net arrangements, and this is how he described them:

Today I am announcing ‘safety net’ arrangements to further assist businesses that have lodged their ABN application late or with problems that have not yet been resolved and who may not receive their ABN by 1 July.

Safety net letters being issued to these businesses this week give them authority to operate under the new tax system as if they had received their ABN. They may, in fact, receive their ABN notification at the same time as the letter, but either way they will be covered.

Earlier on he said:

I am confident that everyone who applied for an ABN before 31 May and supplied sufficient detail of their identity and business activity will have their number by Saturday. We currently have 1,250 staff working on applications where vital detail is missing or illegible. My staff are resolving and express posting around 20,000 ABN notifications each day and expect to clear any backlog.

I also made a commitment that we would do everything we can to ensure businesses that applied after 31 May have their ABN by the start of the new tax system—we are. We have already turned around the bulk of the 370,161 ABN applications received so far in June.

He then went on to announce the safety net arrangements.

Senator RIDGEWAY (New South Wales) (8.55 p.m.)—Before I move my amendment, could I ask the government to consider the issues that I raised in relation to the fact that the suggested change that was put up in 251L may be anticompetitive; the second question about whether the government propose, through further legislation, to review the particular issue about who is eligible to deal with the tax agent arrangements and whether it is not better for that issue to be dealt with as part of that review. Lastly, I made the point that the Australian Taxation Office had rung my office, expressing their concerns about the amendment and I was asking whether the government could explain what it sees as being the problem with the amendment—because, at this stage, I am not entirely convinced that the issue that was highlighted by the National Tax and Accountants Association in fact has been remedied by the change in the House of Representatives.

Senator KEMP (Victoria—Assistant Treasurer) (8.57 p.m.)—Once you had moved your amendment, I was going to deal with the concerns that you may have. We have looked
very closely at this issue. As you have mentioned, there have obviously been some discussions that you have had. There are some technical problems with the amendment, and quite serious ones—that is the advice that I have received. Whatever you are trying to achieve—and I think we can understand the objective of what you are seeking—the amendment, I think I am correct in saying, will not achieve that in a satisfactory fashion. That is the advice that I have received.

Further, this amendment will prevent any person other than a legal practitioner from giving taxation advice. It will exclude registered tax agents from giving taxation advice—something that they have been able to do for many years. This is the formal advice that I am receiving from the ATO. The various state legal practitioner laws prevent any person who is not a legal practitioner from giving advice about the law for a fee. The current income tax and the amendment of the bill allows registered tax agents to charge a fee for giving advice without being in breach of these state laws.

We really are opposed to this amendment. We do not think the amendment is needed. The problem that you have identified is not one that we see, and we are confident in the advice we have obtained. In fact, we think that your amendment—through no intention of your own, and we accept that—does not seek to rectify any mischief you can apparently see in the bill currently. The government certainly will not be accepting this amendment. As I said, what you are trying to achieve the bill already allows. That is the advice I have received, and there is vigorous nodding of the heads of my advisers—and they would certainly know more about this than I do.

To summarise, what you see as a problem we do not see as a problem. The fact of the matter is that the current bill will achieve the ends that you are seeking without amendment. Having said that, we think your amendment is poorly drafted and could even, according to the advice I have received from the experts with me, be seen to be restrictive. We will not be accepting your amendment. We have consulted very widely on this. Many aspects of this legislation which have gone through have received very wide consultation. Let me assure you that very few sections of the bills which have gone through have received such a lot of attention from the various accounting bodies. A lot of work has been done to ensure that we both accommodate their concerns and have a practical system in place so that the BASs can be done in the required time.

**Senator RIDGEWAY (New South Wales)** (9.00 p.m.)—I seek some further clarification from the government. I presume what you are saying then is that you regard the government’s proposal as not prohibiting the answering of queries about GST and tax reform from 1 July by people who are not registered as taxpayers; that industry associations—such as the National Farmers Federation, the Motor Traders Association, professional accounting associations, trade unions, et cetera—are all covered entirely as a result of the change in the House of Representatives?

**Senator KEMP (Victoria—Assistant Treasurer)** (9.01 p.m.)—Senator, I refer you to the EM, particularly clause 211 which talks about further consideration of what advice can be provided by registered tax agents, legal practitioners, accountants and other advisers being undertaken as part of a review of taxation services. I draw this to your attention particularly:

Until that review is completed, these amendments will allow current practices in relation to giving advice on tax matters to continue to operate.

That is in the EM. I think that should give a high degree of assurance to you. The EM goes on to say:

This will include allowing professional bodies and other organisations that represent business and community groups to charge a fee for providing advice to their members.

I repeat:

This will include allowing professional bodies and other organisations that represent business and community groups to charge a fee for providing advice to their members.

As I said, we do not see the mischief that you apparently see in this matter. That is the advice that I have been given by the tax office. That is in the EM. Having said all that, they have further concerns about the way the
amendment is drafted. The government will not be supporting this amendment. But, having said that, I think I have given you assurances which can allow you to feel that you have kept faith with those with whom you have been speaking on this matter.

Senator COOK (Western Australia—Deputy Leader of the Opposition in the Senate) (9.03 p.m.)—I have a great deal of problem with what the minister has just provided to the chamber. I have before me the bill that is under debate, and I have turned to the relevant page of that bill, page 27. The relevant subsection is 251L(1), (2), (3) and (4). Let me read this into the record, because this is relevant to the whole point. It starts:

Repeal the subsections, substitute:

(1) Subject to this section, a person who is not a registered tax agent must not knowingly or recklessly demand or receive any fee for:

Senator Kemp—I raise a point of order to cut this short. Senator, you are reading from the wrong bill. This is the bill before the amendment was put through—that is the advice I have received.

The CHAIRMAN—We are dealing with the A New Tax System (Tax Administration) Bill (No. 2), and the copy that we have here is ‘as read a third time’. Senator, you are reading from the wrong bill. This is the bill before the amendment was put through—that is the advice I have received.

Senator COOK—Yes, the document I have before me is the one on the Notice Paper. You will recall, Madam Chairman, there was a moment of indecision when you called the legislation on for debate, but it was as you called it on.

The CHAIRMAN—It does incorporate amendments made in the House of Representatives.

Senator COOK—This is ‘as read a third time’. A New Tax System, and I am on page 27. I do earnestly ask the minister to explain why this is wrong. But let me complete the explanation I am making:

Subject to this section, a person who is not a registered tax agent must not knowingly or recklessly demand or receive any fee for:

(b) giving advice about a taxation law on behalf of a taxpayer;

It contains 200 penalty units, referring to section 4AA of the Crimes Act 1914 for the current value of a penalty unit. There is a substantial penalty attached to this clause if you break the law; that is the significant part. On a plain read, this makes it an offence if you are giving advice about taxation law on behalf of a taxpayer and you are not a registered tax agent, and the amendment simply reveals it. I cannot see how there is any technical complexity about it. It is straightforward on the face of it.

The point of order, which was really not a point of order at all but an interjection—an interjection fairly and appropriately allowed by the chair and accepted by me—was to say that we are quoting from the wrong legislation. That is a matter of fact: are we or are we not? But the legislation that I am quoting from is a bill ‘as read a third time’, and it conforms with what is before us on the Notice Paper. If that is a sustainable interjection, Minister, I will resume my seat, and you might explain to me why the documentation we have is not the documentation you seem to have.

Senator KEMP (Victoria—Assistant Treasurer) (9.07 p.m.)—I was not trying to interject; I was just trying to assist. I think I am well known for my courtesy and, despite the fact the hour is late, I do not alter my normal form of behaviour on these matters. I think the way you brought in the introduction rather suggested to my officers that you were reading from an earlier version of the bill. You then drew our attention to ‘on behalf of a taxpayer’. What we are dealing with is ‘on behalf of a member of an organisation’. That is where the confusion has come about. You can give advice to a member of an organisation. There is a distinction. I am making a distinction here between a taxpayer and a member of an organisation. There may be a difference of opinion here, but all I can say is I have the officers from the Taxation Office beside me; I have read out the EM; they have listened very carefully to Senator Ridgeway and to you, as they should, and they have provided me with clear advice that what you are seeking to achieve is already achieved in the bill. So the intention of the amendment is not necessary. Further, they say that the amendment itself has technical problems and is unduly restrictive.
The point I would make is that the state laws preclude people other than solicitors and barristers from giving advice on all laws. If the amendment is passed, then registered tax agents will not be able to give advice on taxation laws. This is the advice I have been given. I am quite happy for your advisers—if you are not satisfied with this—to consult with my advisers. That could be done very quickly. I can see you are seeking assurances, and this is a fairly technical matter. Both you and I have great knowledge in these matters, but we would probably want our advisers to at least take the first cut. That is the advice that I have received. The intention that you want to achieve, Senator Ridgeway, is already in the bill. Therefore, we do not need this amendment.

The other assurance I can give you—just to repeat what I said a bit earlier on—is that this section of the bill has been given a great deal of attention by the professional bodies. Let me assure you that the professional bodies have looked very closely at this matter. I think, with one exception—and I think the exception is the one that you have been talking to—they are comfortable with the provisions of the bill as they now stand. So I put to you that we do not see a reason for this amendment.

For Senator RIDGEWAY (New South Wales)

The other assurance I can give you—just to repeat what I said a bit earlier on—is that this section of the bill has been given a great deal of attention by the professional bodies. Let me assure you that the professional bodies have looked very closely at this matter. I think, with one exception—and I think the exception is the one that you have been talking to—they are comfortable with the provisions of the bill as they now stand. So I put to you that we do not see a reason for this amendment.

For Senator KEMP (Victoria—Assistant Treasurer)

For Senator CONROY (Victoria)

For Senator Kemp—Perhaps Senator Conroy can—because we trust Senator Conroy when he gives us these assurances—assure us that there is nothing in there which is slanderous or defamatory of anyone known to me or who may be known to me. Is that right?
Senator CONROY—Ron Walker does not get a mention, I promise you.

Leave granted.

The speech read as follows—

New Business Tax System (Miscellaneous) Bill (No 2) 2000

The New Business Tax System (Miscellaneous) Bill (No 2) 2000 proposes a number of measures based on the recommendations of the Review of Business Taxation which Labor has largely supported.

The bill is an omnibus bill which makes a number of changes to various parts of taxation law.

One part of the bill however imposes a new Capital Gains Tax on superannuation funds and superannuation business of life insurance offices. This new Capital Gains Tax is retrospective and was not announced by the Government at any stage. It was not a part of the Review of Business Taxation or the Government’s response to it, nor was it part of the ANTS Package.

The Senate Select Committee on Superannuation and Financial Services examined this bill on Monday. The evidence to the Committee roundly condemned the offending part of the bill.

The evidence showed that this Bill robs $70m from the retirement incomes of Australian pensioners and self-funded retirees.

It needlessly increases complexity when the Treasurer announced that he wanted to simplify superannuation.

The Bill doubles the compliance costs for some super funds and applies a retrospective CGT where one did not exist before, and it could even capture the family home in the CGT net.

This Bill will also have a detrimental impact on small businesses that transferred assets to superannuation funds by applying CGT to assets that if held individually would not attract CGT.

The evidence to the Committee conclusively showed that this Bill will result in lower retirement incomes and pensions and annuities and most likely higher Government social security outlays.

It was also shown that the amendments moved by the Government create inconsistencies between types of funds and providers.

Yet, the Government has allowed very little time to examine, debate and amend the complicated provisions of this bill.

The Government admitted to the committee that there were better ways of achieving its policy intentions than those proposed in the bill. I ask the Government: why then, present this Bill? Certain provisions of this Bill are ill-considered and should be reviewed.

This Bill is contrary to retirement incomes policy and is a disincentive for retirement incomes.

The Committee heard submissions from a number of witnesses who stated that these provisions should not proceed. They also stated that if they did proceed, there were better, less complicated and less onerous methods of achieving the Government’s policy objectives.

Labor Senators recommended that while they wanted the majority of the bill to pass, the Government should remove the offending provisions from the bill and resubmit them at a later date for approval after discussion and agreement with industry representatives and other stakeholders.

It is clear that the Government is not going to move those amendments. However, I understand that the Australian Democrats will be moving amendments that were examined by the Government with appropriate Government recommended changes to give effect to Labor’s recommendations. Labor will be supporting the Democrat amendments. It is disappointing that the Government will not be taking this action itself. It has put up a flawed bill and will not fix it’s own mess.

While many of the proposed amendments are effectively opposing some of the provisions in this bill, it is our intention that the Government’s policy intent can be better achieved. Our support for amendments opposing certain parts of the bill are simply to allow for additional time to get this bill right.

However, Labor makes it clear that the retirement income measures in this bill would be best dealt with in a review of the retirement incomes system. While the Treasurer has hinted that he is interested in simplifying super, I don’t think we should be holding our breath waiting for that to happen under this Treasurer. He, after all, was the one who gave us the superannuation surcharge tax collection method, inarguably one of the clumsiest and complex superannuation changes ever.

The Government needs to go back to the drawing board on this issue which is another in a long line of detrimental changes to superannuation. The Government needs to consult with the industry over the next 6 weeks and we will consider further changes when the parliament returns.

Senator SHERRY (Tasmania) (9.15 p.m.)—I do intend to say a few words but I do not intend to take the full 20 minutes. The New Business Tax System (Miscellaneous) Bill (No. 2) 2000 is a seemingly innocuous
piece of legislation in respect of its treatment of life insurance companies. I refer specifically to the section with respect to life insurance companies, because it was a seemingly innocuous section until the Labor Party discovered two areas of concern. I have to acknowledge a number of organisations which brought matters to our attention and provided the Senate Select Committee on Superannuation and Financial Services with some very important submissions. The organisations which made submissions and contacted the Labor opposition—and I understand they spoke to the Democrats as well—are: the Corporate Superannuation Association, William M. Mercer, the Institute of Chartered Accountants, the Institute of Actuaries, Superannuation Australia Pty Ltd, the Association of Superannuation Funds of Australia and the Small Independent Superannuation Funds Association. There were a number of others, but they are some of the better known organisations.

Labor has two main concerns about these seemingly innocuous provisions with respect to life insurance. The first one is the way in which the government is raising revenue in respect of capital gains tax. Firstly, it was not readily identifiable from the explanatory memorandum just exactly how much money was being raised by the changes to capital gains tax until the committee hearings that were held on Monday of this week, when we were questioning Senator Kemp and Treasury officials. I did ask what the extent of revenue being raised from this capital gains tax change was and we were told by Treasury officials that it would be $70 million per year. This was an unknown figure and this is, effectively, $70 million per year being taken out of superannuation funds around Australia. Industry representatives claim it would be considerably more than $70 million, so we know it is a minimum. Some in industry say it may be $100-odd million per year. That is, Australian pensioners and annuants will be at least $70 million a year worse off as a result of the capital gains tax changes.

It is important to note that this will affect some people more than others. Those effects can vary significantly and they can also be very significant in terms of the impact on individuals. We were provided with some important case studies and examples of the severe adverse effect in some respects on some individuals. I did ask at those hearings for the government to supply any modelling that was done on this change to capital gains tax, assuming that some modelling had to be done to calculate the $70 million per year that Treasury estimate is raised by this measure. I did also request modelling that I hoped had been done on the net impact of this change on superannuation funds resulting from the full range of measures in the bill, and particularly the long-term impact on retirement income and government outlays.

The other area of concern is increased complexity. This government has a well-known track record of imposing additional burdens on superannuation funds in this country—there have been some very notable examples in recent years. All witnesses before the committee highlighted that the provisions in this bill that require superannuation funds and life offices to value assets as at 1 July 2000 and to segregate these assets relating to the payment of pensions would greatly increase the complexity of superannuation. There would be increased compliance costs, and witnesses acknowledged that there was no doubt this bill would significantly increase compliance costs for superannuation funds and life offices.

Mr Michael Lorimer, who is a director of the Small Independent Superannuation Funds Association, led by a former Liberal member of parliament—I cannot remember his name—and who is not too pleased about this piece of government legislation, stated that the current $2,000 to $2,500 costs of managing a small superannuation fund would be expected to double to around $4,000 as a result of this bill as a result of greater compliance costs in general and, of course, that must impact on lower retirement incomes.

What I found very surprising about the change in the capital gains tax that the government is proposing is that all the witnesses before the committee, except for one, stated that this bill is applying a retrospective capital gains tax change to July 1988. This retrospective change to capital gains tax goes back
to the time of the purchase of an asset, and this could be before July 1988. What is even worse with respect to this retrospectivity is that some of these small do-it-yourself superannuation funds own property, and they will be hit not just by retrospectivity but also on some of their own properties that they own through the trust. This is a very important issue, because we have had presented to us a retrospective capital gains tax change netting the government at least an additional $70 million a year.

If we cast our minds back to the election campaign, the current government—the Liberal-National Party—were highly critical of our election policy to prospectively change capital gains tax from 1 July 2000. I do recall the Prime Minister saying about our proposed changes to capital gains:

This change is going to strike at the heart of retirement security of many older Australians.

What are we being presented with tonight? A retrospective capital gains tax change raising at least $70 million a year.

It was interesting that Senator Kemp, the Assistant Treasurer, who presented himself before the committee for some 20 minutes of very brief questioning, did admit that the legislation was very complex and would probably require further legislation down the track in order to deal with the complexities and the additional costs—but not with removing the retrospective $70 million in capital gains tax. We did welcome this admission from Senator Kemp that further changes would be needed. There is just one problem with changing this legislation at some time in the future. The problem is that, if this legislation is passed unamended, those superannuation funds that provide pension annuity products are going to have to change those products over the next few months to conform with the law that was proposed to be passed here tonight—that is if the amendments that I understand have been drawn up were not to be passed.

So superannuation funds will only have had 90 days to segregate their assets from 1 July. This is a very inappropriate way to regulate superannuation funds in this country. To expect them to change their funds at significant cost then to have to wait for additional government amendments in order to avoid the compliance costs that I have mentioned is an absurd way to approach the regulation of superannuation in this country. It is not consistent; it does not provide security.

There are many thousands of people who would be affected in corporate superannuation funds—particularly impressive evidence was given to the committee on that—do-it-yourself funds, which tend to cover the small business sector and self-employed contractors, and some industry funds that provide these particular products. The Democrats, as a result of the committee hearings and the representations from the Labor Party and listening to industry concerns, have drafted some amendments that I think will satisfy most of the concerns of industry. I do ac-
knowledge the work that Senator Lyn Allison of the Australian Democrats has done on this and the fine contributions from the industry representatives. I think it shows just how effective the process of a Senate committee can be in drawing to the attention of the government the unfortunate consequences of the legislation that they were to present.

To conclude, the amendments that are being made that will minimise the impact on the internal structures of funds—the requirement to disaggregate assets—will be a significant help to funds that offer pension annuity products. But I find it startling and very hypocritical of the government to be presenting a retrospective change to capital gains tax in this country after the song and dance we had from them at the last election about Labor’s proposals. This is $70 million a year of retrospective capital gains tax changes—in addition to a number of superannuation funds in this country. Not only that; it was not until we questioned Senator Kemp, the Assistant Treasurer, and Treasury officials that we discovered what this quantum of money was—what the impact of these changes to capital gains tax was going to be—and it turned out to be at least $70 million. This figure was hidden. You could not identify it in the explanatory memorandum.

Time is brief; we cannot speak a great deal tonight on the monumental hypocrisy of this government in respect of retrospective capital gains tax changes, in particular the quote I referred to from the Prime Minister—the Prime Minister who made constant references to this issue prior to the last election, particularly the impact on elderly Australians and their right to a safe, secure and predictable retirement income. This bill changes that for many Australians, and that is an indictment of the Prime Minister for some of the comments made at the last federal election. I understand the amendments have been circulated by the Democrats, and I understand we are supporting them.

Senator ALLISON (Victoria) (9.29 p.m.)—The New Business Tax System (Miscellaneous) Bill (No. 2) 2000 contains a number of major provisions arising out of the Ralph report and one or two other controversial provisions which were not in the Ralph report. I will deal very briefly with the main provisions before coming back to the key superannuation question I want to discuss. The first measure in the bill is capital gains tax relief on scrip for scrip rollovers. The Democrats have in principle supported scrip for scrip rollover relief. However, the provision proposed by the government goes much further than that proposed by the Ralph report. The Ralph report did not support scrip for scrip relief being extended to closely held private companies. The concerns were that, in those cases, there was a real chance of major tax avoidance. However, in the Treasurer’s announcement, it was extended to all companies. In evidence to the Senate committee, taxation law professor Rick Krever, who was a consultant to the Ralph report, strongly warned against that. Unfortunately, in ticking off the business tax reform, the ALP has ticked off what we think is potentially a huge tax avoidance loophole. All I can say is that I hope the Australian Taxation Office monitors the operation of the proposed clause very closely to make sure that it does not become a new tax avoidance shelter.

The second measure in the bill is the taxation of life offices. This was another key recommendation from the Ralph report that will see the investments of life offices taxed at the same rates and conditions as those of other companies. This is a major revenue measure worth around $200 million a year. This measure deals with the tax treatment of losses such as inter-entity loss multiplication and the treatment of company losses and bad debts. These are important integrity measures that flow out of the Ralph reforms and will be supported by the Democrats.

The third major set of amendments deal with imputation credits allowing small shareholders with franking rebates of up to $5,000 to no longer be subject to the 45-day holding rules. The PAYG instalments will also recognise franking credits. There are some technical changes to the operation of capital gains tax, new integrity measures on the PAYG tax system and changes to the prepayments measure. The Democrats will be supporting all of those provisions. I will, however, be moving to modify the operation of a provision of the life offices schedule. This deals
with the capital gains tax treatment of superannuation funds. The measure makes it clear that, when a member’s account moves from the accumulation phase to the pension phase, capital gains tax liability will arise in respect of the capital gain during the accumulation phase. Although the liability will not be paid until the asset is sold, the bill will require evaluation of the actual assets to be segregated to support the pension drawdown. This measure was not announced in the Ralph report but has arisen because of a government concern that some people are using the ability to change assets to supporting pensions and thereby avoiding capital gains tax. It has been suggested that this is a particular problem in the small funds sector.

On the one hand, we are faced with a bill that is supposedly part of the Ralph business tax reforms but is not mentioned anywhere in them, and industry clearly has not been adequately consulted on the bill—a point which has now been acknowledged by the minister. On the other hand, the government estimates that this bill will raise $70 million by closing down a tax advantage perceived to be held by smaller super funds and not available to larger super funds on the transfer of funds from accumulation to pension stream funding. It is also clear that this bill deals with issues of immense complexity, potentially greatly increases compliance costs and appears to catch in its wake many larger superannuation funds and could potentially make pensions less attractive as superannuation options. Having said that, the Democrats are aware that some operators will use superannuation tax concessions however they can to obtain maximum tax benefit, thereby reducing revenue collections. We agree that the revenue needs to be protected.

This is the latest in a number of measures directed by the government against small do-it-yourself funds. This has been a growing sector of the market, and it is also a very lucrative one. Whether the growth in the sector is driven by better returns or by tax planning is a fundamental policy issue, in our view. A clear policy statement is needed because considering legislation of this type is difficult in the absence of such a policy direction. The Democrats believe that it will be extremely difficult between now and the end of the week for the Senate to draft appropriate amendments to achieve the government’s objective while meeting the industry objective of minimising compliance costs and ensuring that pensions remain an attractive objective for corporate and industry super funds.

Given this difficulty, I will be moving to excise the provisions dealing with superannuation and the segregation of assets for capital gains tax purposes. I wish to emphasise that the Democrats do support this measure in principle. We want the government to sit down now with industry and to work on developing alternative evaluation methods that protect revenue with a much lower compliance cost. There were a number of suggestions put to the Senate committee. I understand that the government is already exploring alternative approaches with various industry groups. The Democrats urge the government to complete that process as soon as possible. We would be prepared to support an urgent bill in the August sittings to impose the capital gains tax rule that the government is seeking, provided we are satisfied that the compliance cost issues that industry has referred to have been adequately dealt with.

Senator WATSON (Tasmania) (9.36 p.m.)—I have been listening to the debate very carefully, and I think tonight is a little bit of a sad night for superannuation in this country. We are almost within a cooee of getting a deal. The undertakings that were given by the minister were very gracious about negotiating, and that still holds. Given the early commencement date on 1 July, we acknowledge some funds—particularly the life companies and others—have the software and have put in place the segregation of assets. I wonder where all this is going to leave everybody. I was told today that one of the leading lawyers in Melbourne is anxiously ringing up his clients saying, ‘Put all your holiday homes in your superannuation funds to avoid capital gains tax, because there’s a
real loophole.’ That is why I say that it is a sad day: this message is being conveyed to the sharp end of town. That will effectively be the outcome, and that is why I do urge us to try and get some sort of nice outcome within a short period after 1 July. It would be better, because these sorts of messages get around the industry very quickly. How are we going to stop it? Are we going to introduce retrospective legislation? We all have an abhorrence of that.

Perhaps people could think about these things for a little longer to see whether there might be a way out and to get a better outcome than what I see coming presently. The minister was disappointed that it did appear that a number of witnesses changed their minds from what they had told him earlier. But the information that was given to our committee was very solid information, and the committee acted on that. We took a very responsible attitude to it. The sad part about it was that it all came so late in the session, with just two or three days to go. There is a need to try and get an outcome at an earlier opportunity. I have had a quick look at some of the amendments, Senator Allison, and I am worried about what might be happening to the industry in the meantime. I am not sure whether you would like to defer it—I know it is late—for half an hour or so while we think about these sorts of things. It would be a terrible outcome if the sharp edge of town had these sorts of arrangements. I thank the Senate.

Senator Kemp (Victoria—Assistant Treasurer) (9.40 p.m.)—The government wants to proceed with the New Business Tax System (Miscellaneous) Bill (No. 2) 2000 as the bill is currently before the chamber. I understand the Democrats will move an amendment, and the government will oppose that amendment. There was a lot of discussion on this bill. The life companies have indicated to us that it is very important that this bill goes through. For reasons that you have stated in relation to tax avoidance issues, I would have thought the Democrats and the Labor Party would have supported this measure. Senator, you mentioned that there was consultation. There was a great deal of consultation. It is true that the agreements that were reached prior to the bill coming before the Senate committee were not always reflected in the evidence that went to the committee. It is correct that that is a disappointment.

Senator Conroy—Who?

Senator Kemp—Senator Conroy, this is a serious matter, and time is short. We are operating under considerable pressure, with great time constraints on us. Senator Watson, you pointed to one of the mischiefs which can be dealt with. The time to deal with it is this evening. The Senate can deal with this matter this evening. When it became clear that there were not the numbers to get this bill through, there was another round of consultation and then another round of consultation on top of that. It was to my regret, because I have carriage of the bill in this chamber, that they were not fruitful in the end. Others will make their judgments about this matter. The anomaly that we are trying to deal with has been pointed to by quite a few commentators, and you have pointed to it in a pretty graphic way in your remarks this evening, Senator Watson. But this does not persuade the Democrats, and it does not persuade the Australian Labor Party. In view of the work which has gone into the bill and in view of the importance of the bill, I would urge the Senate to make sure that it is passed as it has been drafted.

Senator Sherry suggested that the bill is retrospective. I do not agree with Senator Sherry on this matter. The bill does not apply CGT retrospectively. It applies the special CGT provisions that apply to complying superannuation funds to tax capital gains accrued in the accumulation phase—provisions which were brought in by the Labor government in 1988. It was a bit rich of Senator Sherry to go on when the Labor government brought in capital gains and applied it to the accumulation phase of superannuation funds in 1988.

Let me turn to the issue of the segregation of assets. There is a very significant diversity of views in the industry, but the government is happy to continue to consult with the industry on this matter. I signalled that very clearly. This is a very complex issue. The
truth is that we have been told by certain sections of the industry that they found the arrangements in the bill quite workable. However, other sections of the industry indicated it did not suit them. We said to them, ‘We will work with you.’ I say this again this evening, Senator Allison: we will work with you to see whether we can arrive at a solution. I am happy to go on record and say that. But it is a very technical matter. My view was that we would work towards a solution that may well provide an alternative, perhaps a formula, where funds would be given the option if they wished to use that method or the method in the bill. I have given that commitment. I gave it before the committee; I give it here tonight. There is no lack of a commitment by the government to see whether we can deal with the problem that certain funds have brought to our attention.

There is no lack of commitment to see if we can work towards a solution to deal with that problem. That is no reason to hold this bill up. In taxation law, quite frequently we bring in bills and then a bill will have an unintended consequence and we deal with that. So, Senator Allison, there is no lack of commitment on that front. If there has been a misunderstanding on your part about that, I have restated it in this chamber.

We will look at issues that the industry raises with us and we will work to see whether we can get a solution. But, after widespread consultation with the industry, the industry was well aware of the provisions of the bill and has prepared for this bill. In relation to the issue of DIY funds, the government adopted the amendment proposed by ASFA to cope with the transitional arrangements. That again showed the government was flexible and prepared to meet concerns, so the government bent over backwards to get this bill through. I would urge the Senate to pass the bill in the form that has been presented to the Senate this evening.

Question resolved in the affirmative.

Bill read a second time.

In Committee

Senator HOGG (Queensland) (9.48 p.m.)—I did not have the opportunity to speak in the second reading debate on the New Business Tax System (Miscellaneous) Bill (No. 2) 2000 and I want to make a couple of comments for Senator Kemp. I am part of the Senate Select Committee on Superannuation that considered this matter and I listened to Senator Watson and others speak in the debate. Firstly, I believe that the complexities are an important issue and that you cannot pass that part of the legislation without having overcome the complexities.

