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Monday, 28 August

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DEFENCE LEGISLATION AMENDMENT (AID TO CIVILIAN AUTHORITIES) BILL 2000

Second Reading

Debate resumed from 14 August, on motion by Senator Ian Campbell:

That this bill be now read a second time.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (12.31 p.m.)—Let me say at the outset that the Defence Legislation Amendment (Aid to Civilian Authorities) Bill 2000 is a bill which we should not be debating here today. This is a bill that the government had ample time to prepare, had ample time to educate the Australian people about and had ample time to consult all parties about, particularly the state governments. Instead, the government chose to draw up this bill without proper consultation, introduce it into parliament without proper preparation and seek to rush it through without proper consideration. Accordingly, the high level of public concern about the bill and widespread suspicion about the government’s motives are problems of the government’s own making.

I hope, but I cannot be confident, that the government will learn a lesson from this. The lesson is to not be afraid of transparency and consultation, particularly on such a vital matter of public policy as this is. It may require more effort and more time, but it will pay dividends in terms of public understanding and acceptance. It is puzzling, frankly, that the government has seen fit to embark on a very public and consultative review of defence policy, while at the same time trying to keep the public out of any discussion of its legislation governing the use of our defence forces in domestic security situations. The opposition has done its best to correct the situation and encourage community debate and scrutiny, and that is why the opposition initiated the Senate committee inquiry into the bill.

We have appreciated the input and advice that a wide range of community organisations and individuals have provided to us, and their concerns have been taken into account in formulating our position on this legislation. I want to stress this: Labor believes that the Commonwealth should not be given any greater powers to use the ADF in domestic security matters than the Constitution currently allows for. In fact, we believe that the current situation is unsatisfactory and must change. At the moment, there is no appropriate or effective legislative framework to define and restrict the Commonwealth’s powers and actions in using the ADF in domestic security situations, and there is no protection of civil liberties when the Commonwealth does decide to use these powers. There are no procedures, no restrictions, no guidelines and no processes stipulated by legislation that the Commonwealth must adhere to if it were to consider using these powers—nor is there any requirement for proper parliamentary accountability following the use of such powers. It is important to realise that these powers are not imaginary. They have been used in the past without any legislative framework governing their use. This is a situation that needs to be corrected.

The Commonwealth should have legislation in place that outlines proper processes, procedures and restrictions on how, when and why it may use its constitutional powers. Labor accepts that this bill will establish a framework for call-out of the Defence Force in security emergencies. The bill will also provide a proper basis for emergency use of the Defence Force as a last resort. I emphasise: as a last resort. This is not a new power; it is simply one that is currently not regulated or restricted in any way. The Protective security review by Justice Hope following the 1978 Hilton bombing points to the weaknesses of the current situation. That report highlighted the unsatisfactory state of the call-out framework, including the lack of accountability and the absence of regulated processes. The opposition accepts that these problems should be corrected now, rather than have a situation occur which demonstrates the inadequacy of the current framework and forces changes after the event. Labor believes there needs to be provision both
for safeguards in the exercise of such authority and for accountability for the actions of individuals as well as the government. The absence of strong and effective procedures and processes applying to the use of the ADF personnel for internal security matters is the reason that the Labor Party believes that this bill is warranted, and warranted not just for the Olympic Games but on a more permanent basis.

Whatever the merits of this bill, the government deserves censure for badly mishandling its preparation and its introduction. If the government believes that this bill needs to be in place before the Olympic Games—and there are probably sound arguments why that should be the case—then it should have been introduced into the parliament many months ago so that the parliament and the public had sufficient time to examine and consider it.

The government also deserves censure for not properly consulting with state governments in developing this bill. Clearly, the bill should have been drawn up in consultation with the states so that it was clear that the bill would not impact on current arrangements, such as the national antiterrorist plan. Much of the concern over the bill, both from the general community and from the states, would not have arisen if the government had allowed reasonable time for the bill to be properly examined and properly explained. Many of these concerns arise because people simply do not realise that the Commonwealth is not currently restricted in its use of these powers. The opposition has made it clear from the beginning that we do have concerns with elements of this bill; and, of course, a number of those concerns were highlighted at the Senate committee inquiry. From the moment that this bill was introduced, Labor has been pressuring the government in relation to these matters and urging it to amend the legislation.

I note the report of the Senate committee—I commend that report to senators and members of the public—and of course I note the recommendations that the Senate committee has made for amendments to the bill. They are important and sensible improvements to this legislation. Ensuring that there is an obligation on the Commonwealth to notify the state or territory where the call-out is going to occur is absolutely necessary. Extending the proviso that reserve and emergency forces of the ADF be prohibited from being used in connection with an industrial dispute is essential. Labor also believes that the current subsection 51I(2) is not acceptable. We do not believe that there is any reason for the bill to allow for some powers to be delegated to a minister other than the authorising ministers. We endorse the committee’s recommendation for the deletion of that part of the bill.

The opposition is pleased that the committee identified that the bill, as it stands, does not provide adequate requirements for proper accountability and reporting to the parliament. We fully support the committee’s recommended amendments in this area. Parliamentary scrutiny is essential if these powers are to be used. We acknowledge that the Minister for Defence and the Attorney-General finally announced last week that the cabinet had agreed to address all of the committee’s concerns. The opposition welcomes the amendments that the government is moving to the bill. We believe that those amendments do address the committee’s recommendations and will substantially improve the bill, and we will support them. However, we do not believe that the government’s amendments go far enough, and so I take this opportunity to inform the Senate that the opposition will be moving further amendments to the bill—beyond those that the government is moving to as a result of the report of the Senate committee.

The amendments go to four key areas. Firstly, and most importantly, the opposition will be moving an amendment to prevent the ADF being used against protest or dissent—for example, in an industrial dispute on the waterfront or, say, a community sit-in at a local school. While we accept that the passage of this bill would for the first time actually place a restriction on the Commonwealth, we do not believe that the bill as it stands properly addresses the genuine concerns held in the community about ADF personnel being used to quell protests. Labor’s amendment will ensure that the ADF cannot be used for such a purpose. This is not only
important with regard to the protection of the civil liberties of those who wish to exercise their democratic right to protest but it is also required to ensure that the ADF is not compromised by a government looking to misuse it in an inappropriate domestic security situation. The ADF should only ever be able to be used—and, if Labor’s amendments are successful, they will only ever be able to be used—for the protection of Australians and not against them.

Secondly, Labor believes that the legislation must specifically recognise a more realistic relationship between the Commonwealth and the states, regarding the call-out of troops. Although the Commonwealth has the power to initiate a call-out of its own accord, Labor believes that it should be a legislative requirement that the Commonwealth consult with the executive government of the state in which troops would be deployed, prior to the Governor-General making such an order. To this end, the opposition will be moving an amendment that makes it a statutory requirement that the Commonwealth consult with the Premier of a relevant state prior to an order being invoked. While a formal notification of the order to the relevant state is an important step, the opposition believes it is ridiculous for the Commonwealth to even contemplate call-out without consulting the appropriate Premier.

The third opposition amendment goes to the issue of reviewing this legislation at some future point. We note that the Senate committee recommended that a review be undertaken within six months if the Commonwealth ever uses these powers, or within three years of the enactment of the legislation if the powers are not used before that time. We also note that the government has given a public commitment to undertake such a review, in line with the Senate committee’s recommendation. There can be no question as to the good sense and the value of such a review, particularly in the light of the Howard government’s rushed handling of this bill. However, I have to say that the opposition believes that just a public commitment to a review is not sufficient. We require an obligation in the legislation itself that will ensure that a proper parliamentary or independent review occurs and that the parliament has the opportunity to examine the findings of such a review.

Our fourth and, I think, final amendment will require notice of a call-out of troops to be placed immediately before the Presiding Officers of the parliament. In this way, parliament will be kept fully informed of any use of the defence forces in a domestic emergency.

Some have called for a sunset clause to the bill as a means of achieving a review. Labor believes that that is not the best approach. It would mean a return to the status quo—a situation that all those interested in circumscribing the Commonwealth’s powers should not support. Labor believes that the amendment that we are moving, to review the legislation, is the best option for meeting the genuine concerns that have been raised. Our amendment will facilitate a thorough public examination of the new legislative regime. We believe the opposition’s amendments, combined with those being moved by the government to address the Senate committee’s recommendations, will ensure that concerns that have been raised by the community and the states are thoroughly dealt with.

Contrary to the myth that has grown up regarding this bill, the bill does not change the powers of the Commonwealth executive government with regard to the call-out of troops. These powers exist without restriction at the moment, and we believe it would be very unwise to wait for a case to arise where the Commonwealth uses its armed forces inappropriately before we take action. The restrictions, procedures and protections that the bill seeks to put in place are an improvement on the current situation. It is for that reason that the opposition will be supporting this legislation with the amendments that I have outlined to the Senate.

Senator BOURNE (New South Wales) (12.49 p.m.)—The Democrats are very concerned about the possible ongoing effects of the Defence Legislation Amendment (Aid to Civilian Authorities) Bill 2000. It could be said that the bill addresses some essential and necessary issues. None of us wants to see the situation where the armed forces are legitimately required to respond to an act of ter-
rorism and are crippled by a lack of clarity about their role or the limits of their actions; nor do we want to see a situation where an individual soldier is brought before the civil courts, due to a lack of clarity about the limits of his or her own activities when he or she was acting in good faith.

The Senate Foreign Affairs, Defence and Trade Legislative Committee report commented on the fact that there is no existing legislative framework that confers specific powers on the military. There is no guidance to the military for its activities in the case of a call-out—and this bill is supposed to set down the duties and responsibilities for the use of members of the Defence Force.

However, because the bill seeks to codify what has not been set down before, we must ensure that the powers of the military are not excessive. We must ensure that the civil rights of Australian citizens are protected, and we must ensure that the lines of authority are very, very clear. It must be clear between states and territories and the federal government as well as between different agencies such as the Army, the police and emergency services—and we do not believe that this bill achieves that. In fact, much of the commentary we have seen and heard from the government and the opposition seems to stem from the premise that it is unlikely that the order should ever be called upon. We are considering it from the premise that it may be called upon—and, therefore, it must be right.

The first issue I would like to address is when the ADF can be called out. The bill states that the ADF can be called out where domestic violence exists or is likely to occur. It is this anticipated ‘likely’ scenario that has us particularly worried. Given the history of demonstrations in Seattle—recent history—and in the UK, could the Commonwealth conclude that there is a likelihood of ‘domestic violence’ at the planned S11 demonstrations at the World Economic Forum? We have advice that, under section 119 of the Constitution, the military already has the power to act on anticipated violence, even though the 1903 act did not fully reflect section 119. However, I am sure that a different legal mind might make a different ruling.

Questions are also raised about what actually constitutes ‘domestic violence’. This is a terribly vague term, despite the fact that there is a general meaning in the Constitution for it. Why are we not just looking at combating terrorism? That is what we have been told we are worried about. So why isn’t that defined in the bill?

The ADF should never be called out to deal with civil demonstrations. The ADF do not have the training that the police force have in peaceful crowd control. They must never be put in a situation where they may have to fire upon fellow Australians. The police are trained to deal with the public; the Defence Force are trained to deal with the enemy. Of course, the ADF have had practice in riot control. In Malaya in the 1960s, our soldiers were trained to handle riots. Their orders were to march to the riot, to read the riot act and to give the people time to disperse. If they did not, the rules were for the commander to give precise orders to shoot the leaders of the riot. I do not think this is what Australians want to see occurring in Australia. In fact, I do not think it would occur in Australia, but the point is that under this bill it could occur.

This bill changes the fundamental relationship between the ADF and the police services. The bill, for example, provides for a search without a warrant from a judge or magistrate. No warrant and no search is what Australians have come to expect and rightly so. Are people happy to see this fundamental principle dumped in the face of a rather vague argument from the federal government that the ADF might have to handle some unidentified dangerous incident or threat at some unidentified time in the future? The ADF are trained to kill or be killed. In the case of a terrorist attack, the military clearly have much better and specialised knowledge of weapons and armoury, so they would be more adept at dealing with an arms situation. The different skill set, of course, could be remedied through appropriate training, although we are rushing this bill through, apparently in time for the Sydney Olympics. Most of us are aware, particularly those of us who come from Sydney, that the games will start in a few weeks. With all the best inten-
tion in the world, the training that our armed forces have now is the training that they will go with into any situation related to the Olympics.

We are told that this haste is to deal with the Sydney Olympics, but we have to ask why we are seeing this bill now. New South Wales has already enacted comprehensive laws to deal with Olympic security, which I think go too far, and several thousand troops are already involved. It would have been sensible to deal with this some time ago rather than less than a month out. Did no-one who was involved in the planning or the cooperation of various agencies for the Olympics consider the body of work and investigation that has been done in this area, particularly since the Hilton bombing some 25 years ago? We have known the Olympics were coming for seven years. You would have thought that we would have been given ample time for this legislation to be drafted, discussed, voted on, inquired into and commented on. We are at a loss as to why we are considering this now. Like many others, we think that rather than the Olympics we have to look no further than the World Economic Forum and next year’s CHOGM to find the motivating force behind this bill.

We are also uncomfortable with some of the terminology in the bill. It states that the Defence Force should be employed in a manner that is ‘reasonable and necessary’. We recognise that this is a legal term and that it has some well thought-out premises, but ‘reasonable’ and ‘necessary’ are still about perception. Who decides at what point the ADF intervention is a violation of citizens’ rights? Of course, you cannot codify every eventuality, but this term is far too vague, despite being more codified than the existing act. The report identified that this was a problem and discussed whether the term was too vague. It concluded in essence that to define the term was too cumbersome as Commonwealth interests were so broad, particularly as the term is defined by the Constitution. Our concern about this approach is that it could lead to a ‘shoot now and ask questions later’ approach. Will leaving it like this put the ADF at risk of legal challenges as to whether they have performed within the context of the Constitution?

If this legislation is to clarify the situation, there are a number of terms that still require definition. I would also like to briefly comment on the use of the military during industrial disputes. As we know from the pilots’ strike of 1989, the military can be called to assist the Commonwealth with an industrial dispute. According to the act, emergency and reserve forces cannot be used in this case. There is no change from the existing bill. We need further public discussion before deciding on the parameters of using not only the emergency and reserve forces in industrial disputes, even as they were used during the pilots’ strike, but also the regular military in industrial disputes. We need to have all Australians behind any use of our military, any of our military, in an industrial dispute.

I am concerned about the sentence that says:

In making or revoking the order, the Governor-General is to act with the advice of ... the Executive Council ... if an authorising minister is satisfied that, for reasons of urgency, the Governor-General should ... act with the advice of the authorising Minister ...

Obviously, this is to cope with emergency situations, but it does narrow the chain of responsibility and there should be in place some way of reviewing the situation once an executive council can be called. This bill does not provide a sufficient level of accountability. Once an order has been made, the federal parliament must be recalled, in my view, to debate the order and both houses must approve it. This is consistent with the Constitution conferring ultimate authority upon the parliament. We do not consider that the government’s solution to notify parliament is sufficient. Since former senator Colin Mason was in this place, the Democrats have consistently advocated the recall of parliament to debate the call-out, any emergency call-out, of Australian defence forces. We have not changed our minds that this is an essential level of accountability.

Finally, I would like to look at the sunset clause. The Democrats consider that a sunset clause is an absolutely essential component in such a far-reaching bill. We must have
considered public debate about all of these issues before they are finally enacted. If this bill is to be passed now—and it certainly looks as if it may well be—then a sunset clause is absolutely essential to bring these provisions back before the parliament. This would not mean a return to the status quo. Any government with a bit of forethought brings a new bill before the parliament with adequate time for debate, adequate time for consideration and adequate time to vote on what we in this parliament and those we represent think is a reasonable and responsible use of the military. We have been waiting since 1903 to get this right. I think it can wait a little longer.

Senator BROWN (Tasmania) (12.58 p.m.)—I want to say at the outset that the Defence Legislation Amendment (Aid to Civilian Authorities) Bill 2000 is one of the most important pieces of legislation that have come before the Senate in my time here, which is going on five years. I also want to say that, having heard the submission from the Labor Party, the fact that there will be some significant amendments made to this legislation is one of the most rewarding responses to action that I have taken in the Greens party and a response to community concerns about this legislation. Those amendments would not have been made if members of the community concerned about this legislation and I had not campaigned so strenuously over the last couple of weeks, since the legislation was passed in the House of Representatives without amendment.

Australia has a very telling history as far as this legislation and its implications are concerned. The first century post colonisation in Australia was marked by the use of troops against civilians—in particular, the widespread killing and removal of rights of indigenous Australians by the colonial armed forces. Thousands of Aboriginal people were shot and maimed and dispossessed of their land and their rights in the awesome century following colonisation. This did not just happen to the Aboriginal people, however, as those of us who see the Eureka Stockade as an important moment in Australian colonial history will remember. But all that changed with the coming together of the colonies in the formation of the Commonwealth of Australia one century ago. In simple terms, the Constitution and the consequent Defence Force Act of 1903 laid down a philosophy which has served us well ever since: that the state police forces were there to keep the domestic peace and the armed services of the nation were there to defend us from foreign threat. That served us well through the last century. There was not an occasion on which the armed services were sent in by any authority to confront civilian Australians by force of arms.

The Australian police forces at state level, with their tactical response groups, have been able to handle all situations—including real or perceived terrorist situations—ever since and are able to do so now. There has always been the proviso that, were a situation to get out of hand, a state could call on the Commonwealth for the assistance of the armed services to back up the police. That is the situation as it is, that is the situation that has served us well for a century and that is the situation we should not be changing.

The Defence Legislation Amendment (Aid to Civilian Authorities) Bill 2000 manifestly changes the balance of the practice that has served us so well. It is hard to tell why the government has brought the legislation in at the moment—except when considering that the government is in a hurry to meet the potential threat of terrorism at the Olympics and even at the World Economic Forum to be held in Melbourne in the preceding week. Whatever it is, the government has mistimed this legislation. We should have been dealing with it long ago. We should have been dealing with it in a more relaxed period, because it is so important and fundamentally significant to the way this nation handles the keeping of the peace into the future. One cannot help but think it has been brought on on the eve of the Olympics to get it through with minimal fuss and with minimal public debate.

What does the Defence Legislation Amendment (Aid to Civilian Authorities) Bill 2000 in particular change? It changes the check that, where civil insurrection occurs, it is up to the state government to make the call to the Commonwealth if the armed services
are required. As Senator Bourne said, this is not a bill about terrorism, although it ought to be. This bill is about civil insurrection on the widest plane and will therefore focus on, in the main, domestic protest. The legislation provides for three ministers—three politicians here in Canberra, working on their presumptions that domestic violence is likely to occur—being able to call out the armed forces to attend to potential violence. Moreover, they can do so without consulting with the state or territory authorities. All they have to do is let the state or territory authorities know after the event. Of course, these days, the state authorities would know from the news media; they would hear it on the morning radio before necessarily hearing from the Commonwealth minister responsible. Then, if violence does ensue—as determined by a ministerial view of things—the troops can be sent into action by one of the three ministers.

What does this mean? It means that the Commonwealth—that is, politicians in government in Australia—would in future be able to send in the armed services to any particular protest situation, strike situation or situation of civil unrest that they deem as having the potential for violence. That means that there would be no restriction. While one might think the current government would not use this power unwisely, one should never bring into law the circumstance where people who are in authority and who do not have the responsibility we are used to can abuse it. The Defence Legislation Amendment (Aid to Civilian Authorities) Bill 2000 does that. It seeks to set out the conditions under which the armed services so employed against protest would work. Amongst those are powers that are not available to state police forces—for example, the power of arbitrary arrest, the power to arrest without explaining to the person or persons arrested why they have been arrested and apprehended, and the power to shoot to kill under certain circumstances, such as when apprehending an escapee from an arrest scene.

But we are dealing with a much more complicated matter than that. We have to look at the philosophy behind this legislation, and that is manifest in the Australian Army’s Manual of land warfare, part 1, volume 3, pamphlet No. 2, titled ‘Aid to the civil power’—that is, the aid to a police force were the Army to be brought in in a situation of civil unrest. This was released in 1983 and has been amended since, and the amended form is a confidential document. One must presume that in those amendments in preparation for this legislation is the absence of the state police force or, indeed—the New South Wales cabinet office has flagged this possibility—a situation where the police are opposed to the use of the armed services should an unthinkable situation arise. This document presumes that the state police are going to be involved. I will ask leave to table the full document during the committee stage, but I want to quote just briefly from it. Under section 2 of the Australian Army’s ‘Aid to the civil power’ pamphlet is the heading ‘The threat’—paragraph 109. It says:

109. The Defence Force may be involved in operations to counter the threat posed by the activities of dissidents. Paragraphs 110 to 124 describe the more common features of activities of dissidents, including:

a. the general pattern of a riot;
b. mass demonstrations;
c. industrial, political, and social disturbances;
d. terrorism;
e. the nature of panic; and
f. the techniques used by skillful agitators.

There we have it. This legislation is aimed at dissidents. The Oxford English Dictionary says that a ‘dissident’ is anybody who disagrees. Under definition 3 it says that a ‘dissident’ is ‘a person who openly opposes the policies of a totalitarian state’. While Australia is as far away from a totalitarian state as you will find on the face of the planet, this legislation takes a step towards readying authorities for some future totalitarian situation. We must be very careful that legislation does not open the door in any way to the abuse of politics and the advance of the unthinkable day when we change from the peaceful and democratic country that we are. But here we have the armed services readying themselves for use against dissidents—that is, anybody who disagrees with the government.
Paragraph 115 of section 2 of the pamphlet talks about mass demonstrations. It says:

115. Mass demonstrations are large crowds assembled at a particular place and time for a common purpose. They may easily become violent through the action of agitators.

Then it talks about the tactics to be used by dissidents associated with mass demonstrations—that is, the opponents of the government, again. It says:

a. disturbing the peace, often by passive resistance to arrest in streets or public places.

We have seen that very often in the peaceful protest history of Australia. But here that is being described not as part of the Australian scene but as something that the armed services have to be aware is a tactic used by dissidents, who are the object of this legislation. It goes on to describe industrial, political and social disturbances and tactics that may take the form of such things as interference with essential services. Then it goes on to talk about terrorism, which should be the purview of this legislation.

Let me read to the Senate the section in this pamphlet that deals with armour. It says:

511. Tracked, armoured vehicles should be used in a crowd control role only in extreme cases, to provide mobility and protection to our own troops. The use of armoured vehicles should be avoided because it may have an undesirable public relations effect, giving the impression that more force than necessary is being employed. However, armoured units do have the ability to provide good communications and are useful for speedy deployment and redeployment.

That is the comment on tanks in the streets of Australian cities. It is the thinking that is behind the worst aspects of this legislation. The pamphlet then talks about the application of fire:

As a last resort, troops may be required to open fire on the crowd to disperse it. The principle of minimum force must be kept in mind by the commander. Therefore, initially, only selected individuals should be nominated to fire upon selected agitators in the crowd.

For goodness sake—selected people picked out in a crowd of demonstrators by selected people in the armed services! I did not quite pick up Senator Abetz’s interjection—

Senator Abetz—I was not interjecting; I was talking to Senator Coonan.

Senator BROWN—But I want to say that this is a serious matter and is one which cuts—

Senator Abetz—Mr Acting Deputy President, I rise on a point of order. I will not allow Senator Brown to have put into the record of this parliament misleading statements as to what I was doing. I turned around and made a private comment to Senator Coonan, and I would want that simply recorded in the Hansard lest anybody read the Hansard and suggest that I was interjecting on Senator Brown.

The ACTING DEPUTY PRESIDENT (Senator Chapman)—There is no point of order.

Senator BROWN—Of course there is not, Mr Acting Deputy President. If it is in the Hansard, let the senator defend it. This provides for the situation in which Australian troops fire on an Australian crowd, selecting Australians named in some list or by the commander beforehand. Under the heading ‘Firing on a mob’, it says:

Before opening fire to disperse a crowd, the commander must be sure that his decision to open fire is his only viable option. To that end, after the crowd has been warned, all actions performed by the troops in preparation to fire must be obvious to the mob. The ‘LOAD’ and ‘ACTION’ orders may serve to convey the import of the troops’ action to the crowd and encourage its dispersal, thereby avoiding the necessity to open fire.

But if you have to open fire, it says:

Fire must be controlled and directed only at specific individuals by a responsible officer.

It goes on to talk about the recovery of dead and wounded:

Dead and wounded dissidents, if identifiable, must be removed immediately by the police. When being reported, dissident and own casualties are categorized merely as dead or wounded. To inhibit propaganda exploitation by the dissidents, the cause of the casualties (for example, ‘shot’) is not reported. A follow-up operation should be carried out to maintain the momentum of the dispersing crowd.

The police will be responsible for collecting evidence from the scene. However, military evi-
idence, such as spent casings and diary notes, should be retained by the military commander.

This manual, put together with the circumstances of this legislation, is abhorrent. This is against the Australian ethos. It has no place in the Australia that we value—in this nation where we value freedom, including the right to dissent and the right to protest, and where we have a time-honoured ability of Australian police forces and, if necessary, tactical response groups to take care of domestic insurrection or violence in this country. I believe this is wrong legislation not only as far as the Australian people are concerned but also as far as the Australian armed services are concerned. What we really need to be concentrating on here is the thinking that allows this scenario to be drawn up and then pushed forward through such legislation as we have on our desks today.

I agree with Mr Justice Dowd of the New South Wales Supreme Court who said only yesterday:

“This legislation is not the Australian way of doing things, and should be withdrawn. Obviously, the proposal for a sunset clause is preferable to the existing proposed legislation, but the case for the bill has not been made out.

I want to particularly thank Damien Lawson of the Western Suburbs Legal Service in Sydney for drawing this legislation to the attention of Ben Oquist in my office and me. I believe that the community response, as the circumstances of this legislation have become more widely known, has been exponentially growing. It comes from right across the board: community groups, churches, justice and legal services, unions and student groups, and indeed concerns have been raised by at least five of the state governments. That pressure ought to have more time to show itself. I will therefore move an amendment to the second reading motion seeking to have this debate kept from finalisation until next Monday so that at least there is one more week for community input—not least into those amendments which we have heard brought forward today. Let me say this to the Labor Party: you did not amend this in the House of Representatives and you are now making some significant amendments to this legislation on the back of community information. That is an essential part of our democracy. It is as important to our democracy as this legislation is a travesty against that democracy. I move:

Omit all words after “That”, substitute “further consideration of the bill be postponed till 4 September 2000.”

Senator HOGG (Queensland) (1.19 p.m.)—As Senator Brown has rightly identified, the government are proposing a number of amendments to their own legislation. The Labor Party are putting some extra amendments to that legislation which will go to allaying the fears in the community. But there is one issue that I want to address about this bill before I get into it in any detail. There are people out there who have genuine concerns about the legislation, and rightfully so. Those people come from genuine positions, and I have no doubt about that. But the thing lacking in this debate has been serious information such that people can understand what the debate is about. As Senator Faulkner said, and rightly so, the blame there lies at the feet of the government. The government did not allow sufficient time, firstly, for this legislation to be understood and, secondly, for people to come to a determination on the legislation—that they otherwise supported it or were opposed to it.

So what has happened is that the bill has been fertile ground for a number of conspiracy theorists out there. It has been surrounded by hype, myths and wrong information. It has also been surrounded by some very good information. But at the end of the day I have had the circular and serial emailists sending me emails on their views on this bill and I would presume that many of them have never, ever read one word of the bill nor understand any part of the bill. That is the first thing that people must understand in this highly charged debate taking place in this nation about this particular bill.

Of course the journalists can cop a bit of blame in this as well because some of them have never let the facts get in the way of a good story. What we have seen has undoubtedly been lazy journalism. Those who have taken time to sit down and examine the legislation word by word will see, as Senator Brown has rightly pointed out and as others
will point out in this debate, that there are defects in the legislation that was brought forward by the government. The fact that it has been subject to perusal and evidence before a Senate committee has enabled the debate to open up. But of course what a lot of people have not done is read the bill itself, the explanatory memorandum—and that is not everyone’s cup of tea—the Senate committee report or the Hansard of the hearing before the Senate committee. So many people are forming their views in isolation—in a vacuum—or based on second- or third-hand information at best.

As I understand it, the Commonwealth has always had broad powers under the Constitution which allow it to use troops in domestic violence situations. In that sense there is nothing new. The bill actually introduces safeguards and processes which are not currently there. So here we have—albeit with, in some instances, people with grave concerns about what might be happening—a tightening of the situation, rather than an opening up of the situation. So the bill puts safeguards and processes in place. No-one—not even I—would start to claim that these processes and safeguards are perfect, but they are undoubtedly a better starting point than where we are currently. One would expect that the bill would therefore be welcomed rather than looked upon cynically.

There have been longstanding plans to counter terrorism in this country should it occur. I hope beyond all hope that it will never occur. However, there is a national antiterrorist plan. That document of course is a restricted document. That document outlines the reactions where terrorism strikes at the very heart of our society. I understand that the terms of this plan are considered by a group called SAC-PAV, which stands for the Standing Advisory Committee on Commonwealth/State Cooperation for Protection Against Violence. This committee, I am led to believe, represents all states and territories such that they have a direct input through the processes of SAC-PAV on the national antiterrorist plan and on other related issues. So the states are aware of how, at the Commonwealth level, there would be a reaction to terrorism should it manifest itself in our society.

I understand that the broad terms of this bill—but never the detail—were before SAC-PAV. Of course, this is part of the problem with the process. On SAC-PAV there are various representatives of the states, and it seems to me that the states’ representatives either failed to acknowledge that this bill was being mooted at that body or just did not understand what was happening. Regardless of that, the obligation was there for the government to widely canvass and consult with interested parties as to the implications and the ultimate prospect of what this legislation might hold for the wider community.

As I understand this bill, it codifies and puts into legislation the principles that have been agreed to by the states on action to be taken and the circumstances in which it can be taken when there is terrorist activity. This bill in that sense is not anything really new. However, I believe that this bill puts a break on the call-out and the use of the defence forces by putting procedures in place. It opens them up to transparency and accountability, which must in its own right be a good thing.

As I said, the consultation process was poor. The government should not have relied on any discussions within SAC-PAV. Liaison between SAC-PAV members and their relevant state governments seems to have been poor. Of course, that cannot be used as an excuse for the poor consultation. There cannot be an assumption by the Commonwealth that, where such bodies exist, there is appropriate reporting or feedback from the representatives on the body to the state premiers or the chief ministers.

It is interesting to look at some of the headings in the legislation. Division 1 covers ‘Calling out and directing utilisation of Defence Force’. There are three important sections there—51A, 51B and 51C—under which authorisation is sought to call out the forces either in the Commonwealth’s interest or at the request of a state or territory. The only way the call-out can be effected in the first instance is by the agreement of the three ministers: the three ministers being the Prime Minister, the Attorney-General and the Min-
ister for Defence. I do not know how many people out there in the community understand that—that those three ministers must be in total agreement, not to call out the defence forces but to go to the Governor-General to seek an order for the call-out of the defence forces.

It is being portrayed that it is going to be the Prime Minister, the Minister for Defence or the Attorney-General who are going to be the people who are responsible for the call-out. They only will go to the Governor-General, who—in consultation, as I understand it, with the Executive Council, or in consultation with one of the authorising ministers in extraordinary circumstances—will authorise the call-out of the defence forces for a domestic violence situation. So it is not a simple process to start off with. If one looks at the evidence that was presented to the committee, one finds that, in particular, where states have made those requests in the past, the government of the day has refused to proceed down the path of seeking the cooperation of the Governor-General to call out the forces. So it is not something that has been a daily practice and typified Australian history.

In division 2 of the bill, the heading is quite important indeed. It is ‘Powers to recapture buildings and free hostages etc’, and clearly refers to the recapturing of buildings held by terrorists where they have hostages. Division 2 specifically, as we had in evidence before the committee, was to be used by the SAS. I can tell you that, if I were a hostage and had a gun at my head, there is no finer group of people that I would expect to get me out than the SAS. That is what that section refers specifically to. It does not refer to a local community group who are protesting because something is happening in their district; it is specifically designed for and aimed at terrorist operations.

Division 3 of the bill goes to the general security powers, covering what things can be done, in order, such as the making of what is called a ‘general security area’. This is the area in which the powers under this bill can operate. But the general security area is covered by a statement that has to be published which gives an idea of the declaration that has to be made and the area described as being the general security area. There is a provision that it must be broadcast. That is a far cry from what happens currently. That is a far more desirable situation. Whilst it might not be a panacea, it is, nonetheless, a far cry from what currently happens under the general call-out provisions. Under the same division, division 3, there is a ‘designated area’. When we pursued it at the Senate committee inquiry, we found it is an area where ‘hot action’ occurs—in other words, where hostages are held and terrorists are operating. That clearly would be an area inside the general security area. But, interestingly, section 51S of the bill requires members to wear uniforms and identification when exercising powers in the general security area. It is only in the designated area that, as I understand the legislation, there is not that requirement, because that is where you want SAS troops to operate. You certainly do not want SAS troops running around with flashing beacons on their heads saying, ‘Here I am. I am an SAS troop. I’m here to rescue such and such a hostage.’ So, obviously, commonsense is something that comes into play in this bill.

Last, but not least, section 51X of division 4 of the bill requires a copy of the order that has been made by the Governor-General and any declarations under it to be reported, including a report on the utilisation of the defence forces under the order. The report is to be tabled in parliament, published on the web site or otherwise released. The committee made a recommendation, which went further than what the government originally had in the bill, which will ensure that the appropriate reporting is not something that lags in time, is lost or is waylaid. The committee recommended that, within seven days of the cessation of the call-out, the report be tabled in both houses of parliament and that there be a review within three months. It was hoped that this recommendation of the committee would achieve a transparent process. It was also hoped that it would make any government, regardless of its political persuasion—given the way this government currently is going, it may not be long before my colleagues are confronted with the use of these powers—both accountable and transparent in its actions. That is an important thing indeed.
There was mention before the committee of a sunset clause. The reaction by the committee—and by me, as a member of the committee—was that there should be no sunset clause but the bill itself should be subject to review. The reason quite simply was that, if we subject this piece of legislation to a sunset clause, we will be back to where we are now with no legislation, no transparency and no accountability. But we have, as we always have, the right to have Australian defence forces called out. I would much rather see the environment exist whereby it is transparent and accountable—in particular, accountable to this parliament. At the end of the day, this parliament is the responsible place, so a sunset clause is quite inappropriate.

Those who argued that it should be for the duration of the Olympics have, I believe, missed the point. The fact is that the powers have always been there for call-out; what we have now is a codification. Whilst I understand that there are groups out there who have legitimate concerns about the operation of this bill—and rightfully so—no-one is more concerned about its operation than me. But it would have been nice if a few more colleagues with an interest in this bill had turned up to quiz those who appeared before us at the Senate inquiry. Nonetheless, that was not the case—they may well have been otherwise occupied. I have a grave concern always about the pre-eminent rights of people to demonstrate, to express dissent, to strike and to free speech. That is an innate part of me as a person, and I make no apologies for it. But there are also balancing factors in our society which we must take into account. Those balancing factors include the common good of people when we are confronted by things such as terrorism.

My colleague Senator Faulkner outlined in his speech earlier today Labor’s foreshadowed amendments to put in place quite severe restrictions. These will allay much of the fear currently being expressed out there in the community about this bill, some of it wise and well-informed, some of it unwise and quite ill-informed. As I said at the start, because this government failed to give an appropriate amount of time to properly debate this bill, we now have the debate that is taking place today.

I heard Senator Bourne mention the issue of training under this piece of legislation. It should be noted that this issue was canvassed at the Senate committee hearings, and I think one will find that most of the Australian defence forces who are prepared to operate under the national antiterrorist plan already have this form of training in place. I would hate to think that people are ill-prepared and unable to meet the strong requirements that there are in this bill. I understand that that is in the process of being addressed by the defence forces. One would hope that neither the Australian government nor any state government have to resort to the call-out provisions but, if they do, they will be held accountable, the government will be held accountable, and it will be a transparent procedure. (Time expired)

Senator COONEY (Victoria) (1.39 p.m.)—The excellent report of the Senate Foreign Affairs, Defence and Trade Legislation Committee on the Defence Legislation Amendment (Aid to Civilian Authorities) Bill 2000, with Senator Sandy Macdonald as the chair and Senator John Hogg, who has just given that excellent speech, as the deputy chair, has been much quoted. Another committee has looked at this matter, and that is the Standing Committee for the Scrutiny of Bills. In fact, it will produce a further report later this afternoon on the basis of some excellent advice given to us from the Department of Defence and the Attorney-General’s Department. The Standing Committee for the Scrutiny of Bills has already commented on the bill in Alert Digest No. 10 of 2000 as follows:

In general terms, the bill seems to permit members of the Defence Force to exercise what are essentially civilian police powers when carrying out police duties during a time of threat. As such, it seems to represent a change in the distinction previously drawn between military and civilian powers. The Committee would be concerned about the effect on civil liberties were this change to become permanent.

That sets out the great issue in this matter. We have an excellent Army that has done great service to the country through all of the 20th century and even prior to that. We also
have a police force that has become better and better over the years. The issue is: why should we allow an armed force, trained efficiently to exercise maximum force, to come in and join with police, whose duty it is to be restrained in their use of force? There is a different culture between the Army and the police force, and so there should be. If we are threatened by external forces, then we want people to go full bore in defending our shores. If, on the other hand, we have problems in the nation—the word ‘dissent’ has been used here—then it is the police force that ought to look after things. There is a difference in training and in culture between the two, and so there should be.

There is the dramatic event that people have been taking about where there is an exercise in terrorism. In this area may I recommend a book that has been written by Jenny Hocking from Monash University entitled Beyond terrorism: The development of the Australian security state. She wrote that book with some prescience in April 1993. It goes into this issue of the different cultures that prevail.

We are told that the Army are well equipped to deal with civilian matters, and we hope that they are. The problem we have with this legislation is that it does not go far enough. It deals with the constitutional balance between the states and the Commonwealth—in other words, with how the federal system ought to operate—but it does not deal with the relationship between the citizen and the armed forces. What are the rights of the citizen who may be caught up in an activity at the Sydney Games? These terrorist activities, if they are to take place, will take place where there is a considerable population, and there should be strong protocols to guide any military exercise in those circumstances. The provisions in the Defence Act do not deal with that circumstance. The act specifically gives military people the power to kill. It is said that that was there already, but it was never expressed anywhere. I might ask the advisers who are here from Attorney-General’s or from the Department of Defence where a similar provision has appeared in legislation before.

I use that example to make the point that this bill deals with big issues: issues of life and death. The protocol, the rules, the regulations, if you like, or the guidelines by which those powers are to be used have not been shown, certainly not to me. I have looked through the second reading speech, but they do not seem to be there, and there seems to be no material put forward showing just what the protocol is to guide the relationship between the person who will be faced with, no doubt, the maximum use of force—that is what the military is trained for—and the man or woman from the military. Even if the person has broken the law, has participated in domestic violence—whatever that may mean—that person is entitled to rights in this country. So not only are bystanders to be looked to but also the person against whom the action is being brought.

What are the examples in Australian history where the Army and police have acted together and where shots have been fired? The only one I can think of in which action was brought against citizens—and maybe the advisers will be able to think of others—took place on Sunday, 3 December 1854 on the goldfields of Ballarat. Many people have given descriptions of that, but the one I want to quote is from Mr Geoffrey Serle, who unfortunately is now dead. He was a lecturer in history at the Melbourne University. I notice in the book I have here that it says Monash University, but when he was lecturing me it was at the Melbourne University. He had this to say about what happened on the day Eureka took place:

Some of the military and police now behaved disgracefully, bayoneting the wounded and shooting down or arresting non-participants hundreds of yards from the stockade. Pasley—that was Captain Pasley, the colonial engineer—had to hold some soldiers at pistol-point to prevent them butchering a captive group.

What I am pointing out is this: to solve the federal issue is to leave much unanswered. To solve the protocol that will take place between the federal government and the state government only goes half the way. What is the protocol that will guide troops on the ground? They said, ‘It will be the same as
that which guides the police.’ But where is the material that specifically says that? What has been said is, ‘We’ve got good intent. You wouldn’t think the sorts of people who are in the Army would do the things people are suggesting they would,’ and that is probably right. But shouldn’t this situation be bound down tight in black-letter law? The black-letter law in this area is very sparse.

Maybe the Attorney-General’s Department and the Department of Defence have got this black-letter law somewhere, but they certainly have not produced it to the committee that I have been on, although they have been asked for it. I am not saying there is anything sinister in that. I think that comes about because people are not looking at the issue. The issue is the rights of people on the ground, not the rights of governments. We have a highly trained police force which will look after most of these issues, but what is the exact relationship between the Army and the police? It is true that the Army have to give over a captive to the police at the first practical opportunity. What does that mean? What sort of force can they use against the person while holding him or her? There is some provision about the way a person is to be body searched, but what about searching in general? What about the protocols that guide the police in their exercise of entry and search? Indeed, what about the protocols that the Scrutiny of Bills Committee set forward? Do you have anything to say about that? It seems very empty on that issue. The sorts of things that are defined give some concern, because the bill says that a ‘dangerous thing’ which may give rise to the use of the Army includes:

... a gun —
I can understand that —
knife —
what sort of knife? —
bomb —
certainly —
chemical weapon or any other thing that is reasonably likely to be used to cause serious damage to property or death or serious injury to persons —
That can include a knife certainly, but also a stone. So if we have a situation where we have a stone throwing, does that give rise to a calling out of the armed forces? It is said, ‘No, because the police can handle that. That won’t happen because that’s not the sort of thing we contemplate.’ But this is not about what people contemplate; it is what is put down according to the law, it is what is in black-letter law.