The unintended consequences are not unintended at all. They are consequences that were predicted at our hearing last week. So it is not valid to use that argument at all. In fact, I think the committee bent over backwards to cooperate in dealing with this piece of legislation because, when we met last Monday, originally we were set to meet between 8.30 a.m. and 12 p.m. and then, as more witnesses came on board—there was a very limited time for the canvassing of witnesses—we extended the sitting time to 12.30 p.m., which was the limit. We considered all the matters before us, and I must say the impression that was clearly created in my mind was that there were people expressing genuine concern about this part of the legislation.

Moreover, we actually considered the committee’s report in the chamber on Monday at 9.45 p.m. and at that stage we did not even have access to the Hansard report, which was another complexity that was facing the committee. I think it would be fair to say that the committee considered this legislation as best it could and that the witnesses that presented evidence to us did so as best they could. There were real doubts in our mind which made the Labor senators put forward the concept of excising that part—with the agreement of the Democrats—that needs greater consideration. So Senator Kemp’s claim for the whole bill to be passed tonight is a bit too rich. We should see that part excised and then passed at a later date after proper consideration has been given to it.

Senator ALLISON (Victoria) (9.51 p.m.)—I seek leave to move amendments Nos 1 to 17 together.
here where you are opposing parts of schedules and others where you are moving amendments. I suggest that you put amendments Nos 1 to 9 and 12 to 15 together because they relate to items to be opposed in schedule 2, and then you can seek leave to move amendments Nos 10, 11, 16 and 17 together. The question for the first group will be put that schedule 2 and the relevant items stand as printed because they all seek to delete sections of the bill. So would you like to speak to Nos 1 to 9 and 12 to 15 first, and then we will consider Nos 10, 11, 16 and 17 separately. Do you follow me?

**Senator ALLISON**—I do, thank you. The Democrats are opposing items in schedule 2 in the following terms:

1. Schedule 2, items 27 to 34, page 77 (line 21) to page 78 (line 27), **to be opposed**.
2. Schedule 2, items 37 to 42, page 79 (lines 3 to 30), **to be opposed**.
3. Schedule 2, item 43, page 80 (line 1) to page 91 (line 36), **to be opposed**.
4. Schedule 2, items 44 to 47, page 92 (lines 1 to 24), **to be opposed**.
5. Schedule 2, item 49, page 93 (line 2) to page 96 (line 25), **to be opposed**.
6. Schedule 2, item 49A, page 96 (line 26) to page 97 (line 18), **to be opposed**.
7. Schedule 2, item 50, page 97 (line 19) to page 98 (line 29), **to be opposed**.
8. Schedule 2, item 51, page 98 (line 30) to page 100 (line 35), **to be opposed**.
9. Schedule 2, item 52, page 101 (line 1) to page 102 (line 12), **to be opposed**.
10. Schedule 2, item 84, page 114 (lines 6 to 20), section 320-20, **to be opposed**.
11. Schedule 2, item 84, page 114 (line 21) to page 115 (line 2), section 320-25, **to be opposed**.
12. Schedule 2, item 84, page 124 (lines 14 to 24), section 320-90, **to be opposed**.
13. Schedule 2, item 84, page 124 (line 25) to page 125 (line 7), section 320-95, **to be opposed**.

I will speak very briefly to them all. They have the effect of excising from the provisions of the bills that which relates to superannuation funds. They also include life offices which will be treated the same as other superannuation funds, except that the funds of the life offices, in terms of shareholder profit reserves, will still have to be segregated so they remain part of the bill.

I reiterate that the Democrats regret having to take this action. We have not had the undertakings, we have not had a method by which the bill could be fixed up and we are not prepared to go on the say-so of the minister that the matter will be looked at. It is not enough to say that it will be looked at; it is not enough to pass a piece of legislation which is as problematic as this without any idea of how we will proceed. We are not holding up the bill. I remind the minister that the main provisions of the bill are intact and that the implications to revenue of this bill are around $200 million, as I understand it. We are dealing here with just a small section of the bill; a section which has been identified as being hugely problematic. We have agreed to deal with this bill as soon as we come back in August, provided, of course, that those problems have been sorted.

It is not enough to say, ‘We will look at it.’ It is not enough to say, ‘We are happy to continue to consult, we will work with you, we will arrive at a solution.’ We are just not prepared to take that kind of assurance. It has not been backed up over the last few days with anything but efforts to apply even more pressure on us to change our minds. We actually need some real action on this bill and that is why we are seeking to have this section of the legislation excised.

**Senator KEMP** (Victoria—Assistant Treasurer) (9.55 p.m.)—To save time, I will speak to the overall set of Democrat amendments. The hour is late and the Manager of Government Business is making my life difficult. Let me make it clear that the government does not support the Democrat amendments. The government’s preferred position is to have the bill passed in its entirety. Unless there is a late change of mind, it is clear that, with the support of the Labor Party, the Democrat amendments will be passed by this Senate.

As Senator Allison has said, the cost implication of this legislation will be some $70 million a year. I regret that the Democrats have done this. The superannuation industry was prepared for us to get on and to formu-
late an alternative method with a view to limiting compliance costs. For the life of me, I cannot see the logic in me standing up in this chamber and saying that we will do that, when it is in our overall interest to do it, and then not proceed with it. Having given those assurances on the public record and having repeated them now for the third time, I am at a total loss to understand why the Democrats have taken this step. Senator Watson drew the Senate’s attention to some of the opportunities that would be opened up as a result of this change. The big end of town is already moving, Senator.

Senator Watson—The sharp end.

Senator KEMP—The sharp end is moving. One can always accept that the Labor Party will do anything. As a party that believes in nothing—

Senator Conroy—You are slow to anger, Senator Kemp.

Senator KEMP—Indeed I am slow to anger; that is why I am measured in my tones, Senator. I have often said the Labor Party does not believe in anything, and that is true. So how can you predict where the Labor Party will go on any issue? I will tell you how you predict: one of Robert Ray’s polls. That is how the Labor Party will go. But I did not think the Democrats were driven in the same manner. I have restated the government’s position. I do not detect any sign of wavering in this chamber, but I still urge the Senate to defeat the amendments being moved by the Australian Democrats.

Senator CONROY (Victoria—Assistant Treasurer) (10.00 p.m.)—We are always happy to talk. But the truth of the matter is that we have had all those roundtables, we have had all those consultations and this was the moment.

The CHAIRMAN—I shall now proceed to put schedule 2, items 27 to 43, items 49 to 53, item 49A, item 50, item 51, item 52, item 84 (section 320–20), item 84 (section 320–25), item 84 (section 320–90), item 84 (section 320–95). The question is that those schedules stand as printed.

Question resolved in the negative.

Senator ALLISON (Victoria) (10.01 p.m.)—by leave—I move:

(10) Schedule 2, item 62, page 103 (line 24), omit “27 to 43 and 49 to 53”, substitute “35, 36 and 53”.

(11) Schedule 2, item 62, page 103 (lines 26 and 27), omit subitem (5).

(16) Schedule 2, item 84, page 138 (lines 27 and 28), omit paragraph 320-205(3)(f).

(17) Schedule 2, item 84, page 139 (lines 14 and 15), omit paragraph 320-205(4)(f).

I have no further comments to add to these amendments.

Amendments agreed to.

Bill, as amended, agreed to.

Bill reported with amendments; report adopted.

Third Reading

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

Days and Hours of Meeting and Routine of Business

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (10.03 p.m.)—by leave—I thank all my colleagues for their courtesy in granting leave and I move:

That the question for the adjournment of the Senate on Thursday, 29 June 2000 not be proposed till after the completion of consideration of government business orders of the day Nos 1 to 8 and any messages from the House of Representatives.

Perhaps I could briefly say that I think, with a very high degree of cooperation between all parties in the Senate, the Senate has made good progress today with a very ambitious legislative program. We have just completed all but a couple of pieces of legislation. Shortly we have to deal with the Excise Amendment (Alcoholic Beverages) Bill and then the appropriation bills. It is our view that that can be accommodated by extending the sitting hours this evening for just potentially a couple of hours and hopefully no longer.

There are, of course, messages that need to be transferred to the other place and will have to come back here again. We are hoping that the transmission time for that process and having our colleagues in the other place deal with those messages should take no longer than about an hour and that in the meantime the Senate can get on with its business—that is, to deal with those two packages of bills and any messages coming from the House of Representatives in that time.

I commend my motion to the House. I thank the Manager of Opposition Business for his outstanding cooperation during the last couple of days in dealing with a very busy agenda and, of course, other honourable senators for helping us to facilitate a conclusion of our program today.

Senator CARR (Victoria) (10.05 p.m.)—The opposition supports the motion, conditional upon a number of understandings that the government has given as to the operations for the remainder of this evening and the program. The Manager of Government Business is correct in saying that all senators I think have processed the program with a high degree of cooperation. There are important issues that need to be canvassed. I think, by and large, senators have done that, recognising their responsibilities.

There is, however, a major problem here tonight insofar as we have been informed that the appropriation bills have to be considered and concluded tonight. This is a matter that, in my judgment, the opposition should have been made aware of much earlier. It is a view that, in fact, may well be disputed. The government has had a program outlined before us for a fortnight. It had clearly two weeks of sittings to consider various pieces of legislation and has at all times scheduled the appropriation bills for Thursday—that is today. So it strikes me as odd to be told now, at about 9 o’clock, that these appropriation bills have to be considered tonight. I think that that is not a good way to run the business of the Senate. If it is the legal case that the government wishes to put to us, I believe they should have put it to us much earlier. The program should have included a proposition where these matters were considered at a much earlier point.

Nonetheless, I would also like to indicate that the government has cooperated fully with the opposition insofar as consideration of the program this week and last week goes. The opposition has been able to put views to the government which the government has fully cooperated with. So I return the favour to Senator Campbell and those who consider these issues. I understand that the program of course has at all times been the government’s prerogative, but our options, I think, have been considered throughout the last fortnight. Senator Campbell, we ought to ensure that the appropriation bills are brought on at an appropriate time.

Question resolved in the affirmative.

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:

New Business Tax System (Integrity Measures) Bill 2000
ENVIRONMENT AND HERITAGE
LEGISLATION AMENDMENT
BILL 2000

Consideration of House of Representatives
Message

Message received from the House of Representatives acquainting the Senate that the House of Representatives has agreed to the bill with amendments.

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

House of Representatives amendments—

(1) Schedule 1, item 77, page 26 (line 26) to page 27 (line 13), omit the item.

(2) Schedule 1, item 78, page 27 (lines 16 to 20), omit subsection (3), substitute:

(3) Before the Governor-General makes a regulation prescribing material for the purposes of paragraph (b) of the definition of seriously harmful material in subsection 4(1), the Minister must be satisfied that the material is capable of causing serious harm to the marine environment.

(4) The Minister may be satisfied that material is capable of causing serious harm to the marine environment even though there is no conclusive evidence to prove a causal relationship between the input of the material into the marine environment and serious harm to the marine environment.

(5) For the purposes of subsection (3), the Minister must have regard to the principle that material should be prescribed as seriously harmful material if there is reason to believe that the material is likely to cause serious harm to the marine environment even though there is no conclusive evidence to prove a causal relationship between the input of the material into the marine environment and serious harm to the marine environment.

Senator HILL (South Australia—Minister for the Environment and Heritage) (10.09 p.m.)—I move:

That the committee agree to the amendments made by the House to the bill.

You may recall that the Labor Party and the Democrats joined together to make a number of changes to this piece of legislation. Those changes have all been accepted in the other place, bar two. The message that has come back here includes a schedule of two variations to what was agreed by the Senate. If it is appropriate for me to say so, I do not think the changes will cause concern to the other side. The first item related to the liability of public servants, which we sought to put in a form that we understood to be the existing law. The Labor Party changed that in this place. On reflection, and because of the differences of view on this matter, we thought that the best option was to delete the provision altogether. So whatever might be the existing law, as it relates to public servants in the event that they are negligent, will apply if the Senate accepts the House’s message in this regard.

The second concern is in relation to the inclusion of the precautionary principle. We have accepted that principle, but rather than state it as the precautionary principle as such—which was the form of the amendment passed in the Senate—because there are many meanings attached to that expression, and to avoid uncertainty, we have instead sought to specify what we understand to be the precautionary principle as it relates to this particular matter. In relation to the amendment before the committee, we said:

The Minister may be satisfied that material is capable of causing serious harm to the marine environment even though there is no conclusive evidence to prove a causal relationship between the input of the material into the marine environment and serious harm to the marine environment.

That is as we understand the precautionary principle, so we have translated what we believe to be its meaning into the substantive provisions of the bill. I bring this message back and, as I said, most of the amendments have been accepted. I think the two changes we have made are not inconsistent with the desires as expressed by the other sides during the earlier debate in this place.

Senator BOLKUS (South Australia) (10.12 p.m.)—In rising to respond to the minister, I indicate that we are pleased on this side of the parliament that the government has picked up most of the amendments of the Senate. We thought they were amendments that were appropriate for the support of this parliament. It seems like the minister’s representative in the lower house is a lot more per-
ceptive about the value of these amendments than the minister has been. As a consequence, the government has seen fit to accept most of them. As to the two that the minister referred to, on the first one—the protection of agents of the Crown—we would have liked to have had the amendment that was passed in this place supported by the government. However, the government, by coming back with its proposal this evening, essentially leaves this issue to be developed through the common law in the way that it has developed over recent years. We think that is probably not a bad way to proceed with this issue, and we are prepared to accept the government’s solution to that.

In respect of the application of the precautionary principle, the minister offers the parliament something fairly close to the precautionary principle in article III of the protocol. There are some subtle differences. For instance, the protocol refers to ‘harm’, whereas the minister has offered the words ‘a threat of serious harm’. I have reason to believe that that criterion is the same in both the protocol and the government’s amendment. The concept of no conclusive evidence to prove a causal relationship, I think, is pretty close to the protocol itself. The minister’s proposal requires that the minister may be satisfied. That may balance the negative impact of the prerequisite seriousness of the harm. In a sense, though there are some differences, we take the minister’s interpretation as being pretty close to what the precautionary principle would state and, as a consequence, find that the second amendment proposed by the government is acceptable to us as well. On that basis, we will not be opposing the message from the House of Representatives.

Senator BROWN (Tasmania) (10.14 p.m.)—The precautionary principle is that you do not allow harmful material into the environment until it is shown to be safe. If you do allow it into the environment without it having been shown to be safe, you take responsibility for it. But that is a different matter.

Senator BARTLETT (Queensland) (10.15 p.m.)—As the Democrats environment spokesperson, I thought it appropriate to put our position on the record in relation to this. I am certainly glad that the minister is seeking to meet the desires of the Senate in relation to the amendments that were made to this bill the first time it came before us. I hope that that approach is repeated in relation to the desires that the Senate expresses on a range of bills, and certainly a range of environment bills, that may be brought before us in the not too distant future.

In relation to the first additional amendment made by the House of Representatives, the argument put forward by the minister is appropriate and reasonable in the circumstances when you are dealing with legal interpretation. The second amendment, which provides a substitution for articulating the precautionary principle without calling it the precautionary principle but tries to meet some of the intent of the Senate in putting the precautionary principle in the bill originally, in some ways flags the need to have further debate on what that phrase ‘precautionary principle’ means and what it should mean. Senator Brown just gave a very succinct outline of what it should mean in relation to environmental legislation, indeed any legislation, when you are considering a precautionary approach to environmental impacts. By virtue of this message coming back, I think it indicates that perhaps this concept should be explored further to ensure that it is more broadly understood and hopefully adhered to, and incorporated in, legislation more clearly in the future.

Nonetheless, in this context, I think amendment (2) put forward here, which does not purport to be the precautionary principle but seeks to be a replacement for it, does go a fair way towards meeting the aims or the desires of the Senate. Beyond that, the position of the Democrats is academic in terms of whether or not the amendment gets through. It will go through, given what others have said here tonight. I think that indicates that this is something that needs to be debated more fully in this place. If this is a genuine attempt, as I believe it is, by the government to meet the intent of the Senate in ensuring that the precautionary principle is met, perhaps we should spend a bit more time talking about it so that we do recognise where we are all coming from on that issue and the impor-
tance of it. It is a principle that many people seek to insert in legislation with a range of aims. It may be a lot easier in the long run if we recognise, agree on and reach a shared position on what that is all about and how important it is, rather than having to come back to this de facto approach with each particular bill every time parties with concern for the environment try to put forward precautionary principles.

Beyond that, I take this opportunity, given it is probably the last chance I will get, to wish the minister well in his attempts to expand the whale sanctuary in the southern Pacific over the next week or so in the fair city of Adelaide. I note that 28,000 petitioners had their petition presented to the Senate today requesting action to create a safe haven for whales—not a temporary safe haven but a permanent safe haven for whales in all waters. Certainly, the Democrats support the attempt by the minister and the government to expand the protection for whales and wish the government and all the people involved in the discussions and meetings in Adelaide over the next week or so well with that aim in mind. Given that this bill does at least refer to activities at sea, then probably the issue of protecting whales has some relevance. Having given Democrat support and wishes for the actions of the government in relation to that activity over the next week or so, we are willing to indicate that we will not insist on the original amendments and, in this context, are willing to support the amendments that the House of Representatives has presented to the Senate on this occasion.

Question resolved in the affirmative.

Resolution reported; report adopted.

EXCISE AMENDMENT (ALCOHOLIC BEVERAGES) BILL 2000
CUSTOMS AMENDMENT (ALCOHOLIC BEVERAGES) BILL 2000

Second Reading

Debate resumed from 22 June, on motion by Senator Patterson:

That this bill be now read a second time.

Senator COOK (Western Australia—Deputy Leader of the Opposition in the Senate) (10.21 p.m.)—The Excise Amendment (Alcoholic Beverages) Bill 2000 and the Customs Amendment (Alcoholic Beverages) Bill 2000 propose amendments to the Customs Tariff Act and the Excise Tariff Act to enable implementation of the new tax arrangements for alcoholic beverages from 1 July 2000—that is now in about 25½ hours time. To implement these changes, a package of legislative changes will be introduced in four stages. There will be amendments to the excise and customs tariff legislation to give effect to the administrative arrangements for the collection of excise for alcoholic beverages not currently subject to excise. There will also be alterations to the tariff acts by proposal to include all Australian made and imported alcoholic beverages, other than those subject to the WET, in schedules to the tariff acts and to adjust the tariff rates of alcohol products to offset the removal of the wholesale sales tax. These proposals will be tabled in parliament before the end of the financial year, and I understand that that has already been done.

The other two stages of these packages usher in are amendments to regulations to extend the licensing provisions and other requirements to alcoholic beverages not previously subject to excise or customs duty, and bills amending the Customs Tariff Act to incorporate the changes made by the tariff proposals which will be introduced later in the year. I draw to the attention of the Senate that earlier today the Senate carried a resolution concerning the adjustment of tariffs, in which the process is that the House can adjust the tariffs. We believe that that is a wrong process: it should be something that is done by both chambers. Amendments to the Custom Tariff Act will provide the main mechanism to reform the taxation of alcoholic beverages. These amendments will be made by tariff proposals and will be tabled in the parliament before the end of the current financial year.
the bills. The only dissenting voice, I am ad-
vised, is the manufacturer of Two Dogs, now
foreign owned but still based in Adelaide.

Two Dogs is a wine based beverage which
currently enjoys a substantial advantage over
similar RTD products that are made up from
spirits. The whole point of the new regime is
to tax all RTDs at a common rate, whether
they are based on wine or on spirits, and to
base the tax on the beer rate of excise or
customs duty. The opposition will not be op-
posing this legislation. We have reservations
which we have expressed—and so has this
chamber—about the structure of tariff
amendments, but we will not be opposing
this legislation as such.

I should just say a few words, though,
about the engulfing debate on beer and the
misleading statements by the Prime Minister
and the government on how beer is to be
treated in the current taxation regime. It is a
disgrace, in my view, that prior to the elec-
tion the Prime Minister announced to every-
one that ordinary beer would only go up by
1.9 per cent but, after the election, we find
that the real rate of increase is between eight
per cent and nine per cent. The Prime Minis-
ter has then gone on to say that he had meant
bottleshop carton beer and not beer that is
bought across the bar, and has tried to argue
that the service component is responsible for
the difference. That is, of course, not true.
Once again, this government has been sub-
stantially caught out in misleading the Aus-
tralian people as to the effects of their whole
package of taxation measures under the GST.

Let us revisit what actually happened. There was a stunt, clearly organised by his
office. Jim Murphys Market Wine Cellars
was the venue. A group of wine and spirit
products were purchased; the two bills of sale
were presented to the television cameras,
showing the price before the GST and after
the GST; and we discovered that a saving of
some $22 was made. The Prime Minister
beamed at the cameras in a ready-prepared
television smile—the sort of chilling grin that
we are now used to seeing him smugly de-
liver—and said, ‘Good by anyone’s lan-
guage!’ That was the sound bite for the night.
Only later was it revealed that, when you
actually added up the cost of the purchase,
rather than a reduction of about $22 from
before to after the GST, there was actually an
increase of about $1.42. The price was not a
reduction but an increase. This is a major
blue by the Prime Minister, a major attempt
to mislead the Australian community. But
this, of course, has another lesson embedded
in it: if the Prime Minister cannot get it right
less than 36 hours away from the introduction
of the GST, how can anyone else in Australia
be expected to understand this new, regres-
sive tax that imposes 10 per cent on almost
everything? If the Prime Minister cannot get
it right and is engaging in a stunt to try to
mislead the Australian community, how can
you believe anything that this man says about
his legislation?

We then watched him on television, as-
suring us in a full-scale, paid political adver-
tisement that this new tax would in fact be of
some benefit to the community—hardly a
credible performance. As I said in an earlier
address this evening, it marks an entirely new
low in public life in Australia. What we saw
from the Prime Minister tonight was neither
an explanation about the tax nor an effort to
try to explain what would happen, but a description—as I have said, in his boring, unregulated monotone—of the government’s alleged achievements in the economy: what they have done in the past. There is nothing about tax in that! Film from some of the advertisements—paid for by Australian taxpayers and not by the Liberal Party—was inserted in his address to take the emphasis off the Prime Minister.

The Australian community is beginning to get fed up: $430 million is not enough to explain this tax; the Prime Minister has to command the airwaves tonight. He got it wrong in his ‘prepared for television’ electoral stunt. He did not use the time that he had available to explain his tax at all; he simply ran a pre-election teaser and tried to justify himself in an electioneering way to the Australian community. It is no wonder the brewers of Australia are running a campaign against this government to unmask its duplicity in misleading beer drinkers in Australia about the cost imposts that were to be achieved by the GST.

It is a clear matter of fact that the Prime Minister’s statement that beer prices need not rise by more than 1.9 per cent is untrue and that prices across the bar will go up between eight and nine per cent. It is a clear matter of fact that the major brewers, many of them conservative companies prepared to support the government—and hitherto unabashed supporters of the government—are conducting a public campaign against it because it has misled their customers. They are not responsible for the price rises that will ensue; the government and this tax are. It is a clear matter of fact that the brewers are paying, out of their own pockets, for ads to counter the taxpayer funded government propaganda; the Australian taxpayers are paying for what the government is saying to mislead those very taxpayers about the alleged benefits of its tax. Unfortunately, the rest of us will continue to pay when we cross the bridge from this current tax system to the A New Tax System. I do not commend the legislation to parliament; I will not oppose the legislation when it comes forward for a vote.

**Senator STOTT DESPOJA** (South Australia—Deputy Leader of the Australian Democrats) (10.32 p.m.)—The Democrats are broadly supportive of the measures that are contained in the Excise Amendment (Alcoholic Beverages) Bill 2000 and the Customs Amendment (Alcoholic Beverages) Bill 2000. We certainly support the items in the bills which form part of the introduction of the new system of alcohol taxation. We have long argued for the need for a rationalisation of alcohol taxation to bring the tax system in line with developments in the market and to reduce the impact of alcohol abuse on the community, so we support the government’s moves to introduce a new system of alcohol taxation which ties excise rates to the alcohol content of drinks.

We are very conscious of the impact of alcohol in our society and we think it is vital that all governments consider the health implications of changes to tax and excise treatment of alcohol. We have, as I say, expressed concern in the past about the current taxation treatment of alcohol products; a system that has allowed manufacturers to exploit different taxation treatment of alcohol products by producing drinks with relatively high alcohol contents that avoid excise because they are made with a wine base. The taxing of alcoholic drinks according to their alcohol content is preferable, we believe, from a health perspective, and the Democrats support this change accordingly.

We also strongly support maintaining the price differential between low-alcohol beer and full-strength beer. We believe that differential pricing provides an incentive to producers to produce quality low-alcohol products and incentives to consumers to buy low-alcohol products. The increase in the low-alcohol beer market over the last 10 years has been quite remarkable and now, I believe, occupies more than 20 per cent of the beer market in Australia. We believe this is a trend that should be encouraged. We have seen over the past two decades in Australia the dramatic reduction in the road toll that has, we believe, been achieved through a combination of public health campaigns and the use
of measures such as random breath testing to enforce blood alcohol limits. They are certainly measures the Democrats support. As I say, we are mindful of these health issues in relation to alcohol and taxation issues.

We support those items that relate to the home consumption of alcoholic beverages. Currently, Customs regulations must be amended every time someone wishes to enter an alcoholic beverage for home consumption in a bulk container greater than 20 litres. This creates unnecessary delays and we do not believe it is an appropriate use of public resources. Under this amendment, the CEO of Customs can permit certain alcoholic beverages for home consumption to be entered in containers that are greater than 20 litres, where this is appropriate. We believe this will create a more streamlined approvals process, and it therefore is supported by us. We also support item (8) that allows the decision of the CEO of Customs to be reviewed by the Administrative Appeals Tribunal. This will provide an appropriate level of scrutiny to ensure that this provision is not abused.

The Excise Amendment (Alcoholic Beverages) Bill 2000 establishes the legislative framework within which the alcohol excise changes will operate on 1 July. The rates of excise have been contained in excise tariff proposal No. 2, which is tabled in the House. An excise tariff proposal takes immediate effect but must be backed up by legislation within the year. We think it is a bit poor that the government can see fit to rush through the bill on definitions by 30 June but not a bill on the actual rates of excise. It would have been a minor drafting exercise to include the rates in this bill rather than in subordinate legislation, but instead the government has moved to utilise the provisions under the Excise Tariff Act to allow it to declare a rate until parliament acts.

This provision was designed as an anti-avoidance provision to allow new excise rates to take immediate effect while the government rushes the legislation. These conditions do not apply to the rates of alcoholic excise. These rates were announced in the budget on 9 May, seven weeks out from the date they were due to take effect. The government had seven weeks to get the new rates legislated, and this bill is the appropriate mechanism to achieve this aim. The Democrats conclude that the government is running a bit scared of the Senate because it knows that it does not necessarily have the numbers in this place in relation to its excise on beer. Certainly Senator Cook has made reference to that on behalf of the opposition tonight. So we have this ruse by the government, this abuse of the legislative instruments available to it. An unusual power, designed in an emergency as an anti-avoidance measure, has been picked up by the Treasurer to bully the Senate. His message is clear: this proposal will take effect for the full 12 months allowed under the law and then he will dare the Senate to vote it down.

That is an irresponsible way for a Treasurer to act. Effectively, $1.1 billion of revenue collected by the government from excises over the next year will be collected on the basis that one house of parliament—the Senate—does not support the rate of taxation. The Senate has made its view clear by passing a motion that opposes these excise rates. That is very much on record. The budget papers will now need to reflect this in the statement of contingent liabilities—that is, the fact that $1.1 billion of government revenue is at risk. I do not think the government in good conscience can actually afford to spend that money, given the Senate has expressed quite clearly its opposition to the government’s excise measure.

As has been stated, the Prime Minister made a clear promise about the price of ordinary beer: that it would not rise by more than 1.9 per cent. That promise has clearly not been kept. The Australian Hotels Association, with the approval of the ACCC, has recently advised its members on the rates that will apply from 1 July. It makes salutary reading on how well the Prime Minister’s promise, delivered on Sydney radio, has been kept for Sydney drinkers. A schooner of Tooheys Old will rise on 1 July from $2.80 to $2.98—that is, 6.4 per cent. Schooners of Hahn Ice and XXXX Bitter will rise by 20c, or 7.1 per cent. Fosters and VB rises by 21c a schooner—that is, 7.5 per cent. Carlton mid strength rises by 31c a schooner, or 11 per cent. And the light beers—Hahn, XXXX and
LightIce—will rise by 32c a litre, or 11.4 per cent, if you prefer.

The mid strengths and lights are affected also by the Carr Labor government’s continuing refusal to maintain the current rebates for low alcohol beer, and I will touch on that briefly in a moment. The draught beer prices are well above the 1.9 per cent ‘ordinary beer’ price rise predicted by the Prime Minister before the last election. I might add that the AHA pricing guide shows that the government has largely got right the price effect of bottled beer through the bottle shop. On a $30 slab the Tooheys strength beers fall in price on 1 July, XXXX rises by one per cent, and the Carlton beers rise by more—from about 1.8 per cent on Powers Bitter, to 1.9 per cent for Carlton Cold, to 2.2 per cent for a Carlton Draught and up to a top of three per cent for the premium stouts.