I suppose the country that is most like ours in lots of these matters is the United Kingdom. That is certainly the place where the Riot Act was passed in 1715. Just as an aside, I will read out the proclamation that had to be read out under the Riot Act before action was taken. I do not know whether it has much to do with the argument, but it just fits in with the history of things. The proclamation read:

Our sovereign Lord the King chargeth and commandeth all persons, being assembled, immediately to disperse themselves, and peaceably to depart to their habitations, or to their lawful business, upon the pains contained in the act made in the first year of King George, for preventing tumults and riotous assemblies.

The background to that act was that the riotous assemblies were seen as a threat to the monarchy itself. So it was not so much a matter of keeping order — although that was part of it — but, more importantly, of making sure that revolts and treason were not committed against the king.

Such provisions should be closely defined. It is said that these provisions will not be used against people who are on strike or who take industrial action. Let us hope that is right. On those occasions — and I think there have been fewer than 10, and this can be checked by government advisers — the states have sought Commonwealth intervention by using its armed forces in most cases to quell industrial action. This provision will not be used in industrial matters unless it is absolutely necessary, but the history is not good. This is just another reason why whatever the Army is permitted to do should be put down in black-letter law, not left open as it presently is. To say that this bill improves the Defence Act does not go to the heart of the argument. The heart of the argument is: is this legislation good enough? It is not a matter of whether it is better. If the act required a bill of this sort to make it better, the previous legislation must have been very bad indeed.
As to industrial legislation, in 1928 in Melbourne during the waterside disputes guns were fired by the police. My point is that, whether it is a policeman or a soldier, when faced by such a situation, if he or she has not got the experience or the maturity, problems can occur. In handling extreme situations contemplated by this legislation, you need cool heads, great experience and a fixed protocol. There is nothing in this legislation that says that people must have any degree of experience at all other than being in the Army. There is nothing in this legislation to say that they must have maturity in dealing with the tasks they are faced with. Another historical example is the incident at Vinegar Hill in New South Wales on 5 March 1804. There was a Vinegar Hill type incident in Ireland in 1798. One of the history books I was reading described the slaughter of convicts there. The interesting thing about that incident in 1804 was that a commemoration was dedicated at Vinegar Hill by the great Gough Whitlam in 1988, the bicentenary year.

These are just illustrations of such problems throughout history. The forces used on these occasions of great tumult did not act with the skill that you would hope, and our record has not been good. People are racing down the road to have this legislation put in place without, as far as we can see, proper training being undertaken, without there being—and I keep coming back to this—protocols, and without there being any defined object in mind. As I said, this legislation has got up for the Sydney Olympics. The Attorney-General and the Minister for Defence have said, ‘No, that is just one issue amongst many.’ It is a matter of concern that we should have legislation giving these very extensive, undefined powers—not defined to the extent that they should be—putting these things in place, without establishing what I would call prerequisites. I recommend that you read later in the day an excellent report which will be forthcoming from the Scrutiny of Bills Committee, and I hope Senator Murray speaks on that report.

Debate interrupted.
been reduced by 6.7c per litre. After adjusting for the effect of state excise surcharge, fuel excise collections will actually fall by $0.9 billion in 2000-01. Other comments have been made about various gains which it is alleged the Commonwealth will make. But I make the point that the government is worried and concerned about the high level of petrol prices. Senator Cook asked me some questions about revenue collections, and I have responded to those questions.

**Senator Cook**—Madam Deputy President, I rise on a point of order. My point of order is that I asked three specific questions: how much revenue did the government get last year, how much revenue does the government anticipate getting this year, and what is the percentage of it due to the GST? He has answered none of those questions. Madam Deputy President—none at all. He has given an explanation but has refused to answer the questions. Will you ask him to answer the questions?

**The DEPUTY PRESIDENT**—How the minister chooses to answer the question is up to him, but I am sure that he is drawing towards answering more precise areas of the question.

**Senator Kemp**—On the point of order, I will actually finish my response. If Senator Cook had been listening very carefully, he would have heard that I pointed out to him that fuel excise collections, after adjusting for the effect of the state excise surcharge, will actually fall by $0.9 billion in 2000-01, but that is not what he wanted to hear. I have pointed out that the government is concerned about the high level of fuel prices, and we have stated our concern about those matters.

**Senator Cook**—None of the questions have been answered. I would appreciate it if the minister would take them on notice if his competence does not extend to knowing the facts. I ask a supplementary question, Madam Deputy President. Isn’t it the case that the higher the price of petrol goes, the more GST revenue from petrol the government collects? Isn’t it also true that the government has rejected calls by its own backbench for an inquiry into petrol prices because it fears such an inquiry would lay a large part of the blame at the feet of Mr Costello and his GST fuel tax rip-off?

**Senator Kemp**—What an astonishing question coming from the Labor Party. During the 13 years Labor was in government, excise on fuel, if I recall correctly, rose from around 6c per litre to 34c per litre. The complaints by Senator Cook are distinctly hollow. The interesting thing is I do not know whether Senator Cook is flagging any potential roll-back here as part of Labor Party policy. We will be having a long debate after question time on fuel prices, and we shall listen with great interest to see whether the Labor Party is proposing any change to the GST treatment of fuel and to the excise treatment of fuel, or else we are seeing—as we so often see from the Labor Party—just hot air.

**Tax Reform: Economy**

**Senator Chapman** (2.06 p.m.)—My question is directed to the Assistant Treasurer. Will the minister inform the Senate of the latest figures which confirm the strong performance of the Australian economy following the implementation of tax reform on 1 July?

**Senator Kemp**—Thank you to my colleague Senator Chapman for that very important question. As all senators are aware, this government has introduced the most far reaching reforms to the tax system in Australian history. We had to fight these reforms through. But now, having got the reforms through and successfully implemented these reforms, we find the Labor Party has now signed on and they now form part of the Labor Party policy. We welcome that, but we would welcome the Labor Party making a bit clearer where the roll-back applies and what the budgetary effects of that would be. But I do not want to be churlish. The fact of the matter is that we have brought in major tax reforms against the opposition of the Australian Labor Party.

We have been very pleased that, on the range of figures that have come through, the benefits of the new tax system are already becoming apparent. On Friday, the Bureau of Statistics released data on new motor vehicle registrations. Those figures show that, in the
month of July, the first month of the new tax system, total vehicle registrations rose by some 55 per cent, and registrations for new passenger vehicles rose by some 77 per cent. This of course is a massive endorsement of the new tax system, which has abolished Labor’s 22 per cent wholesale sales tax on passenger motor vehicles. These figures come on top of the July job figures, which showed the unemployment rate falling to 6.3 per cent. Prior to 1 July we heard nothing but fear-mongering from those opposite—nothing but fear-mongering. We heard that the price of new motor vehicles would not fall after 1 July. We heard dire predictions about the state of the Australian car industry. In fact, the shadow minister for industry, Mr McMullan, put out no less than five press statements saying that the government’s tax changes were bad for the car industry and demanding that the government take responsibility for the impact of the new tax system on the car market.

Let me make this absolutely clear: the government is more than happy to take responsibility for cutting the tax take on cars. We make no apology for that at all. This is in stark contrast to the ALP, who from time to time try to grab hold of an issue and purport to attack the government’s policy, when the fact of the matter is that when the debate has finished we find that the Labor Party have signed on to that particular policy. Bit by bit the Labor Party’s fear campaign is unravelling. Memory Mr Beazley’s promised meltdown on 1 July? There was no meltdown and, of course, Labor, as I mentioned earlier in my remarks, now support the GST. The GST has been welcomed, especially by new car buyers. Much to the despair of the opposition, the economic figures which are coming out say that Australians are enjoying the benefits of the new tax system.

**Goods and Services Tax: Petrol Prices**

Senator LUDWIG (2.10 p.m.)—My question is addressed to Senator Kemp as Assistant Treasurer. Can the Assistant Treasurer confirm that on 13 August 1998, the Prime Minister said, ‘There will be no increase in the price of petrol as a result of the GST’? Can the minister also confirm that there has in fact been an increase in the price of petrol as a result of the GST?

Senator KEMP —The promise that we made in the election was very clear—and, in fact, it was stated innumerable times during the debate—that the price of petrol need not rise as a result of the GST. That was the promise which we went to the election on, and I am pleased to say that what we have seen is that the government, as always, keeps its promises. The Prime Minister himself answered this question, Senator Ludwig. I am a little bit surprised you asked me this question, because exactly that same question was asked of the PM in the other place. I am surprised that Senator Ludwig was not well briefed on that. Senator, he pointed out that in the period immediately after the introduction of the GST the price of fuel in fact fell marginally. The fact of the matter is that the high price of fuel is due to two factors: higher world prices and the effect of the changes in the valuation of the Australian dollar. Let me make this point: some 1½ years ago in Australian dollar terms, the value of a barrel of oil was in the order of $15. Today the value is in the order of $55 a barrel. That is the reason in Australian dollar terms that we are now experiencing high petrol prices.

Senator Ludwig, it is an interesting dilemma that the Labor Party now has, isn’t it? The interesting thing is that, if the Labor Party does not believe that the high prices of petrol are due to the higher prices on world markets and are affected by the fluctuations in the value of the Australian dollar, what does the Australian Labor Party propose to do? We had more than six months in which we heard that the Labor Party was going to abolish the GST, and then we discovered on 1 July that in fact the Labor Party had signed on to the GST. But, Senator Ludwig, the debate on this will continue and we are going to press you. It is a pity that you have joined this particular scare campaign, I might say, rather than worrying about land rights in Queensland, and rather than worrying about the matter which principally concerns Queensland Labor senators—

The DEPUTY PRESIDENT —Senator Kemp, would you please address the chair.
Senator KEMP—Thank you, Madam Deputy President. I was pointing out that Senator Ludwig, who has some serious problems on his mind—in particular, the fact that the federal Labor Party plans to dump on the Queensland government in relation to land—

The DEPUTY PRESIDENT—And be relevant to the question, too, thank you.

Senator KEMP—It is a pity that he has attempted with his question to join the scare campaign that the Labor Party is promoting. But at the end of the day, Senator Ludwig, the question will come down to this: if you do not believe what I have said, if you do not believe that the higher fuel prices are due to trends on world markets as they are affected by the Australian dollar, what will the Labor Party propose to do? What is the Labor Party position? Senator Ludwig, this is going to be very difficult for you. One day, the Labor Party may well have to come to a difficult policy position. I know that this is very hard for the Labor Party and I know that you avoid making serious policy decisions. But, Senator Ludwig, the answer I have given you is the reason petrol prices have risen. If you do not accept this, we want to know what the ALP treatment is in relation to—(Time expired)

Senator LUDWIG—Madam President, I ask a supplementary question. Can the Assistant Treasurer confirm that the Liberal Party campaign propaganda in the last election campaign stated, ‘The government will reduce the petrol excise by an amount equivalent to the GST,’ and that Minister Vaile stated on 6 September 1998, ‘We are reducing the excise on petrol by an equivalent amount to offset the impact of the GST’? Given these promises, why did the government fail to reduce the petrol excise by an amount equivalent to the GST?

Senator KEMP—We have delivered on the commitment that we made. The excise on fuel was cut by 6.7c a litre—and that is well known—and we have estimated that, as a result of tax reform, there are also cost savings to the fuel industry which should be passed on to the consumer. So the government has delivered on its commitment. But the question is: if the Labor Party is currently unhappy with the policies which we have put down in relation to fuel, what does the Labor Party propose to do about it? The question is: where is the Labor Party alternative? The answer is, Senator Ludwig: you have not got one.

Computer Software: Prices

Senator KNOWLES (2.16 p.m.)—My question is directed to the Minister for Communications, Information Technology and the Arts, Senator Alston. I ask the minister to inform the Senate of what the government is doing to ensure that Australian consumers have access to the widest range of software, computer games, books, CDs and periodical publications at the most competitive price? I also ask: is the minister aware of any alternative policy approaches, and are these in the best interests of Australian consumers?

Senator ALSTON—I am indebted to Senator Knowles for a very important question, because it highlights the fundamental difference between the two major parties. What we announced on 27 June last was that we would amend the Copyright Act to allow for parallel importation of a range of products—legitimately produced books, periodicals, printed music and software products, including computer games. That was perfectly consistent with the approach that we took to allow the parallel importation of CDs, which was fought tooth and nail by the Labor Party. We did this because we put the interests of consumers first. We also followed the advice and recommendations from the intellectual property competition review committee report, which recognised the detriment to consumers from parallel import restrictions when it said:

The restrictions do allow higher prices to be charged for the protected material than would otherwise prevail. The benefits from these higher prices flow in significant proportion to foreign rights holders. The corresponding costs are borne in Australia by Australian consumers and by industries, such as the domestic software industry that uses imported protected material as input.

So there we have it. What it is all about is putting the consumers first and giving them preference ahead of the international rights holders—in other words, in the case of CDs, the six or eight multinationals that control about 80 per cent of world revenues in the
record industry. In that case, the facts were stark that Australian consumers were being ripped off. We have made sure that that is no longer the case.

I am asked: what is the alternative? It is quite extraordinary. When was Hobart? It must be four or five weeks ago now. Do you remember all that came out of that on the ‘knowledge notion’? They have not got to the knowledge nation yet, but the knowledge notion did not get any particular mention. It certainly did not get a run in any of the presentations. But what it did get was a five-minutes-to-midnight throw-away press release announcing that they were going to set up a committee to find out what on earth they ought to do about the knowledge notion. So that is about as far as the knowledge notion has gone to date—until last Thursday. What happened then? They announced the first genuine roll-back.

This is quite significant because Mr Crean has been running around the gallery saying that, really, he is not going to roll anything back, despite what Mr Beazley says; he is just going to hand out allowances and top things up in due course. But what we got last Thursday from Mr McMullan and Mr Kerr was a genuine roll-back—a roll-back to the 1950s with a capitulation to the special interests. In other words, they are going to repeal our legislation in relation to CDs. They are going to pander to the special interests that drive all these industries—and who is going to come last? Madam Deputy President, you might have thought they would have got some political smarts by now—certainly with someone as experienced as Mr McMullan. But no, what did Mr McMullan say when he was interviewed about this on Sky News? He criticised us because he said our policy was ‘just a move to try and drive down prices’. He said that it is entirely driven by consumer interests and we are going down the cheap populist road. There it is. We are delighted to have the battlelines drawn in that way. The Labor Party are not going to have a bar of giving anything to consumers. They are not going to cave in to the people of Australia. They are going to make sure that the people who rattle the electoral tin and generally can be relied upon to squawk loudly at election time are the ones who are going to get the policy priorities. So remember: consumers first under us; consumers last under the Labor Party. Madam Deputy President, that is tragic because this was an opportunity for them to show their economic credentials. Of course, they did not get a run out of it, except in the Financial Review, which made it plain that Labor was under fire over copyright policy and quoted the Australian Consumers Association bagging it comprehensively. But, of course, they probably think that is a badge of honour because they certainly do not want to be associated with consumer interests. They have made it very plain that they are standing up for the big boys, the internationals, who are going to hopefully help their cause—but they will not.

(Time expired)

Goods and Services Tax: Petrol Prices

Senator FAULKNER (2.21 p.m.)—My question is directed to Senator Kemp, the Assistant Treasurer. Does the Assistant Treasurer recall Mr Costello’s statement in the House of Representatives on 25 November 1999 that:

The excise [on petrol] comes down and the 10 per cent goes back up. It is the same amount of tax.

They are Mr Costello’s words. Given that the Treasurer surely would not have been deliberately misleading the parliament, was he badly advised in making this statement, or is there some other explanation for him getting it just so wrong? Minister, isn’t it a fact that the government is collecting more in fuel taxes today than it was before 1 July? When does the Treasurer plan to correct the record?

Senator KEMP—I would always be very wary—and I think all of us in this chamber have been very wary—about accepting any quotes from the Labor Party on any particular issue. Let me make it clear, Senator, that you obviously did not listen to the answer I gave Senator Cook last time, so I draw your attention to that answer. The government has fully met its commitment that petrol pump prices need not rise with the introduction of the GST. From 1 July, excise was reduced by around 6.7c per litre. As a result of the tax changes, the petroleum industry benefits from a substantial cost reduction, which has been estimated at around 1.5c per litre and
which must be passed on to consumers. The total cost reduction is in the order of 8.2c per litre.

The commitment that the government made is well known, the policy that we announced recently is well known; and we believe there is no doubt that that has met the terms of the commitment. I think the Labor Party are trying to confuse the matter by suggesting that somehow the excise issues and GST issues are the factors that are responsible for the rise in petrol prices. That is not accurate. The major reason is of course the extremely high price of fuel on world markets. I think that is the issue that Senator Faulkner and his colleagues have to face up to. The Labor Party, I might say, have been very cautious and have made it very clear that they will not be changing the excise arrangements on fuel. If there were a change in that policy, Senator Faulkner, we would welcome you telling us about it. If a change in the GST arrangements on fuel were part of your policy, that could form part of roll-back. But, Senator Faulkner, I do not think you are prepared to make that commitment either.

What we are seeing from the Labor Party is a deliberate scare campaign on fuel prices. The Labor Party are attempting to cover up the real reason for the rise in petrol prices, which relates to the very high prices on world markets. Again, the Labor Party got themselves very severely burnt—and I think the polls showed this—over the introduction of the GST. I have no doubt that the public is looking very cynically at Labor’s campaign at present. If the Labor Party believe they can swim against the tide of world prices in fuel, let them state how they plan to do it. Senator Faulkner, if you are not prepared to state how you will do it, all I can say to you is what I have said to Senator Cook and to Senator Ludwig: what we are seeing is just hot air.

Senator FAULKNER—Madam Deputy President, I have a supplementary question for Senator Kemp. Minister, isn’t it a fact that the government is collecting more in fuel taxes today than it was before 1 July?

Senator KEMP—I have pointed out to Senator Faulkner that we have cut the excise on fuel by 6.7c a litre. When Senator Faulkner was in government, the Labor Party raised the excise on fuel from around 5c a litre to around 34c a litre. That is what I call having a policy to make sure you collect more money from fuel. We have expressed our view—

Senator Faulkner—Madam Deputy President, I rise on a point of order. I deliberately tried to make the question simple for Senator Kemp so that he might try to answer it. I asked whether it was a fact that the government was collecting more in fuel taxes today than it was before 1 July. Perhaps you could direct him to answer that question.

Senator KEMP—As I have stated to Senator Cook previously, we have cut the excise on fuel and, after we have adjusted for the effect of the state excise surcharge, fuel excise collections will actually fall by $0.9 billion in 2000-01. That is the point of your question, and that is the answer to it. (Time expired)

Public Transport: Fares

Senator GREIG (2.28 p.m.)—My question is to Senator Herron, who is today representing Minister Newman. Is the minister aware that the recent McClure report highlighted the impediment that transport costs can be, particularly public transport costs, in getting low income earners and social security recipients back into the work force, particularly when the social security and tax systems combined claw back 88c of each additional dollar earned? Is the minister also aware that these costs have become considerably worse with the significant rises in public transport fares, particularly those by the state Labor governments of Queensland and New South Wales in July? I ask the minister: what will the government do to improve the access of the unemployed to the work force by reducing these transport costs, introducing fairer subsidies and increasing pressure on the states to put their GST windfall revenue from higher petrol prices into reducing public transport fares and improving services?

Senator HERRON—I thank Senator Greig for the question. It highlights the point that the GST is going to the states and the states have that responsibility, as Senator Greig correctly points out. Currently the gov-
ernment provides a mobility allowance to encourage the participation of people with disabilities in education and training, employment or voluntary activities. The McClure report encourages the participation of people receiving income support and recognises the barriers that may prevent this. The government will consider this issue in conjunction with a range of other issues and will respond before the end of the year.

The government has endorsed the broad directions of the welfare reform reference group’s report, the McClure report, because it wants to change the social security system to ensure it encourages and supports economic and social participation wherever this is possible. The government is not seeking to reduce payments or to tighten eligibility criteria or to make community organisations do this for it. The government is committed to improving service delivery and to making the system simpler and the incentives for participation clearer. It has already made some improvements to the incentives for work force participation through changes introduced as part of the new taxation arrangements. At this time, income-free and asset-free areas were increased by 2.5 per cent and taper rates were eased from 50 per cent to 40 per cent for pensioners and people receiving the single rate of parenting payment. People receiving the partnered rate of parenting payment had the income range over which the taper rate applied increased from $60 to $245—up from $140. The income test for the new family tax benefit part A has been relaxed greatly, with a higher free area and a 30 per cent taper. So increases are occurring.

Welfare reform, however, is not cost free. We will assist people in returning to work, through transition support and assistance with participation rates and, more broadly, through programs to assist in building stronger communities. I am aware there has been some criticism of extending the principle of mutual obligation to sole parents and people with disabilities. The proposed participation support scheme outlined in the McClure report suggests more than just the introduction of mutual obligation to a wider range of income support recipients. The McClure report discusses improving financial assistance, improving opportunities for employment and expanding access to effective assistance—among other improvements—to create a system that helps people to help themselves. A recent study by Senator Newman’s department demonstrates that many customers want to return to work but are unsure how to do this—for example, for parenting customers, 81 per cent attended the compulsory interviews, and the participants found the interviews very valuable, with 85 per cent recommending compulsory attendance for those who have the capacity. The study shows that attendance at voluntary interviews appears to be ineffective, with only 17 per cent attendance.

The government remains committed to helping parents by ensuring they get the assistance they need to avoid social and economic exclusion, and the proposed changes would extend only to those who have the capacity to participate in social and economic activities. Their circumstances would also be considered—for example, parents with the youngest child between the ages of six and 12 may be required to attend an interview to discuss their future. As I indicated previously in relation to public transport, the government will respond to the McClure report by the end of the year. It is still working through the detailed recommendations, including the one alluded to by Senator Greig.

Senator GREIG—Madam Deputy President, I ask a supplementary question. Is the minister aware that, according to Access Economics, the Queensland government is set to be upwards of $800 million better off because of GST revenue over the next five years? Is he also aware that the Queensland government enforced the highest increases in public transport fares on 1 July, with Brisbane bus fares rising by 12.4 per cent and train fares by roughly nine per cent? What pressure can the federal government bring to bear to ensure that Queensland uses its GST petrol windfall wisely—particularly, to provide better opportunities for unemployed and underemployed people to access work?

Senator HERRON—I thank Senator Greig for the supplementary question, because he highlights the hypocrisy of the Labor Party in Queensland. Mr Beattie led the
charge against the petrol price increases, but his own hypocrisy has just been exposed by Senator Greig's question. I hope that is taken up. The Labor government in Queensland has made an extraordinary attack on the federal government when, allied with the Labor Brisbane City Council, it has committed the above offence in its own backyard.

**Goods and Services Tax: State Revenue**

**Senator SHERRY** (2.34 p.m.)—My question is to Senator Kemp, the Assistant Treasurer. Was the Treasurer stating the whole truth when he said on the Today show last Wednesday:

Every last dollar of GST goes to the States. Every single last dollar. And if GST raises more, the States get more. It doesn’t come to Canberra.

Isn’t it the case that every dollar the government collects above the conservative forecasts in its original GST deal with the states actually goes to the Commonwealth, because it is one dollar less in grants that the Commonwealth has to pay the states? Wasn’t this acknowledged by Mr Costello in parliament on 31 May, when he said that the Commonwealth-state GST arrangement ‘gives the Commonwealth the opportunity to participate in any additional revenues if they should be got from a higher revenue take from the GST’?

**Senator KEMP**—The basic principle is as the Treasurer stated: the GST revenue goes to the states. I do not think there has ever been any argument about that.

**Senator Sherry interjecting—**

**Senator KEMP**—Senator Sherry says that it does not go to the states. The state premiers think the GST revenue goes to the states, and the Commonwealth thinks the revenue goes to the states, but Senator Sherry does not think the revenue goes to the states. We will take that on board, Senator Sherry, but you have been wrong so often that we are a bit cautious about accepting your view. If you analyse Senator Sherry’s question, the fact is that the GST revenues go to the states. That was part of the intergovernmental agreement with the states, and that remains.

**Senator SHERRY**—Madam Deputy President, I ask a supplementary question. According to Mr Costello in the House of Representatives *Hansard*, the Commonwealth has the opportunity to ‘participate in any additional revenues’. Given that there is a higher revenue take from the GST on petrol than was originally anticipated, how precisely will the Commonwealth ‘participate’—as Mr Costello put it—in these additional revenues?

**Senator KEMP**—I have pointed out to Senator Sherry that the substance of his question is that the GST revenue goes to the states. Senator Sherry, you can make various forecasts based on the estimates that you may have of the trends in fuel prices over the next year, but I would point out to you that we are at the very start of the year at the moment. Our policy is set out in the budget. I notice there is no confusion over what the Commonwealth proposes to do. There is massive confusion over what the Labor Party proposes to do. The Labor Party’s sole answer to the issue of petrol prices is to have the 41st inquiry. We have had 40 already, with no comment from the Labor Party on what it is going to do on the indexation of excise. *(Time expired)*

**Medicare: Abortions**

**Senator HARRADINE** (2.37 p.m.)—My question is directed to the Minister representing the Minister for Health and Aged Care. It refers to the recent case of the little baby aborted in the Royal Women’s Hospital in Melbourne at 32 weeks gestation due to suspected dwarfism. Do the minister and the government consider it appropriate for Medicare payments to be made for such procedures? Does the government consider suspected dwarfism a valid reason for abortion? Does the minister consider this case might be an example of the necessity for information on the reasons for abortions, the stage of pregnancy and the method of abortion used before the Health Insurance Commission agrees to reimburse such procedures, or will taxpayers’ money continue to be provided for abortions almost up to term?

**Senator HERRON**—At present the government supports the general principle that the decision in relation to abortion is for the person concerned and their medical advisers. Given that overall principle, my understanding is that in the provision of Medicare serv-
ices relating to abortion where the action is legal under the state jurisdictions, it is not the Commonwealth government’s place to intervene. Each of us is entitled to a view on that particular issue, and mine is well known. I have been a constant opponent of abortion throughout my life—since medical student days, and I personally would not support the practice that Senator Harradine has outlined. My position has been known, on a personal basis, all my life, and it has not changed. On the government’s position, if there is anything further I can add in relation to the question I will go to the health minister to ask further advice and report back to Senator Harradine.

Senator HARRADINE—Madam Deputy President, I ask a supplementary question. We are talking about a matter of major public policy. We are talking about a little child who was aborted almost at term for suspected dwarfism. Is it not a fact that the Health Insurance Commission uses the word ‘appropriate’ when considering whether or not payments will be made through Medicare? I am simply asking the government to tell the Senate whether the abortion of a near-term baby because of suspected dwarfism is appropriate—yes or no?

Senator HERRON—In regard to the detail of that and the government’s position, I will have to get back to the minister. As I said, I do not personally consider it appropriate, but my view is well known. I will have to respond to Senator Harradine by saying that, if it is a legal act under Victorian state government provisions, it is up to a decision between the person concerned and the doctor involved in that process. Certainly dwarfism—speaking now from a medical point of view—is not in itself a pathological entity which would warrant an abortion, and certainly not a late-term abortion. There is virtually no medical indication—in fact, I doubt if there is one—for a late-term abortion in any case. As Senator Harradine knows, at 32 weeks it is a viable baby. The introduction of abortion in that particular case is untenable.

Goods and Services Tax: Petrol Prices

Senator MURPHY (2.41 p.m.)—My question is to Senator Kemp, the Assistant Treasurer. Does the government agree with the Australian Automobile Association analysis that motorists are already paying an extra 1.5c per litre in GST plus 0.7c per litre from the GST inspired indexation increase on 1 August? If not, can the Assistant Treasurer indicate where the Australian Automobile Association analysis is flawed.

Senator KEMP—The Australian Automobile Association has made various claims. Perhaps I could make some comments on those, some of which have been raised by Senator Murphy. The claims are in a variety of areas, but the main elements seem to be that there is an increase in petrol excise and GST. I would point out to Senator Murphy that excise is a volumetric tax and does not increase with rising petrol prices. In fact, from 1 July excise was reduced by around 6.7c per litre. The other matter you raised relates to the indexation issue. While it is correct that the government receives additional excise revenue from indexation, for every dollar gained through the indexation of excisable products the government increases outlays—linked to CPI—by over $2 through pensions, Newstart allowance, parenting payments, rent assistance and the like. The indexation of excise was introduced by the Labor Party. That was a Labor Party policy. A look of blankness comes over Senator Murphy’s face. Where was Senator Murphy for 13 years when the Labor Party hugely jumped the excise on fuel and introduced indexation? If the implication of the question is that the Labor Party is now opposed to the indexation of excise, I think that is a very big policy statement. If Senator Murphy is opposed to that Labor Party initiative, he should stand up and say it or else we will think that Senator Murphy—I know this would not be your usual style; all you are trying to do is just make cheap political points—

The DEPUTY PRESIDENT—Senator Kemp, please address your remarks through the chair.

Senator KEMP—Senator Sherry raised a question about the GST and, as I pointed out, the GST revenues go to the state governments. The point I am making, as I have in regard to a number of questions today in question time, is that the government are concerned about the high price of petrol—as
indeed is the Australian community—but there is an implication somehow in the Labor Party that the high price of petrol can be explained by various tax changes. The high price of petrol can be explained by the very high prices on world markets, and we should not avoid that. The Labor Party have three choices, in a sense, if they believe that the changes in the price of petrol are principally due to tax changes: they should tell us what they propose to do on the GST issue, they should tell us what they intend to do about the overall level of excise on fuel and they should tell us what they propose to do on indexation. If the Labor Party’s questions are meant to imply that the change in the price of petrol is principally due to tax changes, then we want to know what their position is on those three matters. Senator Murphy, you have the chance to ask me a supplementary question, which I always look forward to from you. Why don’t you take up a little bit of that supplementary question to state what the Labor Party position is? (Time expired)

Senator MURPHY—Madam Deputy President, I do intend to ask the Assistant Treasurer a supplementary question.

Senator Robert Ray interjecting—

Senator MURPHY—I note Senator Ray’s interjection that the question will not be answered, but I hope the Assistant Treasurer, if I make it simple enough for him, will answer it. I will put it to him this way in respect of the 1.5c per litre: does he acknowledge, as even the co-architect of the GST, Senator Lees, did this morning, that at least 1.5c of the current price of petrol is directly due to the GST?

Senator KEMP—This is the problem when you quote out of context. My memory of what Senator Lees said this morning is that she accused the Labor Party of ‘shameless grandstanding’. That is what I recall Senator Lees saying this morning. I am sure that, in the light of your question today, that would have confirmed her view about the empty claims of the Labor Party. All I am saying, Senator, is that, if you think this is a serious matter—which we do, and we put it down to world prices—and if you think it is due to tax changes, you get up and state what the Labor Party proposes to do about it.

Newcastle: Job Creation

Senator TIERNEY (2.47 p.m.)—My question is to the Minister for Regional Services, Territories and Local Government, Senator Ian Macdonald. Minister, the Howard government has shown a strong commitment to regional Australia, particularly to Newcastle and the Hunter region. Will the minister advise of any recent developments which will benefit workers and their families in this area?

Senator IAN MACDONALD—As Senator Tierney would know and as he mentioned publicly a number of times, when BHP decided to close down their smelter in Newcastle there was a lot of unhappiness—a lot of workers could possibly have lost jobs and that would have had an impact upon them and their families. Senator Tierney was very forthright in making the Senate aware of those difficulties. As a result, the Prime Minister announced that the federal government would be providing a $10 million structural adjustment package for Newcastle to help with employment creating projects. Since that time I have, on behalf of the federal government, administered that structural adjustment package for Newcastle and already we have provided almost $9 million of assistance to businesses and other organisations in Newcastle that will provide job creating activities.

I am very pleased today to announce that the government is making two further grants to companies in Newcastle to help with job creation work. The first is a grant of $875,000 to a company called Varley Specialised Vehicles to assist with the development of an innovative emergency response vehicle called the Varley Fire Commander. This new project is expected to create 242 new jobs in the Newcastle region over the next five years and will cement Newcastle as one of the great manufacturing areas of Australia with this leading-edge technology. I am also pleased today to announce a grant of $200,000 to FORGACS Engineering Pty Ltd to help that company modify its floating dock. The modification will help create some 188 new jobs in the Newcastle region and raise revenue of about $20 million for the region. The grant to FORGACS means that
the floating dock can be modified to take different sized vessels, which will lead to more versatility and result in a boost for not only that company but related suppliers as well.

In all, as I say, we have provided a substantial amount of money. I thank Senator Tierney for his ongoing advocacy for Newcastle, particularly for the work he has done with the grants made to companies in the Newcastle region. The number of new jobs created as a result of these grants are quite significant. They are jobs that are directly related to the grants provided by the Commonwealth. Additional jobs have been created in the construction of many of the facilities that have been funded and the long-term impact of these indirect jobs is quite substantial. We estimate that there will be well over 5,000 indirect jobs created through the government’s package. So this is good news for Newcastle, good news for regional Australia and an indication of the Howard government’s ongoing commitment to regional Australia.

Goods and Services Tax: Petrol Prices

Senator COOK (2.52 p.m.)—My question is to Senator Kemp, the Assistant Treasurer. How does the government justify another 3c a litre increase in the price of petrol, as calculated by the Australian Automobile Association, which is due on 1 February as a result of the next indexation increase in fuel prices? Isn’t this just another example of the Prime Minister’s deceit in claiming that the GST would not increase the price of petrol?

Senator KEMP—The only case of deceit that we are seeing here is the deceit of the Australian Labor Party, and in particular the deceit of Senator Cook. Senator Cook’s third most famous quote is that the Australian Labor Party is a high tax party, and he is dead right. That is the very reason why when the Labor Party was in office it rocketed up the excise on fuel. What was it? From 5c to 34c over its 13 years in office. That is the first part of the deceit we are seeing. The Labor Party is a high tax party. The Labor Party proved it was a high tax party in particular by what it did to fuel excise when it was in office.

The second part of the deceit of the Labor Party is that they pretend that the current problems that we are facing with high fuel prices are due to tax changes, when I think everybody, apart from the Australian Labor Party, should know that the high prices of fuel are due to the very high prices—the record prices—that we are seeing on world markets. If the Labor Party do not believe this, the Labor Party should then state to us what they propose to do. Madam Deputy President, Senator Cook asked about deceit, and I am telling you about the deceit of the Australian Labor Party. Senator Cook is not going to say anything about the Labor Party change in the GST treatment on fuel, Senator Cook is not going to say anything about the indexation arrangements in relation to fuel, and Senator Cook is not going to say anything about the overall level of excise on fuel. With Senator Cook and his colleagues attempting to raise this as an issue—as Senator Lees says, ‘Shameless grandstanding’; her words, not mine—what is Senator Cook’s answer to all of this? A review.

Senator Cook wants the Senate to believe that the high prices of fuel are due to excises. So, what would logically flow from that? If you believe that the tax changes in relation to fuel are the reasons for the higher price—that is not our view; that is Senator Cook’s view—what you would do is have a policy in these areas, as I mentioned. But you have not. What is your answer? Your answer is to have a review. That is the Labor Party policy. Senator Cook, you asked about deceit. That is the deceit that we are seeing. It is a classical Labor Party deceit. We saw it in relation to the GST debate. Remember when we were told by the Labor Party how awful the GST was? Then, funnily, we discovered it was part of Labor Party policy. That is what we discovered. Talk about deceit! Finally, as Senator Cook has attacked colleagues on my side for being deceitful, we all remember your second most famous quote, Senator Cook, when you said that the budget was in surplus when it was in massive deficit.

Senator Cook—It was.

Senator KEMP—And you, Senator Cook, have never stood up and corrected that deceit.
Senator COOK—Madam Deputy President, I ask a supplementary question to the Assistant Treasurer. Is the minister also aware that the additional GST inspired 3c a litre rise in the price of fuel due on 1 February will, according to the Australian Automobile Association, mean that motorists will be paying an extra 9c to 10c a litre because of tax? When did the Prime Minister or the Treasurer inform Australian motorists that the government’s GST and tax policies would result in them paying up to an extra 10c a litre in petrol tax? You might answer that with a straight answer this time, Minister.

Senator KEMP—That was a rather churlish question that I do not think actually deserves a straight answer, but I will give you a straight answer. The answer is that the commitment that we went to the election with was that the price of petrol need not rise as a result of the GST. Senator, as we have discussed in question time, with the various adjustments the government has made—including the requirement that the cost savings that petrol companies are receiving, of 1.5c a litre, are to be absorbed—the government has delivered on that commitment. I guess after question time we are going to have a big debate on petrol prices. There have been three Labor speakers standing up. Let me make a prediction: not one of them will say what should be done about the high price of petrol, except have a review. That is the Labor Party’s solution; nothing to do with world markets. (Time expired)

Australian Defence Force: Riot Gear

Senator BOURNE (2.58 p.m.)—My question is addressed to Senator Ellison, the minister representing the Minister for Defence. Is it the case that the Australian Defence Force has recently acquired 1,500 sets of riot gear—or, indeed, any extra riot gear? If so, is that gear being stored at Holsworthy? If it is the case that the Defence Force intends to use riot gear in actions against Australians, will the Defence Force personnel concerned be thoroughly trained in all modern methods of crowd control before being deployed?

Senator ELLISON—I am not aware of any riot gear as such, as mentioned by Senator Bourne, but I am aware of relevant training which is in hand for a task force in relation to the Olympics. It perhaps is best that the details of that training are, for security reasons, not gone into. However, I can say that there is training in hand and that it is appropriate for the circumstances. As for the riot gear, I will get back to Senator Bourne on that subject.

Senator BOURNE—Madam Deputy President, I ask a supplementary question. I thank the minister for that answer. If it is the case that that sort of training is going on but that the minister is careful about who he tells about it, will he ask if the relevant minister would consider giving a briefing to the Joint Foreign Affairs, Defence and Trade Committee, the defence subcommittee or the Senate Foreign Affairs, Defence and Trade Committee about what methods are being used to train Australian military personnel in the use of riot gear, possibly against Australian citizens?

Senator ELLISON—I think that the government has shown its cooperation with the Senate Foreign Affairs, Defence and Trade Legislation Committee, the committee which recently handed down a report in relation to legislation which is before the Senate. I will certainly take it up with the minister concerned. I can say that the government is aware of the sensitivity of this matter. It is not one which the government treats lightly or capriciously, and it is one on which we will certainly endeavour to engage both the opposition and other parties. But I will certainly take up that request from Senator Bourne with the minister concerned, and I am sure that there will be adequate cooperation with the Senate committee.

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

ANSWERS TO QUESTIONS WITHOUT NOTICE

Public Health Association of Australia: Funding

Senator HERRON (Queensland—Minister for Aboriginal and Torres Strait Islander Affairs) (3.01 p.m.)—Madam Deputy President, on 17 August you asked me a question in relation to the Public Health Association of Australia, and I have received an answer
from the Minister for Health and Aged Care. I seek leave to incorporate it in *Hansard*.

Leave granted.

*The answer read as follows—*

**Senator WEST**—My question is directed to Senator Herron, the Minister representing the Minister for Health and Aged Care. Why did the Minister for Health and Aged Care order the scrapping of the $300,000 grant previously given to the Public Health Association of Australia for the provision of independent policy advice to the department on public health issues? Was this a political payback by Minister Wooldridge because the association is a very effective lobbyist for the public health system and, specifically, it supported the Friends of Medicare campaign?

**Senator HERRON**—The Minister for Health and Aged Care has provided the following answer to the honourable senator’s question: The Public Health Association of Australia is a well established organisation. The Department of health and Aged Care works with a wide cross-section of non-Government organisations and experts in various fields to ensure a variety of views and input to the Department’s population health agenda.

The Department is committed to maintaining its relationship with the Public Health Association of Australia and will continue to work collaboratively with Public Health Association of Australia on issues of common interest. The Department recently sponsored the Public Health Association of Australia Conference on Immunisation, which was opened by the Minister, Dr Wooldridge, and will also sponsor the Public Health Association of Australia’s forthcoming annual conference.

**DOCUMENTS**

**Education: SES Scores**

*The DEPUTY PRESIDENT*—I present documents, including a letter from the Minister for Education, Training and Youth Affairs, Dr Kemp, to the President, in response to the order of the Senate of 17 August 2000 relating to SES scores.

**Senator CARR (Victoria) (3.02 p.m.)—by leave—I move:**

That the Senate take note of the documents.

On the last day of sitting I moved a return to order relating to information of vital relevance to consideration of the *States Grants (Primary and Secondary Education Assistance) Bill 2000*. It concerned two documents which are, in my judgment, critical to the parliament’s informed consideration of this bill. The first related to guidelines for the method of calculating schools’ socio-economic index scores and the second related to the actual scores of individual schools which participated in the 1998 SES simulation project. The government currently has both documents. It is my understanding that the government has failed to respond adequately to the return to order.

This is a matter that concerns a $22 billion expenditure line. It is a supply bill. It is essential that this bill be passed so the schools and schools systems can have certainty that they will receive their share of Commonwealth funding. However, in the case of non-government schools, the bill provides them with a substantial part of their overall funding. The opposition is placed under considerable pressure to pass the bill without delay so that non-government schools know how much money they are going to receive. In the return to order, I requested that details of the funds going to individual non-government schools under the bill, and I asked for the results of the simulation study carried out in 1998 which provide a close prediction of each school’s windfall under this legislation.

The schools currently have that information—the government has provided that information to individual schools. The irony is that the government department has provided that information to them, but will not provide it to the parliament. Based on the best information made available, the opposition has estimated the level of funding going to a series of wealthy schools. Based on the publicly available figures, we calculate—and I have indicated these figures to the Senate committee considering this bill—that a school such as Wesley College in Melbourne will get an additional $2.5 million per annum out of this bill. I want to emphasise that: they will get an additional $2.5 million per annum out of this bill. And they will get $2.5 million extra every year from the fourth year once this bill is carried. Wesley is a wealthy, category 1, elite school. The principal of Wesley, Mr David Loader, has not disputed our calculation. Instead, he has told the press what he is going to do with the money. However, our calculations are based on average figures, so
they can only be indicative of the outcomes for non-government schools.

This bill must be thoroughly scrutinised. If the parliament is to properly consider the legislation, then we need to know its full impact—the full facts. It is apparent that this vital information is too hot for the parliament to handle. Apparently, we are expected to pass the bill while we are still in the dark as to its effects. This bill, the States Grants (Primary and Secondary Education Assistance) Bill 2000, brings radical changes to the funding of our schools, particularly those in the non-government sector. It has the potential to affect our entire school system in a profound way. The government itself has acknowledged this. Dr Kemp, in a media release of 11 May 1999, referred to the changes as: (1) a major reform; (2) a significant departure; and (3) a historical decision. Thus the bill deserves close examination. Since it embodies radical reform for school funding, I think every member of parliament has a clear duty to come to understand the provisions of this bill before we actually carry it.

The bill aims to replace the existing method by which schools in the non-government sector are assessed for the purposes of Commonwealth funding. Currently, an assessment is made of the schools’ financial situation via a mechanism known as the ERI, or the education resource index. The new scheme will scrap the ERI and replace it with what is asserted to be a more transparent measure of the socioeconomic status of the school and the students’ families—what Dr Kemp has referred to as the community in which the school serves. This is known as the SES index. We would like to assess how this planned new scheme will be more transparent and fairer. We have good reason to believe that it is far from fair and that the mechanism will throw more money at the wealthier schools, to the tune of over $900 extra per student, while students in poorer schools, such as the Catholic systemic system, will get only $157 per student extra. These figures have been broadly agreed to by departmental officials in last week’s Senate committee hearings.

However, the government, in its wisdom, has decided that we do not need to know any more. We do not need to know because the information is potentially too damaging. The largesse that the Howard government intends to heap upon its friends in elite private schools is something that we all need to know about before we pass the legislation. The current situation is clearly untenable. Dr Kemp is quite happy to look after his old school down at Scotch. He is quite happy to consider providing them with additional moneys on top of what the Commonwealth already provides. He does so on the basis that he claims this is about choice for parents in education. But the parliament also needs to make a choice about whether to pass the schools bill unamended or to seek to alter the provisions to ensure that the funding outcomes for non-government schools are fair and equitable.

I put it to the Senate that we are entitled to ask how individual schools are going to fare under this legislation. We are entitled to know, based on the simulation studies that were undertaken in 1998 and that are not being supplied according to this return to order, exactly what choices the government has made about where this public money is going to be spent. We are entitled to know exactly what it is that the government is intending to do with public dollars. We are entitled to get the actual funding amounts for next year, which this government already has a clear understanding of and which, in terms of the simulation study, have already been provided to the schools.

Accordingly, I will seek to give notice at the appropriate time today to move for a postponement of the reporting date of the Senate committee that is considering this bill until 4 October 2000. This will enable the Senate Employment, Education and Training Legislation Committee to consider the full ramifications of this bill. I do not believe that we have a choice in this matter at all. If we have not been given the information, then I do not think it would be right for us to proceed until we do get this information.

We were told at the Senate committee hearings just last week that information would be provided on a 24-hour basis. The government has failed to provide that information. We are entitled to ask: what is it the
government is trying to hide? Why are these secret plans being kept from us? I suggest that, when the appropriate time comes, the Senate support the proposition we will put before the chamber to delay the reporting date of the Senate committee to allow a proper consideration of all the facts of this matter.

Question resolved in the affirmative.

ANSWERS TO QUESTIONS ON NOTICE

Question Nos. 1108, 1877, 2152, 2270, 2314, 2410, 2428, 2446 and 2465

Senator O’BRIEN (Tasmania) (3.10 p.m.)—Pursuant to standing order 74(5), I ask the Minister representing the Minister for Health and Aged Care, Senator Herron, for an explanation as to why answers have not been provided to questions on notice Nos 1108, 1877, 2152, 2270, 2314, 2410, 2428, 2446 and 2465.

Senator HERRON (Queensland—Minister for Aboriginal and Torres Strait Islander Affairs) (3.11 p.m.)—I have raised the matter with the office of the Minister for Health and Aged Care. The minister has advised that the response to question No. 2152 has been provided to the Table Office. I have a copy for Senator O’Brien. The answer to question No. 2770 was coordinated across all agencies except Transport and Regional Services, and I understand the response to be provided by Senator Hill will be tabled in the next day or so. The minister apologises for the delay in providing responses to the other questions asked by Senator O’Brien and has undertaken to give the responses the priority they deserve. He has advised me that he expects to be able to provide an answer by the end of this week.

Senator O’BRIEN (Tasmania) (3.11 p.m.)—I move:

That the Senate take note of the explanation.

It seemed to me that the two questions directly referred to by Senator Herron on behalf of Minister Wooldridge were not those that I raised as having not been answered and falling well outside the 30-day time limit set by the Senate. A number of senators use the process of placing questions on notice to seek information from various ministers about aspects of their portfolios. Questions on notice are an important means by which ministers are held accountable for their actions as members of the executive.

I note that Senator Herron indicates that these questions will be answered by the end of the week. I am reminded, and I am sure senators would recall, that a contribution by Senator Ray on 17 August in the adjournment debate dealt with the reluctance—in fact, the refusal—of the Minister for Health and Aged Care, Dr Wooldridge, to answer questions placed on notice. I think that concerned question No. 2165, which may have been one of the questions that Dr Wooldridge indicated he was going to respond to, but I am not sure.

What should be noted is that these questions have been outstanding for an extensive period of time. Question No. 1108—that is a long time ago clearly by the number—was lodged at the beginning of June 1999, so the answer is well outside the 30-day limit. But all of these questions were asked at least 60 days ago. I suggest that these questions go directly to the expenditure on health related programs for which the minister is responsible and the matters relating to the administration of his department. I would indicate, just as Senator Ray indicated, that I put similar questions to other ministers and, by and large, they have provided comprehensive and timely responses—but not Dr Wooldridge. I am pleased that Dr Wooldridge is paying attention, given that he has undertaken through Senator Herron to answer these questions now by the end of the week. I am not pleased that it has taken this form to obtain those answers. Indeed, had that response been communicated to my office this morning, prior to having to rise to my feet and raise the matter in the chamber, then perhaps I would not have felt the need to take note of the explanation.

The fact of the matter is that it is only by Senator Herron rising that I learnt that the minister indeed intends to answer the questions this week. So there is a problem in the minister’s office. There is a problem with this minister dealing with questions. The minister has form in this regard. It seems that, apart from the fact that one has to wonder why he
was not sacked because of the scan scam, he is not performing competently with regard to his responsibility for answering questions placed on notice, not after 30 days but after a reasonable period. None of the questions which I have asked could be considered unable to be answered in the time that has been allowed.

The minister’s approach to both Senator Ray’s and my questions, and I am sure to those of other senators—and replying to questions is a basic function of the government—shows that he is not only incompetent but indifferent to his responsibilities in this place. I thank Senator Herron for pursuing the matter following my office contacting his office this morning. I only regret that he was not able to convey to me before question time what he has just told me.

Question resolved in the affirmative.

ANSWERS TO QUESTIONS WITHOUT NOTICE

Goods and Services Tax: Petrol Prices

Senator COOK (Western Australia—Deputy Leader of the Opposition in the Senate) (3.16 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, petrol excise and petrol prices.

The government has been caught out lying to Australian consumers, and everybody knows it. It is worth while repeating that: the government has been caught out lying to Australian consumers, and everybody knows it.

Senator Herron—Mr Acting Deputy President, I rise on a point of order. I think it is inappropriate—

Senator COOK—What is your point of order?

Senator Herron—The word ‘lying’.

The ACTING DEPUTY PRESIDENT (Senator Hogg)—Senator Herron, address the chair. Senator Cook, remain out of it.

Senator Herron—Mr Acting Deputy President, my point of order is that the word ‘lying’ was used in this context, and that is out of order.

The ACTING DEPUTY PRESIDENT—I did not hear the particular point as I was just getting into the chair to replace the Deputy President, but I have been advised by the Clerk that you should not use the word ‘lying’ in the sense that it reflects on any member of this chamber or the House. If you did say it, you should withdraw.

Senator COOK—I was referring to the executive wing of the government.

The ACTING DEPUTY PRESIDENT—Senator Cook, if it was used in that sense, it should be withdrawn.

Senator COOK—I withdraw, but it is outrageous that you cannot tell the truth in this place because of the standing orders.

The ACTING DEPUTY PRESIDENT—Order! Senator Cook, you have withdrawn, so proceed.

Senator COOK—The government has deliberately misled the people of Australia. What the Prime Minister said on 13 October 1998 in his address to the nation—and this is John Howard, Prime Minister of Australia—is:

The GST will not increase the price of petrol for the ordinary motorist.

That is what he said. That is unarguably what the Prime Minister committed his government to do for the people of Australia before the last election—unarguably. Today, in question time, we had the palid, insipid, weak-wristed response from the Assistant Treasurer that what the government said was petrol prices ‘need not rise’. The Prime Minister misled the community of Australia when he said, ‘They will not rise,’ and we now find that the price of unleaded petrol at the urban pump is pushing $1 per litre in Australia. Can I say that what you are paying in my state of Western Australia at Kalgoorlie is $1.11, what you are paying at Port Hedland is $1.12, and what you are paying at Carnarvon is $1.15.

This rubbish that the government keeps coming out with—that ‘There’s nothing we can do about it; it’s all the Arab sheiks pushing up the OPEC price of oil’—is, as I have said, rubbish. It is rubbish for this reason. This government is complicit in pushing up the price of petrol to motorists in Australia.
The GST is a percentage tax, and the higher the base price goes, the bigger the rake off to the government. Petrol excise is a percentage tax adjusted six monthly according to movements in the consumer price index. The higher the price of petrol, the larger the price of the consumer price index, and the more the motorists get slugged.

So for this government to simply turn around and blame the sheiks in OPEC as the sole cause of petrol pricing is, in my belief—if I cannot say the word in this chamber because standing orders do not allow me to tell the truth, let me say it this way—totally misleading and dishonest as far as the Australian community is concerned. The government slipped in at the election on the basis of misleading Australians about the impact of the GST. It then proposed to do something about it, by reducing the price by 1.5c. How pathetic! The price of petrol due to the GST as a single factor has gone up 3c on its own since July. Of course we know that, come February, when the next price increase is due, the GST price spike of six, seven or eight per cent—whatever is the latest expectation of the GST pushing up prices and thus inflation—will come through, and the government will adjust the price of petrol at the bowser to slug Australian motorists even more, because it will reflect that GST price spike in the price of petrol. Once again, the motorist gets it in the neck. Once again, this government engages in highway robbery, robbing Australians through the petrol tax in order to get its surplus up.

Over the weekend the Prime Minister said that if we reduce the surplus somehow or other interest rates would go up. That is a nonsense. The truth is that, if inflation goes up because of higher petrol prices, pressure will then be put on interest rates to go up, and you will be hit not only at the petrol tank but also on your home mortgage. Not only interest rates but petrol prices are out of control in this country. It is a lie if the government says that it can do nothing about it. It is a lie if the government pretends that it has no options. It is a lie if the government Pretends that it is not responsible, because it is. It can make the necessary legislative changes. (Time expired)
the OPEC countries with regard to the increase in prices? The President of the United States. Are you saying that he is wrong too?

Senator Mackay—Does the GST have an impact or not?

Senator CRANE—Let us talk for a moment about what taxes we have taken off. There is no excise, no tax, on rail transport in this country under us; under you there was. We have taken 24c a litre off the price of transport. You did not take anything off the price of transport. The price went up to $1, or very close to it, when you were in government. Back then, the retail refinery price was 42c in this country. I have not got the exact figures here, but I do believe there were places in Australia where the price was over $1 at that time. That was directly related to the OPEC world oil prices. You should take particular note of that. What is your policy? Is somebody going to tell us today? We gave you the opportunity last week. How are you going to handle the issue of excise? Are you going to put excise back on rail? Are you going to put the 24c back on transport?

Senator Cook—It is highway robbery. Answer the charge.

Senator CRANE—Mr Acting Deputy President, we sat here and listened to the diatribe coming from the other side. It has just continued. You would think under this regime that you would be allowed 10 minutes to talk, not five minutes. I ask that you bring those on the other side of this chamber to order so that I can present some further facts with regard to this issue.

What about the excise on fuel that is used off road? We have taken that away. What did you do? You milked it and milked it, and you would continue to milk it. You asked the question today: will there be more tax collected? I will get the figures out, now that you have asked that question. If you remove the excise from rail alone, that will significantly lower the total tax taken from excise. If you take 24c off the price of transport in this country, that will significantly lower the total tax taken from fuel. As to small business, the GST component of the tax is fully rebatable to small businesses. It is an input cost and that is rebatable. So it significantly lowers the total cost and people get the advantages of that. The reality is that you are not doing yourself a favour—(Time expired)

Senator MURPHY (Tasmania) (3.27 p.m.)—It is interesting listening to Senator Crane. He said that he would lay down some facts. I would like to correct some of the points that he made and put some facts on the record. Before I do that, I want to remind the coalition that they are in government. They want to blame everybody else bar themselves. At the end of the day, the coalition government—the Howard-led, Lees-led coalition government—have to deal with the facts of the matter. They have to deal with the commitments that they gave prior to the last federal election. Let me run through a few of those commitments. On 7 September 1998, the Treasurer said, ‘The government’s proposed new tax system will not—I repeat, will not—lead to any increase in petrol prices.’ Then at the launch of the Liberal Party campaign, he said:

There will be no increase in the price of petrol as a result of the GST. The reason is that the government will reduce the petrol excise by an amount—

and this is very important because the people of Australia voted on this—equivalent to the GST. Nor will there be any increase in the price differential between city and country areas. In fact, petrol prices should fall and the differential should decrease as a result of the reduced cost of transporting petrol.

Let us have a look at what has happened, bearing in mind the government said that they would reduce the petrol excise by an amount equivalent to the GST. What is the GST rate for the people of Hobart today? I rang Hobart to get the petrol prices, and today unleaded petrol is $1.03.2 per litre. The GST on that is 9.381c per litre. The excise rate today is 38.118c per litre. That gives a total tax take on unleaded fuel of 47.499c per litre. If we took away the tax change that we have had as a result of the coalition government and re-implemented the excise, what would the excise rate be today on unleaded fuel? I rang the tax office to find this out. They told me that the rate would be 44.87c per litre. The difference is almost 3c per litre. What is the explanation for that?
The challenge for the government is to respond to that. The Treasurer and the government said before the last election that they would reduce the excise by the amount of the GST. Senator McGauran, sitting here in cockies corner, is going to get up and speak in a moment. I hope that he can explain why there is a difference of almost 3c per litre. I hope Senator McGauran will not try to blame it on world oil prices. At the end of the day, we all accept that the government cannot control world oil prices. There is nothing new about that—we could not control it when we were in government. But what you did was promise the people of Australia a certain outcome, and it is an outcome that you are not delivering, and you have to front up to that. You cannot blame us for that, and you cannot blame the Australian Automobile Association or the oil companies for that. You tried to fix a fiddle. You said to the people of Australia, ‘You go and beat up on BP, Caltex, Mobil and the other refiners and get another 1½c off them.’ They said that it is not there. And what have you done? You have tried to get the ACCC to hunt them down for that. I do not think that the ACCC is going to find it.

I just hope that the government and Senator Calvert, who has made a few comments in the paper about petrol, take up the challenge and finally deliver to the people of this country on a very big commitment on a very serious cost to the normal battler, the John Howard battler. Why don’t you stand up and deliver to them the things that you said you would in respect of petrol? It has nothing to do with what we did or what we might do with excise. You are in government. You ought to take up the issue, and you ought to solve the problem for the people that you gave a commitment to.

Senator McGauran (Victoria) (3.32 p.m.)—Senator Cook got up to lead this debate and cried that it is a pity that this is not a place where you are able to tell the truth, which, if nothing else, was a reflection on your chairing abilities, Mr Acting Deputy President. My point is that this was from the man who made that infamous comment that the last budget of the Labor Party in 1996 was in surplus when in fact it was over $10 billion in deficit. Senator Cook wants the truth told in this chamber, but let us get a bit of truth from the other side.

Mr Ferguson and Mr Crean stepped out over the weekend and raised all hell about petrol prices. When they were asked if they would abolish indexation, what were their answers? They did not have answers. There was nothing but silence, which gives every indication that the policy of the opposition going into the next election, if given a chance to come into government, is to maintain indexation prices. In other words, you cannot have it both ways. Mr Crean, the potential Treasurer of the Labor Party, is calling for bigger surpluses, a roll-back of the GST and maintaining the states’ funding that they would have got prior to a roll-back. With that sort of calculation, how are they going to finance that? Quite simply, through petrol prices. Their record shows that. The opposition need to fund these grandiose promises as they always have; as they did in the previous government—through the bowser. Their record shows that they introduced indexation.

In contrast, this government has met its commitments. In fact, since 1 July this year, it has taken over $2 billion off the excise. That is a first. It is the first since 1983 that any government has reduced excise on petrol. Further to that, it has introduced a $500 million fuel grants scheme, which we now find out that the oil companies may be taking advantage of, so we have sent the ACCC in to investigate. We have heard nothing from the other side. All we ever hear from the other side is sympathy for the oil companies. Have you once pointed out that oil companies have a responsibility here too? Nevertheless, I make the point that this government has reduced over $2 billion worth of excise and injected half a billion dollars through the fuel grants scheme to reduce the differential between country and city prices.

These are initiatives and commitments we have made. The initiatives were first brought in on the day the GST was brought in—1 July. The ACCC has reported that, from 1 July, prices actually fell. Therefore, the con-
clusion is clear enough: the GST has had no direct effect upon the rise in petrol prices. As it has been said on this side, the rise is due to world oil prices. To that end, I would like to quote from the Financial Review of 17 August. It put it in a nutshell:

Oil prices climbed to a 10-year high this week as a series of events hit the crude market. Low inventory levels and tight supply interacted with strong demand from a buoyant global economy to push the price in $US terms to levels not seen since the Gulf War—which was 1990—

With the $A remaining low, the $A price of oil has rocketed—from well under $20 a barrel in late 1998 and 1999 to levels above $50 a barrel now.

That, succinctly, is the reason we have high petrol prices in this country—as America has; as Europe has. Every country in the world has found that their petrol prices have jumped enormously. We take it very seriously. We know only too well the importance of fuel to the social and economic life of Australian families—none more so than those in the rural and regional areas. But we can confidently say that we have met our commitments with regard to the GST. It is the first time any government has reduced its excise and introduced a fuel grants scheme. But what is your policy over there? You cannot just go on criticising. You are the ones who probably should thank OPEC.

(Time expired)

Senator MACKAY (Tasmania) (3.37 p.m.)—I will start by saying that two extraordinary things happened here today in question time. The first is that not one government member was prepared to concede that the GST has in fact contributed to the price of petrol in Australia. The second unbelievable thing that

the price of petrol has not increased as a result of the GST are lying. Those who make that allegation that the price of petrol has not increased as a result of the GST are lying.

Senator McGauran—Mr Acting Deputy President, I raise a point of order. Given your previous ruling, I ask you to consider Senator Mackay’s comment and whether it is or is not out of order.

The ACTING DEPUTY PRESIDENT (Senator Hogg)—Senator Mackay, on the point of order that has been raised by Senator McGauran, providing that you can clarify for us that it is not applying to any senator or member of the House of Representatives, then proceed.

Senator MACKAY—Thank you, Mr Acting Deputy President. I would just restate that those who allege that the price of petrol has not increased as a result of the GST are lying. I am not actually specifically referring to anybody in particular. I am just saying that those who are alleging that are lying.

Senator McGauran—Mr Acting Deputy President, I raise a point of order. I think most on this side have, as she said, alleged it. Therefore, I would say that she is trying to be tricky. In fact, she is accusing us of lying.

The ACTING DEPUTY PRESIDENT—If it refers to any member of the House of Representatives, in that sense it has to be withdrawn.

Senator MACKAY—Mr Acting Deputy President, I am not referring to anybody. I am actually saying ‘those people’ in the generic sense of nobody in particular, nobody in this chamber and nobody in the House of Representatives—those who allege that the price of petrol has not gone up as a result of the GST are lying. I think that is quite within the standing orders and I do not believe that I need to withdraw that; but, if people wish to pursue it, I am happy to pursue it. That is the statement I am making. I am not referring to anybody specifically. I think that it is axiomatic.

That was the first thing that we had today: nobody on the government side was prepared to make the admission that the GST has in fact contributed to the price of petrol in Australia. The second unbelievable thing that
happened here today was that Senator Kemp alleged, as restated by Senator McGauran, that the price of petrol has in fact gone down since the GST was implemented. I find that quite extraordinary, especially from Senator Kemp, because he lives in Melbourne. But those of us who do live in regional Australia—I am not sure where you live; where is your office, Senator McGauran? I have forgotten.

Senator McGauran—Benalla.

Senator MACKAY—You have an office in Benalla. That is where he has moved recently; that is right. To the people on the other side of the chamber who really think that people in regional Australia are going to buy this, I suggest you go out and have a chat to them. Last week I was in Gladstone, Bundaberg and Calliope. Everybody was talking about the price of petrol and saying that the GST had contributed to the increase in petrol—everybody was saying that. In fact, I sat down with a service station owner in Bundaberg who showed me how it impacted, including all the issues of the rebate. I will not mention his name, because he is more scared of the government than he is of the petrol companies, I have to say—and that is honestly the truth—but we are talking of 3c to 4c per litre in Gladstone being directly related to the GST. The government can come in here and say that white is black, because people in regional Australia know the truth and they are blaming the government for the proportion of petrol increase that is as a result of the GST. It is as simple as that. Why not say it? If you are going to say it, why not do something about it? Why not accede to your backbench—and Senator Crane is chair of that particular backbench committee—and do something about it? Why impose more hurt and pain on people who live in regional Australia? Why do it? I have to say, Senator McGauran, why do you in the National Party continue to put up with it?

(Time expired)

Question resolved in the affirmative.

Public Transport: Fares

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

That the Senate take note of the answer given by the Minister for Aboriginal and Torres Strait Islander Affairs (Senator Herron), to a question without notice asked by Senator Greig today, relating to welfare reform and public transport access.

Mr Acting Deputy President, as you would be aware, there was a particular point to my question of Senator Herron, who today was representing Senator Newman in her absence. That point was to find out what the government could do to assist people who are underemployed, unemployed or in the welfare
system generally in terms of creating better opportunities for them to access public transport so that they may take advantage of the greatest opportunities that may be there for them in terms of securing employment or accessing those government agencies that assist them to do so. This was in the context of two things: firstly, the windfall revenue that the states now have through increased petrol prices; and also the response to the McClure report which was presented to the Senate and to the parliament roughly two weeks ago.

The McClure report made the following observation in terms of public transport—and I read here from the report:

Access to affordable, regular and safe public transport is essential to help people take up opportunities for participation. People on low incomes are especially reliant on public transport. For those who live in outer suburban or regional areas, access to public transport can be intermittent or non-existent.

I have had some experience of that myself in Western Australia. It continues:

Some areas are only serviced by private bus companies, with limited provision for those on low incomes to benefit from transport subsidies. People with limited access to reliable transport services can also spend a disproportionate amount of time travelling to and from work or other participation commitments. We believe that ease and time of travel should be a consideration when enforcing participation requirements.

I think there is no particular question of that. The McClure report was produced—evolving through a long and consultative process and then being delivered to the parliament—within the context and ethos of mutual obligation that we hear so much of today. The point I would make is that mutual obligation implies that there is some kind of cooperation or agreement on both sides—and that is in terms of people in receipt of welfare or some form of government assistance and also the government itself. This is where I believe the duty of care for the federal government comes in.

As Senator Herron rightly pointed out today in answer to my question, the question of the point at which fees should be set and of their regulation is dealt with at a state level. But the point that Senator Herron did not answer in my question was: what is it that the federal government can do to encourage the states to take the right attitude in terms of assisting particularly unemployed people with access to public transport? The opportunities are there with the windfall revenue now available to the states to subsidise, or in some cases better subsidise, the public transport fees of those citizens. This has been particularly acute, as I stated in my question to the minister, in the state of Queensland. The Courier-Mail newspaper on Saturday, 12 August took up this point in an editorial. That editorial pointed out, quite rightly, the many circumstances under which unemployed people in particular are required to travel. I quote here from the Courier-Mail where it states in part:

Your first journey—

and it refers here to an unemployed person—in the quest to find work is to turn up at your local Centrelink. If you find a job vacancy you are referred to a Job Network agency that represents journey number two. After you register with the Job Network member, you’re given the details of the job, assuming that it is still vacant, you then make the journey back home to wait until the appointed time for an interview. That’s journey number three and you still haven’t made it to the interview.

If you are lucky enough to get an interview then that’s journey number four and, of course, then you have to get home again, journey number five.

In the meantime, there has been no increase to Newstart Allowance to compensate job seekers for the extra financial burden imposed so-called “mutual obligation requirements”; for the unemployed travel costs are not restricted to job searching activities.

There is a very specific link between public transport and its accessibility and those people who are within the social welfare system. When I singled out Queensland in particular in my question to the minister, I did so because the price rises there for public transport are more acute. But it is not simply Queensland which is in this position. (Time expired)

Question resolved in the affirmative.

PETITIONS

The Clerk—Petitions have been lodged for presentation as follows:
Aged Care: Quality
To the Honourable President and Members of the Senate assembled in Parliament.
This petition of certain residents of Australia draws to the attention of the Senate the increasing concerns about the quality of care for persons in residential aged care facilities. Your petitioners believe that all residents in aged care facilities deserve only excellence in care, and are concerned that current staffing levels seriously compromise the delivery of such care.
Your petitioners therefore ask the Senate to, as a matter of extreme urgency, immediately review staff/resident ratios in aged care facilities.
by Senator Reid (from 5 citizens).

Goods and Services Tax: Sanitary Products
To the Honourable the President and Members of the Senate in Parliament assembled:
The petition of the undersigned shows we oppose the decision to impose a 10 per cent Goods and Services Tax (GST) on women’s hygiene products, namely tampons, sanitary pads and liners.
We note that tampons and sanitary pads have not attracted tax in Australia since 1948 and the imposition of the GST will cause the cost of these products to rise by 10 per cent.
Your petitioners ask that the Senate insist the Minister for Health exempt women’s hygiene products from the Goods and Services Tax (GST).
by Senator Collins (from 545 citizens).

Goods and Services: Receipts and Dockets
To the Honourable the President and Members of the Senate in Parliament assembled:
This petition of the undersigned draws to the attention of the Senate that under current legislation the GST will not be included on dockets and that consumers will not know how much GST they are being charged, or whether they are being charged correctly.
Your petitioners therefore request the Senate that when a business provides a consumer with a receipt or docket issued in respect of a taxable supply the receipt or docket must separately include:
(a) the price of the goods or services excluding the GST;
b) the amount of the GST; and
(c) the total price including the GST.
by Senator Faulkner (from 10 citizens).

NOTICES
Presentation
Senator Murphy to move, on the next day of sitting:
That the Economics References Committee be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on 30 August 2000, from 3.30 pm to 5.30 pm, in relation to its inquiry into mass marketed tax effective schemes and investor protection.

Senator Murphy to move, on the next day of sitting:
That the time for the presentation of the 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 12 October 2000.

Senator Tierney to move, on the next day of sitting:
That the Employment, Workplace Relations, Small Business and Education Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on 31 August 2000, from 12.30 pm, to take evidence for the committee’s inquiry into the provisions of the Workplace Relations Amendment (Australian Workplace Agreements Procedures) Bill 2000 and three related bills.

Senator Allison to move, on the next day of sitting:
(a) notes the outstanding efforts being made by the Federal Court of Australia and the new Federal Magistrates Service in meeting the challenges of the new human rights jurisdiction;
(b) congratulates Chief Justice Black and all members and staff of the Federal Court of Australia and the new Federal Magistrates Service for their preparedness to address issues of accessibility and equity for new clients of the court; and
(c) urges the Federal Court of Australia and the Federal Magistrates Court to continue to lead by example in areas of disability access particularly, and in human rights jurisprudence generally.

Senator Watson to move, on the next day of sitting:
That the Select Committee on Superannuation and Financial Services be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on 5 September 2000, from 5 pm to 7 pm, in relation to its inquiry into prudential supervision and consumer protection for superannuation, banking and financial services.

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

That—

(1) So much of the standing orders be suspended as would prevent the succeeding provisions of this resolution having effect.

(2) On Wednesday, 30 August 2000, business of the Senate notices of motion nos 1 to 13 standing in the name of Senator Woodley for that day be called on no later than 5 pm.

(3) If consideration of any of those motions has not concluded by 6.50 pm, consideration of the unresolved motions may continue until not later than 7.20 pm.

(4) If consideration of any of the motions is not concluded at 7.20 pm, the questions on the unresolved motions shall then be put.

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

That the report of the Legal and Constitutional Legislation Committee on the provisions of the Privacy Amendment (Private Sector) Bill 2000 be presented by 5 October 2000.

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

That the time for the presentation of the report of the Employment, Workplace Relations, Small Business and Education Legislation Committee on the provisions of the States Grants (Primary and Secondary Education Assistance) Bill 2000 be extended to 4 October 2000.

Senator Stott Despoja to move, two sitting days after today:

That the Senate—

(a) notes:

(i) evidence from a raid in New Zealand in March 2000 that the Lucas Heights nuclear reactor may be a terrorist target,

(ii) that the information has been available to the Government for the past 5 months, and

(iii) that nuclear facilities were closed in Atlanta for the duration of the 1996 Olympic Games; and

(b) calls on the Government to close the nuclear reactor until:

(i) the completion of the Sydney 2000 Olympic Games, and

(ii) adequate evacuation procedures are established in all public facilities in a 80 kilometre radius of the Lucas Heights nuclear reactor.

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

That the following matters be referred to the Rural and Regional Affairs and Transport References Committee for inquiry and report by the first sitting day in February 2001:

(a) alternative policies that can be developed to reduce the impost of the petrol price rise on households and Australia's reliance on fossil fuels and to achieve a reduction in greenhouse gas emissions from the use of transport including:

(i) promoting, expanding and upgrading public transport,

(ii) developing alternative fuel options,

(iii) restructuring motor vehicle registration charges, and

(iv) promoting more fuel efficient and cleaner motor vehicles;

(b) the amount of windfall tax revenues over and above that forecast in the 2000-01 Budget that the Commonwealth and the states are likely to receive as a result of the rise in world petrol prices;

(c) the extent to which petrol companies will be able to pass on the 1.5 cents a litre savings from tax reform and over what time-frame;

(d) whether the subsidy scheme for regional motorists is adequate and is working effectively so that the city/country petrol price differential is not increased, and what alternative strategies can be implemented to reduce the cost of rural and regional transport;

(e) whether oil companies and retailers have used the opportunity presented by higher petrol prices to increase their retail and wholesale margins; and
(f) the extent to which government purchasing policies can encourage the domestic manufacture of fuel efficient, energy efficient and zero-emission passenger vehicles.

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

That the Senate—

(a) notes the partial compliance by the Minister representing the Minister for Education, Training and Youth Affairs (Senator Ellison) with the order of the Senate of 17 August 2000 for the production of documents relating to SES scores; and

(b) resolves that there be laid on the table no later than immediately after question time on the next day of sitting, the documents required to comply with paragraph (b) of the order of 17 August 2000, namely the SES scores of the 2,262 schools that participated in the 1998 SES simulation project conducted on behalf of the Department of Education, Training and Youth Affairs.

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

That the Senate—

(a) notes that:

(i) the Howard Government has funded two new grants totalling more than $1.07 million and providing 430 new jobs for the Hunter Region, as part of the Newcastle Structural Adjustment Fund, and

(ii) the grants are for two projects:

(A) the first, of $875,000, is for Varley Specialised Vehicles, which will develop innovative emergency response vehicles called the Varley Fire Commanders, and is expected to create 242 new jobs, and

(B) the second, of $200,000, is for FORGACS Engineering Pty Ltd, which will modify its floating dock, Mulloobinba, creating 188 new jobs;

(b) welcomes the investment of more than $10.29 million by the Howard Government under the Newcastle Structural Adjustment Fund, which has funded 11 projects and created thousands of jobs in the Hunter Valley; and

(c) condemns the Member for Paterson (Mr Horne) who, on 28 August 2000, was quoted in the Newcastle Herald as saying the Coalition has failed to provide jobs in rural and regional areas.

Senator COONAN (New South Wales)  
(3.50 p.m.)—On behalf of the Standing Committee on Regulations and Ordinances, I give notice that, on the next day of sitting, I shall withdraw eight notices of disallowance, the full terms of which have been circulated in the chamber and I now hand to the Clerk.

The list read as follows—

Four sitting days after today:

Business of the Senate—Notice of Motion no. 3—Exemption No. CASA EX28/2000 made under regulation 308 of the Civil Aviation Regulations 1988.

Ten sitting days after today:


Senator COONAN—I seek leave to incorporate in Hansard the committee’s correspondence concerning these instruments.

Leave granted.

The correspondence read as follows—
Exemption No. CASA EX28/2000 made under regulations 308 of the Civil Aviation Regulations 1988

11 May 2000
The Hon John Anderson MP
Minister for Transport and Regional Services
Parliament House
CANBERRA ACT 2600
Dear Minister

I refer to Exemption No. CASA EX28/2000 made under regulation 308 of the Civil Aviation Regulations 1988.

This instrument exempts Aerosonde pilotless aircraft which are operated from East Sale by Aerosonde Robotic Aircraft Pty Ltd from many of the provisions of those Regulations while the aircraft are being used to demonstrate their suitability for meteorological work.

The final sentence of this instrument provides that it “stops having effect at the end of July 2000.” However, the penultimate paragraph of the Explanatory Statement states that it “stops having effect at the end of June 2000.” While the terms of the Explanatory Statement cannot override the clear words of the instrument itself, the Committee would appreciate your assurance that the discrepancy between the Exemption and the Explanatory Statement is unintentional.

Yours sincerely
Helen Coonan
Chair

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

Thank you for your letter of 11 May 2000 raising concerns with Civil Aviation Amendment Orders (No.2) 2000 and Exemption No. CASA EX28/2000 and their Explanatory Statements (ES). Your letter was referred to the Civil Aviation Safety Authority (CASA) for advice. I have now received CASA’s response and am able to address the issues you raise. I regret the delay in replying.

In relation to Exemption No. CASA EX28/2000, the Committee questioned the reference in the ES to the instrument ceasing to have effect at the end of June while the Exemption refers to the end of July. CASA confirms that the Exemption is intended to cease having effect at the end of July as set out in the instrument itself. The discrepancy between the Exemption and the Explanatory Statement was unintentional.

Yours sincerely
John Anderson
Minister for Transport and Regional Services

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

8 June 2000
The Hon Bruce Scott MP
Minister for Veterans’ Affairs
Parliament House
CANBERRA ACT 2600
Dear Minister

I refer to the Determination No. 1 of 2000 under section 52 of the Defence Act 1903 that credits notional interest on the 3% productivity benefit contribution.

By virtue of clause 2.1 of this instrument, 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.

The Committee would appreciate your assurance that no person has been adversely affected by this Determination as soon as possible to enable it to finalise this matter.

Yours sincerely
Helen Coonan
Chair

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

Thank you for your letter of 8 June 2000 concerning, Determination No. 1 of 2000 under sec-
The determination applies to members of the Defence Force who are contributors to the Defence Force Retirement and Death Benefits (DFRDB) scheme. Since the interest is only a notional interest and no calculation is done until a DFRDB member leaves the Defence Force, no contributing member is adversely affected by the retrospective nature of the Determination. The benefits for all DFRDB members who have left the Defence Force since 1 January 2000 have been calculated using the new interest rate.

Accordingly, I am able to provide you with an assurance that no person has been adversely affected by this Determination.

Yours sincerely

BRUCE SCOTT MP

Exemption No. CASA EX26/2000 made under regulation 308 of the Civil Aviation Regulations 1988

8 June 2000

The Hon John Anderson MP
Minister for Transport and Regional Services
Parliament House
CANSBERRA ACT 2600
Dear Minister


The Directive, dated 4 April 2000, requires a detailed visual inspection of parts of the relevant aeroplanes before (among other dates) 19 May 1999. The Committee would appreciate your confirmation that the Directive intended to refer to 19 May 2000.

Paragraph 1(a) of the Exemption states that it applies to powered paragliders that “are operated by David Ian Humphrey”, but one of the Conditions to which the Exemption is subject is that a paraglider “may only be flown by (a) David Ian Humphrey … or (b) Jiri Hlavaty”. The Committee would appreciate your advice on the difference between operating a paraglider (as referred to in the Exemption) and flying it (as referred to in the Conditions).

The Committee would appreciate your advice as soon as possible to enable it to finalise these matters.

Yours sincerely

Helen Coonan
Chair

Senator Helen Coonan
Chair Standing Committee on Regulations and Ordinances
Parliament House
CANSBERRA ACT 2600
Dear Senator Coonan

Thank you for your letter of 8 June 2000 concerning Airworthiness Directive AD/AB3/118 and Exemption Number CASA EX26/2000 made under the Civil Aviation Regulations 1988 (CAR 1988). Your letter was referred to the Civil Aviation Safety Authority (CASA) for advice. I have now received CASA’s response and am able to address the issues you raise. I regret the delay in replying.

You have sought advice as to whether, in Airworthiness Directive AD/AB3/118, the date for inspection of parts of relevant aircraft should be 19 May 2000 rather than 19 May 1999. CASA has advised that the reference to 19 May 1999 is correct.

AD/AB3/118 was amended recently to AD/AB3/118 Amdt 1 to reflect the latest requirement documents and to reference the latest revision of the County of Origin Airworthiness Directive. The reflection of the latest requirement documents became effective on 18 May 2000. The original compliance date of Airworthiness Directive AD/AB3/118 was not altered in AD/AB3/118 Amdt 1, and repeat inspections are required before the accumulation of 2,800 flight cycles or 19 May 1999, whichever occurs later.

You also sought advice on the difference between operating and flying a paraglider. In accordance with the definition of “operator” in subregulation 2(1) of CAR 1988, a person operating an aircraft is the person, organisation, or enterprise engaged in, or offering to engage in, an aircraft operation. CASA has advised that under the Exemption CASA EX26/2000, Mr Humphrey, as the operator, is permitted to engage in, or offer to engage in, aerial advertising operations and aerial photography operations.
The pilot of an aircraft is a member of the flight crew who occupies a control seat and actually flies the aircraft. A pilot is usually employed by an operator to fly an aircraft. In the Civil Aviation Regulations, pilots are usually referred to as flying an aircraft rather than operating an aircraft. An operator may also be a pilot, however, the terms are not synonymous.

Yours sincerely
JOHN ANDERSON

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
8 June 2000
The Hon Michael Wooldridge MP
Minister for Health and Aged Care
Parliament House
CANBERRA ACT 2600
Dear Minister
I refer to the Health Insurance (1999-2000 Diagnostic Imaging Services Table) Amendment Regulations 2000 (No.1), Statutory Rules 2000 No. 59, and the Health Insurance (1999-2000 General Medical Services Table) Amendment Regulations 2000 (No.1), Statutory Rules 2000 No. 60, that amend the Table of Diagnostic Imaging Services and the Table of General Medical Services respectively.

Statutory Rules 2000 No. 59
Item 10 of the Schedule to these Regulations 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 57350 was amended in February 2000.” The Committee would appreciate your assurance that no one was adversely affected by this omission from the Table.

Statutory Rules 2000 No. 60
Item 4 in the Schedule to these Regulations 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 Credentialling Subcommittee.” The Committee would appreciate your assurance that no person has been disadvantaged by this omission from the original regulations.

The Committee would be grateful for a response as soon as possible to enable it to finalise these matters.
Yours sincerely
Helen Coonan
Chair

Senator H. Coonan
Chair
Standing Committee on Regulations and Ordinances
Parliament House
CANBERRA ACT 2600
Dear Senator Coonan
Thank you for your letter of 8 June 2000 concerning Statutory Rules 2000 No. 59 and No. 60. I sincerely apologise for the delay in responding.

Statutory Rules 2000 No. 59
Changes to the description for item 57350 in the Medicare Benefits Schedule, were made in February 2000. These changes were made to more accurately specify the service for which benefits were payable. Item 57355 is the ‘capital sensitive’ version of item 57350, for Computed Tomography Machines over 10 years of age. The delay in redoing item 57355 could not have disadvantaged any patient, as the delay meant that some patients may have been able to claim a service that they cannot claim under the new wording.

Statutory Rules 2000 No. 60
Regulations to recognise “qualified sleep medicine practitioners” for Medicare benefits purposes were introduced on 1 March 1999. The regulations provided a mechanism for a credentialling process for existing practitioners to be administered by the Royal Australasian College of Physicians (RACP). A number of sleep medicine practitioners failed the initial assessment of their training and clinical experience in sleep studies. However, the RACP has a well established appeals mechanism. which applied to the assessments made by the Credentialling Subcommittee, and many of those who failed the initial assessment exercised their rights under the appeal provisions.

As you have observed in the Explanatory Statement to item 4 of the Schedule, the Regulation, as originally drafted, did not contemplate the situation of a person who successfully appealed a decision of the Credentialling Subcommittee. Accordingly, the legislation was amended so that those who have successfully appealed a decision
of the Credentialling Subcommittee may access Medicare benefits.