By and large, the government does appear to have set rates for bottle shop beer that are about right, give or take a few cents here and there. That is almost certainly because of the $150 million reduction in the beer excise rates announced in the budget six or so weeks ago. I cannot help but conclude that that reduction was a direct result of the Democrats’ strong statement on ensuring that the government must keep its promises on beer excise rates. The budget was a ‘fessing up’ by the Treasurer, admitting that the government’s original rates would not have delivered even the promises on cartons contained in ANTS. That reduction was welcome and necessary.

The Democrats do not support the excise rates for draught beer. This is clearly a broken promise, and a promise that we expect the government to keep. At present, five states provide rebates on wholesale sales tax for low alcohol beer—every state but Peter Beattie’s Queensland. But, of the five states providing a low alcohol rebate now, four have committed to keeping them: the coalition states of Western Australia and South Australia and the Labor states of Tasmania and Victoria. Premier Carr refuses to do so. We find that scandalous. His government recently declared a $600 million budget surplus. They could find the $140 million to prop up Michael Knight’s SOCOG efforts, but they cannot—or will not—find the funds to pursue a very valid public health consideration of making low alcohol beer price effective. The Democrats believe that Premier Carr’s attitude on increasing taxes on low alcohol beer—because that is effectively what the New South Wales government will be doing from 1 July—requires reform. I hope that the Treasurer does follow up on his threat to impose low alcohol subsidies on New South Wales, if needed, by a federal subsidy grant scheme, and obviously dock New South Wales for the bill.

In conclusion, I am disappointed that this government has decided to treat the parliament and its processes effectively with contempt and to treat as fools Australian beer drinkers when it comes to beer excise. The rates should be in this bill so that parliament can decide the rate of taxation, rather than in a regulation of uncertain duration. Most importantly, the government’s commitments to ordinary beer should be honoured in full. Ordinary beer remains ordinary whether it comes out of the bar or the bottle shop, and the 1.9 per cent rise commitment should be kept for both.

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (10.43 p.m.)—I thank all participants in this debate and commend the bills to the Senate.

Question resolved in the affirmative.

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

APPROPRIATION BILL (No. 1) 2000-2001
APPROPRIATION BILL (No. 2) 2000-2001
APPROPRIATION (PARLIAMENTARY DEPARTMENTS) BILL (No. 1) 2000-2001

Second Reading
Debate resumed from 22 June, on motion by Senator Boswell:

That these bills be now read a second time.

Senator CONROY (Victoria) (10.44 p.m.)—The budget outlined in these bills is based on accounting scams and bottom line...
deceptions. Labor identified three scams on budget night, and each of these scams has been acknowledged by either the government, bureaucrats or by academia as a scam. The first scam is the treatment of the sale of digital spectrum. The government is treating the sale of this asset as revenue. This is wrong. The government said it would not include asset sales in its bottom line. The Prime Minister used to believe that counting asset sales as revenue in the budget was wrong. In May 1995 he said:

I have very strong beliefs that what will happen is that the Government will bring in a phoney balance. It will produce a budget where there is a balance but it will arrive at that balance by including the proceeds of assets sales, which of course is a phoney way of arriving at a balance ... I would imagine that the public will see through that, and will be very angry at having been deceived by the Government.

The government should not have included the sale of digital spectrum to boost its bottom line. This has been confirmed by Treasury. In Senate estimates on 3 May 2000 I asked Greg Smith, Executive Director of the Budget Group at Treasury, how the sale of digital spectrum should be treated. He said:

That is analogous to the land case that I was referring to, so they would be in the underlying figures.

That is, the proceeds from the sale of digital spectrum should not be in the headline figures but included in the underlying cash or accrual budget results. Scam No. 1: the Treasurer is disproved by his own department. How can the Treasurer be believed? This budget surplus is a phoney.

I turn now to the second scam identified by Labor on budget night: the treatment of the $1.65 billion GST compensation package to the states. On budget night the Treasurer claimed the GST compensation package to the states should be treated as a loan and not an outlay. This is nothing more than a scam. The Treasurer, Mr Costello, cannot legitimately name one state Treasurer or Auditor-General who supports his position.

Mr Foss, the Western Australian Liberal Attorney-General, said in reply to a question as to whether the balancing loan of approximately $150 million being paid by the Commonwealth to the state in 2000-01 was a grant from the Commonwealth. He said:

Yes, this reflects that the ‘loan’ is interest free and that the Commonwealth will provide a grant in 2001-02 to cover the cost of repaying the ‘loan’. The state budget treatment is considered to be consistent with the relevant accounting standards and is supported by the Auditor-General. Victoria’s budget, handed down on 2 May, also treats this payment as a grant. It is understood that other states will do likewise.

The Commonwealth Deputy Auditor-General also doubts the way the Treasurer classified the GST top-up money. In estimates on 24 May he said, in relation to the treatment of the GST top-up by the state Auditors-General:

Certainly I could venture to say their views were based on the accounting standards. There is no question about that.

Later, Mr McPhee said that he agreed with the compelling nature of the views of the state Auditors-General. What the Auditor-General does is look at the economic substance of the transaction. He is not interested in the flim-flam that the government supplying the accounts wants to put up; he actually looks at the economic substance. It does not matter if you disguise it, if you call it black when it is white, the Auditor-General’s role is to see through that deception and account for it in its true and proper method. So scam 2 was exposed. I expect that the Auditor-General will, like last year, have to qualify the accounts of the governments. So this will be the second year in a row that this government has actually had the whistle blown on it by its own Auditor-General for its shonky accounting practices.

Senator Bartlett interjecting—

Senator CONROY—It is no surprise to see the Democrats laughing at this sorry situation. It is no surprise at all. The third scam is the treatment of the dividends the government received from the Reserve Bank. Last financial year the RBA made billions of dollars in profits, most of which was passed to the government and accounted for in last year’s budget. However, almost $700 million of the 1999-2000 Reserve Bank dividends have been shuffled into the 2000-01 financial year. Why has this been done? It is obvious:
it is to make the books look better than they actually should. But when was the money received? Mr Battelino, an assistant governor at the Reserve Bank, was quite clear. He said at a committee hearing of the superannuation and financial services committee:

The rules there are very clear. All the profits of the bank each year, after allowing for any reserves the bank might need to top up to allow for contingencies, are passed over to the government ... Basically, we just distribute everything that we make every year.

The Treasurer has been caught once again cooking the books. All of the three scams identified by Labor on budget night artificially boost the budget surplus. The budget bottom line is a $2.1 billion deficit. The budget surplus the government announced is a fake; they are in deficit.

We also should not forget that in 1997-98 the government projected a surplus for 2000-01 of $11 billion, an amount considerably larger than the $2.8 billion announced on budget night and the $2.1 billion deficit estimated by Labor. I ask the government: where has the budget surplus banished to? Further, this deterioration has occurred during a period of sustained economic growth. The structural budget which removes the influences of the business cycle is even worse. Access Economics has stated that the structural budget is in a deficit of $5.6 billion. The government have been caught talking tough on fiscal policy but have delivered a $2.1 billion deficit and a $5.6 billion structural deficit. This budget is all about the GST. The budget surplus has been squandered to bring in a GST. The government have made various claims in relation to the GST in this budget and, like so many other claims they have made about the GST, they are false. The GST is simple: false; the GST is fair: false; the GST is a state tax: false again, Mr Treasurer.

The Treasurer wants to have the Australian public think the GST is a state tax. I ask the government: why is the Treasurer denying the GST is his tax? Is he not proud of it? The GST is quite clearly a Commonwealth tax and should be classified as such in the budget. Once again, if it were needed, we have the proof. It is a tax imposed by the Commonwealth parliament; it is collected by the Australian Taxation Office, a Commonwealth government agency; and it is classified as a Commonwealth tax by none other than the Australian Bureau of Statistics. They are not going to be in on this scam; they are not going to be in on this con; they have called a spade a spade. It is a Commonwealth tax. Mr Edwards, First Assistant Statistician, Economic Accounts Division of the ABS, quite clearly said at estimates last month:

It is a Commonwealth tax as far as the ABS is concerned in our statistics.

Why does the Treasurer not want to call the GST a Commonwealth tax? Because he wants to fiddle the figures to make them appear as though he is reducing tax. If the GST is not the Treasurer’s tax but the states’ tax, it will not show up in the Commonwealth revenues as a proportion of GDP. But it is a Commonwealth tax and, once the GST is included in the budget, it is quite clear that the Commonwealth tax take as a proportion of GDP is at record levels. Including the revenue from the GST, the Commonwealth tax take as a proportion of GDP is 23.6 per cent, and that makes Mr Costello the biggest taxing Treasurer in more than a decade.

Then there are the promised income tax cuts to compensate for the GST. This is the biggest con of them all. Figures in the budget make it quite clear that the government is grabbing them back. If interest rate increases have not already eaten your income tax cuts, the budget papers reveal that anything that is left will be clawed back after just one year. Labor revealed on budget night that the estimates of taxation revenue in the budget show that the government will recoup the income tax cuts after the first year. For the financial year 2000-01, the budget papers estimate that revenue from personal income tax falls by 10.2 per cent. But this is offset in the financial year 2001-02 when revenue from personal income tax rises by 10.9 per cent. And only two years after the introduction of the GST, Australian taxpayers will be paying $5.1 billion or around $600 per year more in income tax than they pay now. The income tax cuts are gone, but the GST is here forever.

Labor has not been alone in identifying this con. Professor Ann Harding has said that bracket creep will mean that the tax cuts due
in July will be completely wiped out for average workers within three to four years. This government should come clean on the income tax cuts. The advertisements currently littering our TV screens and newspapers should be stopped. The government has hit the Australian people with a massive new tax, and the compensation will disappear all too quickly. The compensation is also not enough. Earlier this week, ACOSS released a study analysing the size of the tax cut. ACOSS concluded that households in the top 20 per cent income bracket will make substantial gains from the package, most middle income households will make more modest gains, while most low income households will tread water financially. The report further states:

However, some low- and middle-income households will inevitably be worse off. ... In effect, $6 billion more is raised each year from regressive taxes on consumption to pay for income tax cuts for high-income households.

Let us ask the actors on the GST ads what do they think now? Are they still feeling comfortable? Do they still want to give it a go?

These bills reveal other inaccuracies associated with the GST. As was revealed on Tuesday by Mr Hockey, petrol companies do not have to pass on anticipated cost savings. The implication of this is clear: the government will not be able to keep its promise that petrol prices will not rise after the GST. Mr Howard has broken his promise, made in April this year, that the price of petrol will not rise as a result of the GST. Mr Costello has broken his promise, made in 1998, that the new tax system would not lead to any increase in petrol prices. This was always an obvious result.

Senator Bartlett—You’ve convinced me. I’m voting against it.

Senator CONROY—If only that were enough, Senator Bartlett. There is no legislative power to require companies to pass on anticipated cost savings; there is no legislative power to require businesses to suffer losses until cost savings are realised. However, the government has extracted anticipated cost savings from its own departments. These departments have now found that their budget has been cut with the mantra that cost savings will result from the implementation of the GST. However, those departments know that those savings will not be realised immediately. The Australian Bureau of Statistics, in reply to a question taken on notice at estimates in May, stated:

The ABS Budget was cut by 1% in the 2000-2001 budget round ($2.6m, $3.5m and $2.4m in 2000-01, 2002-03 and 2003-04 respectively.) This was in anticipation of savings which the agency was expected to achieve as a result of the net effect of the new taxation arrangements on the prices of the goods and services it purchases. The anticipated price changes and associated savings, represent the net flow-on effects of the introduction of a broad goods and services tax and elimination of pre-existing wholesale sales tax. Savings are therefore likely to occur gradually after the introduction of the new tax arrangements.

The Australian Securities and Investments Commission said the same. Mr Cameron, Chairman of ASIC, was very clear. He said:

What is true is that there is a reduction of around $2.3 million in the appropriation this year which is due to the abolition of the wholesale sales tax. It is a projected reduction which has been applied uniformly across agencies that presently pay sales tax ... It is supposed to reflect the lesser amount we will need to spend ... It was a calculated amount for the commission, based on the projection of what would eventually be saved in the system by the abolition of wholesale sales tax.

I ask the government: what will be the implications of these funding cuts for the delivery of services by those departments? Will the ABS be able to maintain its standing in the statistics community and continue to be ranked among the very best of statistical agencies in the world? Will ASIC be able to enforce the provisions of the Corporations Law, or will the corporate cowboys reign?

This budget is about the GST and only about the GST. The government is pursuing the GST blind to the effects on small business, blind to the effects on consumers and blind to the effects on the delivery of government services. The latest Yellow Pages business survey shows that small business confidence has plunged dramatically to its lowest level since the recession. Small business cannot comprehend the GST—it is just too complex.

This budget fails to address the concerns of small business, and the cost will be lower growth. This budget will also deliver higher
inflation. Despite its promise, we now know that, due to the GST, inflation will spike at 6.5 per cent in the September 2000 quarter. That is the government’s forecast of inflation based on a set of very favourable assumptions—an inflation rate of 6.5 per cent. The bills today also reveal additional funding cuts to a number of government agencies. I will talk only about funding cuts to ASIC. My colleagues will be discussing other areas. In an internal memorandum after the budget was announced, ASIC stated that it must reduce its overall budget by about $7 million. That is a substantial cut to its funding. Within that reduced budget, ASIC must also provide for all newly emerging work, including that from law reform. These funding cuts follow what can only be described as a plea for help in ASIC’s last annual report. The annual report stated:

... we are under strain ... The increasing volume of our traditional work is outpacing our capacity to deliver. Our core funding has not increased ... we may now have too few staff on the ground to achieve the outcomes we and the government want.

The government has responded to that plea for help by further cutting funding to ASIC. The government is so driven by the GST that it is willing to risk the confidence in and the integrity of Australia’s financial markets. ASIC’s internal memorandum states that, due to the funding cut, it will be discontinuing the regional small business program from 1 July 2000. This will cut about 40 staff positions. In a letter to the Australian Financial Review on 21 June 2000, the Insolvency Practitioners Association of Australia expressed its concern about any cuts to the small business program. The letter stated:

As a result, more directors of small companies will be encouraged to avoid the provisions of the Corporations Law and the level of malfeasance, fraud, fraudulent gifting and insolvent trading will increase to the detriment of creditors and consumers, and ultimately to the detriment of the economy.

The Chairman of ASIC has also admitted that ASIC will not be able to prosecute all the cases of corporate fraud and malfeasance that they should. He said:

We may prosecute fewer cases, especially smaller cases ... it simply is unreasonable of the commission to expect a smaller number of people to deal with the same number of cases so we will deal more selectively ...

The message here is simple: commit only a little bit of fraud or a little bit of corporate crime and ASIC will turn a blind eye—not because it wants to but because the government has denied it the necessary funds in order to introduce the government’s GST. This obvious truth is also acknowledged in the internal memo from ASIC discussing the budget cuts. It states:

... small business operators must adjust to a new tax system. They will face many new compliance pressures, and there is a reasonable case for us to ease back, at least in the coming year.

But let me mention one department which will not be having its funds cut but will be receiving a large boost in funding. The ACCC is receiving an extra $20 million for the administration of the Trade Practices Act, the Prices Surveillance Act and related law. Why? There is only one reason—the GST. This is a budget to drive home the GST. Despite what the Treasurer may say, this budget has at its heart and soul the GST. This budget is based on accounting scams and bottom line deceptions to hide the truth. (Time expired)
dia this week of a directive issued by Centrelink to its employees titled ‘Now or never’ in which employees are instructed to tell job seekers that, if they do not find work in Sydney this year, they never will.

We are used to a punitive approach being adopted with the handling of job seekers in this nation, and the Democrats believe that job seekers are harshly treated and often vilified by this government, a government which continues to introduce inappropriate measures, such as the preparing for work agreement, which recently came into effect. But what this directive makes clear is that the concept of mutual obligation is utterly obsolete as far as this government is concerned. There is no mutuality in this sort of approach. This document actually contains the extraordinary instruction:

Tell marginalised jobseekers: If you can’t get a job in 2000 in Sydney, you’ll never be able to get one. You are not serious about getting a job.

The economic boom in Sydney has been evident for some months now and is certainly driven by the Olympics. I think that is broadly acknowledged. Whether it will continue after the athletes head home is a matter of debate.

The decline in unemployment in Sydney is partially due to this job creation, but that is only half the story. The other is the job readiness of job seekers in the Sydney labour market. There is no doubt that most of the job ready have found work. The Sydney unemployment rate is down to 5.5 per cent from 6.1 per cent since March last year. This is the clearest evidence that those who can find work indeed have. Unlike other Australian cities, Sydney has a labour market which is performing very well, but it has a long-term unemployment rate which is actually higher than the national average. The importance of this should not be underestimated.

What kind of people might not be finding work? Who are these marginalised job seekers who are so hopeless that they cannot find work in the middle of Sydney’s jobs boom? A classic example would be, say, a 48-year-old white-collar worker who has worked at the same location for some years but whose employment was renegotiated a couple of years ago and who has been working on a contract basis since. At the end of the last term of contract, it was not renewed. So they look for work for a number of months without success, running down their savings to the point where they qualify for Newstart. They walk into their local Sydney Centrelink, where they will now be presented with a preparing for work agreement, which tells them all the penalties they are liable for and the myriad ways they can be found in breach. They are warned that they must turn up for every meeting that Centrelink requests.

Because they are under 50, they do not qualify for the reduced reporting, so they must fill in a dole diary and, because they are in Sydney, this means applying for 10 jobs per fortnight. They are directed to the Australian job search terminal in the Centrelink office as a good place to start looking for jobs in the Sydney area—and surrounding areas, because they have to be prepared to travel for an hour and a half for work. But it is all academic because, although there were 1,026 new jobs listed in the Sydney metropolitan area yesterday, most were for jobs like bar staff, call centre workers, receptionists or apprentices, and a 48-year-old former white-collar worker is not necessarily the ideal candidate for this type of work.

But they persist. They put in their 10 applications per fortnight without success. If they qualify for intensive assistance when they walk through the door, they are given five days to find a Job Network agency—completely undermining the government’s farcical claims that user choice governs this system—which will hopefully give them support and some training while they are looking for work. Even with a call centre training course or computer skills training, it is hard to compete with many of the younger job seekers flooding into the Sydney labour market, which has a participation rate which has increased by 0.3 per cent since March last year.

They may be someone with learning difficulties, English may be their second language or maybe they have a mental illness—in other words, most of the people who cannot find work in Sydney generally have a good reason which qualifies them for intensive assistance. Job Network agencies have their
own strong incentives for finding jobs for their intensive assistance candidates, with funding being redirected towards the Work for the Dole scheme. But eligible candidates continuing to present themselves and the up-front payments that these agencies receive when a candidate signs on are not enough to keep the business viable, and this is the debate we have had over the last couple of years in relation to the funding of the Job Network agencies.

I have pointed out many times in this place the redistribution of payments in the second Job Network tender round, decreasing the up-front payments to agencies and making their provision of assistance viable only if they get an outcome—in other words, if the person stays in work for 26 weeks. How Centrelink can maintain that job seekers, who must apply for 10 jobs a fortnight and submit to regular evaluations by Centrelink, are not being pressured into actually seeking work is beyond me. They may be fulfilling all of those things and yet there is the suggestion—as a consequence of this directive—that, if they cannot find work, it is their fault and they are not really looking for it. That is what that memo suggests.

The government has introduced the most stringent job search requirements, in conjunction with cuts to income support, in Australia’s history—the worst ever. As a consequence, we were last week downgraded by the International Labour Organisation from a country that treats its citizens well to the middle rung of countries, behind most of continental Europe. The Centrelink document to which I referred earlier is evidence of the mania which pervades Centrelink for hounding, vilifying and breaching job seekers. I do not underestimate the level of pressure that Centrelink staff are under.

Rather than the agency responsible for providing job search support and information to unemployed people, there is no doubt that Centrelink is being used to raise funds from job seekers through fines which are proportionately higher than for many criminal offences in this country and to implement a mutual obligation regime aimed at reinforcing downward envy and the negative stereotypes of job seekers. These are reinforced on a regular basis with ‘dob in a dole bludger’ and dole bludging stereotypes. A report released this week by the Dusseldorp Skills Forum—to which I referred on Monday evening—which is a comparison between mutual obligation schemes in the UK and Australia, noted:

What is notable about the operation of Australia’s mutual obligation arrangements is the emphasis on requirements or obligations without any strong focus on the purpose for so doing. Mutual obligation arrangements in Australia appear to be primarily a set of administrative hurdles presented to the job seekers to test their good faith in seeking work.

This echoes the criticisms of mutual obligation, and the Work for the Dole program in particular, that were made by the OECD last year. The federal government must bear responsibility for the climate of job seeker vilification now endemic in the community and within certain sections of Centrelink. Instead of a mutual obligation relationship based on trust and goodwill, with the community and government offering support, training and assistance to job seekers to help them become job ready and able to take up employment opportunities fostered by good industry and economic policy, we have this cruel perversion.

Job seekers are subjected to ever more stringent testing of their commitment to finding work. The government refuses to develop industry and economic policy to create employment and, across the nation, those people unable to find work or unable to take it up are scapegoated. Coming a week after the claims of the Minister for Family and Community Services, Senator Newman, that unemployment has the potential to cause social unrest among disaffected job seekers, the leaked Centrelink directive should serve as a timely warning to the government that its negative stereotyping of job seekers has gone too far.

In the remaining time, I would like to refer to another part of the appropriations bills. It deals with the appropriations for the Foreign Affairs and Trade portfolio. I note that, within the bill, there is provision for: Australia’s national interests promoted and advanced through contributions to international se-
curity, national economic and trade performance
and trade cooperation.

It also provides for the Australian Agency for
International Development, stating:

Australia’s national interest advanced by assis-
tance to developing countries to reduce poverty
and achieve sustainable development.

It also provides for the Australian Centre for
International Agricultural Research and the
Australian Trade Commission. In light of the
approach of the two old parties to trade, it is
questionable whether these outcomes are be-
ing achieved at present. The outcomes in re-
lation to the Australian Centre for Interna-
tional Agricultural Research are described as:

International agricultural research partnerships
that reduce poverty, improve food security and
sustainably manage natural resources in develop-
ing countries and Australia.

The outcome described in relation to the
Australian Trade Commission is:

Public understanding of Australia’s trade and in-
vestment direction, Government export pro-
grammes and promotion of Australia’s image in-
ternationally.

We could all question whether those out-
comes are being met and whether they have
any better chance of being implemented un-
der a Labor government. This week, the
ACTU supported a proposal that govern-
ments be lobbied to include internationally
recognised labour standards in future trade
negotiations. It is a measure of the paranoia
regarding trade policy, perhaps on both sides,
and often the inability of our media to engage
in a mature, considered debate over trade
policy that this was immediately denounced
as a return to the dark days of protectionism.

Given the mildness of the proposal, the
same as that advocated by US President Bill
Clinton and by the UK at the Seattle WTO
meeting and practised by the EU for some
years now, this knee-jerk reaction is some-
what perplexing. It is especially puzzling
given the widespread public scepticism to-
wards the haste with which Australia em-
braced free trade. Under Labor, Australia
dismantled its trade barriers at a faster rate
than any other nation, without demanding
matching commitments to free trade by our
trading partners. And we continue to do so
under this government, to the extent that our
Ambassador to the United States was moved
earlier this week to express his frustration at
the continuing international inequities.

So many jobs have been lost it is no won-
der that the Australian trade union move-
ment, representative of so many workers, is
calling for a pause. It is one thing to lose jobs
because our industries are uncompetitive or
inefficient; it is quite another to see industry
and investment move offshore because work-
ers in other nations may be exploited and
maltreated. Australia is the proud signatory to
a number of international standards of human
rights, and these necessarily include workers
rights. Why should we not stand up for them?
Why should we let other nations advance
themselves on the basis of their continued
exploitation of workers and, in some cases,
children? Other Western nations have recog-
nised that certain standards must be upheld,
even if this gives rise to claims that non-tariff
barriers are being imposed.

If, as the argument goes, free trade must be
entered into so that developing nations may
undergo their own industrial revolutions, why
has there been so little economic progress in
those nations over the past decades? If our
arguments for opening up trade relations with
hitherto abhorred regimes have been on the
basis of so-called constructive engagement,
why do we now refuse to engage in matters
other than trade? Why are we so fearful of
actually enforcing the very human rights and
labour standards we committed ourselves to
upholding? I fail to see how nations with lit-
tle else but their natural resources and cheap
labour to exploit will have any real demo-
cratic process unless the stakes are raised—
even slightly.

Globalisation is indeed generating wealth,
but this growth is merely exacerbating the
divide between rich and poor in developed
and developing nations alike. For the past
decade, the free trade agenda has championed
the opening of developing markets to foreign
imports, arguing that the corresponding ac-
tess to developed markets would more than
balance the profits that Western corporations
stood to make. This manifestly has not
eventuated. Instead of peasant farmers find-
ing themselves able to market their produce
to, say, urban yuppies in Western societies,
they have not been able to overcome the hurdle of competing against imports flooding their own domestic markets. Multinational corporations take over land, forcing traditional farmers off—poverty and malnutrition result.

Bangladesh was cited at Seattle as a global free trade success story, but the figures tell a very different story. According to this argument, average annual growth of 3.5 per cent, up from two per cent in 1985, is evidence of the increased prosperity that globalisation has brought. Of course, this ignores the growing poverty on the land. In Africa, as another example, income per person grew by a third between 1960 and 1980 but fell by a quarter in the succeeding decades as liberalised trade and investment grew. In Latin America, income per capita grew by 73 per cent between 1960 and 1980, and then by less than six per cent between 1980 and 1997. Only some Asian countries have been able to reduce poverty levels, although this has been largely due to their extensive use of trade restrictions and government economic intervention.

A World Bank paper entitled ‘The simultaneous evolution of growth and inequality’ by Lundberg and Squire showed that a greater openness to trade is ‘correlated negatively’ with income growth among the poorest 40 per cent of the population but ‘strongly and positively’ with income growth among the remaining 60 per cent. These researchers sampled 38 countries between 1965 and 1992 and found that the costs of adjusting to free trade are borne exclusively by the poor, regardless of how long that adjustment takes.

I think the issue of fair versus free trade is a timely debate. It is one that I look forward to having in this place. Certainly, it is one that we all look forward to reviewing perhaps at one of the political party conferences over the next few months. I am sure it will be a matter of controversy but I hope it will be a matter of good outcomes as well.

The speech read as follows—

APPROPRIATION DEBATE

29.6.00

On 27 March this year the Managing Director of Australian National Opinion Polls, Rod Cameron, addressed the ‘Moving Australia’ conference at the Hotel Sofitel in Melbourne.

The attendees were from the petrol and motoring sectors.

Rod Cameron told the gathering—‘petrol prices are always a slumbering issue in Australia.’

He said, however, that ANOP’s latest polling—at the end of last year showed the petrol was truly wide awake.

Mr Cameron said: ‘Today the issue of petrol prices is on the political agenda big time.’

He said the issue of petrol prices is much stronger in regional areas.

And he said for Australians petrol for their motor cars is regarded as one of the essentials of life.

Rod Cameron has a well earned reputation for being deadly accurate and his view on attitudes to increases in petrol are no exception.

Since Rod Cameron delivered that speech Australians have increasingly turned their attention to the GST and how it will impact on their daily life.

They have also turned their attention to the promises the Prime Minister made to them about the impact of this new tax on everything.

One of those key promises related to petrol.

Mr Howard promised everyone petrol prices would not increase as a result of the GST.

It is now clear that he cannot deliver on that core promise and he is trying unsuccessfully to transfer responsibility for his failure to the oil companies.

The National Farmers Federation has always been a strong supporter of this Government and its tax agenda.

The close relationship between the NFF and the Howard Government is best illustrated by its decision to assist the Government on its ideologically driven campaign to smash the Maritime Union of Australia.

I would be interested to know what the benefits to farmers from the Dubai fiasco have been to date.

After all, the farmers own money was used by the NFF in that exercise.

Based on the latest government data productivity on the docks has fallen and the reliability of shipping services has deteriorated over the last six months.

Freight rates have also increased.
Based on that data-official government data-farmers are now worse off, not better off. Thank you NFF.

As I said the NFF backed this tax package. It argued about some of the detail but it locked in behind the Government on tax just as it locked in behind the campaign to smash the MUA.

On page 11 in a publication titled “The Farmers’ ABC of GST” dated July 1999 there is a heading “Changes to fuel excises” A question is posed-Will I pay more for fuel? And the NFF answer is “No”. This is not correct.

Just as farmers were misled by the NFF about the campaign against the MUA on the Australian waterfront they have also been misled on what will happen to petrol prices after 1 July. However, in relation to petrol prices it appears that the NFF itself-like many other industry organisations-was also misled by the Howard Government.

The President of the National Farmers Federation, Ian Donges, is now trying-belatedly-to force the Government to honour its promise that the introduction of the GST would not force petrol prices up.

Mr Donges was reported in the press as saying—“The bottom line is that it’s the Government’s responsibility to ensure that the cost savings achieved by the oil industry, and the excise reduction, will transfer into no price increase.”

Mr Donges is wasting his time because while he was calling on the Government to honour this key promise to Australian farmers and everyone else the Minister for Financial Services and Regulation, Mr Hockey was all but conceding petrol price rises.

This is what the Minister said, “If the ACCC comes to the conclusion that petrol prices are not unreasonable or petrol companies are not exploiting consumers, then that is totally appropriate.”

And if you go to the ACCC Price Guide you will find it shows no increase at all for petrol.