Without this amendment to Regulation 48, those practitioners who were assessed before 1 March 1999 and who failed but subsequently were successful on appeal, would not satisfy the credentialling requirements.

To ensure that the appellants were not disadvantaged while their appeals were being finalised, I determined under Subsection 3C(1) of the Health Insurance Act 1973 that they could continue to access Medicare benefits for the duration of the appeals process.

With kind regards,

Yours sincerely

Dr Michael Wooldridge

08 AUG 2000

Migration Agents Amendment Regulations 2000 (No. 1), Statutory Rules 2000 No. 64

Migration Amendment Regulations 2000 (No.2), Statutory Rules 2000 No.62

8 June 2000

Ref: Ctee/80/2000

The Hon Philip Ruddock MP

Minister for Immigration and Multicultural Affairs

Parliament House

CANBERRA ACT 2600

Dear Minister


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 gives those intending to apply for this visa no more than a day within which to complete their application. The Committee would appreciate your advice on the reason for this limited period within which such visas may have been applied for.

New item 1217A of Schedule 1 to the Principal Regulations – inserted by item 3206 of the Schedule 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. The Committee would appreciate your advice on the basis used to set this fee.

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. Since the apparent purpose of the clause is to protect a client from being taken by surprise by the level of fees charged, the Committee considers that it would be appropriate to require a migration agent to provide the estimate in writing.

The Committee would be grateful for your advice on these matters as soon as possible to enable it to finalise its consideration of the Regulations.

Yours sincerely

Helen Coonan

Chair

11 July 2000

Senator Helen Coonan

Chair

Senate Standing Committee on Regulations and Ordinances

Parliament House

CANBERRA ACT 2600

Dear Senator Coonan


Thank you for bringing the Committee’s request for further advice to my attention.

Statutory Rules 2000 No. 62

Item 206 - Sri Lankan (Special Assistance) (Class BG) visa

The Committee has requested my advice on the reason for item 206 commencing the day after these regulations were made - thus giving potential applicants only one day in which to make a valid visa application.

As this visa was introduced in January 1995, I do not believe the quick close-off has disadvantaged
any person. Closing the visa in this way really had the effect of preventing a “last minute rush” of applications for Sri Lankan (Special Assistance) visas. This reflects the policy decision of the Government to close off this visa class.

As the success rate of applications for this visa is very low, the clean closure also prevents unrealistic expectations being raised on the part of people who, if the closing date had been extended, might otherwise have put in an application.

I note that the limitation on making applications after 28 April 2000 does not prevent spouse and dependent children being added to existing applications.

Item 3206 - New item 1217A: Short Stay Sponsored (Visitor) (Class UL) visa

The application fee for the Short Stay Sponsored (Visitor) (Class UL) visa is the same as the fee charged for other off-shore tourist and business visitor visas. The fee is set at $60 for consistency with application charges for similar visa classes.

Statutory Rules 2000 No. 64

Item 7 - Schedule 2, paragraph 5.2(a): Migration Agents Code of Conduct

The amendment made by item 7 in the Schedule to the Regulations will add to the existing requirements for migration agents to deal with their clients in an open and transparent manner. Under the existing Code of Conduct migration agents are required, before starting work for their clients, to give the client an estimate of fees in the form of charges for each hour or each service, and an estimate of the time likely to be taken in performing the service. The amendments add to these protections for clients by requiring agents also to give an estimate of disbursements that the agent is likely to incur.

I note that the Committee’s concern focuses on whether these estimates need to be in writing, so that clients are not later surprised by the level of fees charged. In that regard I invite the Committee to consider further this amendment in the full context of this part of the Code of Conduct for migration agents.

The paragraphs in the Code of Conduct immediately following the amended provision set out requirements for the agent to obtain written acceptance by the client of the terms of the work to be done, and to provide written confirmation of the terms of the service to be rendered. This procedure helps to ensure that clients are fully informed of likely costs before the agent commences work on the client’s case.

We would be happy to consider this matter further, in consultation with the industry regulatory body, the Migration Agents Registration Authority, if the Committee considers that these provisions do not adequately address their concerns. Following this consultation, the issue can be progressed as appropriate through the scheduled portfolio regulation change processes.

I hope this clarifies the matters of concern to the Committee.

Your sincerely

Philip Ruddock

Trans-Tasman Mutual Recognition Amendment Regulations 2000 (No. 1), Statutory Rules 2000 No. 51

8 June 2000

Senator the Hon Nick Minchin

Minister for Industry, Science and Resources

Parliament House

CANBERRA ACT 2600

Dear Minister

I refer to the Trans-Tasman Mutual Recognition Amendment Regulations 2000 (No. 1), Statutory Rules 2000 No. 51, that extend for a further 12 months the Special Exemption status of specified goods covered by Schedule 3 of the Act. The Explanatory Statement indicates that Western Australia is not a participating jurisdiction to the Trans-Tasman Mutual Recognition Arrangement. Nevertheless, by virtue of item 3 of Schedule 2 to these Regulations, sections 50 and 59 of the Consumer Affairs Act 1971 of that State are laws, which are exempt from the operation of the enabling Act.

The Committee would appreciate your advice on this matter as soon as possible to allow it to finalise its consideration of the Regulations.

Yours sincerely

Helen Coonan

Chair

26 July 2000

Senator Helen Coonan

Chair

Senate Standing Committee on Regulations and Ordinances

Parliament House

CANBERRA ACT 2600

Dear Senator Coonan

Thank you for your letter of 8 June 2000 concerning the Trans-Tasman Mutual Recognition Amendment Regulations 2000 (No. 1), Statutory Rules No. 51. You sought advice on why sections
50 and 59 of the Western Australian Consumer Affairs Act 1971 are exempt from the operation of the Trans-Tasman Mutual Recognition Act 1997 (the Commonwealth Act) given that Western Australia is not currently a participating jurisdiction.

The Trans-Tasman Mutual Recognition Agreement (TTMRA) was signed by the Prime Minister and all State Premiers and Territory Chief Ministers on 14 June 1996 and subsequently by the Prime Minister of New Zealand on 9 July 1996. The TTMRA, listed various Commonwealth, State and Territory legislation that was to be excluded, permanently exempt or subject to special exemption from the operation of the TTMRA. Commonwealth legislation to enact TTMRA was passed in 1997 and incorporated schedules of excluded and exempt Commonwealth, State and Territory legislation.

The TTMRA provided that in order for a state or territory to become a participating jurisdiction they must enact complementary legislation at the state or territory level. This process has taken some time. For example, South Australia and Queensland enacted legislation in 1999. I am advised that Western Australia is likely to enact its legislation later this year.

When a jurisdiction enacts complementary legislation it takes on the provisions of the Commonwealth Act as at that time. This is why provision is made in Schedule 2 of the regulations for exemptions in respect of the Consumer Affairs Act 1971 (Western Australia). For example, under clause 4(1) of the Trans-Tasman Mutual Recognition (Western Australia) Bill 1999 (the Western Australian Act) the State of Western Australia will adopt the Commonwealth Act, under the provisions of section 51 (xxxvii) of the Constitution. The Western Australian Act will adopt the Commonwealth Act only to the extent of the original Commonwealth Act and any amendments made to it before the Western Australian Act receives Royal Assent. Consequently, the smooth introduction of the state based legislation is dependent on the Commonwealth Act containing the most up to date list of the relevant legislation that is to be excluded or exempt from the operation of the TTMRA.

I hope that this information will be of assistance to the Committee in its consideration of the Trans-Tasman Mutual Recognition Amendment Regulations 2000 (No. 1), Statutory Rules 2000 No. 51.

Yours sincerely
Nick Minchin

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

(1) That a select committee, to be known as the Select Committee on Petrol Pricing be appointed to inquire into and report, by 4 December 2000, on the following matters:

(a) the failure to ensure that the price of petrol would not rise as a result of changes to the tax system;

(b) the increase in the amount of tax on petrol and other fuels resulting from the goods and services tax (GST) package;

(c) the expected future increases in the amount of tax on petrol and other fuels resulting from the GST package;

(d) the extent to which the GST acts as a tax on a tax on petrol and other fuels;

(e) the wholesale and retail price of petrol and other fuels in Australia, including an examination of the factors that influence those prices; and

(f) the amount of windfall revenue the Commonwealth will collect from the taxation of petrol and other fuels, beyond that projected in the 2000-01 Budget, and options for returning that windfall to Australian motorists.

(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.

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

(4) That the chair of the committee be appointed on the nomination of the Leader of the Opposition in the Senate.

(5) That the deputy chair of the committee be appointed on the nomination of the Leader of the Government in the Senate.

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

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

(8) That the committee 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.

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

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

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

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

That the Senate notes the failure of the Chair of the Economics Legislation Committee (Senator Gibson) to ensure that questions taken on notice by the Department of the Treasury during estimates hearings were responded to within 30 days, as promised by Senator Gibson, and the fact that hundreds of answers to questions on notice are now 7 weeks overdue despite the commitment given by Senator Gibson.

LEAVE OF ABSENCE

Motion (by Senator O'Brien)—by leave—agreed to:

That leave of absence be granted to Senator Bolkus for the period 28 August to 7 September 2000, on account of parliamentary business overseas.

NOTICES

Postponement

Items of business were postponed as follows:

General business notice of motion no. 607 standing in the name of Senator Stott Despoja for today, relating to the work for the dole scheme, postponed till 31 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 31 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 31 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 31 August 2000.

General business notice of motion no. 650 standing in the name of Senator Bourne for today, relating to the introduction of the Corporate Code of Conduct Bill 2000, postponed till 29 August 2000.

General business notice of motion no. 646 standing in the name of Senator Allison for today, relating to proposals for parliamentary reform in Victoria, postponed till 30 August 2000.

COMMITTEES

Appropriations and Staffing Committee

Report

The ACTING DEPUTY PRESIDENT (Senator Hogg)—I present the annual report for 1999-2000 of the Standing Committee on Appropriations and Staffing.

Ordered that the report be printed.

NATIONAL MISSILE DEFENCE SYSTEM AND NUCLEAR DISARMAMENT

The ACTING DEPUTY PRESIDENT— I present a response from the Minister for Foreign Affairs, Mr Downer, to a resolution of the Senate of 29 June 2000 concerning the US proposal for a national missile defence system and nuclear disarmament.

DOCUMENTS

Auditor-General's Reports

Report Nos 5 and 6 of 2000-01

The ACTING DEPUTY PRESIDENT—Pursuant to standing order 166, I present two reports of the Auditor-General entitled Fraud control arrangements in the Department of Industry, Science and Resources and Fraud control arrangements in the Department of
Health and Aged Care, which were presented to the President on 23 August 2000.

COMMITTEES
Privileges Committee

Report

Senator ROBERT RAY (Victoria) (3.56 p.m.)—I present the 93rd report of the Committee of Privileges, entitled Possible unauthorised disclosure of in camera proceedings of the Economics References Committee.

Ordered that the report be printed.

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

Leave granted.

Senator ROBERT RAY—I move:

That the Senate endorse the finding contained in paragraph 17 of the 93rd report of the Committee of Privileges.

On 11 May 2000, after debate, the Senate referred the following matter to the Committee of Privileges:

Having regard to the material presented to the Senate by the President on 11 May 2000, whether there was an unauthorised disclosure of in camera proceedings of the Economics References Committee, and, if so, whether any contempt was committed and whether any action should be taken by the Senate in consequence.

In considering the matter, the committee noted that the source of the unauthorised disclosure, Senator Murphy as Chair of the Economics References Committee, was not in dispute. In response to a question from a journalist and in correcting what otherwise would have been a serious misrepresentation of that committee’s proceedings, Senator Murphy confirmed the identity of a witness who gave in camera evidence. The report which I have tabled canvasses in some detail the reasons for the matter being referred and notes with approval the seriousness with which the Economics References Committee has dealt with the matter.

The Committee of Privileges observes that its own 74th report suggests that improper release of in camera material should be quickly brought to the attention of the Senate. The committee has concluded that it should not find that a contempt has been committed, a conclusion which the committee now recommends that the Senate endorse in the terms of the motion I have moved. It suggests, however, that Senator Murphy’s difficulties might have been avoided had he consulted other committee members before or soon after revealing the information. I commend the report to the Senate and seek leave to continue my remarks later.

Leave granted; debate adjourned.

BUDGET 2000-01

Consideration by Legislation Committees

Additional Information

Senator CALVERT (Tasmania) (3.59 p.m.)—On behalf of the Chair of the Employment, Workplace Relations, Small Business and Education Legislation Committee, I present additional information received by the committee relating to hearings on the budget estimates for the year 2000-01.

COMMITTEES
Treaties Committee

Report

Senator O’BRIEN (Tasmania) (3.59 p.m.)—On behalf of Senator Cooney, I present the 34th report of the Joint Standing Committee on Treaties, entitled Two treaties tabled on 6 June 2000, together with the Hansard record of the committee’s proceedings, minutes of proceedings and submissions.

Ordered that the report be printed.

Senator O’BRIEN—I seek leave to move a motion in relation to the report and to incorporate a tabling statement from Senator Cooney in Hansard.

Leave granted.

Senator O’BRIEN—I move:

That the Senate take note of the report.

The statement read as follows—

Madam President, the report I have just tabled contains the findings of the Treaties Committee’s review of two proposed treaty actions tabled in Parliament on 6 June 2000, those being:

Proposed Agreement with Spain on remunerated employment for dependants of personnel at Diplomatic and Consular Missions; and

Proposed Amendments to the Convention on International Trade of Endangered Species.
In this Report we express our support for binding treaty action in relation to the Agreement with Spain. This is the first Agreement of its type reviewed by the Committee and represents a move by Department of Foreign Affairs and Trade away from negotiation of similar Agreements as Memoranda of Understanding, which do not have the status of a treaty.

To date, Australia has three Agreements and 19 Arrangements concerning the employment of dependants of diplomatic and consular personnel. Negotiations are underway for similar agreements or arrangements with 14 other countries.

The Committee accepted that it is in Australia’s interest to establish such reciprocal agreements because they positively impact on Australia’s diplomatic representation and they demonstrate a commitment from the Government to helping its diplomatic staff to balance work and family responsibilities.

The second treaty action we reviewed proposed Amendments to the Convention on International Trade of Endangered Species (CITES). During our investigation a number of issues arose that we considered would impact on the effective operation of the reformed treaties process.

While the Committee acknowledges that the amendments are intended to ensure more effective global action to address the impacts of international trade on the conservation and sustainable use of the species listed. We believe the timing of their entry into force directly affects the ability of our Committee to effectively review amendments.

There are three of the proposed amendments that have direct bearing on Australia. The first of these places the Australian dugong on Appendix I of the Convention. This improves the international regulatory environment for controlling trade in the species, which in turn provides added protection for the dugong.

Two further amendments that affect Australian flora are the removal of the Rainbow Plant and the Albany Pitcher plant from Appendix II of CITES. Neither of these species is considered to be in danger and trade in the species is limited to artificially propagated whole plants.

In our report we note that the opportunities for Parliamentary and public consideration of the proposed amendments would be enhanced considerably if the arrangements we have established with the Minister for the Environment and Heritage are amended to allow for earlier notification of proposed amendments. Our report recommends changes in this area.

These changes recognise the fact that the 90-day automatic entry into force mechanism in this treaty, and several other environmental treaties we have reviewed, leave the Committee a very short time to review amendments before they automatically enter into force. The parliamentary sitting pattern accentuates this problem.

Where there is likely to be a large degree of public interest in an amendment to a treaty which contains such provisions, or concern over the reasons for an amendment, the responsible portfolio Minister should explore ways of more effectively providing relevant and timely information. This is particularly the case where Australia has made proposals for change.

As a Committee who has a key role in enhancing consultation on treaty actions we believe that such an action will allow the Parliament and the community a more meaningful opportunity to evaluate the proposals.

I commend the recommendations of my Committee in seeking a review of treaties with this type of entry into force mechanism and look forward to exploring ways to improve our ability to effectively meet the transparency objectives inherent in the reformed treaty making process.

A second issue arising from our review concerns the nature and effectiveness of the dispute resolution mechanism in this type of treaty. We understand that there are four main types of dispute resolution provisions in multilateral treaties entered into by Australia.

In the case of this treaty we noted that while provisions in CITES provide for negotiation to resolve a dispute, there is no compulsory dispute settlement mechanism where there is no agreement between the parties to have a binding arbitration.

We have sought a report from Department of Foreign Affairs and Trade and Attorney-General’s Department on the various types of dispute resolution mechanisms in multilateral agreements. We will review this material in due course.

In conclusion, I would like to thank Committee members and the secretariat for the commitment they have shown in preparing this report and in already presenting 16 reports to the 39th Parliament.

I commend this latest report, Report 34, to the Senate.

Senator O’BRIEN—I seek leave to continue my remarks later.

Leave granted; debate adjourned.
Scrutiny of Bills Committee
Report
Senator O’BRIEN (Tasmania) (4.00 p.m.)—On behalf of Senator Cooney, I present the 11th report of 2000 of the Standing Committee for the Scrutiny of Bills.
Ordered that the report be printed.

NOTICES
Postponement
Motion (by Senator Harris)—by leave—agreed to:
That general business notice of motion no. 622 standing in his name for today, proposing an order for the production of documents by the Minister representing the Minister for Transport and Regional Services (Senator Ian Macdonald), be postponed till 4 September 2000.

COMMITTEES
Lucas Heights Reactor Committee
Membership
The ACTING DEPUTY PRESIDENT (Senator George Campbell)—Order! The President has received a letter from a party leader seeking to appoint a member to a committee.
Motion (by Senator Ian Campbell)—by leave—agreed to:
That Senator Stott Despoja be appointed to the Select Committee for an inquiry into the contract for a new reactor at Lucas Heights.

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:
Copyright Amendment (Digital Agenda) Bill 2000.

TAXATION LAWS AMENDMENT BILL (No. 7) 2000
FAMILY AND COMMUNITY SERVICES (2000 BUDGET AND RELATED MEASURES) BILL 2000
First Reading
Bills received from the House of Representatives.

Senator IAN CAMPBELL (Western Australia)—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (4.03 p.m.)—I indicate to the Senate that these bills are being introduced together. After debate on the motion for the second reading has been adjourned, I will be moving a motion to have the bills listed separately on the Notice Paper. I move:
That these bills may proceed without formalities, may be taken together and be now read a first time.
Question resolved in the affirmative.
Bills read a first time.

Second Reading
Senator IAN CAMPBELL (Western Australia)—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (4.04 p.m.)—I move:
That these bills be now read a second time.
I seek leave to have the second reading speeches incorporated in Hansard.
Leave granted.
The speeches read as follows—
TAXATION LAWS AMENDMENT BILL (No. 7) 2000
This bill will amend the income tax law to allow deductions for donations of $2 or more made to:
. the Community Disaster Relief (Sydney Hail Storm Assistance) Fund;
. the Australian Ex-Prisoners of War Memorial Fund;
. the Global Foundation;
. the United Hellenic Earthquake Appeal;
. the Foundation for Gambling Studies;
. the Foundation for Rural and Regional Renewal Public Fund;
. the RSL and 6th Division Australian-Hellenic Educational Memorial Fund and the Mount Macedon Memorial Cross Restoration; and
. the Development and Maintenance Trust Fund.
In addition this bill will amend the Pay As You Go (PAYG) instalments regime to:
. simplify the way beneficiaries who are absolutely entitled to the assets of a trust and beneficiaries of certain investment trusts work out their instalment income; and
. minimise the compliance burden on the trustees of those trusts
while maintaining the PAYG instalments base.

The amendments will, generally, apply to assessments for the 1998-99 income year and later income years.

The bill also proposes amendments to the Income Tax Assessment Act 1997:

- to ensure that the integrity measures relating to the CGT general discount operate more appropriately; and
- to clarify and ensure that the provisions concerning the CGT small business concessions have the intended consequences.

The amendments will apply to CGT events occurring after 11.45 am AEST on 21 September 1999.

There is a minor technical amendment in the bill that replaces an incorrect reference to ‘foreign public official’ with ‘public official’ in the section that deals with non-deductibility of bribes to public officials.

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

FAMILY AND COMMUNITY SERVICES (2000 BUDGET AND RELATED MEASURES) BILL 2000

The Bill deals with a range of initiatives announced in the 2000 Budget relating to the provision of greater flexibility and choice in child care, youth allowance family assets test, the period for data-matching of income details, the exclusion of payments made under the ABSTUDY Scheme from the income test and the protection people affected by the termination of the Agreement on social security between the United Kingdom of Great Britain and Northern Ireland and Australia.

There is a demand for more flexible child care from families whose needs are not met from existing services. The ‘Greater Flexibility and Choice in Child Care’ initiative will improve families ability to access and choose child care that meets their needs. Shift workers, families working non-standard hours, those who have a sick child or who live in rural and remote areas without access to care will particularly gain through this initiative. The choice of child care services will be increased by making in-home care more accessible than it is at present. This Bill makes amendments that are necessary to ensure that care provided by approved in-home care services will qualify families using that care for child care benefit.

The Bill increases the exemption for a person’s interest in business assets under the youth allowance family assets test. Currently this exemption stands at 50%, but the Bill increases the exemption to 75%. This will generally make youth allowance payable to young people from families with business assets of up to $1.658 million. The change shows the Government’s support of families, particularly those in rural areas. About 7,200 young people should benefit from the measure.

At present, the matching of income details under the Data-matching Program under the Data-matching Program (Assistance and Tax) Act 1990 is limited to the two most recently completed financial years. The Bill proposes an amendment to extend this period to the four most recently completed financial years. In doing so, it will increase the ability to detect people who commit fraud against the social security system by deliberate action, or engaging in artificial tax schemes that minimise their declared income and their tax liability and allow them to obtain a social security payment.

The Privacy Commissioner’s Office was consulted in the development of this proposal and all data matching will be undertaken in strict observance with the other requirements of the Act.

The measures relating to the exclusion of payments made under the ABSTUDY Scheme remove the anomaly between these payments and the income test. This will achieve equity in the treatment of ABSTUDY Scheme recipients with that of other income support recipients. It will also ensure that ABSTUDY Scheme recipients are treated consistently with other income support recipients.

The Bill also provides for the protection of people affected by the termination of the Social Security Agreement with the United Kingdom. People who migrated to Australia on or before 1 March 2000, the date written notice of the termination of the Social Security Agreement with the United Kingdom was formally served, will be “protected”. This measure will enable these people to get early access to age pension, even after the Agreement terminates on 1 March 2001 because they will be able to use their periods of contributions to the United Kingdom social security system as periods of qualifying Australian residence.

Debate (on motion by Senator Ludwig) adjourned.
Ordered that the bills be listed on the Notice Paper as separate orders of the day.

DEFENCE LEGISLATION AMENDMENT (AID TO CIVILIAN AUTHORITIES) BILL 2000

Second Reading

Debate resumed.

Senator MURRAY (Western Australia) (4.05 p.m.)—I rise to address the Defence Legislation Amendment (Aid to Civilian Authorities) Bill 2000 with the perspective not only of an Australian Democrat strongly concerned about civil liberties but also of a member of the Senate Committee for the Scrutiny of Bills. That committee has a deserved reputation in this place for being a nonpartisan and principled watchdog for the Senate when matters arise which could infringe on our civil liberties. I want to start my address with a very basic presumption that all senators should bear in mind, and that is that what a citizen has to fear most is the state. In any study of history, a citizen does not have to fear another citizen as much as a citizen has to fear the state. It is governments, it is the executives within governments and it is the leaders of nations that take us into war and that are capable of using the full power and the full terror of the state, either in external or in domestic circumstances. That is why we, as people who have inherited a democratic and liberal tradition, fight to uphold the rule of law and fight to restrain, to limit and to constrain the power of the state.

In my four-plus years in this chamber, I have seen an increasing number of bills which increase the authority of the state. What may be seen as simple and technical issues are in fact major infringements of the rights of the individual and of the liberties and freedoms we should enjoy—issues such as strict liability offences, issues such as reversal of onus of proof, and issues such as mandatory sentencing. A demand for strong government can result in infringements which are eventually to the detriment of us all.

Many people know that I am a Zimbabwean by upbringing. When I was in Zimbabwe I was a vigorous opponent of the Ian Smith regime. The Ian Smith regime introduced a set of laws which utterly took away the liberties of the individual. It was called the Law and Order Maintenance Act, and it was designed for use by the state at a time of civil war to withdraw the right of habeas corpus, to detain people without trial, to allow for interrogation and for treatment which turned out to be quite abominable. The government of the day, supported by the people—who at the time voted for the government—thought that those powers and authorities were perfectly justified given the extraordinary circumstances of that country.

What do we find 20 years after the independence of Zimbabwe? We find that the latest tyrant and despot in that country, President Robert Mugabe, is using Ian Smith’s Law and Order Maintenance Act to suppress and terrorise the civilian population. In other words, you have to be concerned that, where laws are introduced with perhaps the best motives, something worse may result later on. There has been much comment in these debates about good faith and our being able to rely on our governments. No-one in this chamber, no-one who has designed the bills and no-one who has put together the legislation can foresee the future. No-one can tell this chamber who will govern Australia in 20 years time. This bill is a permanent change to our law. This bill is not about the Olympics or about the Commonwealth meeting of ministers to be held in Australia. This bill permanently alters the relationship between the citizen and the state. Because it alters that, you have to ask what the motives were of those concerned. There are those people who think that the motives may be sly or may be to slip in some change.

I believe that executives, governments and bureaucracies are always inclined to infringe liberty because what they seek is the greatest discretion or the greatest leeway to carry out their duties as they perceive them. I do not necessarily believe that the motives of the people who introduced this bill fall into that category—although there is that general atmosphere behind it—but we have a circumstance where the persons who put this bill up saw it with another set of eyes, and I think that is particularly the fault of the Labor opposition. That expression is one that struck
me in a recent address to the Democrat convention in America by vice-presidential nominee Lieberman. He spoke about how you see things through other sets of eyes. The set of eyes that prepared this bill saw terrorism and how to get the relationship between the federation and the states properly administered and regulated. Therefore, the bill is maximalist. It is designed for maximum discretion; it is designed to give as much leeway as possible—not with bad intent but because they failed to see the dangers. This country of Australia, through having lived through a century as one of the very few democracies of over 100 years, is singly naive about the dangers that can face it if you get a change in government and a change in circumstances. What other countries fear and have experienced Australians do not even get on their radar screen. But I fear this bill. I fear it because it gives power to the state which is not constrained and which is not limited sufficiently.

I want to read to you two quotes I took from the *Oxford dictionary of political quotations*, edited by Anthony Jay. I never rose to the rank of general but I will remind the chamber that I have war service of many years, and I have experienced countries where excessive powers have been given to the state. But I want to quote a general who became President of the United States—his name was Dwight Eisenhower. In the *New York Times* of 18 January 1961, he said:

In the council of government, we must guard against the acquisition of unwarranted influence, whether sought or unsought, by the military-industrial complex. The potential for the disastrous rise of misplaced power exists and will persist.

Woodrow Wilson, another American President, in a speech to the New York Press Club on 9 September 1912, said:

Liberty has never come from the government. Liberty has always come from the subjects of government. The history of liberty is the history of resistance. The history of liberty is a history of the limitation of governmental power, not the increase of it.

I sat through a briefing by someone whom I judged to be a man of integrity and—I do not have the actual quotes here—the military person concerned put words forward to this extent: that this bill will make the military in this country feel far more secure, feel far better, about how they can use power. I actually prefer it when they are uncertain, because when they are uncertain they might hesitate with their finger on that trigger or in how they deal with a member of the public. We have a situation here in this country where, at present, the vagueness of the constitutional authority—but one covered or clothed by convention, custom, common law and tradition—has made governments extremely wary of putting troops on the street, and there are great restraints on doing so. This bill as it stands, without considerable amendment, withdraws some of those limitations. It makes people like me extremely nervous because, if this act is not in the hands of a government of good faith, if it is not in the hands of people with a sound democratic tradition and good democratic beliefs, it could be used to bad purpose. It is no good saying, ‘We will fix it after the event.’ That will be too late.

One of the key reasons citizens fear troops on the streets is that they understand an essential truth: soldiers are trained to kill; soldiers regard whoever they are opposing as the enemy. Police men and women are trained to deal with the public. Listen to the different word: ‘public’ versus ‘enemy’. The police culture is utterly and completely different and imbues people with an utterly different approach to how they deal with citizens. You cannot change the culture of a soldier very quickly simply by putting him or her on the streets. You have to be aware that when a soldier is on the streets they have a different mind frame, a different set of views, from a police person. It is no good saying, ‘The only people who are going to be involved are the SAS, who will come in as a highly skilled and trained professional strike force.’ That is just utter nonsense. If they are coming in as a highly skilled and specialist strike force, they will also need troops to be sealing off the streets, checking buildings and doing all the mundane tasks that ordinary ground troops have to do. The same soldier of integrity said to me, ‘Yes, but we have experience of being on the streets in Somalia and East Timor.’ They do not compare to Australia. They did not operate, and were not operating, as a civil
society at that time—they did not have the infrastructure, the institutions, the democratic polity within which to operate.

Having said all that, am I against the idea, out of hand, of having troops on the streets? No, I am not. There are times when you do need troops on the streets, and a major act of terrorism would need such a thing. But a bomb going off in a postbox somewhere does not. A national emergency might need such a thing or the police in a city being on strike might need such a thing when looting is being undertaken. But what this bill does is allow a definition which is so broad that it is without any restraint or restriction—without any examples—either in the explanatory memorandum or as legislative notes. Surely it would have been better to define a bill and say, ‘These are the circumstances in which we believe troops would be used on the streets, and to that we will add a proviso for exceptional emergency.’

Then there is the question of authorisation. To me there is an inherent conflict of interest if the government that caused the problem in the first place through its policies then sends in the troops. Imagine a government with some outrageous view on, say, industrial relations that causes riots and mayhem in the streets and then sends in the troops to fix it. That is a clear conflict of interest. What is the authorisation process? In my view authorisation should not occur unless it has the joint approval of state and territory governments and the Commonwealth—who must, even it is by conference call, each consult their respective cabinets and the respective leaders of the opposition. Why should one minister or three authorising ministers have this authority?

The Victorian and Western Australian governments were extremely concerned about the provisions under which the Commonwealth could act to protect Commonwealth interests. Isn’t that an extraordinarily wide definition? So the authorisation and the consultation involved are very limited. The definition is very poor. As I say, it is written with a maximalist mind and not a minimalist mind. I think ‘terrorism’ can be easily defined, and I think the additional circumstances in which the troops would need to be used could be easily defined.

Then we come to the powers. We have just had tabled in this chamber the Scrutiny of Bills Committee’s report. On 6 April 2000 the Senate Standing Committee for the Scrutiny of Bills produced its fourth report of 1999, on entry and search provisions in Commonwealth legislation. Those entry and search provisions covered principles governing the grant of powers of entry and search—the authorisation, the choice of people on whom the powers were to be confirmed, the extent of the powers granted, the kinds of matters which might attract the grant of the powers, principles governing the manner in which the powers to enter and search are exercised, principles governing the provision of information to occupiers, principles ensuring that people carrying out entry and search are protected, principles relevant to judicial officers and the issue of warrants, and other general principles.

Nowhere in this bill did it establish a process for establishing those protocols. So we are going to give all of this power and authority to the Defence Force. Where are the protocols or guidelines that should be tabled with it? The detail does not need to be in the bill—I agree with that—but where is the process and the consultation so that the military, like the Australian Federal Police, would have benchmark search and entry provisions? Where are the protocols, the processes or the means by which we will know the training of Defence Force members, the relationship between them and the civilian forces, the use of force by Defence Force members, the issuing of weapons to Defence Force members, the use of weapons, the rights and obligations of persons detained by Defence Force members, the evidentiary use that may be made of any statements made by persons, the contents of reports to parliament following the cessation of a call-out?

This bill is about law. It is not about process and the interaction between the citizen and the state. It is rushed. It has been written with the wrong pair of eyes, and it is far too broad. If this bill as it stands is passed, Australians will live to regret it. That is my prediction. I feel very strongly that this bill as it
is at present should be rejected. We need a
bill, but not this bill.

Senator ELLISON (Western Australia—
Special Minister of State) (4.25 p.m.)—At the
outset I want to thank those senators who
have contributed to the debate on the very
important Defence Legislation Amendment
(Aid to Civilian Authorities) Bill 2000. It is
very important for a number of reasons—not
just because it is catering for a situation in
relation to the forthcoming Olympics but
because it deals with that very important as-
pect of when you can call in the Australian
defence forces if there is a need in order to
address civil unrest.

I want to, firstly, also reject any criticism
that the government has given this late atten-
tion. This bill was introduced into the other
place on 28 June of this year. During that
time there has been adequate time for people
to look at the proposed bill and its provisions.
And this matter was referred to the Senate
Foreign Affairs, Defence and Trade Legisla-
tion Committee. I want to thank that com-
mittee for what I consider to be a very good
report. In fact, that committee made some
recommendations which the government has
accepted and which form the substance of the
amendments that the government is propos-
ing in relation to this bill. The Scrutiny of
Bills Committee has also handed down its
report. I want to thank that com-
mittee for what I consider to be a very good
report. In fact, that committee made some
recommendations which the government has
accepted and which form the substance of the
amendments that the government is propos-
ing in relation to this bill. The Scrutiny of
Bills Committee has also handed down its
report. I want to thank that excellent com-
mittee for its work. The government has also
taken note of what the Scrutiny of Bills
Committee has said. I understand that in both
cases those committees that I have mentioned
have had evidence and briefings from gov-
ernment officials who have been involved in
this proposed legislation.

What we need to remember when we ap-
proach this legislation is that there is cur-
rently no legislative framework in place for a
Commonwealth initiated call-out and that the
framework for providing assistance to the
states is directed principally to riot control,
with no adequate safeguards or accountability
provisions, and is woefully antiquated. It was
the very inadequacy of the state call-out
framework that led the states and the Com-
monwealth to agree in the national
antiterrorist plan that all counterterrorist call-
outs would be Commonwealth initiated, in-
cluding where assistance is specifically
sought by a state. I might say that in dealing
with the inadequacy of the current legislation
the Senate committee pointed out that the
current Australian Military Regulations 1927
were quite antiquated. The committee cited in
part that where a riot occurred those regula-
tions stipulated:

Before the proclamation is read, the alarm should,
if possible, be sounded on a bugle, or some simi-
lar action be taken so as to call attention to what is
about to be done, and the magistrate shall go
amongst the rioters, or as near as he can safely
come to them, and command, or cause to be
commanded, in a loud voice, that silence be kept
while the proclamation is made.

That is all very well for 1927, but it does not
sit well with the year 2000 in Australia. I
wonder what success someone on a bugle
might have in the case of an emergency
which is directed at the Olympics, or in fact
in any other modern emergency. It is quite
clear that something had to be done. In 1979
Justice Hope in his Protective Security Re-
view following the Hilton bombing stated on
the issue:

There is strong reason in our type of society to
avoid the establishment of paramilitary forces.
There may be constitutional difficulties in the way
of any State setting up such a body. But quite
apart from those difficulties, such a force would
have a strength equivalent to that of a similar
military body, but would have no military role,
and would be without the traditional restraint of
the Defence Force and without the system of legal
and administrative controls which has been built
up in respect of the Defence Force over a long
time. Moreover a paramilitary force could do
nothing which a police force or the Defence
Force, appropriately trained and equipped, could
not do.

What Justice Hope was looking at was a
situation which involved the call-out of de-
defence personnel, and as that he made some
suggestions in relation to amending the law
as we know it. So this has been around for a
very long time, and it is something which has
needed to be addressed for a very long time.
It is perhaps the holding of the Olympics
which has brought this into more particular
focus.

With this reform, the discouragement to
conducting call-outs in response to state re-
quests is removed, and therefore not all call-outs, or even the majority of call-out situations, need to be a Commonwealth initiative. This is a good thing, I would submit. All call-outs under this legislation must be justified by an analysis of the capability of the state or territory police, including the ability to obtain assistance from police from other states and territories. That analysis must show that these police resources are inadequate. This requirement clearly obliges consultation with the states and territories. This is a point that Senator Faulkner expressed concern about, and it is one which we are in fact addressing in this proposed legislation. Furthermore, the Australian Defence Force is required to act in cooperation with the state and territory authorities and cannot act at all unless requested to do so by the police in writing, unless this is not reasonably practicable. What this does is set in place some transparent process, if you like, in the exercise of these powers. In setting out the powers the ADF may exercise in a call-out, this legislation rejects the approach taken in New Zealand and Canada where defence personnel have been given all the powers of police when called out. I think that is another good thing. This legislation focuses on certain specific tasks which may be expected of the ADF, and no more. None of these tasks refer to riot control, and they are not directed at demonstrations, dissent or, importantly, industrial disputes. In division 2, the tasks are clearly limited to recapturing buildings, freeing hostages, detaining their captors and neutralising dangerous things.

At this point, can I say that I was lucky enough to be taken over the SAS barracks in my home state. Those barracks—Campbell barracks at Swanbourne—are indeed very well set up, and there is no question that the SAS is well equipped for the sorts of situations that I have just mentioned. Lieutenant Colonel Tim McOwen, the Commanding Officer, took us over the barracks on 24 July this year and staged a mock hostage rescue. I was very impressed by the skill exhibited by those involved, and I can say that the SAS are thoroughly well equipped to deal with those incidents that I have just described.

In division 3, the powers are limited to searching for a dangerous thing and, in the dangerous area, denying entry, regulating movement or evacuating the population at risk. The bill specifically prohibits the use of the Australian defence forces against lawful protest and dissent, and that is another very important aspect of this bill. That also addresses a concern expressed by Senator Faulkner when he addressed the Senate earlier today. Even if the protest or dissent were unlawful, the ADF could still not be used unless there were violence of such a scale that it was beyond the capability of the police to deal with. It should be understood, then, that there is no possibility of this legislation being used to deal with unarmed or peaceful demonstrators ever be beyond the capability of the state or territory police to deal with?

It is always difficult in a country like Australia to focus on potential security threats when these seem so remote. We do, however, live in an uncertain world where we cannot be sure that we will not attract the attention of global terrorism. The potential for such organisations to wreak havoc and widespread loss of life is increased with advances in, and the availability of, technology that can be perverted to such uses. Australia plays a role in the international struggle against these forces and has committed itself to instruments that seek to coordinate the international effort in this respect. Domestically, we have always rejected the option of raising a paramilitary or third force to deal with such threats. I quoted earlier from Justice Hope’s 1979 report in this regard. This reasoning has held throughout our history as a country and leaves us with no other option in times of crisis when the resources of police are inadequate than to turn to the ADF. The ADF, as I have mentioned, has trained to meet this challenge. It has the capability to carry out counter-terrorist assaults, and that has resided for over 20 years with the Special Air Services Regiment.

The public safety support tasks envisaged in division 3 of this bill are limited and within the experience of the ADF from complex peace operations they have performed in recent times. Indeed, this experience in these
tasks form part of ADF doctrine and are the subject of regular training. The most significant aspect of this training is the equipping of the members, both physically and mentally, to select and apply graduated or appropriate levels of force. In other words, a member is carefully trained in the security operations context to respond only with the level of force required by the level of threat faced. This training has served the members well in some of the most difficult and trying circumstances and environments. Their record in this respect speaks for itself, as they have reflected great credit on themselves and Australia. In fact, even as we speak, the ADF is hard at work undergoing training for the Olympics, including the aspects this legislation provides for—and that was covered in a question put to me during question time today by Senator Bourne. The government has every confidence that the ADF will perform whatever duties are expected of it during the Olympics and will perform those duties to a very high standard. The Australian public should also have confidence in the training and commitment of the ADF to operate under the primacy of the civil authorities and the law.

I turn to particular comments made by senators who have spoken in this matter. Firstly, Senator Brown made some comments regarding the section in the Manual of land warfare dealing with Defence Force aid to the civil power. He emphasised that there were aspects of the manual that caused him some concern. The government would argue that his points emphasise the need for this legislation. That manual was drafted a long time ago in reference to the current framework, not the proposed amendments. We would say through the chair to Senator Brown that that manual is really somewhat outdated in view of what we are proposing with these provisions. It was the very situation the manual was drafted in reference to that will now be strictly circumscribed. The manual was also designed for the possibility of offshore assistance to friendly governments against counterinsurgency, which is now clearly out of date. The manual itself will be withdrawn when this legislation passes, and a new manual will be prepared to reflect the changes.

Senator Brown needs to be aware that he is in effect arguing in favour of the retention of the archaic status quo that I have mentioned previously, and that is a responsibility that the government cannot accept. Senator Brown also commented that the capabilities of the police to deal with all terrorist scenarios are equal or superior to that of the ADF. The government does not accept this. It would say that the technical aspects and practical realities involved with such assessments are that the ADF has the expertise to deal with serious terrorist situations and to professionally handle counter-terrorism.

Senator Cooney asked for clarification of the assertion that, under the amendment bill, ADF members will not exercise any greater power than is already available under the law for the application of lethal force. It is a fundamental principle of the law of the Commonwealth in all jurisdictions that any member of the public is entitled to confront lethal force with the force necessary to defend oneself or another person so attacked. This may include lethal force if that is the only way of confronting a lethal threat. The seminal case on these rights of self-defence is the 1987 High Court case Fadil Zecevic v. Director of Public Prosecutions (Victoria). The use in the legislation of the phrase ‘reasonable and necessary force’ reflects these well-established legal concepts. As stated earlier, ADF members will remain subject to the scrutiny of the police, coroners and courts for their decision to use any force required. I am sure Senator Cooney would want the ADF to be able to suppress heavily armed terrorists with the most effective means available, but I think that the aspects that I have outlined would address Senator Cooney’s concerns.

I also mention that Senator Cooney, as the Chairman of the Scrutiny of Bills Committee, has taken a very keen interest in this legislation. The government will certainly take on board the comments made by that committee. Senator Cooney also referred to the protocols, as he expressed it, that govern the way the ADF operates in support of the police under this framework. The ADF always operates under a variety of strictures, including in the domestic environment the law of the jurisdiction. Other strictures include rules of
engagement or rules of behaviour if they are unarmed, as well as doctrinal publications, departmental instructions and training references. If there are rules of engagement or behaviour, these may be approved by the minister and sometimes cabinet.

In assistance provided in aid to the civil power, the ADF operates in accordance with the national antiterrorist plan for which this legislation merely seeks to provide a better legal basis. The plan spells out all the coordinating arrangements and roles expected of each of the agencies who may be involved in counter-terrorist operations or action. Coordination also takes place within the Standing Advisory Committee for Protection against Violence referred to by Senator Hogg, which brings together all the federal and state law enforcement agencies. The roles and relationship of the police and the ADF are well understood at the operational level. This legislation only provides a firm legislative basis for that division of labour and relationship.

The Foreign Affairs, Defence and Trade Legislation Committee recognised the worth of this proposed legislation. It also recognised that there was a necessity for the way in which it was framed. As I have stated, that committee made some recommendations. The government will be accepting those recommendations and implementing them by way of amendment. I understand there are other amendments being proposed by the Democrats, by Senator Brown and also by the opposition. The government has just received some of those amendments and has had some notice of the others but would need time to consider all these amendments. I therefore foreshadow moving that this bill be adjourned to provide such time for consideration of those amendments. On that basis, I conclude my remarks in relation to the second reading.

Question put:

That the amendment (Senator Brown’s) be agreed to.

The Senate divided. [4.47 p.m.]

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

Ayes.......... 11
Noes.......... 48

Majority....... 37

AYES
Allison, L.F. Bartlett, A.J.J.
Bourne, V.W * Brown, B.J.
Greig, B. Harradine, B.
Harris, L. Lees, M.H.
Murray, A.J.M. Ridgeway, A.D.
Woodley, J.

NOES
Abetz, E. Alston, R.K.R.
Bishop, T.M. Boswell, R.L.D.
Campbell, G. Carr, K.J.
Chapman, H.G.P. Collins, J.M.A.
Coonan, H.L. Cooney, B.C.
Crane, A.W. Crossin, P.M.
Crowley, R.A. Denman, K.J.
Eggleston, A. Ellison, C.M.
Evans, C.V. Ferris, J.M.
Forshaw, M.G. Gibson, B.F.
Hogg, J.J. Hutchins, S.P.
Kemp, C.R. Lightfoot, P.R.
Ludwig, J.W * Lundy, K.A.
Macdonald, I. Macdonald, J.A.L.
Mackay, S.M. Mason, B.J.
McGauran, J.J.J. McKiernan, J.P.
McLucas, J.E. Minchin, N.H.
Murphy, S.M. O’Brian, K.W.K.
Patterson, K.C. Payne, M.A.
Ray, R.F. Schacht, C.C.
Sherry, N.J. Tambling, G.E.
Tchen, T. Tierney, J.W.
Troeth, J.M. Vanstone, A.E.
Watson, J.O.W. West, S.M.

* denotes teller

Question so resolved in the negative.

Original question resolved in the affirmative.

Bill read a second time.

Senator Brown—Madam Deputy President, will you please record my opposition to the second reading?

The DEPUTY PRESIDENT—Yes.

Motion (by Senator Ellison) proposed:

That consideration of the bill in committee of the whole be made an order of the day for the next day of sitting.
Senator HARRADINE (Tasmania) (4.52 p.m.)—Senator Ellison has moved a motion to defer this legislation until tomorrow. He has not given any reason for it. I was not aware that this was going to take place. I would be grateful if somebody would give an indication as to why people are not advised of these arrangements. Things crop up from time to time, no doubt, which require urgent consideration. No doubt there would be a number of amendments being considered by various people. Not by me—I have not received any indication from the government that there are other amendments coming forward from it or from any of the other parties. It would be handy in trying to organise one’s time to be advised of what is going on.

The DEPUTY PRESIDENT—I understand that in closing the debate Senator Ellison did in fact outline some reasons for the deferral.

Senator ELLISON (Western Australia—Special Minister of State) (4.54 p.m.)—Just to recap, I did outline in reply in the second reading debate that the government was seeking this short adjournment to consider some proposed amendments which are being put forward by the opposition in particular. You may recall that Senator Faulkner outlined four proposed amendments, which are in the process of being drafted. The government needs time to consider them. There are some other amendments too. Senator Brown and the Democrats, which I mentioned earlier, have some amendments and the government is going through those and talking to the parties concerned. If Senator Harradine has any queries, my office would be only too pleased to assist him in relation to developments.

Question resolved in the affirmative.

RENEWABLE ENERGY (ELECTRICITY) BILL 2000
RENEWABLE ENERGY (ELECTRICITY) (CHARGE) BILL 2000

Second Reading

Debate resumed from 14 August, on motion by Senator Ian Campbell:

That this bill be now read a second time.

Senator FORSHAW (New South Wales) (4.55 p.m.)—The Renewable Energy (Electricity) Bill 2000 and the Renewable Energy (Electricity) (Charge) Bill 2000 are intended to implement the government’s promise made in 1997 to introduce a mandatory requirement on electricity retailers and large users to source an additional two per cent of their electricity consumption by the year 2010 from renewable energy. I will direct the bulk of my remarks to the Renewable Energy (Electricity) Bill 2000. The objective of this bill is to increase the contribution of renewable energy generation to Australia’s electricity supply and to help support the continued growth of a vibrant renewables energy industry in Australia. It is possibly the first serious attempt by this government to take advantage of some of the opportunities presented by addressing climate change, rather than concentrating solely on the threats that it represents. But whether it actually achieves this objective is yet to be seen. The opposition has real doubts—and so do many shareholders—about the adequacy of the government’s attempts with this initiative. I want to briefly reflect on the broader issue of climate change and then deal with the legislation in more specific terms.

As we know, the impacts of climate change will be far reaching. They will have a significant environmental, social and economic cost well into the future. It will result in the loss of most of the world’s coral reefs to coral bleaching and radical and hard to predict changes to crop yields and productivity. CSIRO modelling has estimated that the Murray-Darling, for example, may suffer a 20 per cent decrease in run-off entering the river system by the year 2030. So Australia stands to lose a lot if we—and I refer to both Australia and the international community here—do not address climate change. Yet, oddly enough, this government has failed to put any significant effort into research of what those future costs might be and who might bear them. The government has effectively turned a blind eye to what consequences Australia might suffer from climate change. Instead, the government’s focus has been restricted to looking at the costs of abatement of climate change. Notwithstanding this, the government’s estimate of the
potential cost to meet our Kyoto target could be less than 0.6 per cent of GDP, depending on the policy direction pursued. That is compared to a cost of climate change to Australia estimated by the IPCC to be in the order of four per cent of GDP.

In 1998, Australia signed the Kyoto Protocol to the Framework Convention on Climate Change. The protocol commits Australia to constraining growth in greenhouse gas emissions to an increase of eight per cent above 1990 levels. But Australia has already exceeded that target and emissions in 1998 were some 16.9 per cent over 1990 levels, more than twice the increase allowed under Australia’s Kyoto target. In the absence of abatement measures, emissions are expected to increase by 43 per cent over 1990 levels. Current policy measures are projected to be 18 per cent above 1990 levels, still 10 per cent higher than our Kyoto commitment. On the admission of the Minister for the Environment and Heritage, Senator Hill, the current policies of the Howard government will clearly not achieve the target set in Kyoto. The National Greenhouse Gas Inventory for 1998, released last month, shows the largest annual growth in emissions since 1990, when emissions were first recorded. It also shows that for the first time in almost a decade emissions are increasing at a faster rate than GDP.

Electricity generation is the largest single contributor to Australia’s greenhouse gas emissions, and in 1998 accounted for 37 per cent of total emissions. Not only is it the largest contributor to emissions, but it also has one of the fastest rates in emissions growth. In 2010, it is expected to account for 41 per cent of total emissions. This is because the industry is using low-cost, high-polluting brown and black coal for generation, and economic growth and lifestyle changes are increasing substantially our demand for power. In this context, the measures that we are debating today in this legislation become even more important.

I will now turn to the legislation before us. Some concern has been expressed that the measures will result in short-term, high-cost emission abatement. However, it is important to note that the objective of this legislation is not to achieve short-term, least-cost greenhouse gas emission reductions; rather, the intention is to foster the development of an Australian renewable energy industry that will be well placed to take advantage of future markets as well as contribute to emission reductions. The measure has been designed using a tradeable market based instrument for economic deficiency and equity reasons. The bill does not discriminate between renewable technologies on the basis of its greenhouse intensity, and the measure therefore does not necessarily aim to achieve maximum greenhouse gas emission reductions.

The legislation creates a market demand for renewable energy and is expected by the government to result in considerable investment in renewable generation capacity and to have a positive impact on the economics of renewable energy. Despite the extensive modelling that has been undertaken, there remain a lot of uncertainties regarding just what technologies and investment will result from this measure. There is a concern that the measure will be dominated by low-cost biomass, which is currently the cheapest form of renewable energy. There is also concern that it will not encourage the development of high-tech technologies or the development of manufacturing capacity. Solar and wind are currently more expensive than biomass and most traditional fossil fuels. It may be cheaper to pay the penalty than install new solar or wind projects. Given these uncertainties, it will be necessary to review and improve the measure after it has been in operation for a few years and there is a better understanding of what actual outcomes are achieved and are achievable in the future under this legislation.

The sustainable energy industry has indicated that significant investment is already earmarked for a range of technologies, including significant investment in wind generation capacity. Despite the shortcomings of the legislation, the opposition believes that it represents a good first step in encouraging the development of the renewable energy industry. The measure must also be supported by a commitment to research, development and commercialisation to ensure that new technologies also have an opportunity to
benefit from the increased demand for renewable generation arising from the bill.

There is an imperative to get the legislation through to enable the regulator to be established and regulation to be in place before the legislation comes into force in January 2001. In this context, a number of issues have been raised, particularly during the hearings of the Senate Environment, Communications, Information Technology and the Arts Reference Committee, that we would like to give consideration to. Moving amendments, however, may be a futile process as the government has indicated to date that it is unwilling to accept any amendments to the legislation. Many of the witnesses that appeared at the Senate committee inquiry hearings, including Pacific Power, Stanwell Corporation, Hydro Tasmania, conservation groups and sustainable energy industry associations, gave evidence that the $40 megawatt hour penalty is too low to result in a mix of technologies. Labor recognise the concern that the level of the penalty may be too low to encourage liable parties to buy renewable energy certificates and that it may also be too low to result in a mix of technologies. It is important that the level of the penalty be sufficiently high to encourage compliance but not so high as to force unreasonable compliance costs upon liable parties. Although the original regulation impact statement prepared by the Australian Greenhouse Office recommended a penalty of $100, further modelling undertaken suggested that the $40 figure was reasonable. Labor recognise the concern that the level of the penalty may be too low to encourage liable parties to buy renewable energy certificates and that it may also be too low to result in a mix of technologies. It is important that the level of the penalty be sufficiently high to encourage compliance but not so high as to force unreasonable compliance costs upon liable parties. Although the original regulation impact statement prepared by the Australian Greenhouse Office recommended a penalty of $100, further modelling undertaken suggested that the $40 figure was reasonable. Labor recognise that, to some extent, we will not know what an appropriate level will be until this measure has been in operation for a few years. Accordingly, we therefore support the close scrutiny of the resulting mix of technologies and the inclusion of the level of the penalty for consideration in a formal legislative review process to assess the degree to which the level of the penalty has assisted in the achievement of the objectives of the legislation.

The Greenhouse Office evidence given to the inquiry also suggested that there was some legal uncertainty as to whether the penalty is tax deductible under the current legislation. The charge has been established as a tax rather than as a charge due to limitations under the corporations power to impose a charge on unincorporated entities. Some excise arrangements are tax deductible, and it is therefore unclear whether the penalty imposed under this legislation might also be tax deductible. The Greenhouse Office has stated that the intent of the legislation was for the penalty not to be tax deductible and that the government may wish to revisit this issue to clarify the status of the penalty under the taxation system. We will therefore be moving an amendment in the committee stage to clarify that the penalty is not tax deductible.

Further, the penalty is currently not adjusted for CPI. The Greenhouse Office has given evidence that the CPI adjustment would assist in maintaining its real value over time but goes on to suggest that this could also be adjusted, based on periodic reviews of the measure. We are perplexed about the rationale for excluding CPI adjustment. On the very same day that these bills were introduced into the parliament, other legislation on product stewardship for waste oil recycling was also introduced. That legislation provided for CPI adjustment. We therefore ask: was it just an oversight on the part of the government? In any event, we will move an amendment to include CPI adjustment of the penalty in order to fix up the government’s poor policy and inconsistent drafting with regard to this bill.

A further matter concerns the definition of ‘renewable energy’. It is currently to be defined under regulation. Given the sensitivities of the definition of renewable energy in the public debate surrounding this legislation, the opposition believes that it is irresponsible of the government to deliberately exclude it from the legislation and thereby exclude it from proper parliamentary scrutiny. There is strong concern within the conservation movement that the definition of what is renewable should not be determined solely on greenhouse considerations but should also take into consideration other environmental impacts. The opposition agrees with the concerns expressed.

We further recognise the concern that this measure may lead to an increase in biomass extraction from native forests as a result of the additional financial incentive attached to
the renewable energy certificates. Although these concerns are valid, the opposition also recognise that further harvesting of regional forest agreement areas is not unlimited and that there are significant constraints on resource availability. We support the close scrutiny of the impact of this legislation on other environmental issues, particularly the effect on utilisation of forestry waste, and this should be monitored and included for consideration in a formal review.

The opposition note that, due to investments under the Greenpower scheme and in anticipation of the renewable energy target, the current capacity of existing renewable generators and those under construction is likely to exceed the interim targets for the first few years. We encourage the government to reconsider the interim targets in relation to the extent of eligible renewable generation capacity currently in operation and under construction, with a view to maximising emission reductions in the 2008-12 Kyoto commitment period. This is clearly in Australia’s interests. We further support the review of the interim targets as part of that overall formal review that we have proposed, and we will do so formally through the amendment process in the committee stage.

As it stands, this legislation does not require formal statutory review of the delivery of the legislation against its stated objectives. Although the Greenhouse Office has stated its intention for a three- to five-year review, a number of witnesses at the inquiry recommended that a formal review be included as a legislative requirement. We believe this is standard practice in the parliament and we would hope that the government would be willing to agree to such a change.

There is considerable uncertainty as to what investments will actually result pursuant to these measures, whether the size of the target is appropriate, whether the level of the penalty is set at an appropriate level to avoid unreasonable compliance costs, and whether or not these measures indeed encourage compliance. As I have indicated, we will be moving an amendment to establish a legislative requirement for a formal review within three years, specifically including in its terms of reference a review of the mix of resulting technologies, the level of the penalty and those other issues that I have referred to.

It is imperative that we start to address climate change and get results. The minister, Senator Hill, is constantly telling us about the money that he is spending on greenhouse. But what about the results? We are increasing emissions at an alarming rate, and government policy currently is having no discernible effect. The minister has effectively wasted almost $1 billion of the Natural Heritage Trust, which has failed to deliver outcomes.

In conclusion, I refer to some remarks made by President Clinton in his State of the Union address in January this year, to remind us all of how important it is to respond to the challenge of climate change and realise the opportunities of the future. President Clinton stated:

The greatest environmental challenge of the new century is global warming ... If we fail to reduce the emissions of greenhouse gases, deadly heat waves and droughts will become more frequent, coastal areas will flood and economies will be disrupted. That is going to happen, unless we act. Many people still believe you cannot cut greenhouse emissions without slowing economic growth. In the Industrial Age, that may well have been true. But in this digital economy, it is not true any more. New technologies now make it possible to cut harmful emissions and at the same time provide new growth.

As I have indicated, we will be proceeding to move amendments to improve this legislation when we get to the committee stage.

Senator Harradine—Mr Acting Deputy President, I wish to make a personal explanation.

The ACTING DEPUTY PRESIDENT (Senator Sherry)—The honourable senator may proceed.

Senator Harradine—Thank you very much for allowing me to do so on the first possible occasion since I made an error. I did previously indicate that I had not been advised that the previous bill being debated was going to be adjourned. The fact is that, with their usual efficiency, the Senate staff and others had made sure that I was advised, and there was just a breakdown in communica-
tions in my office. I do apologise to the officer concerned.

Senator BROWN (Tasmania) (5.14 p.m.)—The Renewable Energy (Electricity) Bill 2000 and the Renewable Energy (Electricity) (Charge) Bill 2000 are very important bills, addressing one of the great problems that we as part of the global community must address this century—that is, global warming. However, the legislation is far too little. I will talk more about that as we go into it. But first, I move:

At the end of the motion, add “but the Senate:

(a) notes the wide scientific consensus that global temperatures are increasing as a result of human actions; and

(b) urges the Government:

(i) to ensure that the rules for implementing the flexibility mechanisms under the Kyoto Protocol protect the environmental integrity of the Protocol and result in real reduction in greenhouse gas emissions by developed countries; and

(ii) to ratify the Kyoto Protocol without delay”.

That is a second reading amendment to have Australia get back to the front of the action as far as the developed countries are concerned and to take a lead by signing the Kyoto protocol to show that we mean business, that the government’s word was good when it signed the protocol in Kyoto and that the government means to get the rest of the world on line as well and not simply wait for other countries to sign up before it does. At the moment there is a Mexican stand-off, where the US says, ‘We will do it if somebody else does,’ or rather that its Congress says, ‘Don’t do it until all the other leading players have done it,’ and other leading players like Australia are using that as a convenient excuse not to sign up to the Kyoto protocol. Of course, behind it now is a palpable delinquency from governments right around the world who are unable to think independently and long term but who, under the pressure of very big vested interests, are failing to meet even the very low targets that were placed before each country in Kyoto.

As the Senate knows, Australia, along with Iceland, was given the easiest target of the lot. That is, we could increase greenhouse gas production by eight per cent over 1990 levels in the consequent 20 years. Many other countries have a target to reduce their emissions and, indeed, the United Kingdom is looking at beating its target by quite massive reductions, not least due to exploitation of the North Sea gas, which is replacing coal as a primary source of electricity in the United Kingdom.

These bills implement the commitment by the Prime Minister, Mr Howard, given before the Kyoto summit in 1997, that Australia would source an additional two per cent of its electricity from renewable resources by 2010. The structure of this system was that wholesale buyers of electricity would be required to purchase a proportion of their electricity from additional renewable energy sources. There would be renewable energy certificates equal to one megawatt hour of electricity, which could be created by accredited power stations when they generate electricity from eligible renewable energy sources additional to those of 1997. If the wholesale buyer did not have enough renewable energy certificates to cover its obligation, then the penalty was to be $40 a certificate. In effect, this is a market which is created with renewable energy certificates as the currency—a good idea. But it will not be implemented until more than three years after the commitment was made as part of the government’s response—that is, Mr Howard’s commitment—in the lead-up to Kyoto in 1997. The scheme is no longer a commitment for an extra two per cent of renewables but rather for an exact figure of 9,500 gigawatt hours, which will account for much less than the two per cent of the projected electricity consumption in the year 2010.

The scheme fails to exclude energy sources that are clearly unsustainable: for example, woodchips from native forests or woodlands; new large dams; and the Derby Tidal Power Station in north-west Western Australia, which is essentially a dam on a coastal creek or inlet—which can have quite massive impacts on the environment. I would point out that tidal power is not wave power;
it is a very different matter. The Derby tidal power proposal is concerning environmentalists in Western Australia a great deal. The government’s proposal sets the penalty for non-compliance at such a low level that many retailers will be tempted to buy renewable energy certificates rather than renewable energy itself—just like the sale of indulgences under Pope Julius II in 1510, which revolted Martin Luther.

I commend the opposition because they have picked up on this point as well: the bill itself does not even have reduction in greenhouse gas emissions as an objective—presumably because it will do very little, if anything, towards that end. We are at a stage where the signs of climate change are daily more apparent: witness the devastating fires in the United States and southern Europe at the moment, and the remarkable news of open water—that is, the melting of the ice—at the North Pole and the appearance of ivory gulls there for the first time in recorded science. There is also news of the worst ever mass bleaching, or killing, of corals in 1998—and the Senate committee looking into global warming saw the science of this—with the prediction that these mass killings will become an annual event by 2020, with vast extinction of coral reefs right around the world, including huge areas of the Great Barrier Reef, in our lifetime.

We should be making a decisive shift from a fossil fuel economy to a sustainable economy and not tinkering around the edges. This legislation is tinkering. We challenge the opposition and the government to support the Greens amendments, which will ensure that the renewable energy sources assisted by this scheme are ecologically sustainable. Again, I am very pleased to hear that the opposition is at least entertaining some of the ideas we have here. In particular, the Greens are concerned to rule out logging and the burning of native forests and woodlands to generate electricity. How absurd that under this scheme this government and this Prime Minister should be actually encouraging the woodchipping of native forest to put in a furnace to turn into electricity and then calling it Greenpower. I will be questioning the minister very closely on that proposal during the committee stage. It is a proposal which should be rejected out of hand. I will be moving to amend this legislation to make sure that that sort of extraordinary cavalier attitude with the environment is not allowed to creep into a piece of legislation which is ostensibly about handing on a better world with a better environment to future generations.

We will be moving amendments to rule out electricity generated from new large dams. One might ask: where are they going to occur in Australia? It is very sobering to hear that there is on average a large dam being completed around the world every day. The dams themselves come with increasingly great environmental as well as social detriment. While the energy may be seen as renewable, the impact on the environment can at the same time be devastating. We will also be amending this legislation to rule out schemes like the Derby tidal power project, which, as I said, is essentially a dam of another form obstructing a tidal inlet. The Greens want the parliament to follow Denmark’s example of decisively moving to renewables to make the target an additional 10 per cent of renewable energy by 2010, not just two per cent.

Senator Calvert—I am just trying to work out what sort of power we are going to have. Will we have wind power?

Senator BROWN—Senator, if you do not believe in wind power then you can get up and talk about that. Senator Calvert might know that one of the proposals that have been rejected by him and his party in Tasmania for many years now is energy efficiency, which is of course the best form of energy saving even before we get to renewables. Some basic homework is required there if this debate is going to be a constructive one, is going to be up to date and is not going to be weighed down by arguments from the past which are way past their time.

We will be moving to prevent companies from counting Greenpower energy as part of their target. People pay a premium for this, and it should not contribute towards companies meeting their legal obligations. We will also put a real penalty of $1,000 per megawatt hour on companies that fail to buy
enough additional renewable energy. I do not know whether Her Majesty’s opposition have an alternative figure but I hope that, if they have not, they will be supporting that one. You will be aware, Mr Acting Deputy President Sherry, that protesters get fines of thousands of dollars for peaceful protests in this country, not least for trying to protect forests, but under this legislation companies would get a fine of $40 per megawatt hour or per certificate. For many of them, as Senator Forshaw commented, it will simply be cheaper to pay that fine than to come up with renewable energy. We need to set that penalty in a clause which is going to deter companies from seeing it as a cheap option for irresponsibility.

We understand that the renewable energy industry is desperate for some encouragement, and I wholeheartedly support encouragement and incentive. The industry supports these bills, because there is nothing else on the horizon and there are no better bills on the horizon. But just let me point to the performance that is required in this bill compared with the renewable energy targets that other countries are reaching. To be clear about this, we are mandating a two per cent increase for Australia whereas some of the other countries that I will mention, if not most of them, are looking at a voluntary target. Judge our two per cent against the world average of 7.4 per cent. Judge our two per cent against Denmark on 20.3 per cent; Greece on 11.5 per cent; Sweden on 10.9 per cent; Finland, Ireland and Spain all on 10 per cent; the United Kingdom, Italy and the Netherlands on nine per cent; the European Union overall on 8.2 per cent; Germany on eight per cent; Portugal on seven per cent; France and Belgium on six per cent; Austria on five per cent; and the United States on four per cent. Australia’s two per cent is not a very laudable target.

In a solar powered country, the country which ought to be taking the lead worldwide, the country which has the best technology in solar power, this target looks very miserable indeed. We are now only a couple of months away from the next round of negotiations under the climate change convention, known as COP6, coming up in The Hague in mid-November. The Howard government is not in a very strong position to resist positive amendments now. In fact, it should welcome them. It will not do the government or Australia much harm at all to support the amendments, but it will do a lot of harm if we resist or pass up this opportunity and find ourselves in this position at The Hague in November, where there is going to be huge pressure on the international community to take note of the rising worldwide alarm about global warming.

Australia was supposed to keep greenhouse gas emissions at a maximum of 108 per cent of 1990 levels by the year 2010. They have already passed 118 per cent of 1990 levels under this government, with its lack of legislation and its lack of control when it comes to the market forces and the big players. Clearing of native vegetation in Queensland is at 400,000 hectares per annum, and that is probably a conservative estimate this year. There are predictions that it will be as high as 600,000 hectares per annum—a prodigious creation of greenhouse gases and contribution to global warming. In our home state of Tasmania, Acting Deputy President Sherry, this year more than 20,000 hectares of forest lands will be cut, including some of the biggest carbon banks in the Southern Hemisphere. They will be logged and burnt, with enormous amounts of global warming gases produced but with no-one in authority taking note, being able to adequately account for it or doing anything to ameliorate it. There are massive subsidies in Australia to diesel and petrol consumption, not least through the GST package.

There has been a failure to implement the one tangible commitment at the Kyoto meeting three years ago—namely, the additional two per cent promised for renewables—and this legislation does not do that. The Renewable Energy (Electricity) Bill 2000 and the Renewable Energy (Electricity) (Charge) Bill 2000 commit to a level of two per cent of production at the time of the Kyoto meeting, which will not be two per cent of production when we get to the year 2010. I commend my second reading amendment to the Senate, I look forward to the debate and I look forward to gaining sup-
port for some or all of the Greens amendments as Australia faces a critical situation in its obligations to the world community, to future generations and to the wellbeing of environments around the planet—not least the Australian environments, which we should be passing on to future generations robust and healthy, not treating them as tradeable matter for negotiation as this legislation does and as the ideology of the government would have it.

Senator MURPHY (Tasmania) (5.32 p.m.)—As I rise to speak to the Renewable Energy (Electricity) Bill 2000 and the Renewable Energy (Electricity) (Charge) Bill 2000, it is pertinent to look at how we arrived at this point. In November 1997, the Prime Minister released Safeguarding the future: Australia’s response to climate change, which foreshadowed a legal requirement for electricity retailers and other large electricity buyers to source an additional two per cent of their electricity purchase from renewable or specified waste product energy sources by 2010. This was a major component of the announcement. These particular bills are part of a range of measures which the government has said it will implement to meet its commitment under the Kyoto protocol. Under this protocol, which has not yet been ratified, Australia is potentially committed to a target for national greenhouse gas emissions of eight per cent above 1990 levels by 2008-12. This represents a 30 per cent reduction of the current ‘business as usual’ projections of greenhouse gas emissions for this period.

Electricity generation is the largest contributor to this country’s greenhouse gas emissions at 35.4 per cent of total emissions. ABARE predictions are that Australia’s electricity consumption will grow by 1.7 per cent per year for the next 15 years, so curbing greenhouse gas emissions in this industry is crucial. With this in mind, the legislation proposes a two per cent mandatory target for the uptake of renewable energy in power supplies. On 20 November 1997, the Prime Minister said:

Targets will be set for the inclusion of renewable energy in electricity generation by the year 2010. Electricity retailers and other large electricity buyers will be legally required to source an additional 2% of their electricity from renewable or specified waste-product energy sources by 2010 (including through direct investment in alternative renewable energy sources such as solar water heaters). This will accelerate the uptake of renewable energy in grid-based power applications and provide an ongoing base for commercially competitive renewable energy. The program will also contribute to the development of internationally competitive industries which could participate effectively in the burgeoning Asian energy market.

The bills provide a legislative framework to achieve that pledge in part. Electricity buyers will have to source two per cent of their electricity requirements from solar, wind, wave, biomass or hydro energy. The policy intention of the bills is to enable Australia to keep to its as yet unratified commitment to reduce the emission of greenhouses gases by encouraging electricity generation from renewable energy sources. The measure will push the current level of renewable energy used in electricity generation from 10.7 per cent to 12.7 per cent by 2010 and will hopefully result in a substantial new investment in this sector. In order to provide industry certainty, a fixed requirement for renewable energy is proposed to be established by these bills. An additional 9,500 gigawatt hours per year of electricity is required to be generated by eligible renewable sources by 2010.

The specific measures of the bill establish a requirement for wholesale purchasers of electricity—liable entities—to purchase additional renewable energy, substantiated through holding renewable energy certificates. Further, it requires a regulatory framework for the creation of and trading in these renewable energy certificates. These certificates can reduce or avoid the charge that a liable entity must pay. A renewable energy regulator will be established to oversee the scheme, and liable entities will be required to record and report to the regulator liabilities incurred under the legislation and must deal through the regulator when using certificates. The measures establish the authority for some details in the bill to be prescribed by regulation. I would like to say at this stage that, although Labor will be supporting the bill, there are a number of areas that we have...
concerns with, in particular the issue of the linear targets.

The timetable for interim targets was set on a basis of starting from the 1997 baseline in a linear approach. However, evidence given to the Senate inquiry by a number of witnesses, including Hydro Tasmania, Pacific Power and the Renewable Energy Generators Association, said that these targets, identified by the Redding report, are too low. These industry bodies also make the point that a significant amount of investment has already occurred in anticipation of the renewable energy target. The current capacity of existing renewable generators and those under construction already exceeds the interim targets for the first few years. The initial target for 2001 is set at 400 gigawatt hours. This means that, in that year, only 400 gigawatt hours will qualify for a renewable energy premium. This is well below the projected level.

According to the New South Wales Sustainable Energy Development Authority, 694 gigawatt hours per annum of renewable energy generation is already operational, and generators for an additional 93 gigawatt hours are currently under construction. This means that at the beginning of 2001 at least 788 gigawatt hours will be generated and, at the end of 2001, the figure will be double that. Because liable parties are able to bank certificates and use them in subsequent years, this could mean that new generation capacity may not be necessary for several years. REGA expressed the view that an accelerated linear target should be 950 gigawatt hours in the first year. The higher targets recommended by REGA would create the market forces needed to establish more development. REGA considers that these higher targets are vital to ensure that the start-up momentum is properly harnessed for continued and steady development of all aspects of renewable energy generation. Higher targets would, for example, guarantee a growing wind industry.

That is something that is very important to our state, Mr Acting Deputy President Sherry. At the moment we have a proposal for a wind farm to be developed on the north-west coast. If we are able to get Basslink across Bass Strait at a much quicker pace than is currently the case, the wind generation could be an even more valuable asset to Tasmania than it already is. I just hope that this bill and the government’s action in the future—that is, at the federal level—will assist that process. I also hope that the state government will continue to work diligently to get Basslink across Bass Strait so that we can actually step up the pace of wind generation in Tasmania. There is a real opportunity for us to lock in an arrangement with a Scandinavian company whereby we could actually manufacture the wind turbines in Tasmania. That would be a very significant industry for us and one that would be very important to the north-west coast, where the employment situation leaves something to be desired.

That is why, as REGA has said, higher early targets are so important. It was argued by REGA and by other people giving evidence to the committee that they could achieve the targets in the early years at a much quicker rate without there being any additional cost to Australian industry per se. I have a view that the 9,500 gigawatt hours simply should not be a fixed figure to be achieved by 2010. If we can achieve a much greater level of renewable energy and put it into the grid at no additional cost to Australian industry—as I understand it, that was one of the reasons we set a target—and if the evidence given to the Senate inquiry is correct and they can achieve a much greater outcome at a much faster rate, we should proceed down the path. We should not lock ourselves into a proposition where one can be played off against the other. That is, if there is an amount of renewable energy already in the grid, if it is going to have the effect of slowing down the growth of that particular aspect of electricity provision, we should seriously look at that and take the steps, as the government should, to ensure that is not going to be the case.

Digressing for a minute, I was lucky enough to visit some of the CSIRO facilities, particularly at Lucas Heights, and some other facilities in New South Wales, where they are doing some remarkable work, which probably goes unnoticed in the main, with respect to cleaning up the coal fired thermal generation industry. That is, they are making it
cleaner to burn coal to generate thermal power. The work they are doing is really fantastic, but it is not enough. At the end of the day, we have to accept that this country has to confront its obligations internationally in terms of greenhouse gas emissions. We have to take the steps and commit ourselves to them. I found it interesting that some of the CSIRO people said that, despite the fact that we have to get down to eight per cent above the 1990 levels of greenhouse gas, we are currently running at about 16 per cent above them and going up. It was their considered view that even the steps contained in this bill will not have any impact on that problem.

I think that is something the government ought to take heed of. If we are to achieve the commitments that we gave under the Kyoto agreement, we really have to take some serious steps. We really have to probably spend some serious money here, otherwise the government and Australia are not going to achieve those targets. It is very interesting to note that as a country—particularly in the north of the country, where solar power and solar hot water could be such a significant contributor to the reduction in the cost of power and power use per se—there is very limited application. Again it is something I think the government has to seriously take notice of. Organisations like the CSIRO have made such significant contributions in this area. When I was in Newcastle it was interesting to hear from the Newcastle City Council people about the steps that they have taken in this area alone. They targeted a certain number of local government buildings and have had significant success in reducing overall energy use—in some buildings by in excess of 50 per cent. These are all very important contributions and they are something that the government must seriously consider.

Another problem with the legislation is that too much is left to regulation. The setting of eligible renewable power baselines for existing renewables and the definition of ‘eligible renewable energy sources’ are left to subordinate legislation. Without definite baselines, no production from existing assets would ever be eligible for renewable energy certificates. The assets are expensive to maintain and are getting old, so economic decisions may be made to start taking some of them out of service. Of course that also has application in my state in terms of some of the old power stations. If we were to set baselines, then it would become more attractive for some of those older operations to be kept in service and actually upgraded. The money that they can earn from the certificates they will get will help pay for the upgrade and maintenance work they need.

It is important to have a baseline based on an average of production from a power station to even out the climatic and other variabilities that affect annual production. Without this averaging, some baselines may be too tight and, as I said, thus make the upgrade of older power stations financially unattractive because few certificates could be earned. Hydro Tasmania and REGA have said that there is a need for the eligible renewable power baselines to be defined in the legislation to provide certainty, as I said, for expansion of output from existing assets. This would keep those operations running and make sure that they make an ongoing contribution to the overall renewable energy contribution.

The other aspect where there is some concern with this bill relates to the penalty for people not achieving their requirement of two per cent. The penalty obviously underpins the success of the measure and, again according to REGA, the charge defines the maximum value of renewable energy certificates—that is, they can be cheaper than the charge, which in turn determines the level of investment in the renewable energy industry. In other words, liable parties will never pay more than $40 per megawatt hour for certificates if the penalty is not indexed to CPI. Instead they will pay the penalty. Effectively the value of the penalty puts a ceiling on the value of the certificates. New renewable energy developments will therefore receive up to $40 for each megawatt hour of energy produced from the sale of certificates. They will also receive an income of the order of $30 per megawatt hour from the sale of electricity, making a total of $70 per megawatt hour. To be viable, renewable energy projects
have to generate electricity economically for this total income.

In the committee’s hearings Mr Willis from Hydro Tasmania raised concerns that, because the wind power industry has now developed to such an extent that large-scale wind developments could be economically viable given the additional $40 per megawatt hour of income generated from the sale of certificates, an oversupply of these certificates in the hands of renewable generators in the early years would mean that the sale price would be lower than $40 per megawatt hour. So they would not generate enough income to fund the development of the wind manufacturing industry. Pacific Hydro elucidated this problem clearly in correspondence recently received when they said that the renewable energy shortfall charge of $40 per megawatt hour should be indexed to the CPI. In general, that should be the case. In fact it is probably the view of the CSIRO that it should even be much higher at the outset.

As I said, we are going to need some very serious commitment. We are probably going to have to spend some serious money if we are ever to achieve the commitments that we made at Kyoto. If we do not, I think we are failing ourselves and future generations of Australians, because it is a very significant problem. It is a global problem that we as a country have to make a contribution to solving, and we should do so. I hope that the government will consider very seriously the requirements they have set down and that they will take notice of the people who, I have to say, would have very significant expertise in these areas. I think there should be no setting of 9,500 gigawatt hours for the period. If we can change the pace at which we get renewable energy into the grid, then we should do that. At the end of the day, we might find that we are going to have to do that, even at a little more cost to the general public of this country.

**Senator O’BRIEN (Tasmania) (5.52 p.m.)**—I rise to speak in this debate about the Renewable Energy (Electricity) Bill 2000 and the Renewable Energy (Electricity) (Charge) Bill 2000. I want to at the outset outline the situation of power generation in the state that I represent, the state of Tasmania, because nothing could illustrate better for the Senate an approach of power generation by renewable source than to set out the actual generating capacity and distribution of it in Tasmania. Apart from the Bell Bay oil fired power generation facility, which currently is not being used, and the Bass Strait islands diesel powered generation facility, the main publicly owned power generation system is entirely powered by water—that is, it is a hydro-electric power generation scheme. The publicly owned scheme—the old Hydro Electric Corporation scheme, which has a history dating back to 1914—has a long-term average power output of 1,180 megawatts. That is not the capacity of the scheme. In fact, the installed generating capacity of the Tasmanian power scheme is 2,509 megawatts. But providing for variation of flow through the various schemes, the closure of hydro systems for maintenance and the obvious problem of lack of availability of water during droughts means that capacity over and above the actual need must exist, and that is the essence of the hydro scheme.

There are figures which have been published by the hydro which indicate that within that scheme the Pieman-Anthony scheme is responsible for 19.9 per cent of that long-term average power output, the Mersey Forth scheme for 15.8 per cent, the King and Lake Margaret schemes for 5.7 per cent, the Great Lake-South Esk scheme for 16.9 per cent, the Gordon scheme for 13.6 per cent, the Derwent scheme for 26.6 per cent, and the Bell Bay oil and Bass Strait diesel schemes combined for 1.5 per cent. In other words, if you are looking at the publicly owned power generation scheme which is responsible for the overwhelming majority of power generated in the state of Tasmania, 98.5 per cent is generated by a renewable energy resource.

Within that scheme there are 27 power generating stations involving damming of waterways at various points. Each of those schemes has been developed in different time frames. The earliest scheme, the Lake Margaret scheme, commenced generation in 1914, and the last of the schemes, the Tribute scheme, was commissioned in 1994. So in an 80-year period the state has built up what
must be, in the current world environment, an enviable position with regard to the generation of the power needs of the state through almost entirely renewable resources.

If Tasmania is able to bring natural gas onshore, then it is clear that it is the intention of the Hydro Electric Corporation to sell the Bell Bay oil powered facility on the basis that it will become a gas powered, and therefore less polluting and more environmentally acceptable, scheme. In any case, that scheme has not operated since the early eighties. I understand that a large quantity of fuel oil, bunker oil—purchased at 1980 prices—is stored there and has not been used. So the authority has in fact a marketable asset in a commodity which appears to be getting dearer by the day, much to the government’s chagrin.

I say all of that because we are talking about a piece of legislation that requires the power generating authorities—the states, particularly—to achieve efficiencies in the generation of power through attaining a benchmark improvement in power generation attributable to renewable energy sources. I will not deal in depth with what the targets are—other senators before me have done that—but the irony for me is the benchmark date is 1997 against which those improvements will be judged for states. I have just set out before the Senate the basis of a power generation scheme for the hydro developed between 1914 and 1994, entirely prior to the benchmark date, 98.5 per cent of which is renewable energy. None of that development is considered relevant for the purposes of assessing the state’s contribution to the development of renewable energy.

The states of New South Wales and Victoria might have similar comments to make about that proportion of their power generation needs that comes from the Snowy scheme, and there may be other examples. But it seems to me that, in the interests of arriving at an agreed target or benchmark date, the variations in what I will call the ‘base data’ for Australian states in terms of their existing contribution to power generation through renewable energy sources have been ignored. I see that as a fundamental weakness in the legislation now before the Senate, and it certainly is a weakness which puts the state of Tasmania in particular, and other states to a lesser degree, at a disadvantage in terms of existing contributions to power generation by way of renewable energy.

I should say here that the Greens are developing an argument, and we heard part of it from Senator Brown today, that somehow hydro-electric schemes are not acceptable renewable energy sources. I suppose that is understandable: Senator Brown was one of a number of people campaigning to drain Lake Pedder. That was a campaign which was intended to see the demolition, if I can put it that way, of the Pedder dam in Central Tasmania, with the aim of Lake Pedder being returned to its original glory. I am not sure how many decades it would have taken. Some people say it would have taken centuries; some people said that it might never happen. Certainly Professor Nigel Forteath was at pains to point out that draining the dam would have drowned most of the platypus colonies in rivers flowing into the Huon region in southern Tasmania. Unfortunately, that led to much harassment from the Greens supporters of Senator Brown. I understand that Professor Forteath and his family were bombarded with abusive telephone calls from those people who thought that his intervention in that debate was not helpful to their calls to have the Pedder dam torn down and Lake Pedder restored. And unfortunately the Greens did not, out of that, get the high-con election issues they needed for the last state election in Tasmania. But perhaps I digress.

The reality is that these systems, which have the capacity to generate well over 2,000 megawatts of power, are a form of renewable energy. They are long-term assets and, thankfully, they are still owned by the people of Tasmania. They contribute an energy source which will, for the foreseeable future, provide Tasmania with a clean, renewable power source.