And the reason given by Professor Fels was that he expected the Howard Government to keep its promise.

So Mr Howard has misled everyone and he will pay dearly for it.

There is little point is blaming the Treasurer, Mr Costello, for this broken promise. This is very much the Prime Minister’s own work-this commitment was his commitment. And this broken promise is his broken promise.

But there is another very guilty party in all of this and that is the National Party.

The record of the National Party in the Howard Government has been nothing short of a disaster starting with the 1996 budget which saw key program designed to help people in the bush financially gutted.

Part of the problem is the National Party has for years just taken for granted political support from the bush.

But you don’t have to take my word for that. You can go to the former Senator Bill O’Chee for confirmation of what I am saying.

In March last year Mr O’Chee told ABC radio that the National Party would recover from the political hiding it had just suffered in NSW. He said the National Party would recover from that election debacle because the National Party was the only party that could deliver to regional Australia.

He said—“that is why we will be as indispensable in the future as we have been in the past.”

As I have said in this place before it seems to me that at the point when a politician-or a political party for that matter-decides that he or she is indispensable, they are exactly the opposite.

The National Party has been in decline for some time but is failure to protect the bush from the worst excesses of the Howard/Costello city centric approach to Government has hastened that process.

Senators would recall that it was forced to close down its newly constructed national headquarters in Canberra-Sir John McEwen House-only one year to the day after it was opened by Sir John’s widow Mary on 8 November 1996. And the Party’s five Canberra based staff were given notice to quit.

That occurred in part because financial support for the party was collapsing. And things have deteriorated since then.

But the failure of the National Party members of the Howard Ministry to ensure that there would not be an increase in petrol prices in regional Australia as a result of the GST is by far its worst mistake.

As I said earlier Rod Cameron told the motor and petrol industry in March for Australians-particularly Australians living outside the big cities-petrol for their motor vehicle is considered to be one of the essentials of life.
The GST on petrol—and everything else for that matter—is nothing short of a disaster for regional Australia and it will spell the end of the National Party.

Senator WEST (New South Wales) (11.20 p.m.)—I rise tonight in this second reading debate on the package of appropriation bills to address several issues in relation to health matters. I start off by first of all being critical of the ministers for health in relation to good governance. Recently the estimates report of the Community Affairs Legislation Committee was handed down. That was very critical of the ministers for their lack of timely replies to questions placed on notice. This was a unanimous report by the committee. The only reason we received a number of the answers on the day of the estimates hearing was that the chair of the committee went around to the ministers' offices and threw a wobble, to put it mildly—basically informed them that they were not doing the right thing.

It is interesting to note that one of those ministers is the Minister for Aged Care, Mrs Bishop. Some of us who have been here in the Senate for a number of years have very vivid recollections of Minister Bishop as a senator being very strong in estimates about good governance and getting answers. Maybe it is about time Minister Bishop read some of the questions and some of the comments that she made about good governance, accountability and answering questions when she was in the Senate and had a think about what she is doing now. Her behaviour in not encouraging her office to respond and to action the answers that are coming from the department pretty much on time—just leaving them there to rot or having pups in her office deal with them at their whim when they feel like it and not getting them ticked off when they come back from the department—is the sort of thing for which she would have kept a committee sitting until 4 o'clock in the morning through her questioning.

I think it is very remiss of Minister Bishop to have forgotten her behaviour when treatment that was far less severe was given to her. I urge the minister to remember her performances in here when she was an opposition senator and the priority that she now appears not to place on giving answers to this place. She has obviously forgotten the role, the power and the importance of the Senate. On occasions, I think some committee members feel that we are almost being treated with contempt and our right to have an answer to a reasonable question is being ignored.

In the budget we saw many words written about the shortage of doctors and what this government is going to do to overcome the shortage. The issue within the health system that is far more grave than the shortages of doctors is the shortage of other health professionals, particularly registered nurses. An article in today’s *Western Advocate*, the paper in Bathurst, reported on a visit yesterday by the state Minister for Health and representatives of the nurses association. They are on a campaign to recruit more nurses. The minister is quoted as saying that there are 5,000 nursing vacancies in Australia and 1,300 nursing vacancies in New South Wales. Those vacancies need to be filled now and in the long term. He goes on to say:

> There are many reasons for these vacancies including competing career decisions, HECS charges, reductions in places in universities and the old-fashioned perception of nursing.

The minister states further:

> The NSW Government is actively pursuing nursing workforce issues including education and training and HECS fees.

The New South Wales government provides well over 100 scholarships to the value of $630,000, especially to high school and mature aged students from rural areas. It is this Commonwealth government that has the funds for higher education. If the places are being cut, the Commonwealth government has to answer to that. It has put in place incentive schemes which pay the HECS for doctors undertaking medical training at university. It seriously has to look at what it is going to do to encourage more people to train as nurses. In rural areas, there are huge shortages in physiotherapists, speech therapists, occupational therapists, dieticians, podiatrists, counsellors, social workers—you name it, any health professional.

Whilst it is fine for the federal government to say, ‘Oh, we’re worried about the shortage of doctors, we’ll do something about it,’ they
also have a responsibility to make sure that an adequate number of people are being trained in the other health professions. A good health system does not just mean acute hospital beds and doctors. Good health systems run with multidisciplinary teams, with a range and variety of services and certainly adequate acute beds and adequate theatre places. But you need rehabilitation places, counselling services and a whole range of community services.

Many people do not need to have their health care needs met by being admitted to an acute public hospital or even an acute private hospital. That is the most expensive option. This government dismisses at estimates that it has any major role in solving the health professional shortages in any profession other than doctors. I say to this government that it is going to have to rethink this position and address the issue because the shortage of health professionals, not just doctors, is one that we all have to face. There is no point in the six states and two territories busily addressing the system and reinventing the wheel six or eight times. If you actually have work force committees and attack the issue from a national level, you can pool all the resources and come up with better programs and outcomes.

This has been an issue in the ACT of recent times. Nurses have been complaining in the media about how often they are required to work double shifts. This is all due to the shortage of staff. This shortage of staff resulting in people working double shifts in areas that are quite stressful must have a deleterious effect upon the standard of care that they are giving and that they want to give. Certainly that is the case from my recent experience for people in nursing homes. This is due to the changes to aged care that this government has introduced. The pressures and workload on the nursing and the assistant nursing staff have increased immensely and they are not able to give the care that they wish to give. It is very important that this government actually starts to address this issue and not dismiss it as one for the states alone. If we are going to have a decent health system in the future, we have to have adequately trained health professionals in all professional groupings, not just doctors.

Here we have another issue in the health sphere. I quote here from an article appearing in the Northern Daily Leader, a Tamworth newspaper. A Mr Barry Bryan from Murru-rundi who is keen to establish a new lymphoedema support group prompted this article. He and others are very concerned that:

... private health funds are introducing policies to prevent sufferers gaining adequate access to treatment.

As I have said, Mr Bryan comes from Murru-rundi, but I have also received complaints about this from the south-east area of New South Wales. Mr Bryan has been a member of MBF for several years. The article states:

At present, only a few NSW hospitals have specialised lymphoedema treatment programs and they are all based in Sydney. Despite having to travel for treatment, Mr Bryan has always been fully covered by MBF for his lengthy hospital stays.

However, in a tender currently being presented to hospitals, MBF has proposed to offer coverage for only ten initial treatment sessions and five sessions for every calendar year afterwards. Mr Bryan says this is not enough.

The article then records Mr Bryan as stating:

I'm a patient at Mount Wilga Private Hospital in Hornsby, and the initial treatment for just one limb there takes a month of daily therapy sessions. The new policy only covers one third of that ...

He is very critical of that. Lymphoedema, I should add, is a debilitating condition that occurs when lymph nodes are removed, damaged or become defective. The lymphatic system is the drainage system around the body, and its fluid protects the body from infections. But, without the nodes, the fluid builds up in the body causing pain, bloating and eruptions. It is often associated with women who have had a mastectomy if they have had the lymph glands removed from under their arms; they may well have lymphoedema of an arm and require treatment. There is no cure but, with early intervention, the effects of the disease can be decreased. But this is a flow-on from the government’s health policies. I have grave concerns about this government and its health policies.
That leads me on to the issue of Medicare and bulkbilling. Increasingly I am getting reports from around this state of doctors not bulkbilling, or choosing to bulkbill only some of their patients—and then only some of their pensioner patients. It used to be that most doctors bulkbilled all of their pensioners and health card recipients. But these days, in a number of places around the Canberra area and in the southern health region of New South Wales, numbers of doctors’ practices in towns are choosing to bulkbill only some of their pensioner patients, not all. I have had complaints from Goulburn, I have had complaints from the South Coast around Moruya.

I have now had a complaint from the Riverina, in Wagga. There, an elderly person, a woman on an aged pension, required an ultrasound. She trotted along to have the ultrasound because her doctor had ordered it, and she was told that it would cost her $170 up-front. Why? Because of the government’s changes to the rates of reimbursement on ultrasound, the Wagga Medical Imaging Centre—which is the name it trades under, but it is actually the Riverina Medical Imaging Group—has chosen not to bulkbill anybody for ultrasound. It is very worrying to see this erosion in bulkbilling occurring, with elderly people on limited incomes being asked to pay $170 before being able to have an investigation that their doctor has ordered which must be carried out before any treatment or further decisions can be made by their treating practitioners.

It is an issue of grave concern to me that this is beginning to happen. This government’s lack of true commitment to bulkbilling and lack of true commitment to Medicare are obviously bringing this about. I put doctors on warning that I am going to start to get my office to undertake a ring-around and also consult with contacts and people in lots of areas of rural New South Wales just to see what is happening with this issue of who and who is not bulkbilling all of their pensioner patients. I think it is discriminatory if only some of a doctor’s pensioner patients are going to be bulkbilled and others are not. It is almost as though they will choose who they want to give health care to and who they do not want to give health care to. I do not think in this day and age that is at all acceptable. I certainly put those in the medical profession on notice that, if they want to choose to be flash and fast with who they do and do not bulkbill, particularly if they have patients with pension cards, low income people, I for one will certainly be out here exposing them.

I have lived through the previous changes that a Liberal government made when there were two million people without any private health insurance, and the only way they could be bulkbilled was if they went and pleaded they were a disadvantaged case. I have cared for people under those circumstances where they had to humiliate themselves in going and telling the world that they were poor. I will never forget a family, a single-parent family with two children, where one child developed leukaemia. But the mother was hesitant to go and see the doctor about the child not being well, because she did not want to have to tell the world that she was poor. I rang the doctor’s office and said, ‘Will you please bulkbill this particular person? She is too embarrassed to have to tell you that her financial situation is as it is.’ She took the child in, and the child was diagnosed with leukaemia.

I do not want that sort of thing happening because doctors choose who they will and will not bulkbill when all or the majority of their patients are low income people. That is not fair. That is not the sort of health system I want to be associated with, and it is not the sort of Australia I want to live in. If doctors have a practice with a lot of pensioners and they are going to choose amongst them who they will and will not bulkbill, that smacks of elitism, total inequality and a lack of caring.

So I put on notice those GPs and doctors around the area who may choose to do that. There will be officers who will start investigating complaints and doing research to discover what the bulkbilling policies and attitudes are of the different practices in this half of New South Wales. If somebody is a pensioner, if somebody is on a low income, I believe that they deserve to be cared for as well as somebody the likes of Kerry Packer. Health care is something that should be delivered on need, not according to people’s ability to pay. Health care to me is an inalien-
able right. If people are going to choose who they will and will not bulkbill, I certainly will be endeavouring to expose them.

Senator CARR (Victoria) (11.37 p.m.)—Tonight I would like to return to a question I have raised on other occasions, and that is the issue of the virus plague of creepy-crawlies that are inhabiting cyberspace. I speak here of those shonky, dubious and questionable creatures that have sprung up in cyberspace—those associated with the virtual or the so-called Internet universities. I have named six that claim to be operating in Australia. They are: Greenwich University, St Clements University, St George University International, the Australasian Institute, the University of Asia and the University of the Seven Rays. These establishments have been operating out of letterboxes and grog shops, and one of them is located in a pub. The people who run these degree mills prey on the gullible. They are fleecing them of their hard-earned money in return for useless bits of paper that they call degrees. They are doing serious damage to Australia’s international reputation as a provider of high quality education.

I saw a feature article in today’s Sydney Morning Herald by Ben Hills that revealed more about these shysters and charlatans. It demonstrates that the whole problem goes a lot further than we otherwise would have thought. It tells us of an American so-called university that is run out of a place called Spiro’s Pizza Parlour. It sells PhDs for $US275. I understand in this context PhD actually stands for Pizzas Home Delivered. Another university, according to the article, such as the Acton University, actually operates out of a prison cell in Texas. It has been able to manage to acquire some $460 million in just over a few years, which is money ripped away from people who thought they were actually receiving quality degrees.

In response to these issues that have been raised by the Labor Party in the Senate and by concerns expressed by others in the United States, the Commonwealth has been forced to announce the establishment, in cooperation with the United States of course, of a quality assurance agency and a quality assurance framework for higher education. This is designed, we are told, to protect and enhance our national investment in the higher education system. In my judgment, it comes not a moment too soon. The question, however, remains whether or not it can actually do the job that it claims to be doing.

The task before us of course is hard enough. It must bring together all the states and territories into a sound, common framework for accrediting new private providers in higher education and their courses, and then it must go and monitor them on an ongoing basis. The new agency must develop an agreed system of quality assurance that will be applied not just to these private providers but to the existing universities—institutions that are well used to looking after their own affairs in this regard. Universities are established by state and federal legislation as self-accrediting entities, and that task is difficult enough. The new quality assurance agency faces an even tougher challenge: it must, as a matter of urgency, devise a means of regulating and accrediting the virtual universities and other Internet providers now littering our higher education scene.

Things are happening too fast, it seems, for the Australian government to keep pace. A report of a survey on private higher education providers just released by the minister, Dr Kemp, indicates that there are now 31,000 students in private higher education in Australia—that is simply those in an accredited or regulated part of the sector. There are 86 such private providers. The report categorises them as the professional or industry associations, the theological colleges, the niche market operators and the private universities. These private providers, in response to the survey undertaken by this study, overwhelmingly cited the importance of state and territory accreditation procedures in enhancing their growth. They saw formal accreditation as critical in providing a prospectus for students with a guarantee of quality and standards. But if this guarantee is to have any real cash value, then the self-accreditation process must be rigorous. There must be consistency between the states and across the states. We see that this is just not happening. We have yet to see how the new Commonwealth-state quality assurance structure and agreement
will in fact operate in practice. I am concerned to ensure that such an agreement will be robust enough to deliver this outcome. I want to emphasise that I support the notion of an Australian quality assurance framework. My concern is whether or not it is tough enough to protect the interests of our education industry as a whole.

A further major report was released by Dr Kemp recently. It was called *The business of borderless education*. It was produced by a group of researchers at the Queensland University of Technology who had been working on this project for about five years. They are to be congratulated for their far-reaching and valuable study. This report goes right to the cutting edge of higher education policy: to the boundaries between real space and cyberspace and to the interface between the corporate world and universities. The report highlights and documents the explosion in demand for knowledge and education on the one hand, and, on the other, the response to this explosion in the prolific expansion of technology based distance education and in corporate education provision. *The business of borderless education* report notes that, right now, there is not a flood of new higher education providers entering Australia. However, the situation could easily change, especially under a funding regime that allowed open competition for Commonwealth funds, such as that being toyed with by this government.

Corporate universities have been growing in recent times. We have seen this growth both in the public sector, through existing universities, and we have also seen this through the private sector. Not only are there many new private higher education providers of various kinds in Australia and overseas but also there are large corporate based business entities run through universities active in education provision. We have seen them in computing, accountancy, consulting and even in manufacturing and service industries. McDonald’s Hamburger University in the United States is one of hundreds of examples of this type of phenomenon. A new corporate university now operating in Australia is the Oracle University. It is run by an IT company of the same name, and it provides courses relating to its own software products. The implication of these developments, in my judgment, are mind-boggling, and there is not time enough to go into them here.

Suffice it to say that it is appropriate for us to be looking at a quantum shift in the dissemination of knowledge and in education. There is indeed a massive leap occurring within the education sector of this country. But the physical and corporate locations of these proliferating entities create unprecedented challenges for those who are interested in education to come to terms with. It is happening in the context where there are huge cutbacks in the resources available through the Commonwealth and through the department, especially the Department of Education, Training and Youth Affairs. That means that the traditional and basic functions are under considerable strain. I am yet to be convinced that this government has either the resolve or the capacity to show the leadership or the creativity to deal with this new situation. It is a serious problem when you have a government that is committed to the privatisation and deregulation of so much of government activity that, when it comes to deal with an issue such as the interface between the traditional university and the establishment of new corporate arms and of course new cyber entities, such as the degree mills I have spoken of, it is likely that the government is not able to meet the challenges that need to be confronted by its own policy directions. However, the quality assurance agency, I repeat, is a step in the right direction, but its powers and potential might be superseded even before it is actually set up.

Let me give a few examples of the creepy-crawlies in higher education that I have spoken of tonight. Internationally, the critical component in education is, I repeat, reputation for quality. That is what sets this country apart from the others with whom we compete. That is what we are selling on the open international market. My concern is that Australia is not doing enough to protect our reputation from corrosion by the infestation of these creepy-crawlies posing as universities. I do not mean to imply that all universities operating in cyberspace are somehow shonky or suspect. Clearly, that is not the
case. After all, many of our most reputable and prestigious universities offer courses of study over the Internet and via distance education that involves electronic communication and computer packaged learning—and they have done so for a great length of time. Some institutions have shifted a large range of their distance education information services and activities to the Internet. This is not necessarily a problem, although it does raise some questions and some issues—about effectiveness and about quality of teaching in the new environment and about intellectual property.

However, there are also those so-called providers of education about whom we are entitled to raise quite serious questions given the evidence that is now available. They are usually established in a formal sense offshore—in a tax haven on an island in the Caribbean, the Indian Ocean or even the South Pacific. Nevertheless, they claim in some often ingenious way to be located, or to operate, in Australia. They do this in order to ride piggyback on our international reputation for quality that mainstream universities enjoy. Thus, you will see an Australian flag on their Internet home page or they will give a mailing address in Adelaide or in Darwin, as often as not a post office box. Some of them proclaim articulation or credit transfer arrangements with existing Australian universities. Yet, in a legal sense, it is doubtful that it can be established that they are carrying on a business or offering degree courses in Australia at all. They can always retreat at the first sign of trouble to their island refuge—the safe haven or the tax haven.

It is often asserted that, constitutionally, it is the role of the states to accredit and oversee the activities of educational institutions. This is a position, in my judgment, that is now arguable. There may be a place for much tougher national standards. A virtual university registered offshore can enrol Australian students while not technically operating in any Australian state or territory. The entire transaction can take place by remote control, as it were, from a distance. Australian companies law and trade practices legislation, for instance, probably do not apply to them. Therefore, they are entitled to make whatever claims they like, immune from the reach of Australian law and the protection that it provides for Australian citizens living in this country. They may claim to be an Australian university with the implication that they are of similar standing to existing Australian institutions. In doing so, they may easily mislead prospective students, wherever they may live—in Australia or elsewhere. In doing so, they immediately threaten the standing of existing, duly accredited and legislated instituted institutions.

The essential virtual provider that actually stepped through the net, as many senators I am sure would now be aware, is Greenwich University, which was legally established by enactment of a statute by the legislature of the Australian territory of Norfolk Island. This enabled those associated with Greenwich—this bogus outfit, as I see it—to claim with technical correctness that it is an Australian university. As the Greenwich web site asserts:

Greenwich is an autonomous accredited university... established on Norfolk Island under its own Act of parliament... All degree programs are designed... to fulfill Australian accreditation requirements.

A big claim! This entity is currently the subject of an ad hoc inquiry being carried out jointly by the states and the Commonwealth. Its academic and financial bona fides are being examined. This arose only after the opposition had raised hell in this chamber and the estimates committees, concerning the operations of these particular people out there on Norfolk. I am told that the Duke of Brannagh who runs this crowd complains bitterly about the operations of the Labor Party and me in particular on these matters. I am looking forward to the Gallagher report on the activities of the Duke of Brannagh who runs this crowd complains bitterly about the operations of the Labor Party and me in particular on these matters. I am looking forward to the Gallagher report on the activities of the Duke of Brannagh who runs this crowd complains bitterly about the operations of the Labor Party and me in particular on these matters. I am looking forward to the Gallagher report on the activities of the Duke of Brannagh who runs this crowd complains bitterly about the operations of the Labor Party and me in particular on these matters. I am looking forward to the Gallagher report on the activities of the Duke of Brannagh who runs this crowd complains bitterly about the operations of the Labor Party and me in particular on these matters. I am looking forward to the Gallagher report on the activities of the Duke of Brannagh who runs this crowd complains bitterly about the operations of the Labor Party and me in particular on these matters. I am looking forward to the Gallagher report on the activities of the Duke of Brannagh who runs this crowd complains bitterly about the operations of the Labor Party and me in particular on these matters. I am looking forward to the Gallagher report on the activities of the Duke of Brannagh who runs this crowd complains bitterly about the operations of the Labor Party and me in particular on these matters. I am looking forward to the Gallagher report on the activities of the Duke of Brannagh who runs this crowd complains bitterly about the operations of the Labor Party and me in particular on these matters. I am looking forward to the Gallagher report on the activities of the Duke of Brannagh who runs this crowd complains bitterly about the operations of the Labor Party and me in particular on these matters. I am looking forward to the Gallagher report on the activities of the Duke of Brannagh who runs this crowd complains bitterly about the operations of the Labor Party and me in particular on these matters. I am looking forward to the Gallagher report on the activities of the Duke of Brannagh who runs this crowd complains bitterly about the operations of the Labor Party and me in particular on these matters. I am looking forward to the Gallagher report on the activities of the Duke of Brannagh who runs this crowd complains bitterly about the operations of the Labor Party and me in particular on these matters. I am looking forward to the Gallagher report on the activities of the Duke of Brannagh who runs this crowd complains bitterly about the operations of the Labor Party and me in particular on these matters. I am looking forward to the Gallagher report on the activities of the Duke of Brannagh who runs this crowd complains bitterly about the operations of the Labor Party and me in particular on these matters. I am looking forward to the Gallagher report on the activities of the Duke of Brannagh who runs this crowd complains bitterly about the operations of the Labor Party and me in particular on these matters. I am looking forward to the Gallagher report on the activities of the Duke of Brannagh who runs this crowd complains bitterly about the operations of the Labor Party and me in particular on these matters. I am looking forward to the Gallagher report on the activities of the Duke of Brannagh who runs this crowd
 periodic examination of the quality and standards obtaining in existing universities—those established under state law. But Norfolk Island, as an external territory of Australia, is not a member of the ministerial council, MCEETYA, under whose auspices agreement about the new quality assurance agency and processes has been reached: it is only an observer. I ask the question: will Norfolk Island in the future be bound by the quality assurance agreement? I trust that someone will be able to advise me. Will any new entity following the Greenwich example be covered by the new quality assurance agency, if it chooses to use Norfolk as its basis of operation? What about the next creepy-crawly entity that lobs on the rocks of Norfolk Island? What action will be taken to protect our reputation from such an invasion? Can we expect Norfolk Island to enact legislation setting up a robust accreditation agency to look at the credentials of would-be universities? Or could we face the prospect of our external territories—Christmas Island and the rest; perhaps even Antarctica—crawling with virtual entities claiming to be Australian universities: creatures from the deep, spreading their virtual tentacles around the world through cyberspace—I look forward to it!—pretending to be Australian universities, but outside the new quality assurance framework?

All this might sound a little far-fetched, but I assure the Senate that there are many creepy-crawlies out there and they are out there in very large numbers. For example, new to the Australian scene is the University of the Seven Rays. This weird and wonderful institution has been advertising seminars in three states: South Australia, New South Wales and Queensland. It claims to have been offering a Master’s degree in Esoteric Psychology in Adelaide for 10 years. The Australian Faculty Coordinator of the University of the Seven Rays is one Ms Eila Laurikainen. On her business card she describes herself as an ‘esoteric astrologer’ who offers ‘psychospiritual counselling’. She is based in Adelaide, where she is involved, I believe, in organising ‘solar fire meditation meetings’ at the time of the full moon. The university is also offering classes in ‘creative manifestation’, which I understand is a type of magic.

Senator Ellison might be very interested. Prominent in its courses is the idea of the seven rays or qualities: so you can study the ‘science of rayology’, or you can study, if you so choose, through this entity esoteric science, between occult chemistry, cosmology or esoteric laws. Many of these courses are offered, we are told, at the master’s level. The University of the Seven Rays is based on some odd beliefs. For instance, I quote from a paper from the university, ‘Education in the new millenium’, placed prominently on the University’s web site:

> The children of today and of the future do not need to be taught objective facts and information. Everything they need can be tapped into subjectively through morphic fields—collective unconscious, mass consciousness ...

The author goes on to say that children will develop naturally, according to their personal blueprint, which can be discerned in part through their ‘natal chart’. The University of the Seven Rays is inspired and guided by ‘seed groups’, including telepathic communicators and magnetic healers. Given that I see my time has almost expired, I seek leave to incorporate the remainder of my remarks in Hansard.

Leave granted.

The document read as follows—

I understand that the Queensland Government, which takes seriously its responsibilities for the regulation of higher education, has warned this “University” that it must not offer degree courses in that State. It has told them to cease and desist from offering seminars linked to so-called Masters degrees in Queensland.

But in NSW and South Australia, the situation is quite different. In Sydney, it seems, the State contact for the new University is a staff member of the University of Sydney—you can contact her via the Sydney University email system. And in South Australia, the University of the Seven Rays seems well-established indeed.

The model for the Quality Assurance Agency adopted by the Government is essentially a States-rights model. It remains to be seen whether there remains in the patchwork of systems a capacity for the unscrupulous to jurisdiction-hop between States, as it suits. The new model must provide effective and timely protection from these practices.
The point here is a serious one indeed: is the new Quality Assurance structure up to dealing with entities like the University of the Seven Rays?

In the Budget Estimates hearing, DETYA officers confirmed that, in order to put a stop to this entity’s activities, separate action would have to be initiated in at least three States. And, despite all of the States having declared themselves ready and willing to clean up the shonky and questionable operators in higher education, this particular entity is operating with apparent impunity in two out of three States. So far, it appears that no action has been taken - and in one State, the provider claims to have been operating for ten years!

This is the State—South Australia—where another dodgy creepy-crawlie outfit, St Clements University, has hoodwinked the State Government into believing that it has upped and moved to the Northern Territory—while its mailing address remains in Adelaide: in a pub, just a couple of doors from the head office of the South Australian Department of Education itself.

If you remember, St Clements was the university that doubled as a whisky wholesaler’s.

Darwin seems to be becoming a bit of a haven for odd Internet universities. The University of Asia has moved up there too. This is the company that has obtained registration by the Australian Securities and Investment Commission (ASIC), registered with the word “university” in its name contrary to ASIC’s own regulations. Despite the fact that this “mistake” was drawn to the Government’s attention in Estimates last year, nothing has been done to force this company to stop misleading the public and change its name. And several other apparent Internet universities have registered as well, with obvious impunity.

In Vocational Education. QA under the Mutual Recognition Framework is deeply flawed - on a legal, a practical, and an administrative basis. The next MINCO (Ministerial Council) meeting must come to terms with a number of issues that the Opposition has been pursuing both at Senate Estimates and also the Senate Inquiry into the Quality of Vocational Education.

I must ask, finally, this question—is there nothing that higher education can learn from the VET sector? Isn’t it time for a national approach to both sectors, that is effective, and that can guarantee quality to all who wish to have access to Australian educational institutions?

Senator CROSSIN (Northern Territory) (11.57 p.m.)—I rise to speak in the debate on the Appropriation (Parliamentary Departments) Bill (No. 1) 2000-2001 and associated bills. I have to say at the outset that, if my voice does not last the distance, I will be seeking to incorporate my speech into Hansard. Tonight I want to provide the chamber with a Northern Territory snapshot of what has happened in this year’s budget. There is no good news in this budget and, in fact, this will be the first GST budget for Territorians. It fails to deliver improved services in areas such as jobs, education, health, remote infrastructure, road funding and, of course, fuel costs. It fails to compensate Territorians for the impact of the GST, and the so-called tax cuts will disappear in just one year. It also fails to give Territorians a secure knowledge that their education and health outcomes will improve.

This is what we have been told we are going to get in the Northern Territory as a result of this budget: a new 500-bed immigration reception and processing centre in Darwin, $20 million over the next four years for mandatory sentencing purposes, and an extra $53 million for new defence initiatives and ATSIC. Let us go to mandatory sentencing. With a new detention centre in Darwin and an extra $20 million for the mandatory sentencing program, in the middle of the night we are probably going to have more people in detention than we have walking around the streets of Darwin! Building a detention centre in Darwin does not address the real issues facing Territorians.

During the last round of the Senate legal and constitutional estimates committee, we were told that the Attorney-General’s Department have no idea what the $5 million mandatory sentencing package was based on. It seems that it was a deal that was cooked up in the dead of night in the Prime Minister’s office. Senior departmental officials also told the committee that there was no intention or requirement by the federal government to consult with any of the stakeholders as to how the money would or should be spent, and that this was an optional requirement for the Northern Territory government. The only concrete proposal that the Northern Territory government has come up with is to fund 12 additional police officers—but somehow it seems that the Commonwealth government has denied agreeing to this! Both govern-
ments have a duty to involve all the stakeholders and to come up with some effective and appropriate diversionary programs and an Aboriginal interpreter service that meets the community’s needs. It is not good enough to increase police numbers at the expense of community initiatives aimed at reducing crime rates and recidivism amongst young people.