It is, I think, fair to say that the difficulty with this legislation is that the benchmark comes in at a fixed date in 1997 for all players and is inequitable, as I outlined earlier. But it is also one which can be attained in a number of states by minor technological ad-
vances available in areas from coal-fired—black and brown—power stations to hydroelectric schemes by improvements in the equipment used, particularly in some of the older power schemes in Tasmania. So, without a great deal of investment, the benchmarks can be achieved on an ongoing basis. But it should be noted that the HEC in Tasmania is looking at what has already commenced on King Island with the generation of power with wind turbines. I understand that wind is now the source of 20 per cent of the electricity generated on King Island by the Hydro, and that as a result emissions of carbon dioxide have been reduced by up to 2,000 tonnes a year on the pre-1998 figures. In addition, the Hydro saves hundreds of thousands of dollars each year in diesel fuel costs for the island’s thermal power station—that is with the emerging technology. What the Hydro believes has been demonstrated by the three turbines on King Island is that conventional wind and thermal generation technology can be used together efficiently and that advanced control systems can manage those two systems—a wind farm on the one hand and, in the case of King Island, diesel powered thermal generation stations—so that the benefits to the environment can be maximised, the use of diesel fuel can be minimised and, at the same time, the community on King Island can receive a reliable and high quality electricity supply.

The intention of the Hydro is to expand the use of wind turbines, and I think that that is going to be another wonderful development in power generation for the state of Tasmania. If you look at Tasmania, sitting as it does in the roaring forties, what is more natural than to use the wind coming across the Great Southern Ocean, not having touched land since it left South Africa? It is some of the cleanest air in the world. But, importantly, it is a reliable wind source, generating a significant amount of power which will factor in to the grid that serves Tasmania.

I guess this is where the Basslink proposal, which Senator Murphy touched on in his contribution earlier, will become extremely important. There is no doubt that the power generation system in Victoria will be inadequate for the needs of Victoria, particularly at peak power need times, into the future. It may be that alternative power generation methods will be developed which can assist in the provision of power at the critical times, although one would have to say that they are unlikely to be developed to the extent necessary to deal with the expected shortfall.

Victoria will be reliant on power supply from other sources from the national grid in the short to medium term to deal with the problems of high peak demand, and it appears that Tasmania will be in a position to assist Victoria through the Basslink system. What is proposed is to utilise at a touch—if I can put it that way—the availability of hydro power to build into the peaks of the Victorian system, where the Tasmanian system can be shut off and turned on with very short notice and additional power generated without a lead period such as is required with a thermal power station. That is a facility that will allow the Tasmanian hydro scheme to pump up to 480 megawatts through the proposed Basslink scheme into the state of Victoria during peak periods. At the same time, it will also enable the Tasmanian system, in the off-peak periods when the Victorian thermal power plants have additional capacity, to be in a position of closing down the hydro scheme and buying the cheap thermal power back—I think it is expected to be up to 300 megawatts during offpeak times when power is cheaper. That might sound perverse, but the fact is that the hydro schemes are very responsive and additional power can be generated quickly, and the system can be turned down, if I can put it that way, on short notice. That is not the case with the thermal power scheme, which builds up to a head of steam. To go from nothing to full power can take quite some time, and to turn down the scheme, as it were—that is, to withdraw the inputs and stop the generation—also takes some time. That is something which can assist the state of Victoria.

There are some problems with the proposal. I am hopeful that the Basslink consortium that is putting together the proposal and having discussions with residents in the eastern coastline of Victoria can come to agreement so that that proposition can get off the
ground in 2002. That will assist the state of Tasmania not only to meet its obligations under this legislation but also to assist the state of Victoria with what will be a challenge for it over the next five to 10 years—and perhaps longer. The problem that Victoria faces is not easily solved, and it is not likely to be solved in the short term by additional thermal power generation. The opposition has some concerns that this bill does not go far enough, and I have set out my concerns that the benchmark date in 1997 applying to all states applies inequitably.

Senator ALLISON (Victoria) (6.12 p.m.)—The Renewable Energy (Electricity) Bill 2000 comes from the Prime Minister’s commitment back in 1997 to see that an additional two per cent of electricity should be sourced from renewables. In fact, that two per cent has been converted into 9,500 gigawatt hours which, by the year 2010, may well be something less than two per cent if estimates of our growth in electricity consumption are accurate. The Democrats would have liked to have seen this at a higher figure, and I have no doubt, based on the evidence that came before the Senate Environment, Communications, Information Technology and the Arts References Committee when it inquired into this bill, that 10 per cent would be achievable. In fact, Australia has some of the best wind and solar energy resources in the whole world.

The bill has enormous potential to assist Australia to lead the way in developing a renewables energy industry in this country. There is export potential to Asia, our first-rate scientists and researchers in this field could be provided with the investment that is needed to commercialise a renewables energy industry and Australia could lift its head above the ‘dig it up and ship it out’ mentality that has characterised our export profile in this country. The renewables energy sector could well be a winner.

Australia is hardly foolhardy or alone in embarking on the renewables road. According to the New South Wales government, the renewables energy industry in that state alone was worth between $2.2 billion and $3.3 billion in 1998 and was expected to reach $4.9 billion in 1999. Demand for products and services was growing at 25 per cent, outstripping both the tourism and the IT sectors. Moreover, the Prime Minister’s Science, Engineering and Innovation Council found that new market opportunities in Australia for the renewables industry ranged from an estimate of $2 billion to $4 billion by 2010.

I can think of some states in particular which will be big winners in this. Tasmania has very good wind resources on its north-west coast. Victoria too has the advantage of brilliant wind conditions on its south-west coast. But it is obvious that there could be many other winners from this legislation. Dealing with Australia’s commitments at Kyoto is the most obvious. The last inventory showed that Australia had increased its greenhouse emissions to 116.9 per cent of 1990 levels, and that is twice as much as we are allowed to emit by the year 2010. Of course, stationary energy is a major culprit in that blow-out.

Unfortunately, the potential for this to be a very good bill for the environment and for our greenhouse abatement has been lost by a number of its provisions. Every time Australians turn on the TV, switch on a light or use a washing machine, they are likely to be contributing to the destruction of our native forests. The most disappointing aspect of this bill, in our view, is the eligibility of wood products from native forests to be sources of renewables, part of the two per cent. Coal fired power stations can tip unlimited quantities of wood chips into their burners, and this qualifies as achieving the two per cent. No infrastructure would be required under those circumstances. There would be no reason to invest in wind turbines or solar collectors. This simple measure will be easy and, depending on supply and demand and on how low the commodity price of woodchips goes, it may also be a cheap option.

The Democrats have long argued that our RFA process is flawed and unsustainable, that we should no longer be clear fell logging our native forests and that we should tap plantation timber and preserve the little biodiversity we have remaining in our forests in this country. Using native forests was to be expected from the coalition, which has shown little regard for our native forests, but the
ALP has also announced that it will support the use of native forests in this way. We have had from the ALP a lot of noise about the deficiencies in the bill but, as we have come to expect, when it comes to the line it is not prepared to be green when it matters. No doubt the CFMEU has won the argument within the party ranks, and the 80 per cent or so of people out there who think there should be an end to the destruction of so much of our native forests will be disappointed in the ALP.

It is bad enough that these timbers are being exported from our country, with virtually no value adding, to make paper in Japan and elsewhere, but now there is an added incentive to simply burn up that material. Unfortunately, the bill does not discriminate against burning a material which will, in fact, release more CO₂ and other undesirable gases into the atmosphere than, say, wind energy.

There are other serious flaws in the bill as well. The naming of the penalty as a charge could allow this charge to be tax deductible, making it unlikely that electricity utilities would want to comply with the law. They could instead opt to pay the charge. In any case, the charge is set at such a low rate that there is a real chance that many utilities will simply go down the path of opting for the charge rather than complying. In fact, the rate of $40 per megawatt hour will effectively set the price of the certificates—which are to be traded, of course, for the renewables—and at this rate wind energy may be the only viable, real renewable energy source, and then only the windier sites are likely to be taken up.

We will move amendments to make it clear that this is a penalty not a charge. We will also move to increase that penalty to $60 a megawatt hour. If certificates are valued at around that price, it would mean that many more options could be taken up and we would see a truly diversified renewables industry. If that amendment fails—and we understand the ALP will not even support this measure—we will move to make the penalty CPI indexed. Otherwise, by the year 2010, the penalty will be worth a fraction of its value today and, again, will not act as an incentive to comply.

Another serious deficiency in the bill is the slow take-up rate. The vast majority of the witnesses to the inquiry into this bill said that this would have serious consequences for the truly renewable industries. We will be moving to a straight line uptake of 950 gigawatt hours a year, and this is quite easily achievable. Without it, we think there will simply not be sufficient demand to see an indigenous renewable industry established in this country. I would have thought that the government—and the ALP, for that matter—would be very interested in the potential for regions to benefit economically from the early uptake of particularly wind and solar energy. The few wind turbines that have been installed in this country have largely come assembled from Denmark and the US. Turbine manufacturers like Vestas in Denmark are keen to manufacture in this country, but they can only do so if there is an early uptake and substantial early orders. This delayed uptake is bad enough, but utilities are also able to effectively delay the take-up of the annual target. They can pay the penalty for three years and then make up the shortfall at the end of that period, and they get 100 per cent of their penalty paid back to them. Those two provisions together mean that we would see very little action in the first few years of the operation of this legislation.

We will be moving to fix this problem. It is our view that the three years should be brought back to one year, assuming that electricity utilities, in spite of their best efforts, are not able to source that energy. There is reason to allow some flexibility, but we think bringing that measure back to one year and discounting the payment which is returned to the retailers—the refund, if you like—by 50 per cent would be fair and would take into account any possible difficulties that might be experienced by utilities.

There is great uncertainty about the outcome of this legislation in terms of the way the electricity sector will deal with the two per cent requirement. Many witnesses urged that there should be a portfolio approach whereby there would be a guarantee of, say, 30 per cent to be sourced from wind, a similar amount from solar and so on. The committee considered this carefully, and the
Democrats too have looked at how this might work, and concluded that picking winners in this way would have its dangers. The Wind Energy Association warned against proceeding down this path. We would be extremely concerned if the outcome was that biomass, including materials from native forests, made up the bulk of the source of renewables. We will be moving amendments to put in place a review, and we would strongly urge the government to act if wind energy, in particular, does not make up a very substantial portion of the sources of renewables. The committee recommendation states:

The Committee recognises that the penalty may not be adequate to encourage liable entities to purchase renewable energy certificates rather than pay the penalty and/or it may not deliver a diverse range of technologies, and recommends that the Government consider increasing the penalty. Failing that, the Committee recommends that the behaviour of wholesalers be closely monitored to assess whether they are choosing to pay the charge in lieu of buying available certificates (ie for which generation capacity exists). Should this be the case, the level of charge should be increased to a level at which higher cost renewables, such as wind, will be competitive.

That review should look at a mix of technologies and, in particular, make sure that we develop robust industries in the real renewables. We would like to see a number of other changes, but it is clear that the support is not going to be there or that this is difficult to do in the legislation before us. The question of utilities double dipping in greenhouse schemes has not been resolved. I would expect it not to be in the interests of the utilities currently offering Greenpower to be able to also claim this as part of their two per cent, but there does need to be some discussion with the states and the utilities to make sure that this does not happen.

The Democrats think it is imperative that the government commences discussion with the states as soon as possible to develop uniform national codes governing interconnections to power grids and uniform arrangements for net metering which would guarantee a fair price for independent generators. This is especially important for cogeneration, which has suffered a decline in support ever since deregulation and reducing electricity costs and the so-called reform of the electricity sector. It is also important that those with PV systems on their rooftops and people who might club together, for instance, to invest in a wind turbine are able to sell their electricity on to the grid. The legislation, as it stands, will hopefully encourage the big utilities to set up their own renewable energy arms, but there is no present requirement for them to take on electricity generated by others. We think that is a deficiency in the bill—not one that can be easily resolved but a deficiency nonetheless and something that the states and the federal government ought to be discussing.

We think the renewable sources should be identified in the bill, excluding native forests of course. At present the Australian Greenhouse Office fact sheet identifies solar, wind, ocean wave and tidal, hydro, geothermal, biofuels, specified wastes from agricultural crops but not land clearing from agriculture, forest waste, sewage biomass, municipal waste, solar water heating, pump storage hydro, RAPS systems, cofiring renewables with fossil fuels and fuel cells using renewable fuel. We think there needs to be much more work done on identifying these sources because they are not all equal in terms of their greenhouse gas or even economic advantage properties. We would not support, as industry wanted, any move to make confidential the records of which companies are not complying. We think the principle of naming and shaming is a good one. In fact, I would encourage consumers to ask their electricity retailers where their two per cent renewables are coming from and to actively lobby them not to source those renewables from native forests.

At this stage we would like the government to see that there are greater incentives for the more expensive renewable energy sources to be picked up. There is considerable room for innovation, and CRCs and CSIRO are breaking new ground all the time in many areas which need support so that they can take advantage of commercial opportunities. We also encourage industry, particularly the energy intensive industries, to get behind this measure. It needs to be recognised that our coal fired power industry was
paid for by public investment. For instance, aluminium smelting has benefited enormously from cheap power in this country. Government subsidies for our electricity industry—coal fired mostly—amount to about $40 billion since the 1950s. So we think it is not unreasonable that the very small amount of assistance provided by this bill should be supported. Even the most exaggerated estimate of what this measure will cost industry—around $300 million—is very small beer in terms of the total reduction in electricity costs in this country over the last 10 years or so. I would like to see industry get behind this move and not attempt to avoid the measure by paying the penalty. It is very important that we all pull together on this issue.

The Democrats hope the government and the opposition will agree to what we think are important amendments that we will be moving. We think those amendments to this legislation would be in the interests of delivering the spirit and the promise that was given to us by the Prime Minister three years ago.

Sitting suspended from 6.28 p.m. to 7.30 p.m.

Senator McLUCAS (Queensland) (7.30 p.m.)—I rise to join the debate on the Renewable Energy (Electricity) Bill 2000 and the Renewable Energy (Electricity) (Charge) Bill 2000. These bills are the legislative structures intended to deliver an increased use of renewable energy. The legislation was foreshadowed, as we have heard, in 1997 in the Prime Minister’s statement Safeguarding the future: Australia’s response to climate change. We have also heard that the legislation requires electricity retailers and other large electricity purchasers to source an additional two per cent of their electricity from renewable sources by 2010.

These bills, I believe, are an attempt by the government to start to address our potential obligations under the Kyoto protocol to the Framework Convention on Climate Change. This protocol commits Australia to constraining growth in greenhouse gas emissions to an increase of eight per cent above that emitted in 1990. As electricity generation is by far the largest contributor to greenhouse gas emissions, contributing some 37 per cent and growing, it is important to recognise that this legislation is an attempt—some would say the first positive attempt—to address the issue of global warming by this government. It is important, though, to note that this legislation is structured with a focus on industry development, rather than to directly achieve short-term, least-cost greenhouse gas emission reduction. The important question that needs to be addressed is: will this legislation in fact deliver a lowering of the level of greenhouse emissions by the electricity generation sector?

The Senate referred these bills to the Environment, Communications, Information Technology and the Arts References Committee for its assessment. The process of that inquiry and the broader community debate raised some very significant issues that unfortunately the government has not taken the opportunity to address in the legislation. It is clear to me that this legislation has to be viewed as a first step towards developing a viable and innovative renewable energy industry, with the eventual consequence of reducing our greenhouse emissions to an internationally responsible level. One of the issues raised by the inquiry was the lack of a clear definition of renewable energy in the legislation. There was some initial discussion of the inclusion of fossil fuel derived waste products, including waste coalmine gas, and it is important to note that this source has been ruled out by the government.

However, the issue of the use of woodchips, especially from non-plantation forests, has raised considerable concern. There has been a wide-ranging discussion of the appropriateness of the burning of woodchips as a form of renewable energy, and the lack of a clear definition does not assist in this debate. The debate goes something like this: the process of logging produces wood waste—offcuts, tree roots, bark, et cetera. It is wasteful not to use that waste productively. Thus it is practical and sensible to burn that wood waste and generate electricity. On the face of it, that argument seems pretty logical and defendable. However, it is also simplistic. The allowing of wood waste to be described as a renewable source of energy will encourage and develop an industry based on generation of energy from that resource. It is clear that there will be significant
clear that there will be significant constraints on the future use of wood from all areas, including RFA areas. To encourage and to develop another industry based on this tenuous resource is basically bad planning, and planning for conflict in the future. It is important to note, however, that the New South Wales government’s Greenpower program does not include power generated from woodchips from non-plantation forests. The definition of renewable sources should be determined not solely on greenhouse considerations but also on other environmental impact considerations.

The second issue I turn to is the level of the penalty. The legislation is structured to mandate electricity retailers to purchase at least two per cent of their energy requirements by 2010 from renewable resources. The measure then would be phased in over 10 years, with annual established interim targets. The measure provides the creation of tradeable renewable energy certificates. Energy retailers who do not comply with the interim targets will attract a penalty, currently called a shortfall charge. This shortfall charge, set at $40 per megawatt hour in the legislation, was of concern to many who gave evidence to the Senate committee. Initial modelling by the Australian Greenhouse Office suggested that a penalty of $100 per megawatt hour was an appropriate level. It would deter non-compliance, but it was not so high as to force unreasonable costs on electricity providers. A range of witnesses, including energy generators and the conservation sector, supported that level. Of concern to me was the contribution from Stanwell Corporation. They said:

The sort of research that we are getting from the retail market at this stage seems to indicate—and we obviously interact with all the retailers throughout the national electricity market—that at a $40 price there does seem to be some willingness of parties to prefer to pay the penalty than actually go out and absorb marginal technologies. That is at chief trader level; whether a board of directors can tolerate that I cannot guarantee. But certainly at the chief trader level, based on the pure economics, the charge is looking pretty good at this stage. That, to me, indicates that the policy has not got it quite right yet. It is obvious that the mark is being missed, and I think that is enormously important.

In evidence, the Stanwell Corporation suggested to the committee that the realistic level of penalty should be in the vicinity of $65. It is clear that there will need to be a review of the level of the shortfall charge, and in my mind that will need to happen sooner rather than later. The renewable energy sector will need to be monitored to ascertain whether there is in fact growth or whether electricity purchasers are preferring to pay the charge. There also needs to be close scrutiny of the mix of energy generation that is being encouraged. If the growth is disproportionately in the cogeneration sector, then there will need to be an assessment of the level of the charge with a view to increasing it to provide incentives to the more expensive generation technologies of wind and solar power.

I am also concerned that the level of the charge will not encourage Australian based industry development. It is clear that much of the technology for wind generation is currently being imported from Denmark and that that will not change significantly in the future. Denmark took the opportunity to develop their technology very early and, as a result of that investment, have the best internationally recognised wind generation technology. Australia has missed that boat, but we should not miss the opportunity to develop our growing solar energy industry. We have the chance to build on the investments that have been made in that sector, in order to place ourselves as leader in the solar sector, just as Denmark has done in wind.

I turn now to the issue of indexation of the charge. The committee heard compelling evidence from a range of witnesses urging that the penalty or shortfall charge needs to be indexed to CPI. It is standard practice to index charges so that their value is not eroded over time, and I have not heard any argument that supports not linking the charge to CPI. I hope that the government will take the opportunity to support Labor’s amendment, which will deliver indexation.

There is no clarity in the legislation about the tax deductibility of the shortfall charge. This needs to be made very clear so that there will not be further erosion of the value of that charge. Further, it is simply not sensible to allow legislation to proceed which will be the
subject of potential litigation. The Australian Greenhouse Office has made it very clear that the intention of the policy was that the charge was not to be tax deductible, and Labor’s amendment will clarify its status.

The interim targets that are mandated by the legislation have been designed with smaller renewable energy target levels in the first few years, growing larger in the later years. The argument, according to the government, is that by doing so there is an allowance for start-up time for new generation facilities. While this may seem reasonable, it does not take into account the state of the industry at present. Pacific Power, which is both a major coal based generator and an investor in renewable energy generation, provided evidence to the committee, saying that in 2001 there will be 1,300 gigawatt hours of renewable energy in production, compared with the interim target of some 400 gigawatt hours. According to Pacific Power, there is currently capacity in the renewable energy market to meet targets until the year 2005. The net result of the government’s slow start-up plan will be that the financial incentive will be lost in the next four to five years. There will be little incentive for investment in new technologies, and the opportunity to place ourselves at an advantage internationally will be lost.

For the reasons I have outlined, I am hopeful that the government will support Labor’s amendment for a formal statutory review of the legislation within three years. This will allow for a reassessment of the ability of the legislation to actually deliver its stated objectives. I am concerned that there will not be the take-up in new technologies that the community is desiring. I am concerned that some electricity purchasers will opt to pay the penalty rather than purchase energy from renewable sources and I am concerned that the targets that the government is proposing will not encourage any significant growth in the renewable sector. Renewable energy should not be seen as an obstacle to development but rather an investment opportunity, with resultant new jobs and new export opportunities. Labor’s proposal for a formal statutory review provides the safety net for this legislation.

I turn now to the opportunities that my state of Queensland has taken in developing renewable energy sources. Koombooloomba Dam was originally completed in 1960. The dam and its hydro power plant were constructed by the damming of the Tully River near the small town of Ravenshoe in Far North Queensland. I believe it is a dam that, if proposed today, would not be built. In fact, an extension of the project, the Tully Millstream hydro proposal of the late 1980s and early 1990s, was the subject of opposition by many in the community and the conservation sector. It was a proposal that was big on engineering and small on community benefit. Whilst it was small in its potential community benefit, the proposal had a clear environmental disbenefit. It is interesting to note that the minister for regional services, Senator Macdonald, is still continuing to promote this project in his literature—completely disregarding the lack of community benefit in such a proposal.

However, the Koombooloomba Dam was built in the 1950s and it generates electricity through the Kareeya Power Station at the base of the range near Tully. Stanwell Energy Corporation has taken the opportunity to add value to the existing infrastructure through the construction and commissioning of a mini hydro power plant at the base of the dam. The station generates seven megawatts of power, with no additional environmental impact. As senators may be aware, Ravenshoe was the focus of much of the opposition to the listing of the Wet Tropics on the World Heritage register. It is extremely pleasing to me, as one who was born in that town, to see that it is fast becoming the focus of Greenpower in the north.

As well as the Koombooloomba mini hydro, Ravenshoe is also the home of the Stanwell Corporation’s new wind generation facility at the appropriately named Windy Hill. At the end of construction of some 20 turbines later this year, Windy Hill will generate 20 megawatts of power, saving more than 25,000 tonnes of carbon dioxide emissions. I congratulate the Stanwell Corporation for taking up the challenge of generation through renewable resources. The corporate view has changed from ‘big is better’ to an under-
standing that renewable energy is an opportunity, that it provides a challenge for their engineers and that it is good economic sense to invest in these technologies.

These examples, and the community support that they have generated in my state, should send a clear message to the government: renewable energy is an opportunity, not a threat. It provides the chance for our inventors, our technologists and our manufacturers to build a new industry with fantastic export potential, especially in the growing Asian market. It provides us with the chance to redeem ourselves in the international community, if only by a small amount, in terms of our Kyoto commitments on greenhouse gas emissions. This legislation, as I have said, is a first tenuous step. It will need refining; it needs a broader vision. I urge the government to support Labor’s amendments as a start to that process.

Senator SHERRY (Tasmania) (7.44 p.m.)—The Senate is dealing with two pieces of legislation: the Renewable Energy (Electricity) Bill 2000 together with the Renewable Energy (Electricity) (Charge) Bill 2000. The legislation is intended to implement the government’s promise of 1997 to introduce a mandatory requirement on electricity retailers and large users to source an additional two per cent of their electricity consumption by the year 2010. It is not coincidence that there have been three contributors, including me, from Tasmania. The reason for this is that Tasmania currently has, through its hydro-electricity system, some 50 per cent of Australia’s renewable energy sources, including a very small component of wind power—and I will say more of that later. I would also draw the Senate’s attention to the contribution made by the member for Braddon, Mr Sidebottom, on this issue in the other place.

The specific objectives of the legislation are: firstly, to accelerate by the year 2010 the uptake of renewable energy in grid based applications so as to reduce greenhouse gas emissions; secondly, as part of a broader strategic package, to stimulate renewables, providing an ongoing base for the development of commercially competitive renewable energy; thirdly, to contribute to the development of internationally competitive industries which could participate effectively in the growing Asian energy market. The Renewable Energy (Electricity) Bill 2000 will establish a requirement for wholesale purchasers of electricity to purchase additional renewable energy, substantiated through holding renewable energy certificates; and it will establish a regulatory framework for parties able to create renewable energy certificates for their electricity generation, which may be traded. These are used to avoid or reduce the amount of a charge that liable entities must pay. The bill will establish a renewable energy regulator to oversee the scheme; establish reporting requirements to record and report, to the regulator, liabilities incurred under the legislation and also the surrendering of certificates to meet those liabilities; and establish the authority for some administrative details, definitions and guidelines to be prescribed by regulation. The Renewable Energy (Electricity) (Charge) Bill 2000 sets the level of penalty at $40 per megawatt hour, although the detail of how the shortfall and penalty are calculated is included in the Renewable Energy (Electricity) Bill 2000.

There are some important issues relating to the legislation we are considering. Some concern has been expressed that the measure will result in short-term, high cost emission abatement. However, it is important to note that the objective of this legislation is not to achieve short-term, least cost greenhouse gas emission reductions but rather to foster the development of an Australian renewable energy industry that will be well placed to take advantage of future markets as well as to contribute to emission reductions. The measure has been designed using a tradeable market based instrument for economic efficiency and equity reasons.

The bill does not discriminate between renewable technologies on the basis of their greenhouse intensity, and the measure therefore does not necessarily aim to achieve maximum greenhouse gas emission reductions. There is an argument that there is no guarantee that the costs of the measure will be balanced by a reduction in greenhouse gas emissions. However, the government has estimated significant emission reductions in the
order of 7 MTPA compared to Australia’s Kyoto reduction measure requirements of some 100 MTPA below projected business as usual. The Electricity Supply Association places emission reduction potential at around 10 MT.

The legislation creates a market demand for renewable energy and is expected by the government to result in considerable investment in renewable generation capacity and to have a positive impact on the economics of renewable energy. Despite extensive modelling that has been undertaken, there remain a lot of uncertainties regarding just what technologies and investment will result from this measure. There is a concern that the measure will be dominated by low cost biomass, which is currently the cheapest form of renewable energy. There is also concern that it will not encourage the development of high-tech technologies or the development of manufacturing capacity.

Solar and wind are currently more expensive than biomass and more traditional fossil fuels. It may be cheaper to pay the penalty than to install new solar or wind projects. Given these uncertainties, it will be necessary to review and improve the measure after it has been in operation for a few years and there is a better understanding of what actual outcomes are achieved. The sustainable energy industry has indicated that significant funding is already earmarked for investment in a range of technologies, including significant investment in wind generation capacity—a little more on that later.

There was a strong message from many witnesses to the Senate inquiry that, despite its shortcomings, this legislation represents a good first step in encouraging the renewable energy industry to pass the legislation without delay, and it is important that we do so. Conservation groups are generally supportive of the measure, although they will not support legislation with the inclusion of biomass sourced from non-plantation timber waste—and a little more on that later, as well.

The government has conducted detailed modelling of the potential cost of the measure for consumers. The AGO estimates suggest an additional $250 million in electricity costs by the year 2010, which equates to an increase of between 1.3 per cent and 2.4 per cent of electricity costs at the time. To put that into perspective, frankly that is very small compared with the recent introduction of the GST. The analysis of economic impact suggests that we would forgo 0.06 per cent of gross domestic product in the year 2010 as a result of this measure. In fact, outcomes from this measure have significant potential for investment and employment in rural and regional areas—and this again is an important issue that I will comment on in some detail. The measure must also be supported by a commitment to research, development and commercialisation, to ensure that new technologies also have an opportunity to benefit from the increased demand for renewable generation arising from the bill.

Earlier I touched on the fact that a number of Tasmanian colleagues of mine have spoken in this debate. For my home state of Tasmania, renewable energy products from wind and water are ideally placed to benefit from an emphasis on encouraging and promoting a greater take-up of renewable energy in power supplies, particularly as a result of this legislation. As I said earlier, 50 per cent of the existing renewable energy in Australia comes from Tasmania. In Tasmania, under the proposals of this bill, the Hydro Electric Corporation—fortunately still in public hands—will be eligible to earn one renewable energy certificate, as detailed in part 2 of the bill, for every megawatt hour of new renewable energy generated. For example, energy generated from Tasmanian wind farms would be eligible to earn renewable energy certificates. In addition, existing renewable energy generators, such as the Hydro, will receive RECs, renewable energy certificates, relative to the baseline production level of 1997. Thus, efficiency upgrades of existing machinery or new minihydro schemes would be eligible to earn RECs. In passing, I want to make one important point about the cut-off date of 1997. I think this is a regrettable cut-off date. It effectively locks up the development of Tasmania’s existing renewable energy resources that were developed prior to 1997.
Tasmania’s geographic location is perfect for weather systems that bring both wind and rain to the state, particularly to the west coast of Tasmania, and both can be harnessed to generate electricity. Contrary to some comments by speakers in the other place, it is the west coast of Tasmania that is particularly wet and windy. In fact, at the moment—and this is an important aside—the central midlands of Tasmania is locked in drought. The west coast has significant resources of wind and plentiful rain. Water is becoming an even greater storage cell for wind energy, effectively creating a massive liquid battery. Tasmania currently produces over 50 per cent of Australia’s renewable energy, and nearly 100 per cent of its electricity is from renewable energies. Tasmania is a significant existing generator of renewable energy. We have 27 small to medium sized hydro-electric power stations producing over 50 per cent of Australia’s renewable energy, and nearly 100 per cent of its electricity is from renewable energies. Tasmania currently produces over 50 per cent of Australia’s renewable energy, and nearly 100 per cent of its electricity is from renewable energies. Tasmania is a significant existing generator of renewable energy.

At this point, I would like to commend the representations made by the Hydro from Tasmania. We were visited and given presentations by the current chair, who happens to be a former Liberal Party senator from Tasmania, Mr Rae, and I must commend him for the presentation he gave to Tasmanian legislators about the particularly exciting developments that are occurring in Tasmania. But the bulk of the new generation will most likely come from wind developments. The Hydro Electric Corporation of Tasmania believes that wind development in the state, particularly on the west and north-west coasts, will be a turning point for Tasmania in this century, as hydro development was in the 20th century. The Hydro has already gained valuable experience in developing wind farms on King Island and has plans for extensive new developments on the north-west coast of Tasmania.

In 1998, the Hydro established Tasmania’s first wind farm at Huxley Hill on King Island, which is to the north-west of the Tasmanian mainland. This wind farm has three turbines with a capacity of 750 kilowatts. In its first year of operation, the farm saved the Hydro $400,000 in diesel fuel, reduced CO₂ emissions by 1,900 tonnes and reduced reliance on diesel fuel by about 20 per cent. With the assistance of the Australian Greenhouse Office and its Renewable Energy Commercialisation Program, the Hydro is working on developing an integrated renewable energy system involving a mixture of wind power, minihydro, pump storage, battery and inverter system, demand management and integrated system control. This will be an Australian first.

In February this year, the Hydro presented plans for a west and north-west coast wind farm at historic Woolnorth. This is in the vicinity of Cape Grim, where we currently boast the cleanest air in the world. The plan is for a three-phase project over five to seven years. In all, something like 130- to 150-megawatt production is envisaged. In addition, other sites, including Marrawah on the north-west coast and Granville Harbour on the rugged west coast, are under consideration. The average wind speed at Granville Harbour is 7.6 metres per second at a 30-metre height. On King Island, it is 9.8 metres per second at the same height. I do not know whether anyone has been fortunate enough to visit the beautiful King Island, but it is certainly a windy place. I also understand that Marrawah could produce 350 megawatts and Granville Harbour 140 megawatts of power.

There is great potential in the manufacture of wind technology in Tasmania. This represents an opportunity for new industries in Tasmania in the form of blade manufacture and the manufacture of towers and plant assemblies for wind turbines. In passing, I note that they are currently manufactured in Denmark. In effect, technology transfer can generate jobs, and in Tasmania it is particularly important in the area I come from and in the area where the wind towers would be located on the north-west coast. Several options exist for developing a wind power manufacturing industry in Tasmania. Whatever option is chosen, manufacturing will have the obvious spin-off effects of greater employment, the creation of local industry, a reduction of
equipment costs and an increase in the uptake of wind energy in Australia and in the region.

I note the comments of my Tasmanian Senate colleague Senator Brown, who opposes the burning of native forest and woodland by-products and waste products. He said that 20,000 hectares will be logged and burnt in Tasmania this year. Senator Brown gives an extreme argument on this issue. Whilst it is true that 20,000 hectares will be logged in Tasmania, they will be logged sustainably, and those areas will be regenerated—and not with plantations, in the main. The unfortunate side effect of logging is that there is significant waste. I see no good reason why, in areas where there have been regional forest agreements—RFAs—much of the biomass that is burnt on the forest floor could not be used, at least in part, for renewable energy. Some local manufacturing companies have used it, in part, to replace expensive oil boilers in their manufacturing facilities.

Plantations are not excluded from the provisions of this legislation. Plantations have become particularly controversial in Tasmania in recent times. That is a whole set of other issues. The Green movement, and particularly Senator Brown, have done a major U-turn. Having demanded that we move to plantations in Tasmania and throughout Australia, underpinned by—in part at least—tax subsidies through tax incentives and depreciation incentives, the Green movement now opposes plantations. But I do note that plantation wood product is not excluded from this legislation.

This is important legislation. A number of significant contributions have been made in the debate on the second reading. It is not my intention to repeat the major themes and the underlying importance of the legislation beyond the significance, particularly to my home state of Tasmania, that I have touched on tonight. I would also draw the chamber’s attention to a very incisive contribution from my colleague in the other place Mr Evans, which was an excellent speech and which raised a number of aspects of this issue that were not dealt with in other speeches and were not dealt with in the Senate committee inquiry into this issue. I hope the chamber considers and passes the amendments the Labor Party are proposing. Of particular importance is the indexation of the figures in the legislation. We do index most other figures in legislation.

Senator McGauran—You do?

Senator Sherry—You index the fuel excise against the GST on petrol, Senator McGauran. We know who is to blame for that. But I hate to end on a note of discord. Senator McGauran, you and I do agree on most of the matters before the Senate. It is a pity the National Party dropped the ball recently and failed to represent the interests of people in rural and regional Australia as it should have. I notice you have done something to improve that recently, Senator McGauran, but that is another issue.

Senator Forshaw—Is he resigning?

Senator Sherry—No. It is another issue for another time. I commend the documents produced by the Hydro Electric Commission in Tasmania. Hydro Tasmania has produced very important and detailed documentation concerning the enormous potential of wind power. I look forward to the day when this legislation is passed and wind power takes its rightful place in renewable energy production in this country.

Senator Troeth (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (8.04 p.m.)—I thank all senators for their contribution to the second reading debate of the Renewable Energy (Electricity) Bill 2000 and the Renewable Energy (Electricity) (Charge) Bill 2000, particularly for the positive comments they made about the legislation. I commend the bill to the Senate.

Amendment not agreed to.

Original question resolved in the affirmative.

Bills read a second time.

Ordered that consideration of the bills in committee of the whole be made an order of the day for the next day of sitting.

EXCISE AMENDMENT (COMPLIANCE IMPROVEMENT) BILL 2000

Second Reading

Debate resumed from 22 June, on motion by Senator Boswell:
That this bill be now read a second time.

(Quorum formed)

Senator CONROY (Victoria) (8.08 p.m.)—The Excise Amendment (Compliance Improvement) Bill 2000 enacts a number of measures designed to address tobacco excise avoidance and evasion. To this end, the bill establishes a licensing system for the growing, transporting, trade, manufacture and storage of tobacco. In addition, the bill contains provisions which will require the individual labelling of tobacco bales and also contains provisions dealing with the manufacture and storage of excisable goods generally. The issue of tobacco excise avoidance is one which people have been drawing to the attention of this government for some time. Despite the loss of revenue, the government has been very slow to respond indeed.

My colleague Mr Thomson in the other place said that he received a report in May from Philip Morris, which was sent to the government, detailing the existence of tobacco excise avoidance. However, I understand that manufacturers, with the support of tobacco grower organisations, have made repeated representations to government at all levels, including meetings with federal and state ministers, ministerial advisers and representatives from the ATO and the Australian Customs Service over a number of years. Philip Morris made their representation in May, describing government tobacco policy as being ‘in crisis’, with existing government policy driving the creation of a booming black market in tobacco that operates outside of revenue raising and health policy initiatives. The Philip Morris report said:

Illegal tobacco is available in many tobacconists and independently owned retail outlets ... Those involved in the illegal tobacco trade do not consider themselves subject to the same regulatory controls as legitimate operators. As a result, the unchecked growth of the illegal tobacco market and the unchecked distribution channels it creates threaten Federal, State and Territory policies and initiatives enshrined in the National Tobacco Strategy, such as juvenile smoking prevention campaigns, government mandated controls on “tar”, nicotine and carbon monoxide levels, and the application of health warnings and other mandatory packaging requirements.

They describe the issue as one of significant concern to the Australian tobacco manufacturers. The report said that, despite the large sums involved:

... no new or dedicated resources have been applied to address this growing problem and, if left unchecked, Chop Chop— as it is colloquially known— has the potential to dramatically escalate and become an entrenched problem for government revenue, retailers and the tobacco industry.

This legislation attempts to address these problems. In addition to the features of the bill I mentioned earlier, the bill will also contain provisions which expand the search powers of officers of the ATO. The new powers will allow searches of conveyances at any place without warrant if officers have reasonable grounds to believe that the conveyance holds tobacco leaf or excisable goods.

The bill will also increase the penalty for the unlawful movement or possession of goods where the duty has not been paid. The maximum fine will be set at 500 penalty units, which currently translates to $55,000, or five times the duty payable. In addition to fines, the bill also provides for imprisonment of up to a maximum term of two years. But it must be asked: how much has the government’s lethargy in responding to this issue cost taxpayers? Why has the government taken so long to address this issue that it is now in crisis? First, there is the issue of health. As became clear in the hearings of the Economics Legislation Committee inquiry into this bill, the unregulated sale of chop chop bypasses government health regulations and manufacturing standards. Consequently, sales of illegal tobacco have no health warnings on the packaging and also avoid controls over tar and nicotine levels and other additives. The lethargy of the government is allowing the suppliers of illegal tobacco to avoid the obligations imposed on the retailers of legal tobacco. The economics committee also found that the lack of regulation of the sale of chop chop makes it more readily available to children through mail order outlets or other unregulated channels, making it a significant risk to community health. That is not good government.
Second, there is the loss of government revenue. Submissions made to the Economics Legislation Committee indicated that the costs of the illegal tobacco industry were conservatively estimated as ranging from $400 million to $600 million annually. The report from Philip Morris indicates that chop chop accounts for a volume of anywhere between 1,000 tonnes to 1,200 tonnes per annum. To give that some perspective, the legitimate roll-your-own tobacco market is estimated at 1,400 tonnes per annum. So the illegal market is nearly 70 per cent to 80 per cent of the legitimate roll-your-own market. However, more important, the sale of chop chop translates into a loss of revenue excise of over $300 million annually. That is, $300 million is lost annually because this government has failed to ensure that adequate resources are being applied to this serious problem and because, until now, the government has been reluctant to adopt any serious measures to address the sale of illegal tobacco.

It has been suggested to me that there has been very little checking of cigarettes for export. It has been said that it is too easy to substitute the cigarettes declared exempt from duty with other goods and then to sell the cigarettes into home consumption and not into the export market. This situation has gone unchecked for long enough. It is arguable that the ATO, which took over responsibility for excise from Customs two years ago—and we know they are enjoying that—are overwhelmed with the many problems and complexities in relation to the GST. It is not, of course, the first time this parliament has found that excise is being avoided, and once again this government has failed to respond quickly.

We are to debate shortly the Petroleum Excise Amendment (Measures to Address Evasion) Bill 2000. That bill is aimed at addressing the loss of excise revenue due to branding of unleaded fuel as ‘solvent’, which the tax office admits has cost $100 million and then the loss of a further $10 million through the toluene scandal. This issue was brought to the attention of the government by Labor earlier this year. The government responded only after the issue was raised publicically by the New South Wales Minister for Fair Trading, Liberty Oil and the Shadow Assistant Treasurer. We now know that, since 12 July last year when the tax office took over control of fuel substitution from Customs, a total of 42 sites only have been tested. Of those 42 tests, a total of eight instances of fuel substitution were discovered. That is an incredible 20 per cent incidence of fuel substitution. To put that in perspective, the annual report of Customs for the financial year 1998-99 shows that Customs officers visited 551 test sites and found 52 positive instances of fuel substitution. So, once again, Customs detected a very serious level of fuel substitution. But instead of the government acting on that once it found out there was this kind of problem, it reduced the number of tests so that the tax office tested only 42 sites. That is a 90 per cent reduction in the level of testing.

There are two culprits in this fiasco. First, the government have proved repeatedly that they are bad managers. The responsible minister must manage their department and, along with the government, must accept responsibility for ensuring that department fulfils all of its obligations. We now know that the tax office has not been active in ensuring that the proper amount of excise is collected. This has cost Australia greatly in lost revenue but, as I said earlier, also has implications for the health of Australians. The government have been derelict in their duty to Australians. The second culprit is the government’s ideological fascination with the GST. The tax office has been overwhelmed by all the complexities and absurdities of the GST.

Senator Kemp—Don’t forget, it is your policy now.

Senator CONROY—How is Kouta going in the Brownlow, Senator Kemp? The Howard government has introduced a new, incredibly complex tax—

Senator Murray—What about the casinos?

Senator CONROY—Senator Murray, I have resisted so far drawing attention to the loss of revenue caused by the Democrats backsliding to that small family business in Melbourne, the Packers, and to the Crown
Casino amendments. But, just for the Senate’s information—in case anybody has forgotten—your unwillingness to tax high rollers at the casino cost $10 million at least, which is some comparison to the figures I have been talking about. I thank you for drawing that to my attention, Senator Murray, because I had been remiss.

The Howard government, as I said, has introduced a new, incredibly complex tax—with the help of the Democrats, it should be said. The resources to implement this tax and ensure compliance are enormous. The Australian Taxation Office is simply overwhelmed. The parliament has had to suffer numerous amendments to the GST. These numbered 1,400 or so, last time I checked, and I am sure the three Sydney telephone books that that amounts to—about so much; I know Hansard cannot see it, but I know Senator Murray can—are drowning the tax office in work, absolutely overwhelming it. The Howard government has not been able to get it right, and the tax office has had to issue— and, I presume, will have to continue issuing—numerous GST tax rulings. The government has dropped the ball. It is consumed by the GST at the cost of all else and is just not doing the job it has been elected to do.

The Excise Amendment (Compliance Improvement) Bill 2000 is not opposed by Labor. As the economics committee heard in its inquiry into the bill, this bill will not wipe out the problem of illegal tobacco, but it is a step in the right direction. For the legislation to make an impact, however, it will be necessary for the ATO to be adequately resourced. As pointed out by Philip Morris at the inquiry:

... everybody involved in policing this needs to be better resourced. We need to have more people on the ground. If you can capture some of that $300 million in revenue, there are adequate funds around to provide these resources.

Labor agrees that the resources being applied to this serious problem do not in any way reflect the level of forgone revenue to the government, retailers and the tobacco industry. In response to the submission of Philip Morris, the ATO pointed out that they will be expanding their capability by an extra 85 investigators, primarily concerned with the tobacco industry. This will need to be monitored to ensure that the bill is allowed to achieve what the government promises. Labor agrees with the recommendation of the committee that the success of the new measure will also require the support and expertise of the industry, particularly in areas such as crop monitoring and other jointly funded projects.

It should also be noted that the problem of excise avoidance will only get worse with the GST. Despite what the government says and despite what the Democrats say, the black economy is only going to grow with the GST. This was admitted in the hearings to do with this bill. I asked the tax office whether they believed the GST would help with this sort of black economy. The answer was a simple and straightforward no. It was a pity, I suggested to the tax office, that they had not mentioned this to Mr Rick Matthews, the Treasurer, the Assistant Treasurer or the Prime Minister at any stage when they were spending that outrageous amount of money advertising their lies and propaganda about the black economy. Senator Kemp well knows this—we have debated the black economy on SBS. We have debated it publicly, and the government continues to pretend that the black economy will be curtailed.

The exact opposite is in fact the case, as has been evidenced in Canada and Europe. We have seen a return to the barter system; we have seen ‘the nod and the wink’ cash grow in that sector of the economy. We have not seen, as this government has tried to pretend, that the GST will do anything about the black economy. Yes, aspects of the tax reform package will lead to some curtailing of the black economy, but it is not the GST part; it is the ABN part. Would it have been possible to have an ABN without a GST? Of course it would have. So the government’s claim that the GST will fix the black economy has been shown in this inquiry, as admitted by tax officials, to be a complete furphy.

The economic rationalists in this government must understand that the rationalist response in this situation is to avoid the GST and enter the black economy—not the reverse, as this government has consistently
argued as part of that disgraceful propaganda exercise known as ‘unchain my heart’—avoid the excise, avoid the GST, sell chop chop. Labor will not be opposing this bill, but it is concerned about whether this government has the competency and the will to ensure that it properly tackles the issue of tobacco excise compliance. This bill is, as I have said, a step in the right direction. I hope that it will not fall by the wayside.

Senator Murphy (Tasmania) (8.23 p.m.)—The explanatory memorandum to the Excise Amendment (Compliance Improvement) Bill 2000, which I have read with interest, states:

This Bill amends the Excise Act 1901 to strengthen the provisions that regulate the production, dealing, manufacturing and storage of tobacco, in particular, and excisable goods generally. The measures are designed to provide a statutory framework within which the Australian Taxation Office can combat the illicit trade in tobacco which threatens to erode the excise revenue base.

That is right: it does; by around $300 million to $600 million a year. It goes on to say:

The main features of the amendments are:

- a comprehensive licensing scheme for the production of, and dealing in, tobacco and for the manufacturing and storage of excisable goods generally, including petroleum products and alcohol;
- controls, through permission requirements and offences for contravening those requirements, over the movement and possession of tobacco seeds, plant and leaf;
- increased penalties, including terms of imprisonment, for unlawful movement or possession of excisable goods on which duty has not been paid;
- an infringement notice penalty for selling or possessing excisable goods on which duty has not been paid; and
- extended powers for officers to stop and search conveyances for tobacco leaf or excisable goods.

That is all very interesting. Then in the explanatory memorandum there was a comparison of the key features of the new and current law. I just go to the current law first. The first block in the example that is given says:

Existing controls are limited to the regulation of tobacco leaf after it has been stripped from the plant.

The new law proposes:

Growing tobacco will be regulated. Only a licensed producer will be permitted to produce tobacco seed, plants and leaf.

The second point says that under the current law:

The movement of tobacco leaf is not regulated.

Supposedly. Then it says that under the proposal in this bill:

Permission will be needed to move tobacco leaf. An identification label will need to be attached to bales of tobacco leaf prior to their movement from a producer’s premises unless there is an express permission for movement without a label.

The third point says that under current law:

Only conveyances which are about to leave a factory or other ‘Excise place’ may be stopped and searched, and only for excisable goods.

Then it says that under the proposal in this bill:

Conveyances will be able to be stopped and searched for excisable goods or tobacco leaf at any place.

And so it goes on. That is just dealing with the first few points in respect of what this bill sets out to achieve.

As has been pointed out by Senator Conroy, we are going to support the bill, because it is a small step in the right direction. I do not think you could explain it in any other way. A very interesting situation exists within the Australian tobacco growing industry, because nearly all of the illegal tobacco comes from the legal growing industry. When the Senate Economics Legislation Committee dealt with this issue it was interesting to hear some of the evidence that was given to the committee as it relates to this problem. In particular, the issue of tax was raised. The report says:

Several witnesses and submissions criticised the impact of current levels of taxing of tobacco products, stating that high taxes are driving the illegal industry. The Committee noted that 118 grams (210 cigarettes) of legal tobacco in the form of ready rolled cigarettes retails for around $66.50, this includes a tax component of $47.35, whereas a similar amount of loose leaf illegal tobacco retails for $5.90.

I am not suggesting for one minute that the tax on tobacco ought to be reduced, but when
you are analysing the problem that exists in respect of illegal tobacco and the loss to revenue in terms of excise, I think you have to look at the overall proposal that the government has brought to the parliament to rectify the problem.

Another aspect of this that is worth considering in terms of the industry itself is the price that the manufacturers pay to the growers. It is important to note—and this was given in evidence—that the growers are attracted to the illegal tobacco trade because of the price that they can actually get. According to evidence, it is said that they can receive between $10 and $20 per kilo, as opposed to around $6 per kilo from the legitimate manufacturers. When we come to deal with this issue it is important that the likes of Philip Morris et cetera understand that, if they are seeking to protect themselves from an illegal trade, they also have to take account of what they are paying their growers.

I understand—again, from evidence that was given to the committee—that Australian grown tobacco is approximately 30 per cent more expensive than that which can be imported. I have to say I do not have any expertise in assessing tobacco quality, being a non-smoker, but that supposedly is the case. But, at the end of the day, there is a growing industry here, and if the illegal trade is a concern—clearly some of the people at the retail-manufacturing end of the tobacco industry have a major concern about the impact that it is having on their potential to sell cigarettes into the marketplace, and the government obviously have a concern about the revenue that they are losing, albeit it has taken them a long time to get to a point where they want to do something—they must have a broader look at the remedies that are being proposed in this bill. Whilst the remedies proposed are, as I said, a small step in the right direction, they simply will not work in many instances. There is only one way in this type of industry that you can cut off an illegal trade that primarily is carried out by the legal producers in the game. In an industry where the product is grown in the ground and where—because of prices, greed or whatever—some people are selling tobacco leaf to the illegal retail trade to be turned into tobacco through the process which is commonly known as chop chop, you have to work out where you can have the most effect in stopping that. It clearly is the case that the only place that you will be able to stop this sort of trade is at the point where it is grown. As I understand it—again, from information and evidence given to the economics committee—tobacco, once grown, is harvested over a period of from six to eight weeks. That is the case. It is not as though there are 500 tobacco farms littered across the country. Tobacco essentially is grown in two principal areas. From memory, and I would not want to be quoted on this, there are some 260 farms, essentially in two locations.

Senator Murray interjecting—

Senator MURPHY—Senator Murray indicates to me that there might be 400. I do not know whether Senator Murray has got it right. I thought it was 260, but Senator Murray might be right—there might be 400. I think they are located in two fairly specific areas. Therefore, if you were to take the approach of monitoring the tobacco growing period, principally over the course of that six-to eight-week period when the tobacco is being harvested, dried, graded and whatever else happens to it, there is a very easy process that can be followed. Whilst I have made some comparisons with the poppy industry in Tasmania and the surveillance exercises conducted there, I accept that the poppy industry is a different industry and that you could not apply the same surveillance activities to the tobacco industry—it is not possible. But I would suggest that, if you could have sufficient officers on the ground to monitor very closely in particular the period of time when tobacco is being harvested, you could basically shut down this illegal industry. Applying things like the licensing of growers, et cetera, will of themselves have no effect whatsoever. If there already is a fine of $5,000 for possession of illegal product, I would suggest that it does not much matter if you make the fine $55,000. If they deal in illegal product in the first place because of the price they are being paid, which makes it so attractive for them, they are not going to worry about what the fine is. That seems to be a common approach—it does not matter what you are dealing with. We have had in-
creases in fines for all sorts of things. That does not necessarily mean the fines have any impact, and in a lot of cases they do not.

If the tax office is not given adequate resources and its approach is just to look at the problem and say, ‘Okay, we’re going to search conveyances anywhere, at any time and in any place,’ people are not going to put a sign on top of their truck saying: ‘illegal tobacco’. A lot of this sounds good on paper, but in reality it will not work. There is no indication from the government about additional resources. The minister might clarify this. I know people have transferred from Customs to the ATO, but I would like to clarify exactly how many people the ATO will end up with specifically to proceed to bring about the benefits that this bill is proposing. Whether it is $300 million or $600 million today, I would suggest that that will change only very slightly unless the resources are on the ground and unless the strategy is correct and applied in a way that will ensure that there is the maximum opportunity to stamp out this illegal industry.

Senator Conroy very briefly mentioned the black economy, which was a very interesting aspect of the hearings that the economics committee conducted. Questions were clearly put on the illegal trade, the avoidance of excise and, essentially, the operation of the black economy in the tobacco industry. It was put to the witnesses from the industry whether the GST, the new tax system and the business tax changes would have any effect on these things. I think the answer was pretty clear: they would have no effect at all. Despite the continuous claims from the government that the GST and the new business tax system would stamp out the black economy, there is clear evidence that it will not—certainly not in the tobacco industry and, I would suggest, not in many other industries.

I would like to reiterate the points with regard to the solution to this problem. I think the acid has to be put on the industry. If the industry does not participate in this process then it is doomed to fail anyway. Why shouldn’t a very significant industry like the tobacco industry and the selling of cigarettes make some contribution to the cost of monitoring their industry? It certainly is the case in many other agricultural industries. If the likes of Philip Morris and others are so worried about it, they should get in there and participate.

Senator Kemp—They are.

Senator Murphy—I say to the Assistant Treasurer that the government also wants to make sure that the likes of these major cigarette companies do not use this legislation when enacted to put pressure on the price that they pay to the grower for tobacco leaf and that they do not use this type of legislation to drive down prices. That is also a concern that I can see will probably exist. We will be supporting the bill simply because it is one small step—a long way from the correct step—in the right direction.

Senator MURRAY (Western Australia) (8.39 p.m.)—The Excise Amendment (Compliance Improvement) Bill 2000 seeks to address a loss to excise revenue of over $300 million annually. The Democrats support the bill on the basis that it will contribute to efforts to restrict the illegal tobacco market. The bill contains a number of measures that strengthen the statutory framework within which the Australian Taxation Office can combat the illicit tobacco trade. Like any illegal trade, the illicit tobacco market cannot be combated through one measure but requires a multifaceted approach. This bill covers a range of measures that address the illicit tobacco trade, and together they should be effective in greatly restricting the black market for tobacco products. If they are not effective, as Senator Murphy fears, we will be spending a lot of money and time for little outcome.

It is important to remember that we are not just concerned here with the revenue loss that results from the illicit tobacco market. We are also concerned with the health effects of the illegal and unregulated tobacco market. The Democrats have strongly supported measures introduced by this and the previous Labor government to require health warnings to be placed on all tobacco products and to provide consumers with information about the harmful effects of tobacco use. These initiatives have increased awareness of the health risks of smoking and have dissuaded people from taking up smoking. There are no such meas-
asures to warn consumers in the illicit tobacco market, so consumers of illegal tobacco do not get the same level of information about the health effects of smoking when they buy tobacco on the black market.

The Democrats support the introduction of new offences relating to the unauthorised movement and possession of tobacco leaf. We also support the introduction of fines and the provision of higher terms of imprisonment for these offences. It is important that the penalties for illegal tobacco trading reflect the seriousness of the crime of avoiding tax and act as a deterrent for people who may be tempted into the illicit tobacco market by the promise of pecuniary rewards.

The introduction of a comprehensive licensing scheme for persons engaged in the tobacco industry will greatly facilitate the monitoring of the tobacco market. Manufacturers of tobacco products are already required to be licensed but, under the provisions of this bill, producers and dealers in tobacco seeds, tobacco plants or tobacco leaf will also be required to be licensed. This will ensure that the government can monitor the tobacco market at all stages of production and will reduce the opportunities for diversion of tobacco to the black market.

The Democrats support the proposal to monitor the movement of bales of tobacco leaf by attaching identifying labels to tobacco leaf bales as a means of authorising the movement of tobacco leaf from the premises of producers and dealers. This will also greatly assist in the identification of the movement of tobacco leaf to the illicit market. The measures in the bill that extend the existing power of excise officers to stop and search conveyances and premises will ensure that officers are able to act when they have reasonable suspicions that illegal tobacco is being carried or held somewhere. I wish to return to that issue in a minute. The Democrats believe that the measures in this bill will improve the capability of the Australian Taxation Office to more effectively target its compliance enforcement activities against the illicit tobacco trade, and therefore we support the bill.

However, like Senator Murphy, we suspect that many will still avoid this monitoring because the temptation is too great. I wish to remark briefly upon evidence raised in the Senate Economics Legislation Committee hearing concerning the use of what are known as tubes. The committee at page 3 of its report stated:

Evidence given by British American Tobacco Australasia suggested placing a tax on the pre-rolled empty cigarette filter papers, known as tubes. BATA stated that most of the one billion tubes imported annually are used to produce pre-rolled chop chop cigarettes. However, Philip Morris stated that tubes are also used by legal roll-your-own smokers, so any tax on tubes would discriminate against that group. In the Committee’s view a tax on tubes may compound the chop chop problem by encouraging smokers to switch to cheaper substitute material to produce cigarettes.

However, you cannot control the use of illegal tobacco unless you control the means of distribution and the means of consumption. Frankly, if there are one billion tubes coming in and most of them are being used for the consumption of chop chop, it is obvious that the destination of those tubes is where the chop chop is being retailed. So the obvious next step, if this bill does not work, is to make retailers record their actual purchases of loose-leaf tobacco versus their purchases of tubes and, if the two things do not match, you can be pretty sure that they will be flogging off illegal tobacco. I would suggest that is something that the government and the ATO should have an eye to. I think Senator Murphy’s contribution to the committee, in terms of his very deep and detailed knowledge of the poppy and opium industry in Tasmania—

Senator Conroy—That is a disgraceful slur, Senator Murray.

Senator Murray—It is not opium that comes from him.

Senator Woodley—Legal.

Senator Murray—It is legal opium, my apologies. Senator Murphy’s knowledge of the legal opium industry in Tasmania will actually be very helpful in devising a proper monitoring system for tobacco. We were advised by the ATO that they have taken a very considered and very interested appraisal of how that industry is administered in Tasma-
nia, and they have drawn some lessons from it.

The other matter I want to touch on briefly is this question of search and entry. The explanatory memorandum at page 42 refers to the ‘power of officers to stop and search conveyances’, and it refers to schedule 1, items 42 and 44, and schedule 1, item 45, new section 87AA. Essentially, the powers of officers to search have been enhanced and that search may be without warrant. But I do want to draw the attention of the ATO and these officers who are particularly concerned with this clause of the bill to the fourth report put down this year by the Senate Scrutiny of Bills Committee. That fourth report deals with the proper protocols and the proper procedures to be followed with search and entry. I would urge you to take account of those views of the committee. I am given to understand, although he has not told me that himself directly, that the Attorney-General has reacted very well to that report and is very interested in many of its findings. Therefore I would urge you, as a member of that committee, to ensure that your guidelines in the use of enhanced search and entry provisions take into account the manner in which search and entry should be managed. Frankly, if you do not, I think you will find there will be a legislative requirement for you to do so at some stage. Having said that, Minister, I indicate to you that we will support your bill without amendment.

Senator HARRIS (Queensland)  (8.47 p.m.)—I would like to commence my comments on the Excise Amendment (Compliance Improvement) Bill 2000 by commending the government for their efforts to bring to the public’s attention the dangers of participating in the consumption of cigarettes. To a large degree, I support the government’s bill in its essence to cut out the non-compliance with the excise but which, in doing so, may create a situation of difficulty for the legitimate growers. Clause 33 of the bill says:

Only licensed dealers to deal in tobacco leaf etc.

Clause 35 has the heading ‘Licensed dealers to store tobacco leaf etc. at licensed premises’. I will be seeking clarification from the minister to see whether this is a reference to tobacco marketing boards or whether this will actually come down to the producer who, having produced the tobacco, normally stores it at their own premises prior to delivering it to the tobacco marketing board at the sales.

Again, clause 44 of the bill speaks of the permission to move tobacco leaf. At the present moment, a person who legitimately produces tobacco moves their leaf at their discretion from their property to the tobacco marketing board where the auctions are generally carried out. I will be seeking clarification from the minister to ensure that the growers will be able to continue to do this at a time and in a manner that does not introduce to them undue regulation. Clause 117C goes to the ‘Unlawful possession of tobacco seed, plant or leaf’. Again, I will be seeking clarification from the minister of where the legitimate producer stands when, at the end of a tobacco season, they have produced X amount of tobacco and only a portion of that has gone through the auction process at the tobacco marketing board so they find themselves with tobacco leaf that they need to store until the following year.

As I indicated earlier, the majority of my questions to the minister relate to the legitimate grower, to ensure that the government, in introducing this bill, is not in any way introducing a burdensome process for those genuine producers. I would also like to raise the issue of the deregulation of the tobacco industry. Again, we have, as the government’s plank, this move towards deregulated industries. Right across the board in the
Mareeba area I find growers who are exceedingly concerned when they receive notification from the marketing board that the major multinational corporations are considering reducing the Australian content of tobacco in cigarettes by 1.6 million kilos in this upcoming tobacco season.

As I said earlier, I think the majority of people are aware of the dangers of smoking. But if a person makes the personal decision that they are going to continue to smoke, then they have that right to do so. As a nation, I believe that we have a responsibility to ensure, to the best of the government’s ability, that Australian producers are not disadvantaged by the government’s intention to bring in what they call a level playing field. I find it exceedingly difficult to understand how there can be a level playing field between a producer in the Mareeba area who may produce, say, 40 tonne of tobacco—and that would be a substantial grower—and a multinational corporation. I believe that the government need to look sincerely at some of the problems that the deregulation of these industries is bringing for the producers who are, in essence, attempting to provide for themselves and their families.

In concluding my contribution to this second reading debate, I indicate that I will not be opposing the government’s bill but will be seeking from the government clear assurances that those genuine producers can continue to produce in a way that does not disadvantage them.

Senator WOODLEY (Queensland) (8.55 p.m.)—I want to make a short contribution to this debate tonight on the Excise Amendment (Compliance Improvement) Bill 2000. I particularly want to follow what Senator Harris has said, because I am also concerned about tobacco growers in Queensland, particularly about an old friend of mine, Remzi Mulla, who came to see me again just two weeks ago. I want to point again to the ridiculous proposition that the government continues to put that somehow or other deregulation will bring about some kind of panacea for this or any other industry. It is not a panacea; tobacco growers are on a road to destruction because of the government’s continual insistence upon the deregulation of this and other rural industries.

The Democrats have been opposed to the damage smoking causes to the health of people. We have certainly worked hard to try to limit or prohibit advertising, and we know that that has caused some problems for the industry. Nevertheless, if Australians are going to smoke, then surely they ought to be able to smoke Australian tobacco at the very least. As Senator Harris pointed out, what is happening now is that very large international companies are using their muscle in order to further reduce the amount of Australian tobacco leaf used in Australian cigarettes and to further reduce the price to growers—all using the excuse of international competitiveness.

I want to point out, once again, that in this industry deregulation is a joke, because all it has allowed is the muscle of international companies to be used against Australian farmers to destroy their industry. It is not a ridiculous assertion to predict that before long there will be very few tobacco growers left, certainly in Queensland, and this is a tragedy for those farmers, those small businessmen in Australia, who do not have the muscle to stand up to international companies. I believe it is a scandal that the government should come in here with a bill, which we have said we will support, which deals with an issue in the industry but does not deal with the real issue of Australian farmers whose livelihoods are being destroyed by deregulation.

Let me deal with the other part of this ideology of deregulation which says that competition will bring all sorts of benefits to the consumer, et cetera. Deregulation in this instance has not led to competition; it has led to monopolisation. So we have a number of companies joining together under the British-American association, and it is that association which is forcing down the price to growers and threatening to reduce the percentage of Australian leaf in Australian manufactured cigarettes. I say to the government: we support this bill because it tackles one of the problems in the industry, but it does not tackle the real problem. At the end of the day, we will not be worried about illegal tobacco
growers or tobacco suppliers; we will be worried that there will be no tobacco growers in Australia at all.

Senator KEMP (Victoria—Assistant Treasurer) (9.00 p.m.)—As senators know, we are debating the Excise Amendment (Compliance Improvement) Bill 2000. Most senators knew that, except for Senator Conroy who debated a different bill, which is a bit of a pity. Senator Conroy in fact raised issues relating to the following bill, which is not part of the debate currently before the chamber. It is not the first time that Senator Conroy has made a mistake, and I dare say that it will not be the last time. Senator Ludwig is in the chair as the whip. I think he has got to keep a tighter control over his frontbenchers to make sure that they focus on the bill which is before the chamber.

Senator Ludwig interjecting—

Senator KEMP—Senator Ludwig, you will be judged in your capacity to do that, and it is no good mumbling under your breath either!

Senator Cook—He is pointing out that you are being unparliamentary.

Senator KEMP—Senator Cook, just restrain yourself. I would normally thank senators for their contributions. Frankly, some of the contributions added little to the sum of human knowledge. I would have to say. Others made some useful and interesting points. Senator Murray, who I do not always agree with, always approaches these debates with a degree of sincerity and commitment. We listened to his observations. He made some suggestions in relation to further compliance issues. I noticed that my advisers from the tax office were listening to you, Senator Murray. I do not wish to give any indication that they agreed with you, but they listened to you carefully, as in fact they should.

The other senators used the debate on the second reading, as inevitably they will, to range fairly far and wide. Senator Harris, of course, was one of those. He raised a number of particular issues. I think everyone agrees that it is important that this bill be passed and be passed quickly. I was a bit surprised to be chastised for delaying the bill. My very clear memory is that we tried to bring this bill on for debate in the last session, but it was then referred to a committee. The Senate is entitled to do that—no-one is arguing that—but if the Senate wishes to delay the passage of a bill by putting it to a committee it is a bit rich to come into this chamber and complain that the government itself is delaying the bill.

Senator Conroy adduced some figures—I make no comment on whether or not they were correct. Senator Conroy’s figures suggested—roughly, if you pro rata them—that some $6 million a week has been lost. The Labor Party delayed the passage of this bill by six weeks. Therefore, six by six is $36 million. I make no comment whether that is a correct figure or not, but I point out that they are Senator Conroy’s figures, and it was his party that delayed the passage of this bill. It was a pretty ordinary performance. The shadow Assistant Treasurer, Mr Kelvin Thomson, urged the government to pass the bill, and when it came before the Senate the Labor Party delayed it. We have notice that the Labor Party runs on both sides of the street on policies. People note this lack of consistency. It is no good Mr Kelvin Thomson arguing for the bill to be passed and rating the government for delaying its passage when his own colleagues in this chamber required that the bill go before a Senate committee, delaying it by a further six weeks.

The measures contained in this bill will strengthen the ability of the Australian Taxation Office to combat the evasion of excise on tobacco and protect the revenue base against the illegal product, chop chop. The measures contained in this bill include improving the regulation of tobacco product and increasing penalties on those involved in illicit activities. Under the measures contained in this bill, tobacco producers will be required to be licensed. The movement of tobacco leaf will be regulated. One senator got up and decided that somehow this bill would deregulate the tobacco industry. I think a closer reading of the bill shows that in fact this bill brings in fairly strict licensing requirements. The senator may have been referring to a different issue in relation to the industry, but I would say that this bill could hardly be seen as a bill deregulating the to-
bacco industry. As I said, the movement of tobacco leaf will be regulated, and this involves a system of labelling bales of tobacco leaf.

Another important feature of the bill is the power of excise officers to stop and search conveyances, and that will be extended. The bill also extends pecuniary penalties, and the maximum penalty will be set at 500 penalty units, which is currently some $55,000 or five times the duty that would be payable if the tobacco leaf had been manufactured into tobacco and been entered into home consumption. Offenders can also face jail terms of up to two years for more serious offences.

Let me make a point to Senator Murphy, who made a contribution and then left the chamber fairly promptly. He was concerned about consultation and working with industry. This is precisely what the government has done. There has been very extensive consultation with all sectors of the industry. I think all sectors recognised that some important steps, as outlined in this bill, needed to be taken. So we appreciate the urging that Senator Shayne Murphy made in his speech in the second reading debate, but I am pleased to report to you, Mr Acting Deputy President, that this is precisely what the government has done. I have said many times that this is a consultative government, a government that talks to all sectors of the community—and listens. I believe this bill again reflects that philosophical position that the government has taken.

One issue was raised which I have just touched on briefly. The question was why the government has taken so long—according to Senator Conroy, Senator Murphy and others—to act in relation to illegal tobacco. I pointed out that it was the Labor Party that delayed the passage of this bill from the last session and required a committee hearing, which essentially repeated the consultations that the government had undertaken. Let me just make a few observations in relation to that criticism, which I do not think is justified. The ATO has been working with the industry on illegal tobacco since taking responsibility from Customs. In the first half of 1999, the ATO and industry jointly developed the illegal tobacco strategy. In implementing the strategy, it became clear that further steps were needed. Of course, this bill is a result of that work.

But I would point out that, in view of the criticisms that have been made—I think incorrectly by Labor speakers—over the last 12 months several major unlicensed tobacco manufacturing operations have been closed down and other warrant action has been taken, resulting in the seizure of significant quantities of tobacco. Also, prosecution action has been taken against people involved in schemes to evade tobacco excise, and there are currently more matters before the courts. To suggest that the government has been sitting on its hands is quite false, and I hope that the information I have given will assure the Senate that the government has taken this matter very seriously and has been working to deal with the issue. The government has not been sitting on its hands and has, prior to the passage of this bill, taken strong action.

A number of other issues were raised in the debate. What resources does the ATO have to deal with the illegal tobacco industry was a question that was raised by, I think, Senator Shayne Murphy. There are about 27 investigations staff who have been moved to the ATO from Customs on 1 July 1999, and the ATO has increased numbers to 45. Senators will be aware that an additional 40 ATO investigations staff are currently being recruited to bring the total numbers of investigations staff to 85.

I think it was Senator Murphy who in his remarks raised the question of why the ATO does not use an approach similar to that taken to the poppy industry. Let me state some of the advice that I have received from the distinguished officers from the ATO. They assure me that the ATO has examined the poppy industry and is looking at the relevance of this particular industry and the compliance arrangements. However, there are substantial differences between the two industries. Tobacco growing is more widely dispersed; and I understand from what the ATO also advises me that the poppy heads are the important part of that crop, whereas the whole of the tobacco plant can be used for tobacco. I would not want the Senate to feel that we did not look at other particular
areas to see what we could learn, in terms of cutting down on the illegal trade.

A number of issues were raised by Senator Harris. He was kind enough to flag them in his speech in the second reading debate. I think, Senator Harris, that we can probably deal with those matters in the committee stage. But one of the issues you raised was to seek assurances that producers will not be disadvantaged. The first point I would make is that there was very extensive consultation with producers during the development of this bill. Let me make a number of further observations: producers who are currently registered will be licensed to continue to produce tobacco for the legitimate tobacco industry; further, producer cooperatives were consulted, as I said, in the development of the measures proposed by this bill, and they strongly agree with them. A very important part of developing this strategy was working with the industry, who were concerned to cut down on this illegal trade. I hope that gives Senator Harris some assurance that the government and the tax office wish to work with producer interests. My understanding, and the advice I have received, is that producer cooperatives strongly agree with the measures in this bill.

I can further say to Senator Harris that the ATO is working with cooperatives in developing the labelling and movement permission that will assist in detecting the few participants who are supplying the illegal sector. This bill, in short, is to bolster the legitimate industry and to tackle those who are selling this product illegally and undercutting the legitimate sector. The government, as I have said, has consulted very widely in the development of this bill. I hope that gives Senator Harris some assurance that the government and the tax office wish to work with producer interests. My understanding, and the advice I have received, is that producer cooperatives strongly agree with the measures in this bill.

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cally to tobacco seed, tobacco plant or tobacco leaf. My question to the minister is: will the single licence cover the producer who purchases their seed and wishes to have that stored at their property? Will it cover the licensed producer that then takes the seed and plants it out in a seedbed, because that is a specific stage in the process? Then, if that seed bed happens to be on one property and they are planting out on another property—and this is not uncommon—will the licence have the conditions in it that will allow that producer to transport those plants to the licensed paddock in which they are going to grow that out?

Senator KEMP (Victoria—Assistant Treasurer) (9.19 p.m.)—The producers will need to notify the premises at which the tobacco is being grown. I do not see a complication there. Perhaps in the fullness of time I will examine your question more closely. But I think the procedure that we have with the licensing is well understood by the industry: the producer has to notify what we call the premises at which the tobacco will be grown. I think, once that is done, that covers the problem that you are specifying. But, as I have said, if you feel that it does not, ask another question and we will see what we can do to assist—as I always do.

Senator HARRIS (Queensland) (9.20 p.m.)—This may go down as one of the amiable debates that we will have in the chamber. Just for clarification and mainly for the record so that the minister can come back afterwards and clarify what I am asking: it is not unusual for the seed to be stored at one property and the plants to be produced at another property and then transported to the field where they will be grown out. My concern is that the grower will only be subjected to the costs of one licence that will cover all of those activities. If the minister can give us some clarification and assurance that that will be the case, that would be helpful.

Senator KEMP (Victoria—Assistant Treasurer) (9.21 p.m.)—All those properties will need to be licensed, Senator. I am advised that there is no fee for a grower’s licence, so I do not think it will impose any additional cost. But the grower has to notify the property, Senator—I think that is the point. Let me make it clear: the government is not seeking to impose onerous compliance problems. What we are seeking to do is deal with what I think everybody in this chamber agrees is a serious problem. In developing this bill and the licensing arrangements, I would stress that we have worked closely with all sectors of the industry. Senator, I hope the comments that I have made give you the assurances you are seeking.

Senator HARRIS (Queensland) (9.22 p.m.)—I will move on to proposed section 33 under division 3. That deals with the process of dealers. In proposed section 33, the government has again used a clause which is identical to one back in proposed section 30, which relates to the three clear, distinct areas that a person must be licensed for—that is, the tobacco seed, the tobacco plant and the tobacco leaf. In this instance, I am seeking clarification from the minister about a producer who has planted the seed, planted his plants, grown out the crop and harvested it. In the terminology of the industry, at that point that becomes actual leaf. Does a producer also need a dealers licence to actually have that tobacco leaf?

Senator KEMP (Victoria—Assistant Treasurer) (9.24 p.m.)—The advice I have received is that he does not need a dealers licence if he is selling just leaf. I think that is the point you were making, Senator Harris. You were concerned about what sort of licence was required for the leaf. I would also refer you to division 3, ‘Dealers’, in proposed section 33 on page 13. It reads:

(4) Subsections (1) and (2) do not apply to a licensed producer who:

(a) transfers tobacco seed, tobacco plant or tobacco leaf that the producer has produced; or

(b) acquires tobacco seed or tobacco plant for the purpose of producing tobacco seed, tobacco plant or tobacco leaf.

I think that makes it clear under the division entitled ‘Dealers’. As I said, that is the advice that I have received. I hope that provides the assurances to you that you are seeking.

Senator HARRIS (Queensland) (9.25 p.m.)—I believe the minister has adequately covered the question that I had in relation to proposed section 35, dealing with tobacco stored as leaf, so I will move on to part IVA,
‘Control of tobacco seed, plant and leaf’. That contains proposed section 44, ‘Permission to move tobacco leaf’. Proposed section 44(1) states:

The Collector may give written permission to a person specified in the permission to move tobacco leaf from a place specified in the permission to another place so specified.

Proposed section 44(2) states:

It is a requirement of the permission that a tobacco bale label must be affixed to the tobacco leaf at all times when the tobacco leaf is not at premises specified in a manufacturer licence, producer licence or dealer licence, unless the Collector has given additional written permission that it need not have a tobacco bale label.

The point that I am raising here is that we have within the industry in Mareeba a situation where a person will rent out spare drying units and then will need to move that tobacco leaf, which is still in the drying rack, to a place where they are actually going to grade it. It has to be graded before it is baled. Can the minister give us an assurance about those people who are in the lawful process of moving tobacco leaf that they have dried from one particular drying shed to an area where they are going to grade it? At that time, it is not baled. Therefore, it would not be possible to attribute a bale label to it. Can the minister give us an assurance about those people who are in the lawful process of moving tobacco leaf that they have dried from one particular drying shed to an area where they are going to grade it? At that time, it is not baled. Therefore, it would not be possible to attribute a bale label to it. Can we have from the minister an assurance about those people who are carrying out the legitimate business of producing tobacco that they are able to move the dried leaf from one premises to another without having the tobacco bale label attached—because at that point there is no bale?

Senator Kemp (Victoria—Assistant Treasurer) (9.29 p.m.)—In the circumstances you have raised—and I think this is one of those risk assessment issues that the Taxation Office would have to deal with—it may be that written permission is all that is required. If the leaf is not baled, it is hard to see how one could insist on a label being affixed—the bale is non-existent. We understand the point that you are making, and it is not a bad point. The preliminary advice I have received from my officials is that written permission may be required. We will look closely at the point that you have made, and if I can add any information to that I will write to you so that you can pass that to the relevant growers. It is not our intention to tie up an industry with red tape—in fact, quite the reverse. The government seek to diminish red tape wherever we can. Nonetheless, all of us recognise that, because of the risks associated with the sale of illegal tobacco, we do have to have some rigorous procedures in place to ensure that tobacco is not diverted into the chop chop market.

Senator Harris (Queensland) (9.30 p.m.)—Section 44(3) of the Excise Amendment (Compliance Improvement) Bill 2000 states:

Permission under subsection (1) or (2) may be given subject to the condition that the person to whom the permission is given complies with such requirements as are specified in the permission ...

We are moving into an area in which I will seek clarification from the minister. Will that permission be, as the minister has just indicated, written permission? Or will it be structured regulation? I take your point that you have consulted with boards in specific areas, but I hope I have been able to articulate that there are specific intricacies in the production of tobacco. It would be helpful for the producers if the government would give a commitment to consult with the growers themselves as well as with the boards when they are finalising which types of permission can be given or whether there will be regulations. In relation to section 117C, the minister has given me sufficient confidence that the lawful producers of the tobacco should be able to comply with the possession requirement. Could the government give an assurance that there will be a process of consultation with the growers themselves in relation to these conditions, permission or regulations?

Senator Kemp (Victoria—Assistant Treasurer) (9.33 p.m.)—A number of questions have been raised. The permission is typically a written permission. There is the concept of continuing permission, which is granted by the Taxation Office, which means that there does not have to be a constant reapplication each time a particular action occurs. Again, we are trying to make sure that our procedures are efficient. The consultation process has been through the pro-
ducer cooperatives. They have received submissions and discussed their views with the growers. Typically, it is fair to say that in the process the cooperatives have made the growers’ views known to the Taxation Office. That does not prevent any grower from directly contacting or putting a view to the Taxation Office, but the process of the producer cooperatives has worked efficiently. We understand the process properly reflects the views of the growers. You ask me whether the Taxation Office will directly consult a grower with a particular problem or concern: he is always able to put a submission to or meet with the relevant officials if he feels that is the way to go. This is a normal procedure by which the Taxation Office deals with a variety of industries on a daily basis. But it is probably fair to say that the producer cooperatives have taken the lead role in conveying to the Taxation Office grower views on the development of this legislation.

Senator COOK (Western Australia—Deputy Leader of the Opposition in the Senate) (9.35 p.m.)—I note the emphasis the Assistant Treasurer placed on the producer cooperatives being the bodies with which the Taxation Office has consulted on these issues, and I note the explanation that the individual grower may—if they choose—lodge a submission with the Taxation Office or approach the Taxation Office directly. I take the point of the initial question, because this is a very important point about how consultative the government really is. I know, Minister Kemp, you particularly place great store in boastfully proclaiming how excessively consultative you are.

Senator Kemp—Senator!

Senator COOK—Let me amend that and remove the word ‘boastfully’—you place great store in at least heralding how consultative you are. Has the Taxation Office made any effort to let growers know that the facility for them to put a view directly to the Taxation Office is available? Or has it relied on consulting only with the producer cooperatives and assumed that that advice—if it were advice given by the producer cooperatives—would become available to the individual grower?

I take the point—it is a point that you may care to defend, and you would be on reasonable ground if you did—that the producer cooperatives would be expected to be an ideal point of consultation. But there is the question of balancing the rights of all concerned as well and, since they bracket all the interests of the growers, it may be that individual growers do not have the opportunity to put their point of view when, in this case, they feel a need to. So my question is: do the individual growers know they can approach the Taxation Office directly?

Senator KEMP (Victoria—Assistant Treasurer) (9.37 p.m.)—It is an interesting observation you make, Senator. Not all observations you make are interesting.

Senator Hogg—Oh, be kind.

Senator KEMP—The time is late, so I will be kind. As you say, it is a reasonable assumption that the producer cooperatives represent the views of the growers. Nonetheless, there may of course be people who have a different position, and they are always entitled to put a view to the ATO on issues which may relate only to their particular concerns. My expectation is—and I have no reason to doubt this—that the producer cooperatives have worked closely with their growers and made sure that their concerns were adequately represented. But I would stress that it is always up to an individual, and this government is happy to deal with individuals if they have concerns. It is a bit of a dilemma—does a union represent the views of union members? It depends on the issue, it depends on the union and it depends on the spokesperson. There may be occasions when an individual is not axiomatically represented by a union, and that individual will make his or her views known to the government.

On the issue before the chamber, there are, naturally, a limited number of tobacco growers and tobacco cooperatives, and they are generally well known to people in the industry. This bill has been criticised because the consultative arrangements put in place were not adequate. Before this legislation could be passed, of course the government was concerned to make sure that there was adequate consultation, and I think that is what we have been able to deliver. If Senator Cook has any
other examples of concern that he feels we
have not covered in our consultative ar-
rangements—as I have always said, we are a
consultative government and we listen to
people—I would be very interested to hear
those views.

Senator COOK (Western Australia—
Deputy Leader of the Opposition in the
Senate) (9.40 p.m.)—Has the tax office
notified individual growers that they can put
their views and alerted them to that pos-
sibility?

Senator KEMP (Victoria—Assistant
Treasurer) (9.40 p.m.)—Everyone knows they
can. I do not know that it is up to the pro-
ducer cooperatives to alert them. I do not
know whether you are trying to waste time
until the siren sounds. I assume you would
not be doing that because there is a very im-
portant bill coming up, and I certainly would
not assume you were just trying to fill in time
with these interventions. The government’s
views are well known—

Senator Hogg—That’s a shameful allega-
tion. You were so kind five minutes ago.

Senator KEMP—I think I am justly fa-
mous in this chamber for my patience, lis-
tening carefully to the most inane comments
from people. Nonetheless, the clock is ticking
on. I think people always know that they are
etitled to approach the government and the
tax office with their views. I do not know
what specific information the producer coop-
eratives have given to their producers, but I
would suggest that anybody who holds them-
selves out to represent the views of a par-
ticular constituency would be very well ad-
vised to make sure they took account of those
views. I hope that satisfies you, Senator
Cook.

Bill agreed to.

Bill reported without amendment; report
adopted.