We were told at estimates that there were three initiatives as a result of this deal: family conferencing, substance abuse and drug diversionary programs, and an Aboriginal interpreter service. The interpreter service proposed is going to be an expansion of the registrar that currently operates out of the Chief Minister’s Department. That is not good enough. The federal government is giving the Northern Territory government $20 million over the next four years and it must ensure that it is spent appropriately and that the Northern Territory government is accountable for every single cent of this money.

I also reject the claims that the 2000-01 defence budget contained good news for the Territory. Defence Minister John Moore is misleading Territorians into believing the federal budget will deliver an extra $53 million. This is not true. The Northern Territory government knows this. In fact, the capital expenditure in the defence budget has been cut by more than $250 million from last year’s original budget estimates. None of the projects listed by the minister are new projects. He is just playing with the figures so that Territorians will think the federal government is injecting a whole lot of new money into the Territory. There simply are not going to be any new capital projects in defence in the Territory, and the Northern Territory government would be better off telling Territorians the truth rather than perpetuating a myth on behalf of this federal government.

The government proposed to spend 86c per person on education. If you look at the way education expenses are spread across the length and breadth of the Territory, this is clearly a joke. The first GST budget has done nothing to address the parlous state of Australian universities, particularly the Northern Territory University, as described to cabinet by Minister Kemp last October. Once money targeted at rural health, financial assistance to children of farming and small business families and money to fill projected holes in forward estimates is excluded, there is only $4 million per annum in new money for universities. Although welcome, this money is both inadequate and narrowly targeted at large scale research infrastructure. It must also be placed in the context of a GST clawback of up to 3.5 per cent on research agencies.

This is the plan of a government which expects the business sector to provide new investment in research and development while capping its own. There is nothing in the budget to address escalating staff-student ratios, to fund costly information technology infrastructure or to meet the costs of enterprise bargaining. These are all critical issues identified by Dr Kemp in his cabinet submission of last year and have not been addressed in this year’s budget. The complete absence of any attempt to address the overriding problems facing the university sector is one of the clearest policy messages the minister could send the sector. Dr Kemp has a plan all right—and it is to exacerbate the crisis described in his failed cabinet submission until he induces sufficient desperation to make his deregulatory policies politically palatable.

Irrespective of the efforts of the Prime Minister and Dr Kemp to distance themselves from the deregulatory proposals in the leaked cabinet submission, the policy is far from forgotten. Instead, it has been placed on hold pending the result of the next federal election. If the coalition is returned at next year’s election, which we do not expect, of course, we would expect Kemp’s plan to be resurrected. Until then the government will continue to set the scene by intentionally running down our university system. Cuts of $171 million to regional universities have placed many of them in danger, according to Dr Kemp.

In relation to the Northern Territory University, that is particularly so. His own cabinet submission claimed that already eight institutions appear to be operating at a deficit and some regional campuses are at risk. In fact, we know that is the case in the Northern Territory because the Northern Territory gov-
ernment less than two months ago had to provide the Northern Territory University with $7 million to bail them out of the mess this federal government has got them into. The government’s university cuts hit hardest in regional towns where the university is a key employer and provider of infrastructure as well as being a university and an educational institution.

Last year’s budget cut a further $40 million when it abolished the merit based equity scholarships, which were specifically designed to assist 1,000 disadvantaged students a year, including rural students, to attend a university. TAFE cuts of $240 million have also hit rural communities, despite the findings of the government-chaired committee. That said, TAFE plays an important role in the education, training and general life of regional communities. In these areas, a TAFE institute is more than just an educational institution. It provides a focal point for current technologies, philosophies and skills and contributes significantly to a region’s social and economic growth.

The enrolment benchmark adjustment in schools will take $27.5 million from government schools this year. This includes rural schools, despite increasing enrolments. In four budgets so far the Howard government has cut $3 billion from education and inflicted a significant amount of this damage on rural education.

But in particular the federal government has dodged its responsibilities to the staff and students of the Northern Territory University and it has completely failed to acknowledge this university in regional Australia. The NTU has been facing a major funding crisis for a very long time. It has cut courses and staffing levels, and this has jeopardised the quality of education delivered to and received by Territorians who choose to stay in Darwin, who in fact want to stay in Darwin, to study rather than travel interstate to universities, which they are now in some cases being forced to do.

The education minister, Dr David Kemp, should hang his head in shame because he is directly responsible for the funding crisis at the Northern Territory University. In April this year, the Northern Territory government stepped in and announced it would boost funding to NTU by $7 million over the next three years. Dr Kemp’s education policies of growth through efficiencies in TAFE and cuts to operational grants in higher education have seen massive funding and resources cuts to the university sector since 1996. The NTU has been doing it tough as a result of this federal government’s policies. By 2001, the NTU’s operational funding from the federal government will have dropped by almost $1.5 million since 1996. A comparison of the actual 1996 operation grants to the NTU with the 2001 estimates derived from the DETYA figures shows there is a 4.2 per cent difference. As a result, the funding burden faced by the Northern Territory University has been unfairly passed on to students, staff, courses and now the whole of the Northern Territory community. Territory taxpayers will now be forced to pick up the bill for the federal government’s lack of commitment to regional development through the provision of essential skills and knowledge.

In particular tonight I want to turn to the issue of fuel costs in the Northern Territory. The silence was deafening from the federal government when the Northern Territory government announced in its budget in May that it would scrap its 1.1c fuel subsidy from 1 July because of the GST saving of $7 million.

Senator McGauran—Great policy.

Senator CROSSIN—But, as soon as Queensland said it would scrap its fuel subsidy, Senator McGauran, the National Party was very loud indeed in criticising the Queensland government, but there was not one word criticising the Northern Territory government. The Northern Territory minister, Mike Reed, justified removing the subsidy by saying that the $7 million saved will go into IT programs for Territory schoolkids. Now we have the federal Treasurer, Peter Costello, saying that the removal of the fuel subsidy is an unjustified financial windfall to the Northern Territory. He has written to the Northern Territory Chief Minister advising him, in fact, to reinstate the fuel subsidy.

The Northern Territory government has a responsibility to ensure that the subsidy is reinstated and, if it is appropriate, that they
get the required funds for these other purposes to let them do their budget so that they get those results. It should not be penalising Northern Territory taxpayers, Northern Territory consumers and Northern Territory car drivers and car owners by removing this subsidy and piggybacking on the top of the GST.

Senator Tambling is the Deputy Leader of the National Party in this Senate, but we have not heard one squeak from him on the Northern Territory government’s decision to axe its fuel subsidy, nor have we heard anything from Deputy Prime Minister and National Party leader, John Anderson. But John Anderson described Queensland’s move as breathtaking opportunism and an attempt to shift the blame to Canberra, which will blow up in his face. But equally the same could be said of the Northern Territory government. Obviously it is okay for the Nationals to criticise Queensland, but they zip their lips when it comes to their conservative mates in the Northern Territory. If that is not political opportunism, then I do not know what is.

Fuel costs in the Northern Territory are going to rise on Saturday, despite the federal government’s proposed GST fuel grants for the bush. People in rural and remote parts of the Territory will still be paying more for their fuel than the government claims they will be paying. We will be paying more for petrol than any other Australians, but it seems to be of no consequence to the Northern Territory Treasurer, to the Chief Minister, to Grant Tambling, to the National Party of this country, to John Anderson or indeed to the federal government. They have a way in which they can impact upon that, that is, by reinstating the subsidy of 1.1c a litre. We are waiting for the federal government to put extreme pressure on the Northern Territory government to do this.

With inflation expected to hit 6.75 per cent in the first quarter under the GST, you can guarantee that costs in the Northern Territory will skyrocket. We already pay more than any other place in this country for a basket of goods in our supermarket. The bottom line of the budget is that it is really a $2.1 billion deficit based on dodgy accounting and asset sales. All it delivers to Territory families is a GST that will stay with them forever, with no long-term compensation for living in rural and remote parts of this country.

Friday, 30 June 2000

Senator HOGG (Queensland) (12.12 a.m.)—Having conspired to inflict the GST on all Australians, the Liberal-National-Democrat coalition in their typical manner paid scant attention to the detail of the problems they were creating and professed that they had made the system fair through a range of convoluted compensation measures. As Senator Lees has discovered over the last couple of weeks, the aggressive nature of the GST means that compensation arrangements cannot be easily constructed to address all of the inequities and unfairness it creates. The effect on long-stay caravan park residents brought that home clearly, and time will show that the latest deal between the Democrats and the government will not address that inequity and unfairness. They have found a way to claim that they have a heart, without having to actually deliver anything.

I will point out for the Senate another one of these smoke and mirrors compensation measures. This one is appropriately called GAS—the GST assistance scheme. It is appropriately called GAS because it is nothing more than hot air. After the Democrats did the deal that sold out Australians on low and fixed incomes, the Prime Minister put out a press release praising his new coalition partners, the Democrats. Among the material circulated with that release, the Prime Minister said:

The government’s revised package further increases the substantial compensation provided to offset the price impact of indirect tax reform.

A brave claim by the Prime Minister. I would like to quote the response from Australia’s peak welfare body, ACOSS. In a media release issued on 24 June 1999 and headed ‘New figures show revised tax package is fairer but still unfair’, ACOSS President, Michael Raper, referred to modelling conducted by Professors Warren and Harding which showed:

The government’s original package would have left many low income households (especially pensioners) worse off and substantially increased inequality in Australia ...

Later—and I quote again—they said:
However it is still not clear whether the revised package protects the living standards of unemployed people and low wage earners without children, whose average gains are very small and could evaporate if they are modelled more precisely.

It is becoming more and more obvious that the benefits are evaporating before they even come into effect. GAS is a good example. The material circulated by the Prime Minister in May last year included the following statement about GAS:

The commonwealth will establish a scheme to provide assistance to low income persons who identify themselves as outside the income tax and social security systems and therefore ineligible for the compensation provided in this package. Eligible persons will be able to apply to receive capped payments to offset the net price effects of the GST.

We then heard no more about GAS until the budget this year when a line item was included seeking an appropriation of $9 million for program administration expenditure and $600,000 for departmental outputs.

Then on 23 June 2000, Senator Newman finally issued a media release which set out the criteria for this program—and what do we find? The minister says:

The GST Assistance Scheme (GAS), to begin on 1 July this year, will provide low income earners who identify themselves as outside the income tax and social security systems and therefore ineligible for the compensation provided in this package. Eligible persons will be able to apply to receive capped payments to offset the net price effects of the GST.

Now I will go on to look at the criteria. The GST Assistance Scheme eligibility criteria are as follows—and will it be hard to jump these hurdles! Persons who meet the following criteria will be eligible for the payment:

A. The person does not receive a Commonwealth Government payment at the time of claiming and has not received and is unlikely to receive a Commonwealth Government Payment during the financial year in which they claim. A GAS claimant cannot be serving a current waiting, deferment or breach penalty period; and

B. 1. For a person claiming in the 2000–01 financial year, the person either:
   (i) in the 1999-00 financial year:
      (a) had a taxable income of $6,150 or less; and
      (b) an assessable income of $10,000 or less; or

   (ii) In the 2000-01 financial year the person is likely to have:
      (a) a taxable income of $6,883 or less; and
      (b) an assessable income of $10,000 or less; AND

   2. For a person claiming in the 2001-02 financial year, the person either:

   In the 2000-01 financial year:
   (a) had a taxable income of $6,883 or less; and
   (b) an assessable income of $10,000 or less; or

   In the 2001-02 financial year, the person is likely to have:

   a taxable income of $6,883 or less;
   an assessable income of $10,000 or less;
   and the person has not received or will not receive the Aged Persons Savings Bonus or the Self-Funded Retirees Supplementary Bonus; and

   the person is neither a dependant nor a partner of a person:
   who does not meet the taxable income test in Point B relevant to the year of claim; or
   in receipt of a Commonwealth Government payment.

   A full-time student aged under 25 who is not considered independent for Youth Allowance purposes, will be treated as a dependant.

   A tertiary student in receipt of a tax-exempt scholarship is considered independent for the purposes of the GAS payment; and

   the person is aged 16 years or older on 1 July 2000; and

   the person is an Australian resident under section 7(2) of the Social Security Act, resides in Australia at the time of the claim, and is not a newly arrived resident; and the person is not serving a prison sentence.

Has anyone tried to find a needle in a haystack? There is the challenge thrown down by Minister Newman with that set of criteria.

When this was raised with me through my office in Brisbane in the last 24 hours, we started to search to try to find just who might be eligible. In spite of a far and wide search, we found that, when we started to get into the set of criteria that were there, there were few,
if any, that we could find who would be eligible. Even then, the compensation that was being offered was tantamount to nothing indeed—$120. And remember that the GST will hit hardest the people on low incomes or fixed incomes or people who are self-funded retirees—people at the bottom of the income scale. So we have this scheme which attracted, as I have previously said, one line in the budget—and probably that is about all it deserved—and what do we find as a result of that one line? It should not have been there. We cannot find anyone eligible. One can only describe it at best as being a dubious sop—an unfortunate ploy—to the unfortunate people out there who think that there is some real compensation for them being offered by this government.

Last but not least—and I am aware of the fact that there are other speakers seeking to come after me—I just want to say a few words on the impact of the GST on some small business people. In particular, I want to refer to a recent newsletter that was sent home with my young daughter from her Irish dancing school. It is interesting to read this part of the newsletter on the GST. The dancing school proprietor, a single operator, not a very lavish operation, had this to say:

**G-S-T.** After several discussions with my accountant, I will have to add on a 10% GST to all lessons from July 1st. If I don’t add the GST on I will not be able to claim the GST on goods purchased. Every bill I pay in connection with dancing will have GST added. So I would either have had to increase fees to cover this or charge GST. An increase in fees would have put me over the threshold and I would have had to charge GST which would have been a double increase for everyone. I did not ever think when I started teaching Irish dancing that I would have become a tax collector as well.

Two things stand out in this statement. Firstly, the lessons will go up by 10 per cent. This is not a massive business, a massive organisation. This is as much a community organisation, because I could not imagine a person making a fortune out of teaching young children Irish dancing. Yes, there is some money in it for them, but it is not a big money spinner. Here we have this person being faced with either increasing the fees or charging the GST. Of course, lo and behold, what did the proprietor of the dancing school say? ‘I am charging 10 per cent.’ How often during question time and during other speeches in this place have we heard people say, ‘Oh, no, no, it won’t go up by 10 per cent.’ Here we have it in black and white once again.

The second issue is that this person realised that they had succumbed to being a tax collector, and that is something that they desperately wanted to avoid. There is no doubt in my mind that the GST will be of no benefit to people such as this small business operator. This undoubtedly will earn the wrath of this government with those small business operators. Likewise, there will be no benefit in the GST, as I have said, to low income, fixed income and single income families, just as it has been shown and will be shown to be a burden on small business. There is no doubt that the odium of this tax will remain with the Democrats, the National Party and the Liberal Party forever. They will have to wear the whole process.

**Senator McKIERNAN (Western Australia) (12.25 a.m.)**—I just want to make a few comments tonight. I do not intend to use all of my time, the 20 minutes allocated in the budget debate. I am acutely aware of the fact that we are now in the very early hours of Friday, 30 June. Very soon it will be 1 July and we will all be 10 per cent poorer with the onset of the GST. I had some notes prepared that go to some matters concerning the GST, but they are already overtaken by the shopping trip that the Prime Minister had to Murphy’s yesterday.

**Senator Schacht**—It was a triumph, wasn’t it?

**Senator McKIERNAN**—I hope he does better when he gets to Harrods next week and Selfridges in Knightsbridge in London on the annual trip to see Her Majesty. I want to mention a few matters of concern about the way senators are served in this place and how well we are served. I think that, because we are so well served, when the system falls down we certainly do come to notice. In the recent round of estimates committees the Senate Legal and Constitutional Legislation Committee had cause to reflect on the considerable delays in production of the tran-
The record of proceedings for Wednesday 31 May was not available until Friday 9 June 2000. The Committee expresses its concern at what it considers to be an unsatisfactory service and trusts that it will not be repeated. The cause of the delay on this occasion should be investigated.

At the time of including this matter in the report, we were aware—certainly I was aware—of some of the reasons why the Hansard was not delivered to us. The Clerk Assistant, Mr Cleaver Elliott, has since drawn to my attention and the attention of the Deputy President the fact that, during that estimates week when the Senate Legal and Constitutional Legislation Committee met, four estimates committees, two bills committees, the House, the second chamber and the House committees also met. Mr Elliott, in an email message that was sent to the secretary of the committee and copied to the Deputy President, went on to say that he had met with all of the estimates team (the estimates officers, Hansard, SAVO, catering, et cetera) in the week before. He went on to say, ‘We all knew that upfront.’ There is something missing because I, as a member of the committee and as deputy chairman of the committee, was not aware of this. I only became aware of this when I went looking for the service, as you normally do, as we check our pinks the next morning or expect speeches within an hour of delivery and we anticipate it. When you do not get this service you realise there is some problem, certainly if you have not been told before, as we were not told on this occasion. Mr Elliott said in his email:

I have been advised that Hansard staff have worked from 8am till 11pm each week day for the last fortnight and from 4 to 8 hours each day for the last two weekends ...

So we are aware of the problems and the pressures that they are under. He mentions three working days plus a day and a half spin-out, but that was not met. As the committee indicates in the report, the Hansard record of proceedings for Wednesday 31 May was not available until Friday 9 June. That is more than three days plus a day and a half spin-out. This had some implications, which is the issue that I want to address now. On that Wednesday morning, the committee had the joy of meeting the Migration Agents Registration Authority for the first time in a Senate estimates committee hearing. The authority came into being on 23 March 1998 when the minister appointed the Migration Institute of Australia as the Migration Agents Registration Authority to administer the relevant provisions of the Migration Act 1958 and to undertake the role of regulator of the migration advice industry. The committee questioned MARA about their role and operations based on their annual report for 1999.

The committee were aware that on the previous evening the Joint Standing Committee on Migration had been inquiring into the migration amendment bill which proposes to limit the ability of certain persons with presumed migration claims to undertake class actions within the Federal Court or the High Court of Australia. A series of advertisements from lawyers and migration agents, which perhaps should have received the scrutiny of a regulatory authority such as MARA, had been brought to the committee’s attention. Perhaps it could be considered an unseemly circumstance, but we were addressing questions to MARA, which then denied knowing about the existence of these advertisements. We had the departmental officers at the same table—a rather long table—saying that they had informed MARA that the advertisements had been brought to their attention.

Without delaying proceedings, the matters were taken on notice. On 6 June, three days before the Hansard was available, the committee secretary received a note from Mr Ray
Brown, the chairman of MARA, to which was attached a copy of a letter that Mr Brown had written to the secretary of the Joint Standing Committee on Migration. In that letter, Mr Brown admitted that the advertisements had in fact been referred to them by the department. Mr Brown apologised to the Joint Standing Committee on Migration for ‘any misunderstanding’—they are his words—as to whether MARA had had this information. The Senate Legal and Constitutional Estimates Committee have not yet had a direct letter from Mr Brown, but it was his and MARA’s first attendance at a Senate estimates committee hearing. I make mention of that fact because on the night of Tuesday 6 June the Joint Standing Committee on Migration were again meeting with the Department of Immigration and Multicultural Affairs and progressing the matter of the reference to the bill that they had before them.

As a member of that committee, I was at somewhat of a disadvantage in attending that meeting and further questioning the department about the contents of the responses we received from the MARA at the Senate estimates committee. I did not have that information because the Hansard was not available to me. That was six days. That was the Tuesday after the previous Wednesday’s hearing. You can see where we were disadvantaged.

The wonderful committee secretariat that we have in the Senate Legal and Constitutional Committee assisted on the occasion. They got a copy of the tape of proceedings. I apologise to those who watched those proceedings on that Wednesday morning because I was wearing that awful yellow shirt of mine, and I realise what others have to put up with when looking at the televisions when they are tuning in to the Senate estimates committee because it was reverberating on the screen every time the cameras turned to me. We did the best we could and took a transcript of the answers and replies that we got. When I arrived at the joint standing committee meeting at 8 p.m., we were given a copy of Mr Brown’s letter.

The circumstances would not have existed had we not been so well served by Hansard in the past. We would not have run into those difficulties because we would have relied on our longhand notes. But one loses those skills when one gets the service that we have been so used to getting—and continue to get, I might add. I think the system has broken down. There are obviously reasons why the system broke down last time. Part of those reasons would be the fact that four estimates committees were meeting at the same time, as were two bill inquiries. I understand there was one committee that had an estimates committee proceedings going on and a bill inquiry and they got their Hansards delivered in a timely fashion on both occasions. Both the estimates committee and the bill inquiry, as well as the House of Representatives, were sitting at the same time. It is of concern. It did not have dramatic effect. It caused me quite a deal of angst and quite a deal of extra time. It caused the committee secretariat quite a deal of extra work. We have recommended in the committee’s unanimous report that the matter be investigated and steps be taken to ensure that those circumstances do not happen again.

To avert those circumstances occurring again, one would have to ensure that the number of committee meetings that are held when major estimates committees proceedings are being held—this was the budget estimates that we are talking about; some committees, I understand, went for five days—are limited during that period of time so that Hansard can continue to deliver the brilliant service that has been delivered to us in the past.

I want to wind up by saying a few words about days of glory—glory that was rather than glory that might have been. I am referring here to Perth Glory, a soccer club that almost won the league championship in the National Soccer League of Australia. The club topped that league at the end of the home and away competition and proceeded into the grand final for the first time—in only their fourth year of existence. It was their second time into the finals and they performed commendably well—a great tribute to Perth and to the supporters that follow them in Perth, which, through the actions of the Perth Glory, has now become the home of soccer in Australia.
Let me illustrate that to you. Perth Glory have regularly got an attendance of 14,000 at each home game at the Perth oval. I think the average is probably about 11,000 this year, but it can go up to 15,000 from time to time. No other club in Australia matches that. No club really comes near. I think 14,000 is the average and the next one is 11,000, and that is an eastern states club.

When the first semifinal was played at the Subiaco Oval on 27 May, a record attendance was reported of some 43,000 persons, including my wife and me and a number of my parliamentary colleagues, when Perth beat Wollongong Wolves by two goals to one. On 11 June that record crowd was repeated at the grand final, when the Glory again met Wollongong Wolves, and in the region of 43,000 people attended.

During the time those two finals were being played, the Australian national side was playing three international matches in the major capital cities in the eastern part of Australia. Those cities are all more densely populated than Perth and the national side was attracting crowds in the region of 4,000 people. Ten times that number attended the recent finals in Perth, and regularly 14,000 people attend Perth Glory matches. Soccer Australia needs to take note of this and recognise where the soccer capital of Australia is. Perhaps they might think of sending an international game over to Perth sometime rather than holding it in Melbourne. They played the last game at Olympic Park after having had to transfer it from the infamous Docklands because there was something wrong with the pitch. Nonetheless, Soccer Australia obviously has an eastern states bent.

While I am on the anti eastern states scenario, on that day of the grand final Perth led three-nil at half-time. Wollongong Wolves brought the score to level pegging at full-time, and the score was still three-three after extra time. Then there was a penalty shoot-out, and records show that Perth lost on the penalty shoot-out. I did not appreciate some hours later in Perth! When we had been so close to winning—we were up three-nil at half-time and lost on a penalty shoot-out—I really did not appreciate the ABC rubbing it in in that fashion. Perth Glory—the directors, the players and the coach—are to be commended for their magnificent effort on behalf of their spectators. They lost on the day but, by golly, they won throughout the season. Wollongong Wolves were deserving winners on the day. They played the game with great sportsmanship and they deserved to win because they are the ones who had the most goals at the end of the day. Incidentally, it is of note that there were more soccer goals scored at Subiaco Oval than goals scored by the West Coast Eagles the night before.

The ACTING DEPUTY PRESIDENT (Senator Murphy)—Such a record must be worthy of an appropriation!

Senator COONEY (Victoria) (12.43 a.m.)—I want to point out that this time next year we will have celebrated the Centenary of the Federation of Australia. We will also have celebrated the centenary of this party that you, Mr Acting Deputy President, Senator McKiernan, Senator O’Brien and I belong to. I think that is something to remark on because, after the Olympic Games, that will be the next big issue for Australia, and it will be carried out mainly in the great southern city of Melbourne, in which I am proud to live.

Senator McKiernan talks about the eastern states in a very derogatory fashion. I want to talk about Australia and how it developed, and I want to quote a gentleman called Sir Edward Braddon, who was a great Tasmanian. At least three of us here are great Tasmanians. Although Senator McKiernan would cast aspersions on that state, I stand by it. When Sir Edward Braddon was making the statement which I am about to read, all my grandparents were in Tasmania. Sir Edward Braddon made the statement on 31 January 1898. I think Senator McKiernan can feel himself badly served that his grandparents were not in Tasmania at that time.
The thing about Australia coming together is this: it came together as a new nation. I will borrow the description that the Chief Justice of the High Court at the start of the 1970s, Sir Garfield Barwick, used:

I have observed elsewhere that the Constitution does not represent a treaty or a union between sovereign and independent States. It was the result of the will and desire of the people of all—

Senator Herron—Mr Acting Deputy President, I rise on a point of order. Do you realise that it is a quarter to one in the morning?

The ACTING DEPUTY PRESIDENT (Senator Murphy)—The clock says that it is a quarter to one, Senator Herron. What is your point of order?

Senator Herron—My point of order is that I think it is time debate was curtailed in the interests of—

The ACTING DEPUTY PRESIDENT—With the greatest of respect, there is no point of order, Senator Herron. Resume your seat, and I will recall Senator Cooney.

Senator COONEY—Let me say something about that. I respect Senator Herron.

The ACTING DEPUTY PRESIDENT—It is not necessary for you to say something about it, Senator Cooney.

Senator COONEY—I know but I want to say something. I am talking about Federation, Senator Herron. I am talking about when this nation became a nation and what one of the great chief justices of this nation had to say about it. If you want to interrupt that as being something peripheral to the issues that we have before us, so be it. But I think it is very important and I think the coming Centenary of Federation is a very important matter. We still have an association with the British Crown but not in the way that Sir Edward Braddon described it then. Sir Edward Braddon talked about the right of appeal that we should have to the Privy Council. That, of course, has passed now. But that respect we have for law is still there. Let me quote another statement by a very great Australian, Ben Chifley. I have never actually met him, but I saw him on a plane going to Tasmania and he was certainly a great man. He said:

Every citizen in this country should have the authority of the courts to decide whether they are guilty or not. It is not for me to make the decision whether we are prepared to give powers.

He then goes on to another matter. But that respect this party has always had for the courts was stressed by that great man, by that great Prime Minister of Australia.

We still have great respect for the courts these days. Unfortunately, there are not enough people speaking out in favour of those courts that are under attack. In Melbourne at the moment there are some judges in the Federal Court who are Labor appointees and who are under attack because it is alleged that they give too much to the unions.
I think that is quite a libellous and outrageous statement, and I want to put that on the record now.

Finally, the new Federal Magistrates Court has now come into operation. I notice that the Chief Magistrate there is Chief Federal Magistrate Diana Bryant. I would like to put on record the great service she has done for the law and for society. I think making her the Chief Magistrate is a splendid choice. I stress again that this is probably the last appropriation that will be passed before the Centenary of Federation—the anniversary of our nation—and before the anniversary of this great party. We were well led in those days, and we are well led today—in particular, in the Senate.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (12.51 a.m.)—I thank Senator Cooney for that fine endorsement of ex-Senator Gregor McGregor and of me, and that is much appreciated. I acknowledge that Senator Cooney is well-known for his generosity, but I would also have to acknowledge that there is not a great deal of generosity on the other side of the chamber, particularly when it comes to the issue of political advertising and the GST advertising campaign that has been dominating our television screens of late. I have noticed over the past few weeks that there has been a great deal of media and public confusion about the claimed amount spent on the promotion of the insidious goods and services tax of the Howard government. The Howard government has desperately been trying to argue the case, having been sprung spending some $431 million of taxpayers' money on political propaganda in promoting the goods and services tax. Some people in the government have said, 'Oh well, that is just par for the course; that is what you expect from governments. The Labor Party did the same thing.' The Prime Minister in the House of Representatives has been trying very hard in a couple of recent abysmal question time performances—

Senator Abetz—He did very well today.

Senator FAULKNER—Oh, the Prime Minister did very well today! I have been informed of his impersonation of a checkout chick at Murphys wine shop. Apparently it was absolutely sensational. I have rung the library to see if a tape loop can be played of the news coverage of Mr Howard at Murphys wine shop. Unfortunately, because of the lateness of the hour and the great demand of others in the building actually wanting to see this extraordinary performance, I have yet to be able to see it. But let me assure you I have heard about the Prime Minister's performance—pure buffoonery. How humiliating for the Prime Minister! How humiliating for the Liberal Party and the government!

In the short time available to me I want to explain why the path that the coalition government has embarked on in relation to political advertising is quantum beyond what has ever been done by any government—Labor or Liberal—in relation to government advertising. We have got to examine the precedent that has now been set by the Howard government in relation to government advertising. We in the opposition believe that it is unconscionable to turn information and education campaigns into political propaganda campaigns, which of course is the way it has worked under this government.

We have to set the record straight in relation to some important principles that apply to government advertising. The first is that governments should be allowed to advertise. No-one argues with that. They should be able to promote programs in the media. They should be able to recruit members for the Australian Defence Force. We would argue that a government that did not engage in that sort of advertising would not be doing its job adequately. You cannot change laws to bring in new policies in a vacuum. People have to be informed. We acknowledge that. Not everyone reads the fine print in newspapers, as you would appreciate, Mr Acting Deputy President. Not everyone listens to or watches current affairs programs. Often you do not have these media outlets necessarily going into the fine print of every legislated program of government. Sometimes they even tend to get sidetracked, and sometimes you even have media outlets reporting political point scoring, as you would be aware.

But what is true is that governments have advertised their activities for many years. For the decade up until 1997 the Commonwealth
spent an average of just over $3 million a month on advertising. An average of $13 million to $14 million a year was spent on Defence Force recruitment advertising. Other programs that have been advertised, as senators would understand, include public health campaigns, ‘Australian made’ campaigns and the like. When the Hawke government was encouraging debate on the tax reforms of the mid-80s, the government then spent $2 million on newspaper advertisements, mail-outs and the rest. When Labor refurbished Australia’s superannuation system, $15 million was spent from 1992 to 1995 to inform workers of their rights and responsibilities.

But what we have recently had is the Auditor-General’s inquiry into the CEIP. That was the GST promotion campaign that was conducted in the run-up to the 1998 federal election. The Auditor-General published in his report a graph which shows an average of around $2 million a month in advertising from 1989 through to 1997, not including defence advertising. But right at the end of the graph that the Auditor-General prepared you have an unprecedented spike in 1998 in advertising expenditure. When was it? Of course, it was in the period of July-August 1998, just a few weeks prior to the 1998 federal election.

But the Howard government did not just blow $16 million on the disgraceful GST CEIP; in the preceding two months there was the $4 million spent on the Job Network campaign, there was $4.5 million on ‘what we’ve done for the youth of Australia’ campaign, there was the $4.5 million for the Natural Heritage Trust campaign.

Senator Abetz—Very successful programs.

Senator Faulkner—That included a $77,000 research component, which was slung to Liberal pollster Mark Textor, if my memory serves me correctly, just prior to his task of polling for the Liberal Party in the 1998 campaign. There was $2.8 million for a social security fraud campaign telling us how many dole cheats had been caught by the current government using the data matching techniques that were introduced by the previous Labor government. So there was a three-month spend of $30 million, with the climax being the $16 million spent on the CEIP campaign on tax promotion just three weeks before Mr Howard drove to Yarralumla to ask the Governor-General to dissolve the parliament. They are the facts of the matter. I notice Senator Herron is reading the graph that I would like to have incorporated in Hansard. I will come back to that graph in a few minutes, but I now seek leave to have the graph incorporated in Hansard.

Leave granted.

The graph read as follows—
Senator FAULKNER—As I said, a massive amount of public money was spent on promoting the Howard government prior to the 1998 federal election. I note that a prime ministerial spokesman—hopefully, not the one who organised the debacle at Murphy’s wine bar this evening—tried to avoid criticism of the current chains campaign by stating in the *Herald Sun* last Monday:

This advertising campaign relates to matters that have already been passed by parliament and are government policies.

They are very interesting words from the Prime Minister’s spokesman. Of course, this is an admission from the Prime Minister’s office that the CEIP campaign was not based on legislation and was all about promoting the Liberal Party’s taxation policy before it took that policy to the last election. So you had a massive spike in expenditure just prior to the last election on government advertising. It is more than just a blip; we have a real government scam on our hands here.

But I have to be fair and objective in my analysis of government advertising. The CEIP spike in expenditure is just a molehill compared with the Everest that we have had over the last few months. The $16 million CEIP campaign is, frankly, next to nothing when you compare it with the $431 million that the Howard government has spent recently on promoting the GST. That figure has been painstakingly established by the Labor opposition through our effective work in the Senate estimates committee and through our trawling of the departmental annual reports. We have been able to establish the figure of $431 million spent on GST advertising promotion and education.

What I have incorporated in *Hansard* is an updated graph that does not include the GST start-up unit. I would point out that a lot of corporations like Amway, Tupperware and these sorts of outfits tell anyone it is easy to sell something when it is being pitched by friends, as you would be aware, Mr Deputy President. So it is with the government giving GST funding to peak bodies and industry groups to sell the tax changes to their constituencies. GST start-up obviously has a direct promotional intent.

I accept that it is not purely advertising, but our calculations in this incorporated document of the funding set aside for advertising are deliberately conservative. There is $54 million admitted by the ATO that covers general GST advertising, $46 million for the disgraceful chains campaign, $3.4 million for the farmers campaign, at least $4 million spent on the pay-as-you-go campaign, at least $15 million for the ABN campaign, $4 million for the family and community services campaign—that is for John and Wendy and the pensioners—and at least $7 million for the ACCC. That is $133 million in this financial year alone. There is around $50 million set aside for the out years, and we are now informed that there is going to be a GST help line advertising campaign after 1 July. You do not know where this ends.

You also have to include in the government advertising expenditure graph the $15 million spent on the Lifetime Health Cover umbrella advertising campaign in which the government has set about scaring people witless into taking out private health cover and, worse still, worrying those people who simply cannot afford it. The campaign deliberately fails to tell Australians that they are covered by Medicare. The year 2000 really has been a bonanza for the advertising companies and the research companies, hasn’t it? We calculate that, in the four months from March to the end of June, $148.9 million has been spent by the government on the GST and health insurance campaigns alone. These are remarkable figures. Once the bills arrive from the advertisers and are paid, the figures are obviously going to reveal that the Commonwealth has spent well in excess of $150 million in taxpayer funded advertisements in three or four months. By the end of the entire promotional exercise, the government will have spent at least $431 million. This is an astonishing amount of money. This is unprecedented in Australian history.

You have to look at what the Auditor-General’s recommended guidelines state about taxpayer funded advertisements. In his report on the CEIP, the Auditor-General said:

Materials should be presented in an unbiased and objective language and in a manner free from
partisan promotion of government policy and political argument.

And he said:

Materials should not attack or directly scorn the views, policy or actions of others such as the policies of opposition parties and groups.

Look at the centrepiece of the $431 million promotional assault. Look at the $46 million community information and awareness campaign, known to all and sundry as the ‘chains campaign’. If the government followed the Auditor-General’s recommendations—if they were accepted within government—the chains campaign would not have got to first base. That campaign, the Unchain My Heart campaign, would be struck out. We know there is $20 million for placement of advertising in the chains campaign. There was $13 million for production costs. There was $10 million for the projected prime ministerial mail-out—the illegal, corrupt mail-out by the Prime Minister. The remainder of that was for research and ancillary purposes. Was the campaign informative? Was it objective? Was the campaign political? Of course it was political. It was political propaganda. But the Labor Party prevented the Prime Minister, the tax office and the Australian Electoral Commission from committing an offence—from committing an illegal act, breaking the law because we the Labor Party—the opposition—had to hold the government accountable and expose the intended use of the electoral roll, which would have made the original proposed mail-out by the Prime Minister illegal.

We still have a prime ministerial letter. All the individual salutations had to be junked—those letters had to be pulped—though everyone received a new piece of soapie propaganda from our ‘fellow Australian’—John Howard is not the Prime Minister any more; he is our ‘fellow Australian’. Doesn’t that give you a lot of confidence? All of this soapie propaganda from our ‘fellow Australian’ went through the letterbox, but at least it was not illegal, thanks to the Labor Party. I commend to the Senate the document that I have incorporated tonight so that anyone who is genuinely interested in the cost of advertising campaigns can see what has occurred over the past few months. There are 431 million really good reasons why this parliament should hold the government accountable and adopt some clear rules about such public advertising. This is a government of manipulators, rorters and frauds, and they stand exposed in their advertising campaigns. (Time expired)

Senator ROBERT RAY (Victoria) (1.12 a.m.)—For all those masses who are watching tonight’s debate, I should explain: we are, at this stage of the night, basically filling in a bit of time. I am talking about the people in their rooms here, glued to the television because the SBS movie is not so crash hot tonight. We are waiting on two messages from the House of Representatives so we can conclude the session’s business. In order to assist the government’s program, Senator Faulkner and I both indicated we would drop off the speakers list to facilitate things, but at the last minute we were resuscitated and sent back into battle.

The good thing about appropriation bills is that you can wander far and wide and canvass a diverse range of issues. I will be forced to do that tonight because I had to make some notes in a bit of a hurry. The first issue I want to address is a serious one—and that is to commend the Privileges Committee report that was put down in the parliament here today. Certainly we had to accelerate the timetable. This basically revolves around the issue of the protection of documents given to MPs. Some months ago, Justice Jones of the Queensland court handed down a ruling saying there was no protection and no privilege attached to documents given to members of parliament—this was not central to Justice Jones’s ruling, by the way; he was really ruling on two other matters in terms of a potential non-continuance of a case—but it did give us quite substantial concerns. As a result of that, the Privileges Committee took two actions: it asked our esteemed Clerk for his views—and I recommend people read the six-page opinion that he has given the committee; and, secondly, with the support of the President of the Senate, we were able to commission Mr Brett Walker, a senior counsel from Sydney, who also has given us his views—a 10- or 12-page document that
closely analyses the Jones judgment and provides alternatives.

This matter cannot be taken much further until it is considered substantively in a court somewhere, but I do draw attention to those two particular opinions that were tabled in the Senate today. They affect every senator in the chamber in the long term, and they also affect at least one ex-senator who is no longer in the chamber and who has been pursued vexatiously by a litigant—most unfairly, in my view. I hope that today’s action will at least give him some support.

The second issue I raise today is the lack of answers from estimates committees, at least the ones I have been involved in. We have three broad areas come before the finance and public administration estimates committee: the Senate, the Prime Minister’s department and the Department of Finance and Administration. I must say that the 30 day cut-off point is never a question for the Senate. I have never known them not to get their answers in within three or four days. It was always prompt. But, apart from the Governor-General’s office and two other minor exceptions, we have not seen an answer from the others before the deadline of 28 June. There are a raft of questions for Prime Minister and Cabinet and the Department of Finance and Administration, and no answers have been produced within the deadline. We know that is not always the department’s fault. Often those answers go to ministers and take weeks to be cleared. But one cannot help but suspect that on this occasion they are sitting in ministers’ offices waiting for parliament to rise before they are produced and sent on to the relevant committee secretariat for dispersal to senators. We asked a number of questions on 2 May about Employment National. The department worked extremely hard to get the answers together. They apparently got to the minister’s office, we are informed, on 23 May. When did we receive them? We received them on 28 June. Most of those answers would have been useful in the hearings on 25 and 26 May for follow-through, but we were deprived of them.

I am not here to assert that a department can get in every answer that is taken on notice. Some are complex. Some do require not only research but mature consideration of the way in which they will be presented. But in many cases I think the delays are due to ministerial incompetence or failure to have proper organisation in a minister’s office, and in some cases they are deliberately delayed. But I do think that, in regard to some of those answers to questions asked between 24 May and in my case up to about 29 May, we could have been provided with answers. The irony was that we were not sweating on those answers to ask questions in this place. I do not think there were any of those subjects that we intended to actually follow up at question time here. But we do set a limit of about a month and we expect the answers to come in, and the performance so far has been extremely bad.

Moving on from that, another issue I want to address tonight is the concept of the centenary medal. We had some views given to us by the Governor-General’s office, but it quickly became apparent that the concept of the centenary medal and the way it was developing were really within the Prime Minister’s department, in the honours, awards and symbols section of that department. This has been a very poorly thought-through concept. The decision has been made to strike 20,000 medals. The decision has been made that the states get 70 per cent of those medals and the Commonwealth gets 30 per cent. There have been no criteria developed on what would merit someone getting a centenary medal. In the end they are going to be given to ministers and others just to hand out. So the government in its patronage can hand out 4,800 medals. I have to concede that the leader of the Labor Party has been allocated 200, but I think it is highly unlikely he will be taking up the offer, because if there are no criteria all sorts of cronism will occur in handing these medals out. Many good people will get them but many others will not. Many medals will just be handed out by ministers in order to curry political favour. Can’t you just imagine Minister Moore in the electorate of Ryan? Can’t you guarantee that some of the newly recruited members in the electorate of Ryan are going to get a centenary medal?

Senator Faulkner—About 10 per cent of the membership.
Senator ROBERT RAY—That is probably about all that it would cover. It really devalues these sorts of medals if they are not taken seriously. There is no assessment process. It is purely the thought, ‘How can we get a bit of patronage under way? We will strike a centenary medal and off we go.’ By the way, I am not saying that state governments are not going to use them for patronage reasons. They may well do so. But they may also have the integrity to try to set up some sort of selection criteria.

Senator Faulkner—They may not have ministers handing them out, either.

Senator ROBERT RAY—And they may not have ministers handing them out. The Governor-General gets 25. The Prime Minister gets 375 but the Governor-General gets 25. I think the President and the Speaker get only 25 each. But each claptrap cabinet minister gets 200, and there are a few other variations on the scam. There is no correlation as to who gets the sports medals and who gets the centenary medals, so presumably some people will get a double-up. It is an absolute shambles.

There has been no acknowledgment of the centenary medal in the publications of the honours, awards and symbols section of the Prime Minister’s department. Really, this is irretrievable in terms of stopping the process, so at least put some form in the process. At least establish some merit criteria by which people can be judged. The great trick of this is that you cannot link the minister back to the recipient of the medal. They are not recording it that way; it will not be made publicly available. So you cannot hold the minister at the table here—I am sure he would not do it—responsible for the couple of hundred medals he hands out. I am sure the minister at the table will pick worthy recipients, but I do not share that confidence in some of his colleagues.

Senator Faulkner—He mightn’t have the opportunity. He won’t be a minister by then.

Senator ROBERT RAY—Let us not be unkind. Senator Faulkner has raised a serious issue. I have to express a fair degree of concern about how these reports appear in newspapers about reshuffles. Senator Herron tells us that he is not going and that he is going to stick it out. Senator Newman tells us that she is going to stick it out. I think former Senator Bishop, now Minister Bishop, has expressed confidence in staying in the government for many years to come. So how do these rumours get to newspapers? Do they just make them up? You can accuse newspapers of a lot of things but I do not think they have made these up. These stories must be sourced to somewhere. Who is putting them out? Is it the Prime Minister’s press office? Is it jealous colleagues? Who is putting out these particular rumours?

I am sure it is not Senator Herron and I am sure it is not Senator Newman who have put these canards abroad. It is a terrible thing because it weakens people’s confidence in ministers when they think they are about to get moved on to a diplomatic post or back to the back bench, et cetera. But I can assure you of one thing: these rumours, these sorts of things that are in newspapers do not come from our side. They must come from the Liberal side of politics. For instance, if these things occurred, where would the Prime Minister look for replacements, I ask you? Firstly, they would have to be lawyers, because there are 18 lawyers out of 30 in the ministry. But who would in fact replace them? Rumour has it that you have to replace a Tasmanian with a Tasmanian. But there are no members of the House of Representatives from the Liberal Party in Tasmania.

Senator West—Not one.

Senator ROBERT RAY—Not one. So it has to be a senator. And there are only four—correct me if I am wrong—other senators left. One already has the whip’s position and is a distinguished senator here doing that job. Another has been tried and found wanting as a parliamentary secretary. A third one is threatened with the stripping of his preselection as soon as they can rort it because each time they call it, they have to cancel it, and Senator Watson miraculously has the numbers.

Senator Hogg—And doesn’t hand out a sixpack.

Senator ROBERT RAY—And who is left? Mr Sixpack himself, Senator Abetz, the
parliamentary secretary for defence—the last man standing. But how could you reward someone who has single-handedly destroyed all their House of Representatives hopes and can barely muster together two quotas in a Senate count? The only proficiency he has shown is in kicking a few Kosovars in the last few months.

Senator Faulkner—And his colleagues.

Senator ROBERT RAY—And his colleagues, but he does that professionally. So it is a problem. Then, of course, if Senator Herron were to go off into the sunset—God forbid—who is there to replace him? We know at least one candidate has removed the diamond from his ear to look a little more acceptable. His 20-odd year membership of the Labor Party is a bit harder to expunge, but he is working hard on that. He is joining the Prime Minister on the bus trip up to Moree. He is rumoured as a possibility. Then, if Minister Bishop goes, who could possibly replace Mrs Bronwyn Bishop? I am not going to speculate on all the names out there. There are, of course, more ambitions than there are places to fill. But how do these rumours get started? Will we have a reshuffle or not? I do not think we can. The one thing we can say in this chamber is that Senator Herron and Senator Newman are men and women of honour, and they would not deny going if, in fact, there were intended to go.

I will move on to another matter that has me somewhat concerned, and that is the clash this week—albeit a beat-up, it is said—between Mr Max Moore-Wilton and Senator H.E. Minchin. They had a major battle, apparently, over the nuclear power reactor. Even though I have some antipathy to Mr Max Moore-Wilton and some of his behaviour, that should not colour my judgment here. Ministers must prevail. Ministers who get a cabinet decision in their favour are winners, and it is not up to bureaucrats—no matter how high they are—to try to backdoor and influence those decisions. That is apparently what happened in this case. It was only the exposure by the Adelaide *Advertiser*—from a source we know not where—that put this issue on the public boil. Now, Mr Max Moore-Wilton has backed off, and not before good time.

There are only two other matters that I want to raise here tonight. One of my colleagues when I first came here was Dr Dick Klugman. I had been here only four days and I was having a meal in the parliamentary dining room when I was introduced to Dick Klugman. The first thing he did was to take four big slices of bread and get big slabs of butter and butter them. He then got the salt shaker and put salt on all of it. And I thought, ‘This is my sort of doctor.’ As I got to know him better I found that he was a very irascible gentleman. He chaired the Joint Select Committee on Electoral Reform—and I found Ralph Hunt a better ally than Dick Klugman when it came to reliability of voting on the various fixes we were trying to put in. He was a colourful character.

He recently wrote to the ASIO committee—and there is nothing we can do about it—complaining that a particular individual accessed their ASIO file, not Dick Klugman’s file, and that in that ASIO file Dick Klugman is mentioned as a current or former member of the Communist Party. This has upset him intensely. Anyone who knows Dick Klugman would know that he was intensely anti-communist—he could have played Bob Santamaria on a break. So to be so described in an ASIO document was highly offensive to him. This is the individual who sent a question on notice to the minister for science asking the minister to explain why the Soviet Union had had 60 bad successive weather years that wrecked the wheat crop and was not collectivisation or anything else. You do not have to be on the Right to oppose communism. A lot of people on the Left opposed a monolithic communist hegemony. Dick Klugman was a classic civil libertarian who would not brook communism. So to be so described in the ASIO file was extremely disappointing.

I can at least put on the public record, and I am sure colleagues here who knew him well could also attest, that Dick was never Red. He was irascible, he was inconsistent on occasions, he was acerbic—he was all those things. But he never had the personality that could have fitted into an undemocratic centralist organisation such as the Communist Party.
The final thing I wanted to return to, because we mentioned it earlier tonight, was the Prime Minister’s visit to Jim Murphy’s wine cellar at Fyshwick. I was a bit surprised when I saw the Prime Minister go to Fyshwick! But the thing that most surprised me, from a political point of view, was: where was the advance man? You never send a Prime Minister out without checking it out first. The news tonight was fascinating—watching the cameras roll, watching the Prime Minister get the two docketts. He was nervous, it is true, until he read that there was a $22 difference and that everyone would be better off on Saturday. Then the camera seemed to fade and then suddenly light up as someone pointed out that the bottle of Scotch had been put through twice and everything would cost $1.50 more on Saturday. It is one of the vintage pieces of film. It could happen to any political leader. But I’ll tell you what: at 1.30 this morning, I would not like to be the staff member who organised this one. Somewhere in Canberra, someone is rolling from one side of the bed to the other, wondering whether they are going to get a pink slip in the morning. If they have got any problems in this regard, I suggest they go down and be counselled by Peter Knott, the Labor Party candidate who took Paul Keating into a cake shop.

Senator SCHACHT (South Australia) (1.31 a.m.)—The appropriation bill gives an opportunity to speak on something that has fascinated me in recent times. It takes me back to growing up on a dairy farm in Victoria.

Senator Cook—A night of reminiscences.

Senator SCHACHT—Senator Cook says, ‘a night of reminiscences’. I grew up in Victoria on a dairy farm in an area of Gippsland where in some cases, after the split with the Labor Party in the mid-1950s, the Labor Party vote dropped to less than the DLP.

Senator Robert Ray—We went within 500 votes of winning Gippsland province.

Senator SCHACHT—Yes, and in some booths the Democratic Labor Party would often out-poll the Labor Party. So there was no joy for the Labor Party in all of Gippsland.

I note that after the recent state election, of the five seats in the Gippsland area, two are now held by the Labor Party, two are held by Independents who support the Labor Party in government, and only one is held by the National Party. It is an astonishing change in an area that was bedrock solid Country Party, then National Party, for something like 70 years since the 1920s. I find it exceptional that my relatives, who once would never have thought it was in any way possible to support the Labor Party, now concede that there is a fifty-fifty chance in every election that they will vote for the Labor Party. They see the National Party as no longer relevant to their interests, their issues or their economic future. This change that is taking place in regional Australia is really quite historic. There was a by-election in Benalla recently. Two elections ago, the Labor Party vote was 25 per cent; it is now 52 per cent—and that is a seat that the Labor Party has never held in its whole history.

When you look right around Australia, there are now opportunities for the Labor Party to win seats we never thought that we could win. The reason is that, after 50 to 60 years, ordinary people in those areas realise that voting for the National Party, particularly if they have a farming background, no longer automatically delivers to them an economic future.

In recent times, the National Party seems to have had a crisis a day. There was the issue of the caravan park residents at the National Party conference at Tweed Heads. The massacre the National Party put itself through over that issue could not get the Prime Minister to budge. Three days later, the Democrats got the Prime Minister to shift. The National Party could not get him to shift at all—a further example that the National Party is nothing but cannon fodder for the Liberal Party in this parliament and elsewhere in Australia. The next day there was the revolt over dairy deregulation. Again, there might be a very good economic argument; it might be in the favour of my relatives on dairy farms in Victoria. But you hear National Party representatives openly admitting that, in New South Wales, Queensland and even Western Australia, dairy farming deregula-
tion is going to wipe out a number of seats. Again, the National Party is told by the Liberal Party—dominating the National Party in the coalition—that this is what it has to accept and that this is what economic rationalism is all about.

One of the most interesting sets of figures I have seen is the 1996 census. When you compare, in the 1996 census, all the 148 electorates across Australia according to their socioeconomic income levels, the 10 poorest electorates by income in Australia are held either by the National Party or by the Liberal Party. It is quite interesting to note that the poorest electorate per income in Australia is the electorate of Lyne in New South Wales—a seat the National Party has held since before the Second World War. All that time, people in those electorates loyally voted for the National Party and, the more they voted for them, the bigger their economic decline. It is the same for outback electorates. The decline in incomes has been consistent since the Second World War. There was a bit of a spurt in the fifties with the wool boom—and, after the Second World War, shortages of food in Western Europe meant there were good prices and good markets—but, since the fifties, the decline in incomes in regional and rural Australia has been quite significant.

The National Party has proved absolutely ineffective in defending and preserving the incomes of the constituents who have loyally voted for it. People in these electorates were more than forgiving to the National Party for so long. They kept voting them back in. But, in the last four or five years—certainly since the election of the Howard government in 1996—we have seen regional and rural Australia wake up to the fact that, by voting for the National Party, all they get is more misery, less income and a greater decline in services in country towns, particularly the small country towns that stretch throughout the major agricultural areas of Australia.

Therefore, although the Labor Party are never overly optimistic about our chances in some of the formerly safe rural seats, there is a real chance for us. But, on election night next year—if the election is put off until October of next year—there will be astonishing results in some seats in rural and regional Australia, which the Labor Party will win. There will be astonishing results in seats like Benalla, which we have never won before, and seats like Narracan in Victoria, which we have not held since 1954. We have won state seats in New South Wales and Victoria. This all augurs well, and it will be up to the Labor Party to get the message out that we are the party that will consistently protect and provide services to country towns. The establishment of Country Labor in New South Wales and the Country Labor Association in South Australia is showing that people in country electorates have realised that it is no use to them to consistently vote for one party, turning their seats into safe seats, and to give their support to the National Party when the National Party does not deliver.

If you were a farmer or a person living in a small country town in regional and rural Australia, you would be much better off to vote the Labor Party in, make your seat marginal and at least try to get back to your electorate some benefits that the National Party has not been able to deliver. I have to say that after 50-odd years it is good to see that some regional and rural people are waking up to their future. It will be a very interesting election and we look forward to seeing on election night some very good results in federal seats, with some that we have not won at all before coming over to the Labor Party. Senator Herron, who is representing the government here at the moment, has probably had more battles with the National Party in Queensland than even the Labor Party has had. I do not suspect, Senator Herron, that you would be too disappointed to see a number of National Party seats fall to the Labor Party and then, in the following election, you would try to run Liberal candidates in them. I do think, Senator Herron, that, as a former state president of the Liberal Party, despite all your own problems, you may well think that there might be some long-term advantage for the demise of the National Party.

Senator Herron—I’ve got no problems.

Senator SCHACHT—You’ve got no problems but your party in Queensland has a few—that is what I am saying, Senator Herron.
Senator Herron—Oh, I see.

Senator SCHACHT—So the changes in the last couple of years have been quite historic movements and one of those is now reflected in most of the opinion polls. I do agree with Malcolm Fraser that there is only one poll that counts and that is on election day. But earlier this year in the Morgan poll something occurred that I had never seen happen before in the history of the Morgan poll: with every federal voting intention in every one of the six states the Labor Party was in excess of 50 per cent, two party preferred. That has never occurred before in the history of Morgan polling. Morgan may not be the best pollster in the world and we may have had some arguments, but he picked the Victorian result pretty closely and he picked the South Australian result pretty closely in recent times. He does make the point that, rather than doing telephone polling, he has gone back to a method of actually getting people to fill in a ballot paper and put it in the ballot box at the doorstep, so it is a genuinely secret ballot or a secret vote. I suspect he is starting to detect that people who have traditionally been long-term National Party or Liberal Party voters do not want to admit to anybody else that they are switching their vote to the Labor Party but will do that in a secret ballot. So I think all of that is an encouraging sign that the Labor Party will again have a spectacular result at the next federal election in winning seats.

Senator MURPHY (Tasmania) (1.43 a.m.)—With regard to the appropriation bills, I thought they were where we started off this evening—

Senator Hogg—We’re still there. Tell them about fly-fishing.

Senator MURPHY—I could tell them a lot about fly-fishing. It is a very important sport. It took me a long time to convince the Australian Sports Commission that there actually was such a sport. Nevertheless, coming back to the appropriation bills, we are looking at less than 24 hours before we confront this new tax system.

Senator Faulkner—It scares the tripe out of people.

Senator MURPHY—It does, and rightly so because, as I said earlier in the evening, if ever there were a hoax to be foisted upon the Australian people, this would be it. We had this government, when it won office in 1996, present to the Australian people a claim of honesty and integrity.

Senator Faulkner—Never, ever a GST. Do you remember that?

Senator MURPHY—Of course; it was built on the basis of the never, ever GST statement, but the Prime Minister made a commitment. He introduced a charter of budget honesty and, of course, committed his troops to being honest with the Australian public, which was a very interesting situation and I think one that the Australian public probably took at face value initially. Of course, as we have progressed down the path towards—

Senator Faulkner—Excellent speech.

Senator Hogg—Wonderful speech. Hear, hear! Tell them how you are going to catch 10 per cent more fish with just a few flies.

Senator Faulkner—Yes, in the interests of the government’s program.

Senator MURPHY—Of course. I am not going to finish quite yet, because I have had to listen to a lot of other things said here tonight. So just for another minute or two, I am going to reiterate again—

 Senator Abetz interjecting—

Senator MURPHY—I note that Senator Abetz has come into the chamber; unfortunately, no National Party senators are in the chamber. But it is a hoax that is being foisted upon the Australian public because they have been totally misled over a long period of time by this government. That is what is relevant, because they have had to confront the issue—and, again, they took it at face value in 1998—that this government wanted to introduce a new tax system but not on the basis that the government would tell the public of this country what would be introduced. That
is the point: why none of the message was put. I say to the government that after Saturday you will have to front up again and reinstate your efforts to be honest with the Australian public.

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (1.46 a.m.)—I would like to thank all senators for their contributions to this debate. I commend these bills to the Senate.

Question resolved in the affirmative.

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

VETERANS' AFFAIRS LEGISLATION AMENDMENT (BUDGET MEASURES) BILL 2000

VETERANS' AFFAIRS LEGISLATION AMENDMENT BILL (No. 1) 2000

Referral to Committee

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

That the provisions of the Veterans’ Affairs Legislation Amendment (Budget Measures) Bill 2000 and the Veterans’ Affairs Legislation Amendment Bill (No. 1) 2000 be referred to the Foreign Affairs, Defence and Trade Legislation Committee for inquiry and report by 28 August 2000.

COMMITTEES

Membership

The ACTING DEPUTY PRESIDENT (Senator Bartlett)—I inform the Senate that the President has received letters requesting changes in the membership of various committees.

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

That senators be discharged from and appointed to committees as follows:

Foreign Affairs, Defence and Trade Legislation Committee—

Participating member: Senator Bartlett for the consideration of the provisions of the Veterans Affairs Legislation Amendment (Budget Measures) Bill 2000 and a related bill

Rural and Regional Affairs and Transport Legislation Committee—

Substitute member: Senator Greig to replace Senator Woodley from 3 July to 13 August 2000 for the committee’s inquiry into the administration of the Civil Aviation Safety Authority.

A NEW TAX SYSTEM (TAX ADMINISTRATION) BILL (No. 2) 2000

Consideration of House of Representatives Message

Message received from the House of Representatives acquainting the Senate that the House has disagreed to the amendment made by the Senate.

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

Motion (by Senator Kemp) proposed:

That the committee not insist on its amendment to which the House of Representatives has disagreed.

The CHAIRMAN—The question is that the motion moved by the minister be agreed to. Minister, do you wish to speak?

Senator Kemp—Well—

Opposition senator—You don’t want to speak.

Senator Kemp—I won’t then.

The CHAIRMAN—Senator Cook?

Senator COOK (Western Australia—Deputy Leader of the Opposition in the Senate) (1.50 a.m.)—Madam Chairman, it is my understanding that the minister may wish to make some remarks about this and I would like very much to hear them.

Senator KEMP (Victoria—Assistant Treasurer) (1.50 a.m.)—Thank you, Senator Cook. It is very rare for me to get asked by you to make some remarks and I note that. There was a discussion about the amendment that was moved by the Democrats. This amendment caused the government considerable concern, not the least of which we felt had led to perverse results. So we did not find that amendment acceptable in a technical sense. Equally, we felt that the bill itself covered the concerns that the Democrats had in this regard. There were discussions between the non-government parties and the government and there was an agreement which I hope will be adhered to, certainly by the Labor Party. The Labor Party sought certain
assurances about how this bill would operate and I am happy to give those assurances now. I am able to give an undertaking to the Senate that under the provisions of this bill professional bodies and industry organisations such as the NTA, NFF, AMA, et cetera, which are not registered tax agents, are able to charge a fee for service for giving advice to their members on taxation laws and tax related matters. That was the nub of a somewhat extensive debate we had earlier this evening. Following consultations with my advisers, I am able to give that assurance.

Senator RIDGEWAY (New South Wales) (1.52 a.m.)—I indicate that the Australian Democrats will be supporting the motion not to insist.

Senator COOK (Western Australia—Deputy Leader of the Opposition in the Senate) (1.52 a.m.)—In view of what has been said, we will support the motion and not insist, but could I ask just one question, Minister? You read out a number of organisations, which I took to be indicative of the type of organisation. Even at this hour, I cannot resist my question. Would the AMWU be one of those?

Senator KEMP (Victoria—Assistant Treasurer) (1.53 a.m.)—It hurts me to say this, but as you raised that question I turned to my key adviser and he nodded.

Senator Cook—That is an affirmative?

Senator KEMP—That is an affirmative.

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

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

Consideration of House of Representatives Message

Message received from the House of Representatives indicating that the House has made amendments Nos 2 to 5 and 7 to 12 requested by the Senate, has not made amendments Nos 1, 6 and 13 requested by the Senate and has made amendments in place of amendment No. 6 and requests the concurrence of the Senate.

House of Representative amendments—

(1) Schedule 1, item 3, page 28 (after line 33), at the end of subsection (5) add:

; and (d) 80% or more of the individual’s personal services income could reasonably be expected to be, or was, income from the same entity, or from the same entity and that entity’s *associates.

(2) Schedule 1, item 3, page 29 (line 12), omit “subsection (3)”, substitute “paragraphs (3)(a) and (b)”.

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

Motion (by Senator Kemp) proposed:

That the committee not press its requests for amendments Nos 1, 6 and 13 not made by the House of Representatives, and agree to the amendments made by the House in place of amendment No. 6 requested by the Senate.

Senator COOK (Western Australia—Deputy Leader of the Opposition in the Senate) (1.55 a.m.)—Can the minister just remind the chamber what amendments Nos 1 and 13 were.

Senator KEMP (Victoria—Assistant Treasurer) (1.55 a.m.)—Amendment No. 1 was the report to the parliament, and amendment No. 13 was reducing the time from two years to one year for the PPS contractors.

Senator RIDGEWAY (New South Wales) (1.56 a.m.)—The Australian Democrats will not be insisting on our amendments or on the Labor Party amendment. I might say a few things about that. I would like to put the question to the Assistant Treasurer: would the government be prepared to commit to tabling figures which show the revenue collected by this measure every six months from 1 January 2001? We do see substantial merit in the amendment that was put forward by the Australian Labor Party and was passed by the Senate. We are unable to understand why the government is opposed to the merit of that amendment. It seems to me to be pretty clear. It is an amendment which deals with a simple review and reporting obligation on the part of the ATO. But, as I said, we will not be insisting on that amendment. I reiterate that I honestly cannot understand the government’s opposition to the substance of the bill in that respect. In any event, it is very late and I know that senators do not want to be kept any longer than they need to be, so I indicate again the Democrats will be supporting the motion.
Senator COOK (Western Australia—Deputy Leader of the Opposition in the Senate) (1.57 a.m.)—I was interested very much in that explanation by the Australian Democrats. The opposition will insist on amendments Nos 1, 6 and 13. It will insist on all of them. We think that amendment No. 1, the report to the parliament, has not been adequately explained by the government. There is a need to encode in the legislation a requirement that there be a report. The government have lauded the so-called advantages of their system, and now they are declining to provide a mechanism by which they would be required to report on what in fact is the outcome of the tax system in this respect.

Therefore, it can be clearly seen as an attempt by the government to escape scrutiny. The assurances that the minister has tried to infer—although not actually give—are not assurances that in any way encourage us to believe that adequate reporting would take place if this amendment was not insisted on. Therefore, we would vote to insist on this amendment.

Amendment No. 6 is an amendment by the Australian Democrats which the Labor Party supported and which we now continue to support. My understanding of what has just been said is that the Democrats will not insist on this amendment. I note the affirmative nod of Democrats Senator Ridgeway, and I acknowledge that that is the position of the Australian Democrats. The Australian Labor Party would, however, insist that this amendment should be persisted with. We do so because it is fundamental to the government keeping its word in an arrangement reached between the Treasurer, Mr Costello, and the shadow Treasurer, Mr Crean, that underpinned the opposition’s commitment to the passage of the business tax reform group of bills.

One of the central elements of that package was the reduction of capital gains tax, a cutting in half of capital gains tax—a reduction of 50 per cent. On the other hand, there were commitments to conform with the Ralph committee of inquiry report on the alienation of personal services income which would have ensured that the total package of business tax reform was revenue neutral. For us, the commitment to revenue neutrality was the central reason that we could justify a situation of endorsing the package in its entirety.

There was another reason why it was necessary to commit ourselves to this package, and that was that the business community of Australia did require long, strong signals about constancy in the business tax framework. We, as a responsible party of opposition and not an oppositionist party, believed that, for the sake of the economy and for the predictability of the business tax framework, it was necessary for us as well to indicate support for the package. But what happened? The shadow Treasurer believed that there was a need for the Treasurer to make the commitment on personal services income in the Hansard in the House of Representatives and asked that that be done. The Treasurer did that. But when it came to the legislation, the Treasurer got done over in his party room, or certainly did not fight strongly enough for the commitment he had made in the Hansard to the Labor Party and, specifically, to the person of the shadow Treasurer. On the other hand, we in the Labor Party did stand up for our commitment—and it was not an easy decision by us in our party room to commit to the package.

The fact that the government has walked away from its commitment is a shameful thing—it is a shameful thing in the sense that, once again, how can we ever trust it—and it also shows contempt by the government for the processes of the parliament. A commitment was made in the Hansard, which was then promptly dishonoured. We attach a considerable importance to the alienation of personal services income. We believe it would be an essential step in preventing a massive haemorrhaging of the revenue base, and it was entirely appropriate for the Ralph committee to report on what we regarded as an acceptable means of dealing with that. The amendment that the Australian Democrats moved, which we supported in the previous debate on this bill, went to the fourth test, as it is commonly referred to—the test under which the Commissioner of Taxation is equipped with powers to make a consideration against certain criteria as to whether a
person who earns more than 80 per cent of their income through a sole client is entitled to be regarded as a contractor.

This is an important element of the package because the powers that this section vests in the Commissioner of Taxation enable him to sift out the genuine contractors from those who are not genuine contractors. The strengthening of the tests that the Australian Democrats provided for in their amendment was something that we believed was necessary to give integrity to this measure. Now it has come back, it has been rejected by the House and it is not being insisted upon here by a majority in this chamber. We firmly assert that it should be insisted upon and we will oppose the motion, we will vote against the motion, and, if necessary, we will divide on the motion.

Senator KEMP (Victoria—Assistant Treasurer) (2.04 a.m.)—Senator Cook, we have had that debate over quite a prolonged period. I do not accept your particular view of events. I do not think this is the hour at which we should explore that in any great detail, but I just wish to record that we simply do not accept the way you have interpreted what the government has done. The government has fulfilled its commitment as it always seeks to do.

Senator Ridgeway, let me make some observations on the comments you made. I am happy to refer those comments to the Treasurer and bring them to his attention. But let me make it clear that the Australian Taxation Office is responsible, as we all know, for the administration of tax laws in Australia and the ATO does work to ensure compliance with all tax laws. When this bill becomes law, it will be no exception. Therefore we do not agree that it is necessary to have special provisions in the law. Each year the commissioner reports to the parliament about all the laws that he administers. In respect of some laws, for example fringe benefits tax, it is possible to quantify easily the revenue collected. Under this measure, the revenue gain will be part of the overall income tax collections. It will not be easy just to have them separated out, but I am happy to bring your request to the Treasurer.

Senator BARTLETT (Queensland) (2.06 a.m.)—I shall be brief, but I do not imagine anyone is going to miss a plane if I speak for a minute or two. Senator Cook’s comments in part touched on a matter close to my heart. He was expressing distress about commitments that the government have made on the *Hansard* record in relation to deals that they had made with the opposition, the historic Costello-Crean business tax deal. As Senator Cook pointed out, there are massive cuts in capital gains tax to the highest income earners in the land. It is important to me because, having listened to people from the ALP, people such as Senator Bolkus, criticising the Democrats for being so naive as to trust the government on environment legislation—

Senator George Campbell—You are defending the indefensible.

Senator BARTLETT—I am not defending your indefensible deal on business tax, Senator Campbell. Having had people from the opposition criticise the Democrats for being so naive as to trust the government on a commitment that they put on the record in the *Hansard* and say how silly we must be, I could not pass up the opportunity to emphasise to the opposition that in any sort of situation you are faced with the situation where sometimes you do have to trust what other parties say to you and what other parties put on the record, even if it is on the *Hansard*, or commitments made to the Australian people. Nonetheless, in the context of this particular legislation, this is a bill which overall advances the situation compared to the bill not passing, and always we have to decide whether what is there is a move forward. Obviously that is a judgment that has been made in this particular case.
Senator RIDGEWAY (New South Wales) (2.08 a.m.)—I will not delay the committee too long. I was anticipating some criticism from the Australian Labor Party and I am not surprised, but on that issue I am less concerned about that than I am about the prospect of being criticised for assisting tax avoiders, and the issue is about being able to close the loopholes. I make the point for the record that, just as on Tuesday of this week the Labor Party did not insist on their amendments to the Corporations Law entitlements bill—a bill of more consequences than the one we are dealing with at the moment—on the basis that they could see the benefits in the bill and did not want to frustrate its passage, so we can see that it is time to close the significant loopholes dealt with by this bill. The political reality is what needs to be kept in mind, and that is that, by insisting on this series of amendments, the passage of the bill could well be delayed until August, and that is something that the Democrats will not participate in.

Senator COOK (Western Australia—Deputy Leader of the Opposition in the Senate) (2.10 a.m.)—Madam Chair, I wonder if you would put each of these amendments separately. The reason I ask this is that various parties have indicated a different view on each of them.

The CHAIRMAN—I will divide the question. The question is that the committee not insist on its request for amendment No. 1.

Question resolved in the affirmative.

Senator COOK (Western Australia—Deputy Leader of the Opposition in the Senate) (2.19 a.m.)—by leave—Madam Chairman, I wonder if you would put each of these amendments separately. The reason I ask this is that various parties have indicated a different view on each of them.

The CHAIRMAN—I will divide the question. The question is that the committee not insist on its request for amendment No. 1.

Question resolved in the affirmative.

Resolution reported; report adopted.

Third Reading

Bill (on motion by Senator Kemp) read a third time.
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 bills:

Telecommunications (Consumer Protection and Service Standards) Amendment Bill (No. 1) 2000
New Business Tax System (Miscellaneous) Bill (No. 2) 2000
Datacasting Charge (Imposition) Amendment Bill 2000
Broadcasting Services Amendment (Digital Television and Datacasting) Bill 2000

COMMITTEES

Membership

The PRESIDENT—I inform the Senate that I have received a letter requesting a change in the membership of a committee.

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

LEAVE OF ABSENCE

Motion (by Senator Ian Campbell) agreed to:
That leave of absence be granted to every member of the Senate from the termination of the sitting this day to the day on which the Senate next meets.

ADJOURNMENT

The PRESIDENT—Order! It being 2.22 a.m., I propose the question:
That the Senate do now adjourn.

Bansemer, Ms Gail

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (2.22 a.m.)—There is one matter which I am sure all senators, but particularly leaders, whips and managers, will have a special interest in and that is that with the adjournment of the Senate tonight the Senate will lose the services of our Parliamentary Liaison Officer, Gail Bansemer, who has served us so incredibly well since about November 1996, shortly after I became manager. Those people who have served as whips, leaders or managers in this place, and indeed many others—and I think of ministers—will know that the Senate in Australia could not work without the services of a Parliamentary Liaison Officer, known as the PLO. Furthermore, senators will know that during the period since about November 1996 the Senate has dealt with an extraordinary amount of legislation. It has dealt with extraordinarily complex legislation which has, and will continue to do so, changed Australia in significant and historic ways.

The legislative program that has been dealt with during the past almost four years has seen some historic changes—the biggest tax reform in Australian history; a significant privatisation program; significant industrial reform. I do not seek to be at all political in this speech, but I think that all senators know, from the complexity of many of the bills, the pure weight of legislation that has passed through this place and the negotiation that has been required between ministers’ offices, members of the opposition, independent senators and the Democrats, that the workload on the PLO has, arguably, been the heaviest in this past few years than has ever been noticed in the past.

I have found it a great honour and a privilege to serve with Gail Bansemer. I wish her well in her future career. I know that her very special qualities—she is a fine lady with a great sense of humour, a great sense of purpose and a great sense of public duty—and her thoroughness and professionalism will serve her well and serve the organisation that she seeks to work for and with. This will ensure that she will be very successful in any career she chooses in the future. Whoever she works for will have a very special person in Gail. I know that I speak on behalf of all members of the government in thanking Gail for the extraordinary effort she has put in to help make this place tick over the last few years. I am sure I can speak on behalf of all senators and all other staff around the Senate.

Gail, from the bottom of my heart, and on behalf of the government, thank you very much, and very best wishes in the future.

Bansemer, Ms Gail

Senator CARR (Victoria) (2.25 a.m.)—On behalf of the opposition, I indicate that we support the sentiments of Senator Campbell’s remarks. The PLO has been a person of very high professional integrity and has assisted
the opposition in all respects whenever we have sought her assistance. I wish her well in whatever career she undertakes.

Dickson, Mr Samuel

Senator HOGG (Queensland) (2.26 a.m.)—Madam President, I am well aware of the late hour. I seek leave to have my adjournment speech incorporated. I have shown it to the government and they are aware of its contents.

Leave granted.

The speech read as follows—

I rise to speak about the sad and desperate situation of one of my constituents, Mr Samuel Dickson of Bundaberg in the State of Queensland, an 84 year old Irish man, who is being harshly treated by the Department of Immigration and Multicultural Affairs.

Mr Dickson arrived in Australia on 26 August 1997 on a six month visitor’s visa to care for his elderly widowed sister who is blind. Mr Dickson’s sister was married to an Australian and has lived in this country for the past 52 years. She has no other family in Australia and is unable to live alone.

During this six month period, Mr Dickson provided the care his sister required. It became apparent that his sister continued to need him. So, he decided to stay and provide that care for her. As he was completely unaware of the necessity to do so, he did not renew his visa by the 26 February 1998 and remained in Australia caring for his sister. Mr Dickson travelled home to Ireland for a last visit to take care of his affairs and re entered Australia on 10 March 1999. What is remarkable about this re-entry is that he did so, without a valid visa! As the visa had never been renewed.

It did not come to the attention of the Department of Immigration and Multicultural Affairs, that Mr Dickson had entered the country illegally, adding to his confusion regarding his status. He believed that he was here for the duration, to provide the care that his sister continued to need.

Mr Dickson first came to the attention of my Electorate Office on 7 January 2000 after being referred by his local State Member of Parliament, Nita Cunningham. While my office was investigating another related problem on his behalf, it became apparent, through contact with the Department of Immigration and Multicultural Affairs, that Mr Dickson had no lawful status. His visa had expired back in February 1998. The Department advised that Mr Dickson had lodged a claim for permanent residency in December 1998. However, as he failed to pay the appropriate fee, it was not registered. Nonetheless, Mr Dickson believed he had made an appropriate application.

It was then that a bridging visa E - subclass 050 was organised, through my office, to allow Mr Dickson lawful status, while an appropriate claim for permanent residency in his role as a carer was arranged. The visa that he needs to apply for was a Carer subclass 836 visa. The bridging visa was granted on 31 January 2000 for a three month period.

However, unfortunately, due in part to the distances involved (my office is in Brisbane Mr Dickson is in Bundaberg some hundreds of kilometres away) and his complete lack of understanding regarding his situation, his claim for Carer subclass 836 visa was not lodged.

Then on 6 April 2000, I received a response to representations made to Mr Phillip Ruddock, the Minister for Immigration and Multicultural Affairs, regarding Mr Dickson’s situation. This letter advised Mr Dickson to apply for a carer’s visa and the relevant application form was enclosed for his completion. I have here a copy of the Minister’s letter, which I accepted and acted upon in all good faith. A copy of the letter was forwarded for Mr Dickson’s attention together with the application form, and he was again encouraged to make an application.

On 23 May 2000, a representative from the Department of Immigration and Multicultural Affairs telephoned my Electorate Officer and informed her that Mr Dickson’s bridging visa E had now expired (on 30 April 2000) and he was again considered unlawful. A new bridging visa application form was sent and my office again had contact with Mr Dickson to arrange for its completion. The new bridging visa E - subclass 050 was granted on 30 May 2000 again for a period of three months.

During the process of completing this visa application with Mr Dickson, my Electorate Officer had a very lengthy telephone conversation with him and impressed successfully this time, the importance of lodging his application for a carer’s visa. The cost was somewhat of an issue, but his sister was going to try and arrange some finance for him.

It was only after this was completed, that my office was then advised, for the first time, that there was a time limit for Mr Dickson to apply for the carer’s visa. This time had expired in March of this year, so Mr Dickson could not lodge an appli-
cation for carer’s visa and had no option but to return to Ireland during the period of his bridging visa, that is before 30 August!

My Electorate Office made repeated pleas on Mr Dickson’s behalf with the Permanent Residence Section of the Brisbane Office of the Department, advising them of Mr Dickson’s age and reason for being here and his lack of comprehension regarding this situation.

My Office also advised them regarding the Minister’s letter dated 6 April 2000. However, all the staff, including the Officer in Charge, could do was to quote the relevant legislation in the Migration Regulations relating to Schedule 3.

An applicant for Carer subclass 835 visa is required to meet Schedule 3 criterion 3002 (clause 836.211 (a)). Schedule 3 criterion 3002 requires an application to be validly made within 12 months of the day that the applicant ceased to hold a substantive visa or entered Australian unlawfully.

As Mr Dickson was allowed to enter the country unlawfully on 10 March 1999, then for the purposes of satisfying Schedule 3, he therefore needed to make a valid application by 10 March 2000.

I guess it is all here in black and white.

However, there is one small problem. This was not communicated to Mr Dickson nor to my Electorate Office, who the Department was very well aware, were liaising on Mr Dickson’s behalf. When they wanted assistance in the completion of a bridging visa application form, they simply picked up the telephone and contacted my Electorate Officer and it was done.

However, when it comes to communicating information vital to the future of my constituents, Mr Dickson and his invalid sister, then no, the Department keeps this quiet!!!!

I find it incredulous that, after so many conversations and communications between the Department of Immigration and Multicultural Affairs and my office over a 5 month period, this extremely important fact was overlooked.

Had the Department mentioned this fact even once, the urgency would have been communicated to Mr Dickson, even if I had to go to Bundaberg to see him personally to do so!

As well as the fact that I have here in my hands a letter from Mr Ruddock, the Minister for Immigration and Multicultural Affairs, dated 6 April 2000, which clearly states that Mr Dickson has the option of applying for a visa to care for his blind sister and then lists the requirements of the visa and encloses the relevant application form. This is all after March 2000, which I am now advised was the deadline for such an application.

Mr Dickson is an elderly Irish gentleman 84 years of age, who has extremely poor communication skills, and his comprehension of these matters is limited. It has taken extensive work by two of my experienced Electorate Staff and the personal contact of the office of Nita Cunningham, State Member for Bundaberg, to finally communicate to him the nature of his situation.

Mr Dickson never understood any of the communications received from the Department of Immigration and Multicultural Affairs and was totally unaware of the fact that he was only given a six-month visitor’s visa upon his original entry into this country. Being allowed to return to Australia in March 1999 without a valid visa only then exacerbated his confusion regarding his status.

I know it must be difficult for the Department to accept that when they write a letter to someone that the person, whilst able to read the letter, does not comprehend its meaning, but there are many people like this in the real world. I see them all the time in my office.

Mr Dickson’s only intention was and continued to be to care for his widowed blind sister and to be her constant companion. They have no other relatives in this country they only have each other.

This being the case, I have again written to the Minister for Immigration and Multicultural Affairs to plead Mr Dickson’s case, given his poor comprehension of the events of the last year and the Department’s mistakes, in allowing him to enter illegally and most importantly, their repeated failure to notify regarding the March 2000 time limit to apply for a carer’s visa and the Minister’s own letter dated 6 April 2000 inviting him to apply for a carer’s visa.

There seems to be no Departmental solution to Mr Dickson’s predicament.

Given the circumstances, surely a humane and just Government would do everything in its power to assist Mr Dickson and his invalid sister in their plight.

I call on the Minister to assist in resolving this matter.

Senate adjourned at 2.26 a.m. (Friday) until Monday, 14 August 2000, at 12.30 p.m.

DOCUMENTS
Tabling

The Minister for the Environment and Heritage (Senator Hill) tabled the following government documents:
Department of Defence—Special purpose flights—Schedule for the period 1 July to 31 December 1999.

Human Rights and Equal Opportunity Commission—Reports—

No. 8—Inquiry into complaints of discrimination in employment and occupation: Age discrimination in the Australian Defence Force.

No. 9—Inquiry into complaints of discrimination in employment and occupation: Discrimination on the ground of trade union activity.

No. 10—Inquiry into a complaint of acts or practices inconsistent with or contrary to human rights in an immigration detention centre.

Military Superannuation and Benefits Scheme and Defence Force Retirement (MSBS) and Death Benefits Scheme (DFRDB)—Report on long-term costs carried out by the Australian Government Actuary using data as at 30 June 1999.

Public Sector Superannuation Scheme (PSS) and Commonwealth Superannuation Scheme (CSS)—Report on the long-term cost of the Public Sector Superannuation Scheme and the Commonwealth Superannuation Scheme carried out by Towers Perrin using data as at 30 June 1999.

Return to Order

The following documents were tabled pursuant to the order of the Senate of 22 June 2000:

Defence—Environmental management plans—

Ammunition Depot, Mangalore environmental management plan, phase 1, initial environmental review (IER), dated May 2000.

Longlea Magazine Area environmental management plan, dated June 2000.


Tabling

The following documents were tabled by the Clerk:


Export Control Act—Export Control (Orders) Regulations—Export Control (Fees) Amendment Orders 2000 (No. 1).


QUESTIONS ON NOTICE

The following answers to questions were circulated:

**Department of Health and Aged Care: Contracts with Ernst and Young**
(Question No. 2082)

**Senator Robert Ray** asked the Minister representing the Minister for Health and Aged Care, upon notice, on 6 March 2000:

1. What contracts has the department, or any agency of the department, provided to the firm Ernst and Young in the 1998-99 financial year.

2. In each instance: (a) what was the purpose of the work undertaken by Ernst and Young; (b) what has been the cost to the department of the contract; and (c) what selection process was used to select Ernst and Young (open tender, short-list or some other process).

**Senator Herron**—The Minister for Health and Aged Care has provided the following answer to the honourable senator’s question:

1. There were 8 contracts provided to the firm Ernst and Young in the 1998-99 financial year.

2. (a-c) See attached table

<table>
<thead>
<tr>
<th>DIVISION/AGENCY</th>
<th>PURPOSE OF WORK UNDERTAKEN</th>
<th>COST TO THE DEPARTMENT</th>
<th>SELECTION PROCESS USED</th>
</tr>
</thead>
<tbody>
<tr>
<td>Therapeutic Goods Administration</td>
<td>Identify funding requirements, determine pricing policies and determine the amount of cash reserves it should retain.</td>
<td>$8,000</td>
<td>Direct engagement of a consultant who had previously undertaken closely related work for the department.</td>
</tr>
<tr>
<td></td>
<td>Review the financial aspects of short-listed responses to an information technology software applications acquisition tender.</td>
<td>$6,400</td>
<td>As above</td>
</tr>
<tr>
<td>Health Insurance Commission</td>
<td>Analysis of business continuity plan.</td>
<td>$73,782.80</td>
<td>Continuation of pre-existing arrangement</td>
</tr>
<tr>
<td></td>
<td>PKI-RA coping study</td>
<td>$19,400</td>
<td>Continuation of pre-existing arrangement</td>
</tr>
<tr>
<td></td>
<td>Y2K assessment of Professional Review Division</td>
<td>$1,395</td>
<td>Selective tender</td>
</tr>
<tr>
<td>Medibank Private</td>
<td>PC/Lotus Notes Roll out assessment</td>
<td>$6,882</td>
<td>Open Tender</td>
</tr>
<tr>
<td>OATSIH</td>
<td>To develop an information kit for organisations and their auditors in the Northern Territory on acquittal processes, and develop and deliver training and information workshops for departmental officers and service provider accounting staff.</td>
<td>$20,852</td>
<td>Select tender process</td>
</tr>
<tr>
<td>ARPANSA</td>
<td>Review of Regulatory Fees</td>
<td>$2,958.80</td>
<td>Selective tender</td>
</tr>
</tbody>
</table>

**War Crimes: Australia-United States of America Cooperation**
(Question No. 2118)

**Senator Greig** asked the Minister representing the Attorney-General, upon notice, on 17 March 2000:

1. Has the Australian Government ever received assistance from the United States (US) Department of Justice, Office of Special Investigations, concerning the movement of persons found or accused of
war crimes or crimes against humanity; if so: (a) what was the form of that assistance; and (b) how has that assistance been implemented within Australia’s immigration regimes, if at all.

(2) (a) What measures exist in Australia to monitor the movement of persons found guilty or accused of war crimes against humanity; and (b) what are the details of those measures.

(3) (a) What measures exist in Australia to monitor the movement of persons suspected or accused of drug trafficking; and (b) what are the details of those measures.

(4) (a) Is the Australian Government aware that the US Government maintains a database of over 70 000 names of person who are refused entry to the US because they are either accused or found to have committed crimes against humanity; (b) has the Australian Government ever been offered access to this database; and (c) has the Australian Government ever sought access to this database; if not, why not.

(5) If the Australian Government has not accessed or implemented information available from the US Office of Special Investigation, will it now do so; if not, why not.

(6) Did the Australian Special Investigations Unit, before it was disbanded in 1991, receive information from the US Office of Special Investigations concerning persons found or accused of war crimes or crimes against humanity; if so: (a) what was that information; and (b) how was it acted upon.

(7) (a) How many people in Australia have been identified as being persons found or accused of war crimes or crimes against humanity; and (b) how many of those people are there current investigations into allegations of war crimes or crimes against humanity.

(8) (a) How many people have ever been investigated in Australia for war crimes or crimes against humanity; (b) how many have been prosecuted, extradited or expelled from Australia; (c) how many have not been prosecuted, extradited or expelled; (d) for those who have not been prosecuted, extradited or expelled, what was the reason that those cases were not proceeded with; and (e) has any review been conducted as to the reasons why those persons were not prosecuted, extradited or expelled; if so, what were the findings of that review; if not, why not.

Senator Vanstone—The Attorney-General has provided the following answer to the honourable senator’s question:

(1) Yes. The Australian Federal Police (AFP) has continued the working relationship, first established by the Special Investigations Unit (SIU), with the US Office of Special Investigations (OSI) in matters of mutual assistance.

The Minister for Immigration and Multicultural Affairs has provided the following information in relation to matters within his portfolio.

“(a) and (b) The OSI has provided assistance to identify and locate individuals of concern believed to be in Australia.

In 1987, in response to a request by the Department of Immigration and Multicultural Affairs (DIMA) for access to any records they might hold of suspected war criminals, the US OSI provided details of 49 people who had been prosecuted in, or deported from, the US for war crimes. Since that time, the US OSI has routinely provided information of additional prosecutions/deportations. Those records have all been placed on DIMA’s Movement Alert List (MAL).

In 1989, the US OSI provided details of some thousands of individuals who may have been associated with the Nazi regime, but who had not necessarily been directly accused of, or prosecuted for, Nazi war crimes.

This information was not useable due to the format and incomplete nature of the data, as well as computer systems limitations.

(2) (a) and (b) With the assistance of local, national and/or international agencies, DIMA maintains details of individuals on MAL, who have been assessed as being of possible concern in relation to war criminality and who may attempt to travel to Australia.

Where an application is made to DIMA for a visa (or for citizenship) and a match or near match is made with one of the names listed on MAL, this information is considered, as part of the decision making process, against public interest criteria, including the character requirements. Any person who arrives in Australia without a visa (for example a crew member, or a person with a forged passport) is also checked against MAL records.
In addition, the Australian Customs Service (ACS) operates a computer system known as the Passenger Analysis Clearance and Evaluation (PACE) system at international airports on behalf of a number of client agencies, including the AFP.

The PACE system enables Customs officers to make checks on all travellers arriving in or departing from Australia against a list of wanted and suspected persons provided by law enforcement agencies. PACE also records the movement of all air passengers and crew into and out of Australia. This routine processing includes automatic visa and MAL checking on the DIMA's computer.

(3) (a) and (b) The same measures as indicated above are used in relation to suspected drug traffickers.

(4) (a) Yes.

(b) and (c) The US OSI has agreed to consider providing the updated list of 70000 records. DIMA is currently pursuing this offer as well as requesting details of the nature and contents of this information to establish how it may best be used.

(5) Refer to response for question (4) above.”

(6) Yes.

(a) The full extent of the cooperation and the material provided by the OSI cannot be quantified.

(b) The SIU explored all avenues of inquiry in regard to alleged war criminals living in Australia.

(7) (a) 965 persons were investigated. Three persons were charged with offences under the War Crimes Act 1945.

(b) All information that has been acquired has been assessed. Currently no avenues remain to be pursued. However, the AFP continues to assess information as it becomes available.

(8) (a) The SIU investigated 841 and the AFP made enquiries about 124 persons.

(b) Three persons were prosecuted. None has been extradited or expelled.

(c) 962.

(d) No legal action was commenced against most of the persons accused of war crimes due to lack of evidence.

(e) Yes. The AFP has conducted reviews of material relating to Konrad Kalejs following deportation actions in other countries. These reviews identified that no additional evidence was available to commence proceedings in Australia.

Bail Legislation: Disparities

(Question No. 2197)

Senator Murray asked the Minister representing the Attorney-General, upon notice, on 1 May 2000:

With reference to the significant disparities in bail legislation in Australian jurisdictions, particularly in relation to the remand of prisoners, is anything being done to develop a consistent Australia-wide set of minimum rights for accused persons.

Senator Vanstone—The Attorney-General has provided the following answer to the honourable senator’s question:

Bail laws are primarily a matter for the States and Territories. For federal offenders the Commonwealth applies State and Territory bail laws under subsection 68(1) of the Judiciary Act 1903.

The Royal Commission into Aboriginal Deaths in Custody made three recommendations in relation to bail law and practice (recommendations 89, 90 and 91). The implementation of those recommendations remains the subject of ongoing review by the Ministerial Council on Aboriginal and Torres Strait Islander Affairs and the Standing Committee of Attorneys-General.

I would also draw attention to Australia’s National Action Plan on Human Rights. The Australian Government is currently preparing an updated version of the National Action Plan which was first written in 1994. The updated Plan will reflect this Government’s approach to human rights.

A National Action Plan is a document that draws together a government’s policies relating to the implementation and protection of human rights, and outlines that government’s plans to further enhance
the observance of human rights within its territory. Bail laws could potentially be considered in the context of the Plan.

Input to the Plan will be sought from State and Territory Governments through the Standing Committee of Attorneys-General. The Joint Standing Committee on Foreign Affairs, Defence and Trade and non-government organisations will also be consulted in relation to the Plan.

Trade Portfolio: Agency Boards

(Question No. 2204)

Senator O’Brien asked the Minister representing the Minister for Trade, 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 Hill—The Minister for Trade has provided the following answer to the honourable senator’s question:

Austrade

(1) No. The Chairman of Austrade receives the same allowances as other board members. The remuneration for the Chairman and members is as follows:

<table>
<thead>
<tr>
<th>Position</th>
<th>Remuneration</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chairman</td>
<td>$50,000/annum</td>
</tr>
<tr>
<td>Deputy Chairman</td>
<td>$31,500/annum</td>
</tr>
<tr>
<td>Member</td>
<td>$21,000/annum</td>
</tr>
</tbody>
</table>

As stated in Austrade’s answer to Question on Notice No. 2146, remuneration and allowances are set by the Remuneration Tribunal.

(2) N/A.

Export Finance and Insurance Corporation (EFIC)

(1) Yes. (a) These payments are made to the Chairperson of EFIC because of the extra responsibility of exercising the duties of that position. (b) The Remuneration Tribunal assesses work-value and responsibility and determines an appropriate rate of pay.

(2) There have been two variations to the rate of remuneration for the Chairperson of EFIC since January 1998. (a) A review by the Remuneration Tribunal of rates of pay for offices that come under its jurisdiction. (b) The Remuneration Tribunal. (c) The variations have been as follows:

From March 1998 the remuneration increased by $111.67 per month from $3,155.00 per month to $3,266.67 per month; and
From April 1999 the remuneration increased by $316.67 per month from $3,266.67 per month to its current level of $3,583.34 per month.

Australian Centre for International Agricultural Research (ACIAR) and Australia-Japan Foundation (AJF)

(1) Yes. (a) The Sitting Fee for the Chairperson is $50.00 greater than the rate paid to board members. (b) This has been set by the Remuneration Tribunal.

(2) Payments have been varied once since January 1998. (a) Review of annual and daily fees for part-time public office holders. (b) Remuneration Tribunal. (c) Increase of $20.00.

Bureau of Meteorology: Boating Incidents

(Question No. 2224)

Senator Brown asked the Minister for the Environment and Heritage, upon notice, on 12 May 2000:

With reference to the services provided by the Bureau of Meteorology:
(1) Considering the deaths resulting from boating incidents involving weather changes, why has the 1154-free call number for boating weather been removed.

(2) What was the problem with maintaining this life-saving service.

(3) Will the Government ensure restoration of this service for Tasmania; if not, why not.

Senator Hill—The answer to the honourable senator’s question is as follows:

(1) Boating weather forecasts from the Bureau have not been available on telephone numbers such as 11541 since mid-1998, following the cessation by Telstra of most of the Dial it phone services.

(2) At that time the Australian Communications Authority (ACA) and Telstra decided to cease most of the Dial-it “11” series of public information numbers due to the national rationalisation of telephone numbering and concern in Telstra for the viability of the service.

(3) The Bureau established its Weathercall 1900 service for most of its telephone services, including its boating weather services, as a replacement for and expansion of the services previously delivered via Dial it. The operating costs of the 1900 services are charged directly to the Bureau, and are recovered by user charges of 75 cents per minute. Cost recovery has allowed the Bureau to provide a much greater range of services to the boating community, and to all areas of Tasmania for a uniform cost of access regardless of the distance of the caller from Hobart. Message content and menu format have been streamlined to minimise call costs for users.

The Bureau has introduced a 1300 service to provide high priority severe weather warnings for tropical cyclones in affected States, and is planning to extend this type of service to all States for warnings of strong, gale and storm force winds in coastal areas before the end of 2000. This service will be available to users in all States for the cost of a local call, with the Bureau covering the remaining cost.

In addition to the planned introduction of a 1300 number for marine warnings, the Bureau has recently agreed to a number of joint initiatives with Marine and Safety Tasmania to increase the boating public’s awareness of weather issues. These include:

. the promotion of the soon-to-be published Wind Waves Weather - Tasmania;
. the provision of a Small Craft Weather Alert for Inland Waters; and
. the production of a Tasmanian version of the Bureau’s publication Marine Weather Services.

The Bureau’s forecasts and warnings of hazardous marine conditions are available through a wide range of media, including the Internet and telephone. The Bureau will continue to monitor and explore other effective ways of disseminating weather information, such as alternative call-rate services offered by the telephone companies and new technology devices such as Wireless Application Protocol (WAP) phones.

Department of Foreign Affairs and Trade: Rents Paid

(Question No. 2243)

Senator Robert Ray asked the Minister representing the Minister for Foreign 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 Hill—The Minister for Foreign Affairs has provided the following answer to the honourable senator’s question:

DFAT

(1) The Department of Foreign Affairs and Trade has paid a total of $151,529,554.11 for rental properties from 1 July 1999 to 24 May 2000.

(2) Projected expenditure on rents from 24 May 2000 to the end of the financial year is $5,034,133.10.

AusAID

(1) AusAID has paid a total of $10,445 million for rental properties so far in the 1999-2000 financial year.
(2) AusAID’s projected expenditure for the rest of the 1999-2000 financial year is $0.420 million.

**Defence Portfolio: Rents Paid**

(Question No. 2244)

**Senator Robert Ray** asked the Minister representing the Minister for Defence, 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 Newman**—The Minister for Defence has provided the following answer to the honourable senator’s question:

1. As at 31 May 2000, the total cost to Defence for rent and associated fitout is $33.399 million on leased properties. The breakdown of the payments is:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Domestic Leases including fitout</td>
<td>$19.291m</td>
</tr>
<tr>
<td>Overseas leases</td>
<td>$14.108m</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>$33.399m</strong></td>
</tr>
</tbody>
</table>

2. The corresponding figure projected for the remainder of the financial year is $3.163 million. The breakdown of the projection is:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Domestic Leases including fitout</td>
<td>$2.017m</td>
</tr>
<tr>
<td>Overseas leases</td>
<td>$1.146m</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>$3.163m</strong></td>
</tr>
</tbody>
</table>

**National Residue Survey: Cattle Tested**

(Question No. 2258)

**Senator O’Brien** asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 30 May 2000:

1. How many cattle were tested as part of the National Residue Survey in 1998, 1999 and to date in 2000.

2. Of those cattle tested, how many were found to have traces of endosulfan.

3. (a) Can the above data be provided on a monthly basis; and (b) can the location of cattle testing positive to endosulfan be provided.

**Senator Alston**—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

The National Residue Survey has implemented and managed targeted testing programs for endosulfan residues in beef for the past 4 summers. The programs have been run under the auspices of SAFEMEAT, the industry/government partnership with advisory and policy responsibility for the red meat sector. Cattle from cotton growing districts in Queensland and New South Wales have been targeted for sampling at abattoirs.

The testing programs have varied in the way in which cattle were selected for testing from one season to another and also within a season. It is therefore not valid to directly compare results from one season with another, or one month with another.

The information sought, for the 1998/1999 and 1999/2000 seasons, is summarised in the attached tables.

**AUSTRALIAN NATIONAL RESIDUE SURVEY**

Results for the Endosulfan Targeted Testing Program
1 December 1998 to 23 April 1999
## Endosulfan Concentration (mg/kg) Districts with Residues ≥ 0.02 mg/kg

<table>
<thead>
<tr>
<th>Month</th>
<th>Total Tested</th>
<th>Endosulfan Concentration (mg/kg)</th>
<th>NSW</th>
<th>QLD</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dec-98</td>
<td>576</td>
<td>0.00 – 0.02</td>
<td>243</td>
<td>239</td>
<td>61</td>
</tr>
<tr>
<td></td>
<td></td>
<td>0.02 – 0.10</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>0.11 – (MRL)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>0.20 &gt; MRL</td>
<td>33</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Australian National Residue Survey</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Results for the Endosulfan Targeted Testing Program</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### NOTE:
The Maximum Residue Limit (MRL) for endosulfan is
- 0.20 mg/kg in beef fat in Australia
- 0.10 mg/kg in some export markets.

**NSW**
- Coonabarabran
- Coonamble
- Dubbo
- Moree
- Narrabri
- Northern Slopes
- Nyngan
- Tamworth
- Walgett

**QLD**
- Balonne
- Banana
- Broadsound
- Duaringa
- Emerald
- Jondaryan
- Maryborough
- Millneran
- Peak Downs
- Tambo
- Waggamba

- Bauhinia
- Balonne
- Banana
- Dalrymple
- Emerald
- Peak Downs
- Wambol
- Waggamba

- Balonne
- Bauhinia
- Belyando
- Jondaryan
- Murgon
- Waggamba
- Wondai

- Balonne
- Bauhinia
- Peak Downs

- Dubbo
- Moree
- Narrabri
- Nyngan
- Tamworth

- Dubbo
- Hillston
- Narrabri
## Endosulfan Concentration (mg/kg) Districts with Residues \( \geq 0.02 \) mg/kg

<table>
<thead>
<tr>
<th>Month</th>
<th>Total Tested</th>
<th>Endosulfan Concentration (mg/kg)</th>
<th>Districts with Residues ( \geq 0.02 ) mg/kg</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>0.00 – 0.02</td>
<td>0.02 – 0.10</td>
</tr>
<tr>
<td>Nov-99</td>
<td>7659</td>
<td>7641</td>
<td>18</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dec-99</td>
<td>2944</td>
<td>2920</td>
<td>24</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jan-00</td>
<td>2009</td>
<td>1913</td>
<td>95</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Feb-00</td>
<td>1506</td>
<td>1452</td>
<td>54</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mar-00</td>
<td>127</td>
<td>119</td>
<td>8</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total 99/00</td>
<td>14245</td>
<td>14045</td>
<td>199</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(98.6%)</td>
<td>(1.4%)</td>
</tr>
</tbody>
</table>

**Combined Results for 1998/1999 and 1999/2000**

| Total 98/00 | 16,892 | 16,116 | 667 | 76 | 33 |
|             | (95.4%) | (3.9%) | (0.5%) | (0.2%) |

**NOTE:** The Maximum Residue Limit (MRL) for endosulfan is

- 0.20 mg/kg in beef fat in Australia and
- 0.10 mg/kg in some export markets.

## Sydney Airports Corporation: Regional Air Operators

**Senator O’Brien** asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 30 May 2000:

1. Can the Minister confirm his advice to the Sydney Airports Corporation (SAC) that a shift of regional air operators from Kingsford Smith Airport to Bankstown Airport is not Howard Government policy.
16168 SENA TE Thursday, 29 June 2000

(2) (a) How was that view communicated to SAC; and (b) when was it communicated to the corporation.

(3) Is that policy the subject of a review by the Government.

Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) The possibility that regional airlines might be forced to move from Sydney Kingsford Smith Airport to Bankstown Airport is only speculation and any such proposal does not represent Government policy. The Federal Government has shown its commitment to regional New South Wales by developing the slot management system at Sydney Airport, which includes special slots for regional airlines.

(2) (a & b) In February this year I issued a media release criticising the Sydney Airports Corporation Ltd (SACL) for promoting an option to move regional airlines to Bankstown, and I confirmed that the proposal did not represent Government policy.

(3) The Government is currently considering the complex issues linked to Sydney’s future airport needs, and expects to make a decision on these issues in the near future.

Wool: Exports to China
(Question No. 2303)

Senator O’Brien asked the Minister for Trade, upon notice, on 7 June 2000:

(1) What tariff and non-tariff barriers currently apply to Australian wool exports to China.

(2) Since January 1998: (a) how have these trade barriers varied; (b) when were they varied; and (c) what has been the nature of each variation.

Senator Hill—The Minister for Trade has provided the following answer to the honourable member’s question:

(1) Both tariff and non-tariff barriers (quota and import licence) apply to Australia’s wool exports to China. Tariff rates for greasy wool (including scoured and carbonised) range from 1% to 38% and tariff rates for wool top range from 3% to 38%. Under China’s tariff quota system, the lower concessional tariff rate applies to wool within the quota.

(2) (a) China’s import tariff rates have remained unchanged since January 1998, but China removed the import quota for re-exported wool at the end of 1999 and introduced an import deposit system at the same time. Under the new system buyers are required to pay a deposit which varies depending on their “financial integrity”. Imported raw wool and wool top, which is subsequently re-exported, receives a full tariff rebate.

(b) At the end of 1999, China removed the import quota for re-exported wool.

(c) According to the Chinese Government, the ultimate purpose of these changes is to prevent smuggling and unlawful business activities. Although the deposit system increases financial burdens of importing mills, normal trade is expected to benefit from the current anti-smuggling campaign.

Wool: Exports to United States of America
(Question No. 2304)

Senator O’Brien asked the Minister representing the Minister for Trade, upon notice, on 7 June 2000:

(1) What tariff and non-tariff barriers currently apply to Australian wool exports to the United States of America

(2) Since January 1998: (a) how have these trade barriers varied; (b) when were they varied; and (c) what has been the nature of each variation.

Senator Hill—The Minister for Trade has provided the following answer to the senator’s question:

(1) Australian wool is an input to the US textile industry and apparel industry. The US does not currently apply any significant non-tariff barriers to Australian raw and semi-processed wool. The only barrier to Australian exports is US tariffs. The US currently applies a tariff of: 18.7 cents per kilogram clean on imports of greasy wool of less than 32 micron; 20.6 cents per kilogram clean on scoured wool of less than 32 micron; 24.4 cents per kilogram on carbonised wool of less than 32 micron; and, 5.4
cents per kilogram plus 4.4% on imports of Australian wool tops. Imports of wool into the US of
casier than or equal to 32 micron, which is used in the manufacture of carpets and industrial products,
have been duty free since 1991.

(2) (a) Duties applied to the specific Australian wool exports to the USA from 1998 to
date are provided in the table below.

<table>
<thead>
<tr>
<th>Article Description</th>
<th>1998*</th>
<th>1999*</th>
<th>2000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Greasy wool: &lt; 32 micron</td>
<td>19.8 cents/kg clean</td>
<td>19.2 cents/kg clean</td>
<td>18.7 cents/kg clean (a)</td>
</tr>
<tr>
<td>Scoured wool: &lt; 32 micron</td>
<td>21.8 cents/kg clean</td>
<td>21.2 cents/kg clean</td>
<td>20.6 cents/kg clean (a)</td>
</tr>
<tr>
<td>Carbonised wool: &lt; 32 micron</td>
<td>25.8 cents/kg</td>
<td>25.1 cents/kg</td>
<td>24.4 cents/kg (a)</td>
</tr>
<tr>
<td>Wool tops</td>
<td>6.2 cents/kg + 5%</td>
<td>5.8 cents/kg + 4.7%</td>
<td>5.4 cents/kg + 4.4% (b)</td>
</tr>
</tbody>
</table>

(a) these rates of duty will continue to apply through 2004.
(b) the rate of duty on wool top will phase to: 5.0 cents/kg plus 4% in 2001; 4.7 cents/kg plus 3.7% in 2002; 4.3 cents/kg plus 3.4% in 2003; and, 3.9 cents per kg and 3.1% in 2004.

The Uruguay Round of multilateral trade negotiations has delivered some cuts in the tariffs on raw
and semi-processed wool as well as wool yarns, fabric, textiles and apparel. As part of its Uruguay
Round commitments, the US is cutting the tariffs on greasy wool of less than 32 micron by 15% and on
wool top by 50% over the period 1996 to 2004. Another outcome of the Uruguay Round is the elimi-
nation by 1 January 2005 of US quantitative restrictions, including quotas, against developing countries
(these restrictions do not apply to Australia) which will see the textile and clothing trade fully integrated
into GATT 1994. This will provide an indirect but significant boost for Australian wool exports, par-
ticularly to developing countries, some of which are among our major customers for Australian wool. In
the longer term, these countries will have greater access to the US market.

Australia will also be promoting efforts to liberalise wool tariffs in the mandated round of multilat-
eral agriculture negotiations which commenced this year. Associated with this, Australia is also taking
a leading role in the WTO in pressing for comprehensive negotiations on industrial tariffs, including
tariffs on textiles and clothing. Once these negotiations are underway, Australia will be seeking to fo-
cus attention on tariff and non-tariff barriers restricting the trade of wool textiles and clothing in all
countries, including the USA.

The Australian Government and industry are working closely to address trade barriers to wool and
wool products. In early April 2000 I (Mr Vaile) launched the Wool Council of Australia’s study on US
barriers to wool fibre products trade. The study found that the cost to Australian woolgrowers of US
tariff and quota barriers amounted to A$17 million per year. The study quantifies and clearly shows
that the US has chosen to integrate the majority of wool products in the last stage of the phase-out pe-
riod, thereby discriminating against wool. The study also pointed out that US suitmakers are disadvan-
taged by having to pay a higher tariff for fine wool fabric than apparel importers pay on a suit made
from the same fabric. The Government has made representations to the US about its trade barriers to
wool and wool products.

In May 2000, United States Congress passed the US Trade and Development Act of 2000, which was
signed into law by President Clinton on 18 May. The Act reduces wool suiting fabric tariffs, from 1
January 2001 to 31 December 2003, as follows:

. For fabric of wool 18.5 micron and finer, from 29.4% to 6% with an import quantity limit of 1 mil-

lion square metres equivalent (SME) annually; and

. For fabric of wool greater than 18.5 micron, from 29.4% to an effective rate of 18.8% with further
reductions to 18.4% in 2002 and 18% in 2003. The quantity limit will be 2.5 million SMEs per year.
This tariff reduction of over 10% is expected to provide renewed export opportunities for Australian
fabric makers whose exports to the US have been in steep decline over the period 1997 to date.

For Australian woolgrowers the reductions in tariffs on wool fabric are expected to strengthen de-
mand for fine and superfine wool, especially from Italy and to a lesser extent from Mexico, Canada,
India, and the UK, all of which are significant exporters of fine wool fabric to the US. The Trade
and Development Act also extends duty-free entry, from 1 January 2001 to 31 December 2003, to raw
wool, top and yarn made from wool of 18.5 micron and finer, but this is expected to have little impact
on Australian exports of raw wool and top as very little wool of 18.5 micron and finer is combed (or processed) in the USA.

The Australian Government will continue to urge the US to reconsider its phase-out timetable for tariff duties on wool and wool products.

Department of Communications, Information Technology and the Arts: Fringe Benefits Tax Paid

(Question No. 2310)

Senator O’Brien asked the Minister for Communications, Information Technology and the Arts, upon notice, on 7 June 2000:

(1) What was the value of fringe benefits tax (FBT) payments made by the department; and (b) what was the level of FBT payments made by its agencies in the 1997-98, 1998-99, and 1999-2000 financial years.

(2) What were the incentives paid to departmental officers and employees of agencies that attract the FBT over the above periods.

(3) In the above years, what were the compliance costs of calculating the FBT for the department and agencies.

(4) What incentives, other than those attracting FBT, were paid to departmental officers and employees of agencies in the above years.

(5) What were the compliance costs associated with the calculation and payment of these non-FBT incentives.

Senator Alston—The answer to the honourable senator’s question is as follows:

(1) (a) The value of FBT payments made by the department were:
   1997-98 $180,945
   1998-99 $196,395
   1999-2000 $233,854

(b) The level of FBT payments made by the agencies were:
   1997-98 $118,882
   1998-99 $129,471
   1999-2000 $111,069

(2) The incentives received by departmental and agency employees, over the above periods, which attract FBT, were reimbursements for semi-official phone accounts, remote locality allowance payments, official entertainment benefits, living away from home allowance payments, private use of official vehicles, higher education expense reimbursements, provision of car parking, membership to ScreenSound Club and provision of spouse accompanied travel for SES staff (1997/98 and 1998/99 only).

(3) The compliance cost of calculating FBT for the department and agencies over the above years was approximately $10,000 per financial year.

(4) Other incentives, not attracting FBT paid to departmental officers and agency employees were airline club memberships, subscription to professional associations, provision of laptop computers and portable phones as specifically agreed.

(5) The compliance costs, associated with the calculation and payment of these non-FBT incentives, was approximately $2000 per financial year.

Aboriginal and Torres Strait Islander Commission: Fringe Benefits Tax Paid

(Question No. 2322)

Senator O’Brien asked the Minister for Aboriginal and Torres Strait Islander Affairs, upon notice, on 7 June 2000:

(1) (a) What was the value of fringe benefits tax (FBT) payments made by the department; and (b) what was the level of FBT payments made by its agencies in the 1997-98, 1998-99 and 1999-2000 financial years.
(2) What were the incentives paid to departmental officers and employees of agencies that attracted the FBT over the above periods.

(3) In the above years, what were the compliance costs of calculating the FBT for the department and its agencies.

(4) What incentives, other than those attracting FBT, were paid to departmental officers and employees of agencies in the above years.

(5) What were the compliance costs associated with the calculation and payment of these non-FBT incentives.

**Senator Herron**—The Aboriginal and Torres Strait Islander Commission has provided the following information in response to the honourable senator’s question:

(1) (a) The total FBT payment for years 1997-98, 1998-99 and 1999-2000 is $4,013,180.46. The Commission changed its financial information system in 1998-99 and the FBT payments for the years prior to 1997-98 are not readily available.

(b) FBT payments

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>$1,310,967.00</td>
<td>$1,469,698.00</td>
<td>$1,232,515.46</td>
<td>$4,013,180.46</td>
</tr>
</tbody>
</table>

(2) Motor Car–Statutory

Motor Car–Operating

- Loan
- Expense Payment
- Compassionate Travel
- HECS
- Medical
- Remote Travel
- Non Remote Travel
- Education
- Other Expenses
- Relocation
- Residual Fuel
- Semi Official Phone
- Spouse Accompanied Travel
- Housing
- Living Away From Home Allowance
- Tax Exempt Body Entertainment
- Residual Benefits
- Car Parking

(3) Compliance Costs

<table>
<thead>
<tr>
<th>1997-98</th>
<th>1998-99</th>
<th>1999-00</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Consultant–FBT</td>
<td>$31,558</td>
<td>$54,400</td>
<td>$78,750</td>
</tr>
<tr>
<td>lodgement and advice</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Consultant–FBT</td>
<td>$100,131(Note 1)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Database</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Staff (Note 2)</td>
<td>$66,000</td>
<td>$66,000</td>
<td>$74,000</td>
</tr>
<tr>
<td>Total</td>
<td>$97,558</td>
<td>$120,400</td>
<td>$252,881</td>
</tr>
</tbody>
</table>

**NB:** Note 1 - One-off database enhancement costs for 99/00 to comply with Fringe Benefits Reporting Act 1999.
Note 2 - Staff costs for 97/98 and 98/99 based on 2 weeks x AS06 level for 34 offices. Staff costs for 99/00 based on 2 weeks x AS06 for 33 offices and 2 months x EL1

(4) Other incentives other than those attracting FBT were paid to certain employees are:

- performance pay;
- sign-off bonuses; and
- retention bonuses.

(5) Compliance costs

<table>
<thead>
<tr>
<th></th>
<th>1997-98</th>
<th>1998-99</th>
<th>1999-00</th>
</tr>
</thead>
<tbody>
<tr>
<td>$1000</td>
<td>$410</td>
<td>$660</td>
<td></td>
</tr>
</tbody>
</table>

Centenary of Federation Parade

(Question No. 2331)

**Senator Woodley** asked the Minister representing the Minister for the Arts and the Centenary of Federation, upon notice, on 8 June 2000:

1. Is it fair that the states and territories have to pay for a float in the Centenary of Federation parade in Sydney when residents of those states and territories will never get to see the parade.

2. Given that a true celebration of Federation would take the parade around the country so all Australians could share the celebration: Can constituents in Queensland be told why money cannot be made available from the $1 billion Federation Fund for the parade to travel so Australians can have a truly national celebration.

3. Does the Minister agree that, the way the situation stands, there is an appearance that the Centenary of Federation is Sydney-centric.

4. Why is the Centenary of Federation Parade in Sydney when Melbourne, where the first parliament was based for 20 years, would be the natural choice.

**Senator Alston**—The Minister for Arts and the Centenary of Federation has provided the following answer to the honourable senator’s question:

1. The Federation Day Parade in Sydney on 1 January 2001 will be broadcast live across the nation. The National Council for the Centenary of Federation is assisting the State and Territory Centenary of Federation Committees to participate in the Parade. State and Territory funds have not been required to build and transport the floats.

2. The National Council for the Centenary of Federation aims to ensure that the centenary is celebrated through a diverse range of activities and projects involving Australians everywhere, embracing all ages and all backgrounds. The celebrations are much more than a parade.

   Each State and Territory Committee has determined how they wish to mark the centenary, and are in the process of developing wide-ranging programs of activities. Some programs include a parade, but the themes of these parades vary. The Queensland Committee is planning a program of activities extending throughout the State and across the twelve months of the year.

   The purpose of the Federation Fund is for major infrastructure projects.

3. No.

4. On 1 January 1901, the main event prior to the inauguration of the Commonwealth of Australia in Centennial Park was the Great Inaugural Procession that took place through the streets of Sydney, involving 10,000 participants and with a crowd of 500,000. It is appropriate that on 1 January 2001 another parade, this time to be called the Journey of a Nation – the Federation Parade, be staged to commemorate both the events of a century ago and Australia’s achievements in the 100 years since then.

   The first sitting of the Parliament of the Commonwealth of Australia took place in the Royal Exhibition Building in Melbourne on 9 May 1901, and this event will be commemorated, at the same venue, on this day in 2001, with a special ceremony involving 8,000 dignitaries including all members of all Australian parliaments. On Sunday 6 May, a special day of public celebration will precede the events scheduled for the 9th, which will include a street parade incorporating the State and Territory floats.