Third Reading

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

PETROLEUM EXCISE AMENDMENT
(MEASURES TO ADDRESS EVASION)
BILL 2000

Second Reading

Debate resumed from 5 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) (9.43 p.m.)—From the title of the
Petroleum Excise Amendment (Measures to
Address Evasion) Bill 2000, people listening
to this debate—all of those clamouring for
space in the chamber—may come to the
conclusion that this is about the current
debate on the high price that Australian
motorists are paying for petroleum at the
petrol pump. As soon as the price per litre hit
$1 in urban Australia, there was outcry across
the nation about the government’s windfall
gain and rake-off on the cost of petroleum to
Australian motorists. It is not about that
concern; it is about fuel substitution and
mixing toluene or water with petroleum,
evading the due responsibility of a distributor
to supply pure spirit rather than diluted spirit
and also evading the large amount of tax, or
excise in this case, that is due.

But one could be forgiven for thinking it is
about petroleum excise per se when on the
ABC tonight in my state of Western Australia
it was reported that at Cocklebiddy, a way
stop on the Great Eastern Highway connect-
ing Western Australia to the eastern states,
fuel was retailing at $1.33.4c a litre.
Throughout Western Australia and Kalgoor-
lie it was $1.11c per litre, at Onslow in the
north-west it was $1.18, at Exmouth it was
$1.19 per litre and at Port Hedland it was
$1.12 per litre.

The legislation before the chamber tonight
was supported by the opposition in the House
of Representatives, but it was supported only
after the opposition had moved an amend-
ment to the second reading motion. I now
foreshadow that I intend in this chamber to
move a resolution in identical terms to be
added to the motion that the bill be given a
second reading, and the terms of that have
been distributed in this chamber. The reason
why I will be moving that amendment to the
second reading motion is that, while we support this bill, this government has form. It has form in the sense that it has been slow to bring this legislation forward and in the sense that it tried to pass the buck with the minister for transport at the time. Indeed Senator Kemp at the ministerial table knows that in proceedings at estimates committees, in the Senate legislative committees, you yourself, Mr Acting Deputy President George Campbell, pursued this question and got answers—evasive answers, might I say—from the tax office which went to the point of saying that it is not their responsibility to detect fuel substitution and that, as long as the excise is properly paid, they are satisfied. The Customs department makes a similar assertion.

There is, as I say, form by this government in tolerating an excessive amount of diversion and substitution of fuel. We believe that the amendment to the second reading motion would clearly state for the record that the government has been negligent on this; would constitute an appropriate censure by the Senate, because of the government’s performance; and, while we support the legislation because it is a step in the right direction, would put the government on notice as well that this chamber will not tolerate the type of duplicity practised by those who engage in substitution and the loss to the revenue—legitimate loss to the revenue in this case—occasioned by the government winking at, being tolerant of or not being quick enough to repair issues of full substitution when and where they occur.

In 1997 the federal government introduced a number of bills aimed at stamping out the practice of fuel substitution. They cited both revenue and consumer protection reasons for doing so. Labor, I might say, supported the government. The bill before the chamber aims to amend a number of those acts and, along with the Excise Tariff Act, help to provide more lasting measures to combat fuel substitution. In particular, this bill will, it is argued, amend the Aviation Fuel Revenues (Special Appropriation) Act 1988, the Excise Act 1901, the Excise Tariff Act 1921, the Fuel Blending (Penalty Surcharge) Act 1997, the Fuel Misuse (Penalty Surcharge) Act 1997 and the Fuel Sale (Penalty Surcharge) Act 1997 to replace references to specific excise tariff items with generic descriptions. The Fuel (Penalties Surcharges) Administration Act 1997 would be amended to improve the ability of the government to prosecute those that are undertaking the practice of fuel substitution. This is done by changing the definition of ‘fuel’ to cover a broader range of products and this removes the requirement from the tax office to show that the alleged illegally blended fuel has entered into home consumption. The key consideration for the opposition in this bill is that, while we did not oppose the original fuel blending legislation, we should continue that position. I move:

At the end of the motion, add “but the Senate:

(a) condemns the government for its inaction on the dangerous practice of fuel substitution and, in particular, for allowing the Australian Taxation Office to cease random testing of fuel;

(b) notes that fuel substitution is a dangerous practice that reduces engine performance, leads to total breakdown of engines, defrauds the Commonwealth of millions of dollars in revenue and harms the environment;

(c) notes that the Commonwealth Parliament has a responsibility for ensuring that fuel substitution does not occur, including the testing of retail fuel; and

(d) calls on the government to ensure that the activity of fuel substitution is really brought to an end”.

Debate interrupted.

ADJOURNMENT

The DEPUTY PRESIDENT—Order! It being 9.50 p.m., I propose the question: That the Senate do now adjourn.

Rural and Regional Australia: Queensland

Senator LUDWIG (Queensland) (9.50 p.m.)—During the last couple of months I took the opportunity to travel to a number of areas in my home state of Queensland. While travelling through a range of Queensland based federal seats, I could not help but be impressed by the dedication and enthusiasm of the many workers that I met. However, I
was also saddened and somewhat disappointed by the obviously unnecessary hardships these workers are faced with. These hardships are a result of the damage being done to their communities through this government’s continuing neglect. In my home state of Queensland Labor senators and members do not have to travel far to see the result of this government’s failed policies on taxation, health, welfare and education. This government must truly have its head very deeply buried in the sand if it cannot see the damage it is doing to regional and rural communities. I have been confronted with countless examples of the outrage felt in Queensland regional and rural communities regarding this government’s policies, particularly those policies regarding taxation reform and particularly amongst small business.

One issue that has been raised with me on numerous occasions is the tax on beer. Just walk into any pub and you will know exactly what Australians think of this government’s tax on beer. I would like to bring to the Senate’s attention this evening a letter I recently received from Mr Noel Cooke in Dalby. Being a beer drinker myself, I can sympathise with Mr Cooke’s plight. A glass of beer in some western Queensland pubs now costs an incredible $2.50 per glass. While I am by no means an advocate for the brewing companies, I would like to echo the concerns of Mr Cooke and others who were grossly misled by this Howard government as to the effect of the GST on the price of beer.

It is interesting to look at the history of this government’s behaviour on this issue. Firstly, we had Mr Howard prior to the last election promising all Australians that the price of beer would not rise after the implementation of the GST. The government then suggested that the price of beer may well rise but only by 1.9 per cent. It was then revealed by Treasury officials in Senate estimates that prices would in fact rise by between seven and nine per cent. We were then told that the 1.9 per cent figure only related to the price of takeaway beer. A few months before the introduction of the GST we heard Mr Peter Costello admitting that a glass of beer would be eight per cent more expensive due to a hike in excise tax.

Australians took the Prime Minister at his word. But, unfortunately, Mr Howard must have put this issue into his ‘non-core promise’ category. Statements from the Prime Minister, such as ‘There is virtually no change in relation to alcohol,’ proved to be simply untrue. The hike in excise tax has added up to 20c to every glass of beer. These rises are particularly damaging for rural and regional hotel owners, who do not have access to poker machines to cross-subsidise their business. Many family businesses run hotels and the like, and they already operate on a slim margin and will find it hard to continue without the support of front bar sales. A number of publicans have already been told by their former patrons that they will be buying beer from the bottle shop and drinking it at home in order to avoid the higher tax. This is not the Australian vision of a country western town and a local pub that we all have. This increase has been described as everything from ‘a major breach of trust’ to ‘just plain unfair’.

I am particularly concerned about the employment aspect of this issue. There are in the order of 174,000 people employed in pubs and clubs around Australia. If people continue to turn away from these premises, from drinking over the bar at these venues, then thousands of jobs in the hospitality industry could very well be at risk—especially, it can be noted, in the small rural pubs. These are often small family businesses passed from generation to generation, which are interested in keeping their businesses afloat and maintaining a reasonable profit margin and maintaining a local rural spirit around at the pub. Unfortunately, those National Party members and senators who purport to represent regional Australia have let them down badly.

As part of my recent visit I also had the great pleasure of meeting the mayors of Toowoomba, Boonah, Millmerran and Beaudesert. We discussed a wide range of topics, including national competition policy, local area development, methods of attracting industry, and development of local tourist strategies. It is clear that local government is
feeling increased pressure on their budgets as a result of the federal government’s withdrawal of services from regional Queensland.

My travels around Queensland also took me to a number of areas dependent on income from cane farming. In Bundaberg I took the opportunity to tour the Fairymead sugar mill, where I discussed a range of ongoing industry problems with sugar industry representatives. As most of us here would know, the sugar industry generally is in a very difficult position at the moment. Having faced adverse climatic conditions, low prices over a while, reduced sugar content—or CCS—of the sugar cane, it is now plagued by rust in the cane fields, which I am told is a type of fungi.

I would like to congratulate the Queensland government at this point for providing hard-pressed cane farmers with low-interest loans to facilitate replanting from this rust plight and other problems that have beset the sugar industry. The Beattie government has put up $10 million to assist farmers to finance the replanting needed to guarantee cane supply to mills. Cane farmers and mills employ thousands of people across the country and need the support of both state and federal governments to assist this important industry.

A positive response from the Howard government is long overdue. Sugar producers, workers in sugar mills and the communities they sustain need assistance from all levels of government in these dire economic times that are being suffered in the sugar industry. This government had talked endlessly about the problems facing sugar producers and even asked the industry to develop proposals for tackling its problems. The industry produced an action plan, at which point the government stopped listening. The Queensland Labor government has demonstrated its commitment to the sugar industry in a very practical way. Now it is Mr Howard’s turn to deal with it.

As always, Telstra services continue to be raised as a constant major concern by rural and regional constituents. I have spoken to numerous people in rural and regional Queensland who are genuinely aggrieved about the current services provided by Telstra. To say that these people are concerned about what they can expect of a fully privatised Telstra is a serious understatement. I notice that a number of National Party parliamentarians have also broken ranks to reveal the level of concern in the community over this issue. In addition, the Leader of the National Party in the New South Wales state opposition, Mr George Souris, recently said of Telstra:

Service levels are not adequate, maintenance levels and repair times are way too slow.

Unfortunately, none of these parliamentarians seem to be willing to stand up to the National Party leadership on this issue. Labor knows that the only way that people in rural and regional communities can have any confidence in their telecommunication services being maintained and improved is if Telstra remains in majority public ownership.

Having spent considerable time in Toowoomba recently, I was greatly disappointed at the government’s refusal to restore annual federal funding to the Lifeline Darling Downs and South-West Queensland’s rural family counselling services. Lifeline has kept this service operating with the support of the local community, businesses and other levels of government. But, unfortunately, it has now been forced to close. National Party leader John Anderson stated prior to the closure:

The Government believes the counselling service provided by Lifeline was too valuable to be lost to the people of rural Queensland ... and the Government would work with Lifeline to find an acceptable outcome that provided certainty now and in the future.

Unfortunately for the staff, volunteers and clients, the only thing certain about Mr John Anderson’s intervention was that it did not prevent the Lifeline closure. The Howard government chose to let the service close, rather than restore funding, which was I understand only to the extent of $105,000 annually. I might add that under the former Labor government the primary industries minister Senator Bob Collins ensured that the Lifeline service got all of its funding. The people of south-western Queensland deserve to have access to rural support services, and it is an indictment of both John Anderson and the member for Groom that this service had to
close its doors due to lack of federal government assistance.

In my travels from Boonah to Millmerran and Nerang and up to Gladstone I have met many genuine hard-working people who are contributing greatly to our local communities. Unfortunately, they seem to be finding it harder to make ends meet. They expect their federal government to reach out with a helping hand, not burden them with an unfair tax system and further cuts to government services.

East End Mine Action Group

Senator WOODLEY (Queensland) (10.00 p.m.)—In March I spoke about an issue that has been in my heart for many years and was in fact one of the things that prompted me to notice politics and get involved in politics. It concerns a small farming community in central Queensland, at Mount Larcom. When I spoke about this issue I put on the record some of the struggles that this farming community has had in relation to the quarrying of limestone in that particular area. I told the story of how for many years they were unable to get justice through the mining warden’s court or get fulfilled the promises which were made to them that, if there was any problem with their water supply, this would be remedied. It never was, of course, and for many years the East End Mine Action Group has petitioned the current state government and previous governments to at least be heard, so that some kind of compensation might be made or some action taken in order to restore to them the very necessary water which, because of the quarrying in that area, has been lost. At the end of my speech—I think this is a good summary of what I was trying to say, and I want to go on from this point tonight—I said:

The East End Mine Action Group believe that the patronage afforded to Queensland Cement and Lime, the administrative neglect, the severe environmental harm, the socioeconomic impact and the insulation of the company against claims constitute grounds for a public inquiry, and I agree with them.

I now want to place on the record that the East End Mine Action Group have petitioned the Queensland government for a public or judicial inquiry into this long-running dispute that goes back to 1975. I told the story at the time that I was actually a Methodist minister who did not have a lot of interest in politics but that, because my congregation got involved in this dispute, I was dragged into it.

In late June this year a number of documents were tabled in the Queensland parliament. At a later time I will seek leave to table the same documents here, but not tonight. The documents which were tabled in the Queensland parliament were entitled An Administrative and Water Related Historical Perspective of Dispute Between QCL and East End Mine Action Group Inc at East End Mt Larcom Qld Australia, May 2000, and its Local Knowledge Companion Hydrology Study, May 2000. These documents were tabled in the parliament in support of the request for a public or judicial inquiry. To date there has not been a positive response to that request, and so I believe that, in the Senate, in order to give further exposure to this issue, I should continue the speech which I gave back in March. In the letter which the East End Mine Action Group wrote to the Premier, they made this comment:

The QCL Gladstone Project has a long history of government indulgence, enjoying both the active participation of Government as a consortium investor from 1977 to 1990 (when water depletion became entrenched) to patronage through facilitation of approvals for expansion without ensuring an effective remedy of “serious environmental harm” as defined under the EPA Act of 1994.

The point which the East End Mine Action Group is making is that it does not matter which government they have to deal with; they have not been able to get justice from governments of either of the major parties. There is a long history to the dispute. The original dispute they had was with the Bjelke-Petersen National Party government in Queensland, but they have the same complaint about the current Labor government as they had with the Goss government. They have placed on record a number of reasons they believe a judicial or a public inquiry into this dispute is called for. I want to place these reasons on the record. They say:

Key government departments have failed to properly exercise a duty of care to the community and acted in spite of a clear conflict of interest intruding upon judgements.
Then they say:
Over time and in the absence of an effective remedy to resolve water depletion, socio economic impacts have become the most serious aspect of the dispute.
I might add that the problem is that as they have lost water—in fact, I think the water table has fallen about two metres in this area over the 25 years that the mine has been operating—the farms have become more and more marginal. They go on to say that the third reason for asking for a judicial inquiry is:
Technical reports independent of QCL or Government contest both the drought component and the accuracy of benchmarks including those used to calculate landholder entitlements under injurious affection.
The mining company argued that the fall in the water table was due to drought. But, as anyone knows, it takes more than a drought to reduce a water table in that area by up to two metres. So they say that the reports they have give the lie to that claim. They go on to say:
EEMAG’s legal advice maintains QCL are mining illegally due to expiry of principal leases three years ago and QCL’s perpetual non compliance during this time.
Just to spell out what they mean and to give a summary of the legal advice they have received, let me put this on the record:
EEMAG’s legal advice maintains the discretionary powers of the Mines Minister (under which QCL has continued to mine for the past three years) is compromised by QCL’s obvious continuing non compliance. The discretionary power of the Mines Minister, relevant to the 1989 Queensland Mining Act has never been tested in court and on this basis, QCL have been permitted, and are being permitted by Queensland regulatory authorities (who do not acknowledge the existing and persistent non compliance) to mine without a lease.
That mining permission is simply relying on the discretionary power of the minister rather than on a proper determination by the proper authorities. Then, finally, a very disturbing publicly stated report is that QCL are preparing to mine 70 metres deeper than they currently do. As the East End Mine Action Group go on to say:
... coexistence without an effective district remedy is not possible.
In other words, they have been trying to cooperate with the mining company. They have joined all sorts of groups which have been in negotiation with them. But their frustration is quite obvious, because it does not seem to matter what they do or how they cooperate, there is no justice and no remedy to the complaint they have. They finished the letter to the Premier as follows:
Documentary evidence confirms the regulatory and administrative processes have been, and remain, corrupted, with Government as a party to the dispute unable to act impartially and without a clear conflict of interest.
I wanted to place on the record this further dispute and I would support the call for a public or judicial inquiry into this dispute as soon as possible.

Snowy River Alliance: East Gippsland

Senator McGAURAN (Victoria) (10.10 p.m.)—I wish to bring to the attention of the Senate the plight of the legendary and magnificent Snowy River in Gippsland which, in only four generations, has fallen from a river which was once immortalised by Banjo Paterson to now being labelled as a series of ponds linked by a trickle of water. Last week during the Senate’s up week, I visited East Gippsland and met with Mr Gil Richardson, who is a member of the Snowy River Alliance, a long-time local of the region and a family farmer. Mr Richardson showed me pictures of the Snowy River, two of which were in stark contrast to each other and basically sum up the situation. One picture was of Mr Richardson’s grandmother swimming with her grandchildren in 1966, up to their necks in the water of the Snowy, compared with the other picture of Mr Richardson and his grandchildren barely being able to wet their ankles in 1998.

The reason for this is that the water from the Snowy River is captured in the Jindabyne dam, redirected through the hydro power turbines and then inland into the Murray and Murrumbidgee rivers. In other words, the water is locked on the New South Wales side of the border and is being used—for good purposes—by the farmers on that side of the river. Nevertheless, it is now the centre of a
very genuine movement of East Gippslanders to have the river restored to its environmental flow or, in plain language, a free-flowing river at the top end of the Snowy River. This icon is basically at death's door: less than one per cent of the original flow at the top end of the Snowy now makes its way down the Snowy River, with the rest redirected to the Murray and Murrumbidgee rivers. In other words, for every litre of water captured by the Jindabyne dam, only two teaspoons are released into the Snowy.

The impact of this reduction in flow is there for all to see. I will read out a list of the effects contained in an East Gippsland Shire Council document titled ‘The Snowy River lives or dies forever: you can help save the Snowy River’. The list includes: shrunk river channel leaving a sparse river bed, reduction in the number of plant and animal life in the river, increased risks of toxic blue-green algae, degraded river wetland habitat, increased soil erosion and increased salinity. Along with these environmental factors comes the social and economic factors of the loss of tourism and a decrease in the population of towns running along the Snowy. The reduction in the flow has hurt many of these small communities. The reduced flow in the Snowy has not only dried out the river but also hurt the local communities.

The Snowy River Alliance and the local communities support a 28 per cent environmental flow being returned to the Snowy in order to bring it back to a reasonable state. This figure has been achieved in assessments by several scientific panels. The first one was in 1994 where a scoping report commissioned by the New South Wales and Victorian governments recommended a 28 per cent figure, another one in 1996 made the same recommendation and, as late as 1998, a scientific reference panel of the Snowy water inquiry conducted again by the New South Wales and Victorian governments also supported the 28 per cent figure. The 28 per cent flow will improve the water quality of the river, increase the number of plants and animal life, reduce the problem of salinity and also improve the tourism and outlook of those communities which have been hardest hit by the redirection of the Snowy.

Putting the Snowy’s water into perspective: for the Snowy River to have sufficient environmental flow, it would only need 2.3 per cent of the total natural flow from the Murray-Darling system redirected. The percentage of water wasted or lost in transmission through inefficient use of the water system presently is about 10 or 11 per cent. So, if nothing else, this debate sparked many years ago has brought to the front the fact that greater water efficiency is needed in regard to the Snowy River mountain scheme and the use of the water along the Murray-Darling system. Looking at this figure, we see that, if the 10 to 11 per cent of water now being wasted and lost were saved, then the Snowy River could receive its 28 per cent environmental flow without taking water away from the other river systems. The savings can be found simply through more efficient farming practices. The Snowy is on its last chance. The survival of the Snowy River now lies in the hands of three governments: the Victorian and New South Wales state governments and this federal government. Currently, the Department of Industry, Science and Resources—

Senator Schacht—How about South Australia?

Senator McGauran—is conducting an environmental impact study on the water flow to the Snowy. From this environmental impact study, recommendations will be forwarded to Senator Robert Hill and the environmental department, and he will review those recommendations. Once that review and recommendations are published, it really will be high noon for those three governments.

To introduce those savings will cost a great deal of money—well over the $100 million mark—which all three governments must meet. We cannot have a state government, as is happening at the present time—namely, the New South Wales government—shirking any commitment to put forward funds to save the river. We say that the savings must be made, and they can be made so as to return a 28 per cent flow to the Snowy River. This is what I personally support, this is what the people of Gippsland support and this is what the communities around the Snowy River support. The principle has been
River support. The principle has been laid down that the people of those communities have in fact suffered by not being able to use that water over the decades. The people on the New South Wales side of the border have clearly had the use of that water, so it is time to return the Snowy to its proper flow, to bring it back to its 28 per cent. There is no doubt this is a difficult situation, given all the competing interests from the three states—New South Wales, Victoria and South Australia.

Senator Schacht—We got a mention at last.

Senator McGauran—If I failed to mention South Australia prior to this, I apologise. The interjection by Senator Schacht from South Australia is an indication of the difficulty of this issue—there is no question and no doubt about that—but that does not mean we overlook the main concern of the East Gippsland community, which is a return to the Snowy. In fact we can thank the East Gippsland community for stirring up this issue to a point where now all three governments are seriously focusing on this issue. I think a great deal of water savings will be made so that all competing interests can be met. Nevertheless, the time is coming where a decision must be made. I just want to repeat: it does seem that the pig in the poke at the moment is clearly going to be the New South Wales government, which has the greatest commitment to this issue but has failed to come to the table to this point. As I said, I wanted to bring this matter to the attention of the Senate because of its seriousness and because of the competing interests.

Snowy River Alliance: East Gippsland

Senator Schacht (South Australia) (10.20 p.m.)—As I am the duty shadow minister for the Labor Party, I was not planning to speak, but after the remarks by Senator McGauran about the water in the Murray-Darling Basin and the Snowy River, I feel a couple of things should be put on the record. First of all, I am very surprised that Senator McGauran got up and talked about saving the Snowy River, because the National Party in Victoria—including his brother, Mr Peter McGauran, who is the member for Gippsland which covers the Snowy River area—apparently did everything they could to insult and ignore the save the Snowy River committee, which is made up apparently of many ex National Party members who were distressed to see the state of the Snowy River.

As someone who grew up in Gippsland in sight of Widdis Hill where Senator McGauran’s brother used to reside in a great big mansion on a hill overlooking us more common soldier settler farmers on the plain, I have to say that in the fifties in Gippsland the Labor Party was decimated after the split within it, and of course the whole of the area became a very big stronghold for the then Country Party now National Party. The main interest used to be whether the Labor Party would give its preferences to the National Party or the Liberal Party and therefore who would get the state seats in the area.

There are now five state seats in the Gippsland area, stretching from just east of Berwick right through to the New South Wales border. As I said, when I was growing up all of those seats were held by the National Party or the Liberal Party. Of those five seats, two are now held by the Labor Party, two are held by Independents who support the Labor government, and one is held by the National Party. I never thought that I would see in my lifetime a coalition of the Liberal and National parties reduced to one seat in Gippsland—a heartland area, a founding area for the Country Party in the 1920s. Dunstan was the Country Party Premier of Victoria for a decade—a minority government, supported by the Labor Party as the lesser of two evils. He came from Gippsland. There was a whole range of really senior figures in the National Party who came from Gippsland. The efforts of Senator McGauran, Mr Peter McGauran, the member for Gippsland, and others have wrecked the National Party in Gippsland to the point that the Labor Party holds the federal seat of McMillan and is within two or three per cent of winning Gippsland. That is an extraordinary change.
Senator McGauran has a hide to get up here and talk about saving the Snowy River when his party directly and completely ignored the issue before the state election. When Mr McNamara, who used to be the Leader of the National Party in Victoria, went to Orbost and this issue was raised with him, he just ignored it and said, ‘You can’t vote for anybody else but the National Party. We’re the only ones who can do any good for you.’ The locals in Gippsland and East Gippsland, Orbost, Buchan, Omeo and so on certainly taught Mr McNamara a big lesson. He resigned from the parliament only a few months ago and, in doing so, Benalla, a seat never held by the Labor Party in 100 years, is now a Labor Party seat. So you have the kamikaze kids in the National Party, destroying it from within in Victoria. That is a remarkable effort, a remarkable change. I admire Senator McGauran in one sense for having the hide, the cheek, to stand up here and talk about saving the Snowy River.

The real issue I want to turn to is that Senator McGauran said that this has to be a deal between the federal government, the New South Wales government and the Victorian government. I want to point out to him that the Murray-Darling Basin involves four states and a federal government. The issue of the Murray-Darling has been a political issue going right back to Federation. Before the First World War, the Murray-Darling Basin Commission provided the money to build the barrages at Lake Alexandrina to preserve fresh water and to build some of the locks along the River Murray. It also allocated the water. In those days people thought there was an inexhaustible supply of water for irrigation. We are now seeing the consequence of the profligate use of that water: the salinity problems throughout the Murray-Darling Basin. Experts from CSIRO and others are pointing out that, unless something dramatic is done, within 30 years the water in Adelaide from the Murray-Darling Basin will be undrinkable. I know people from Victoria and New South Wales might say, ‘Bad luck, South Australia.’ My colleague Senator Ludwig, who has been to Adelaide, says that the water is basically undrinkable now. It is still drinkable, but with the current salinity levels it will be undrinkable within 30 years.

I dispute Senator McGauran’s comments. You will not get agreement between the states to do the necessary things to save the Murray-Darling Basin and the Snowy River. The only body that has the vision, the financial clout and, in the end, the stick to make it work is the federal government. I argue strongly, as I did at the national conference of the Labor Party only a month ago and at a Labor Party country conference last weekend in South Australia, that we should ask the states to pass the management control issues of the water from the Murray-Darling Basin to the federal government and then demand from the federal government a generational plan to rehabilitate the Murray-Darling Basin. This is going to be an extremely costly measure. It will not cost just hundreds of millions or the odd billion; it will cost tens of billions of dollars over a lengthy period of time.

CSIRO scientists have told me recently that there will have to be massive tree re-planting on the western slopes of the Great Dividing Range in Victoria, New South Wales and southern Queensland. There will have to be massive tree replanting in areas of the Murray-Mallee in South Australia, Victoria and south-western New South Wales. Above all else, there has to be a massive change in the use of water in the Murray-Darling Basin in the system of delivery—we will no longer be able to have open channels with the evaporation and seepage that that creates; we will have to go to pipes—and, most importantly, the use of water will have to be charged at an economic price, not just given away as a right or entitlement to use however you like, because the price we are paying for that is the salinity levels in the Murray-Darling Basin. Wherever possible, we have to use drip irrigation in horticultural practices.

In South Australia, the wine industry, the grape growing industry, is expanding rapidly. Its major issue is access to water. They are willing to pay 50c a megalitre in South Australia for water, while upstream water is being given away for free to grow rice. I am not sure that in the long term you can grow paddy rice on the western plains of New South Wales—the hottest part of Australia in
the summer—in open fields with the water 50 or 60 centimetres deep and not expect some consequences such as salinity and drainage et cetera. It is a hard thing to have to say to rice growers, ‘We think you’re going to have to change.’ That is why you need a national government approach. We are going to have to pay to restructure them, to get them into other horticultural industries, or pay them to leave the industry. That is a big, big issue. We will not get this by agreement between the states. They do not have the money. They give in to sectional interests, whatever they may be. The only body we know in Australia that has the clout and the finances is the federal government. The finances will have to be used as a stick to the states to say, ‘You agree to make the changes to save the Murray-Darling Basin or some of the money will not be provided.’

Senate adjourned at 10.30 p.m.

DOCUMENTS
Tabling

The following documents were tabled by the Clerk:

Civil Aviation Act—Civil Aviation Regulations—
Civil Aviation Orders—
Civil Aviation Amendment Order (No. 10) 2000.
Directive—Part—
107, dated 17 August 2000.
Instrument Nos CASA 309/00 and CASA 338/00.

Dairy Produce Act—Dairy Structural Adjustment Program Scheme Amendment 2000 (No. 3).
Financial Management and Accountability Act—
Financial Management and Accountability Amendment Orders 2000 (No. 1).

International Monetary Agreements Act—Australian Government Loan to Papua New Guinea—National interest statement.
Radiocommunications Act—
Radiocommunications (Compliance Labelling—Incidental Emissions) Amendment Notice 2000 (No. 1).
Regulations—Statutory Rules 2000 No. 221.
Telecommunications Act—
Determination under section—
51—
Amendment No. 1 of 2000.
No. 2 of 2000.
95—Amendment No. 1 of 2000.
Indexed Lists of Files
The following documents were tabled pursuant to the order of the Senate of 30 May 1996 as amended 3 December 1998:
Indexed lists of departmental and agency files for the period 1 January to 30 June 2000—
Australian Trade Commission.
National Museum of Australia.

PROCLAMATIONS
Proclamations by His Excellency the Governor-General were tabled, notifying that he had proclaimed the following acts and provisions of an act to come into operation on the dates specified:

QUESTIONS ON NOTICE

The following answers to questions were circulated:

Employment, Workplace Relations and Small Business Portfolio: Agency Boards

(Question No. 2149)

Senator O’Brien asked the Minister for Employment, Workplace Relations and Small Business, upon notice, on 11 April 2000:

(1) How many agencies within the Minister’s portfolio are administered by a board.

(2) Are all members of the above boards appointed by the Governor-General on the advice of the Executive Council; if not, who is responsible for making board appointments.

(3) In each case, does the Remuneration Tribunal have a role in the setting of fees, allowances and other benefits for members of the boards; if not: (a) under which section of the relevant legislation are such fees, allowances and benefits authorised; and (b) how is the value of these fees, allowances and other benefits determined.

(4) In each case, what is the nature and value of fees paid to board members.

(5) What other benefits, such as mobile phones, home computers and home phone/faximile machines, are provided to board members by virtue of their membership of a government board.

(6) What class of air travel, what standard of accommodation and what car allowances are paid to board members and, in each case, what is the value of these benefits and who determines that value.

(7) Are board members entitled to, or do they receive, any spouse benefits; if so, what is the nature and value of these benefits.

(8) (a) On how many occasions since January 1998 have the above fees, allowances and other benefits been varied, (b) what was the reason for each variation; and (c) what was the quantum of each variation.

(9) If variations to fees, allowances and other payments to board members were not determined by the Remuneration Tribunal, who determined the quantum and timing of each increase.

(10) Do board members qualify for, and are they paid, superannuation benefits; if so, are such payments additional to, and separate from, other allowances they receive.

(11) Do board members receive any additional allowances if they are appointed to board sub-committees; if so, are such additional benefits provided for in the relevant legislation.

Senator Alston—The Minister for Employment, Workplace Relations and Small Business has provided the following answer to the honourable senator’s question:

National Occupational Health and Safety Commission

In the Employment, Workplace Relations and Small Business portfolio, only the National Occupational Health and Safety Commission (NOHSC) comes within the scope of this question. The 18 members of the Commission are, for the purposes of the Commonwealth Authorities and Companies Act 1997, directors and officers.

(1) One (NOHSC).

(2) Yes. See subsection 10 (ii) of the National Occupational Health and Safety Act 1985 (the NOHSC Act).

(3) The remuneration and allowances payable to the Chairman are determined by the Remuneration Tribunal. (see section 17 of the NOHSC Act) The remuneration payable to the Chief Executive Officer is determined by the Remuneration Tribunal. The level of allowances payable to the Chief Executive Officer is specified by the Remuneration Tribunal. The other sixteen members are not entitled to remuneration but are entitled to allowances (see section 18 of the NOHSC Act). The Remuneration Tribunal does not have a role in setting these; they are prescribed by legislation.

(a) As stated above, allowances are authorised under sections 17 and 18 of the NOHSC Act and the National Occupational Health and Safety Commission (Allowances) Regulations 1985.

(b) The Remuneration Tribunal has provided that the Chief Executive Officer is to be paid allowances at the Australian Public Service Senior Executive Service (SES) rate. For other members, allowances are also paid at the SES rate, as prescribed in the National Occupational Health and Safety
Commission (Allowances) Regulations 1985. The SES rate is determined from time to time by the Department of Employment, Workplace Relations and Small Business on the basis of cyclical accommodation cost surveys it carries out (the National Occupational Health and Safety Commission does not pay allowances to the member who represents the Commonwealth Minister for Employment, Workplace Relations and Small Business, or the member who represents the Commonwealth Minister for Health and Aged Care. The expenses incurred by these members are met by their own departments, except where group meals are provided by the National Occupational Health and Safety Commission).

(4) Chairman—remuneration set by the Remuneration Tribunal (currently $31,500 p.a. under Determination Number 1999/03).

Chief Executive Officer—remuneration set by the Remuneration Tribunal (currently $125,500 p.a. under Determination Number 1999/05).

Other members—none.

(5) The Chairman has use of a mobile phone and laptop computer for the duration of his appointment.

The Chief Executive Officer has use of a mobile phone, fax machine and a privately plated car for the duration of his appointment. Expenses associated with the privately plated car and a home telephone are met.

The other members do not receive other benefits.

(6) The Chairman is entitled to SES level air travel (business class). The Chairman’s other travel expenses are covered by allowances set by the Remuneration Tribunal. The rates vary with location. Other members’ travel expenses, including those of the Chief Executive Officer, but not including the two Commonwealth members, are paid on the basis of the SES rate as determined from time to time by the Department of Employment, Workplace Relations and Small Business (fares and travel expenses may be paid directly to providers rather than to members).

(7) The Chairman and Chief Executive Officer are entitled to spouse benefits, in accordance with Remuneration Tribunal Determinations 1999/03 and 1999/05 respectively. Benefits include spouse accompanied travel and accommodation. The value of this varies with the travel distance and location, and is based on the rates and conditions of traveling allowance payable to the Chairman and Chief Executive Officer, as determined by the Remuneration Tribunal. The other sixteen members are not entitled to, nor do they receive, any spouse benefits.

(8) Chairman

(a) Remuneration varied once; allowances varied once; benefits not varied.

(b) Determined by Remuneration Tribunal.

(c) Remuneration - $2750 p.a. increase; allowances $30 per night increase (Sydney), $30 per night decrease (other capital cities), $30 per night increase (outside capital cities).

Chief Executive Officer

(a) Remuneration varied three times; allowances varied four times (SES rates); benefits not varied.

(b) Remuneration determined by Remuneration Tribunal; allowances determined by Department of Employment, Workplace Relations and Small Business in accordance with the provisions of Continuous Improvement in the APS Enterprise Agreement 1995-96 and with reference to cyclical accommodation cost surveys undertaken by the department.

(c) Remuneration - $2163 p.a. increase 1 July 1998, $9234 p.a. increase plus $8500 p.a. Office Holder Supplement 17 December 1998, $5955 increase on 31 March 1999 (see Table A below); allowances – SES travel allowance rates varied on 14/5/98, 26/11/98, 13/5/99 and 25/11/99 in accordance with cost movements identified through the accommodation cost surveys.

Table A – Chief Executive Officer remuneration changes

<table>
<thead>
<tr>
<th>Date</th>
<th>Salary</th>
<th>Office Holder Supplement</th>
<th>Entitlement to Performance Pay</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 January 1998</td>
<td>$108 148</td>
<td>Nil</td>
<td>Max. 15% of salary</td>
</tr>
<tr>
<td>1 July 1998</td>
<td>$110 311</td>
<td>Nil</td>
<td>Max. 15% of salary</td>
</tr>
<tr>
<td>17 December 1998</td>
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<td>$8500</td>
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</tr>
<tr>
<td>31 March 1999</td>
<td>$125 500</td>
<td>$8500</td>
<td>Nil</td>
</tr>
</tbody>
</table>
Other members (not including the two Commonwealth members)

(a) Allowances varied four times (SES rates).

(b) SES allowances determined by the Department of Employment, Workplace Relations and Small Business (on the basis described under Chief Executive Officer, above).

(c) SES allowance rates varied on 14/5/98, 26/11/98, 13/5/99 and 25/11/99 (as for Chief Executive Officer).

The National Occupational Health and Safety Commission may pay providers of travel, accommodation and meals directly rather than paying allowances to members. Direct payment to accommodation and meal providers may mean that on a pro rata basis, the amount per member per meeting varies from the SES rate (it may be above or below). Direct payment involving pro rata variations to accommodation expenses above the current SES rate would be approved by the Chief Executive Officer.

(9) This applies to variations to allowances for eligible members other than the Chairman – such variations (to the SES rate) were determined by the Department of Employment, Workplace Relations and Small Business on the basis described above.

(10) The Chairman and Chief Executive Officer qualify for, and are paid, employer contributions towards their superannuation benefits. These are separate from the other allowances they receive. The other members do not qualify for superannuation benefits.

(11) Yes and yes.

Department of Veterans’ Affairs: Fringe Benefits Paid
(Question No. 2321)

Senator O’Brien asked the Minister for Veterans’ Affairs, upon notice, on 6 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 Newman—The Minister for Veterans’ Affairs has provided the following answer to the honourable senator’s question:

Department

1) (a) The value of fringe benefits tax (FBT) payments made by the department for the three years ended 30 April 2000 was:

1997/98$333,476
1998/99$395,118
1999/00$486,795.

(b) Not applicable.

2) The incentives paid to departmental officers that attracted FBT over the above periods were for: use of car, car parking, HECS reimbursements, spouse accompanied travel, staff transport, part reimbursement of health and fitness subscriptions and remote locality allowance.

3) The compliance costs are estimated to be approximately $12,000 per annum.

4) None.

5) Not applicable.
Australian War Memorial

(1) (a) The value of fringe benefits tax (FBT) payments made by the Australian War Memorial (AWM) for the three years ended 30 April 2000 was:

1997/98 $12,998
1998/99 $19,897
1999/00 $37,498.

(b) Not applicable.

(2) The incentives paid to AWM officers that attracted FBT over the above periods were for: use of car, telephones, hospitality for official functions, spouse accompanied travel, and reimbursement of health and fitness subscriptions.

(3) The compliance costs for the AWM are estimated to be approximately $8,000 per annum.

(4) None.

(5) Not applicable.

Department of Transport and Regional Services: New Tax System Consultants
(Question No. 2370)

Senator Faulkner asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 21 June 2000:

(1) How many consultants have been engaged or used by the department, and all agencies in the portfolio, to 31 May 2000 in order to: (a) advise on the internal implementation of the new tax system; and (b) advise on, and/or publicise, the effect of the new tax system on the portfolios client group(s).

(2) Can a full list be provided of all consultants engaged or used in relation to the purposes set out in (1), together with the cost of each consultancy.

Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s questions:

(1) (a) Twenty-one separate consultancy arrangements.

(b) Nil.

(2) Refer to following table:

<table>
<thead>
<tr>
<th>Agency</th>
<th>Consultant</th>
<th>Purpose</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dept of Transport and Regional Services</td>
<td>Ernst &amp; Young Deloitte Eclipse Electric Power Consulting</td>
<td>taxation advice system changes system changes</td>
<td>341,061 139,738 20,266</td>
</tr>
<tr>
<td>Airservices Australia</td>
<td>Arthur Andersen Mat-man Systems Unilink Data Systems</td>
<td>taxation advice system changes</td>
<td>222,879 38,000 5,000</td>
</tr>
<tr>
<td>Albury-Wodonga Development Corporation</td>
<td>Nil</td>
<td>Nil</td>
<td>Nil</td>
</tr>
<tr>
<td>Australian Maritime College</td>
<td>Deloitte Technology One</td>
<td>taxation advice system changes</td>
<td>750 (est) 6,600</td>
</tr>
<tr>
<td>Australian Maritime Safety Authority</td>
<td>KPMG Assist Pty Ltd</td>
<td>taxation advice system changes</td>
<td>66,000 15,000 to 20,000 (est)</td>
</tr>
</tbody>
</table>
Australian National Railways
Commission

Australian River Co Limited

Civil Aviation Safety Authority

Maritime Industry Finance Co Limited

National Capital Authority

Stevedoring Industry Finance Committee

<table>
<thead>
<tr>
<th>Agency</th>
<th>Consultant</th>
<th>Purpose</th>
<th>Cost $</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australian National Railways Commission</td>
<td>Minter Ellison</td>
<td>taxation advice</td>
<td>1,000 to 2,000</td>
</tr>
<tr>
<td></td>
<td>Arthur Andersen</td>
<td>taxation advice</td>
<td>20,000 (est)</td>
</tr>
<tr>
<td></td>
<td>Blake Dawson Waldron</td>
<td>taxation advice</td>
<td>10,000 (est)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
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<td></td>
<td>KPMG</td>
<td>taxation advice</td>
<td>2,400</td>
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<tr>
<td></td>
<td>Duesburys</td>
<td>taxation advice</td>
<td>7,930</td>
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<tr>
<td></td>
<td>IBT</td>
<td>system changes</td>
<td>Not available; NTS work not separately identified on invoices</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Clayton Utz PKF</td>
<td>taxation advice</td>
<td>Not available; NTS work not separately identified on invoices</td>
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<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Ernst &amp; Young Computer Plus Integrations</td>
<td>taxation advice</td>
<td>44,435</td>
</tr>
<tr>
<td></td>
<td></td>
<td>system changes</td>
<td>15,760</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
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<tr>
<td></td>
<td>Nil</td>
<td>Nil</td>
<td>Nil</td>
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</tbody>
</table>

Department of Employment, Workplace Relations and Small Business: New Tax System Consultants
(Question No. 2375)

Senator Faulkner asked the Minister representing the Minister for Employment, Workplace Relations and Small Business, upon notice, on 21 June 2000:

(1) How many consultants have been engaged or used by the department, and all agencies in the portfolio, to 31 May 2000, in order to: (a) advise on the internal implementation of the new tax system; and (b) advise on, and/or publicise, the effect of the new tax system on the portfolio’s client group(s).

(2) Can a full list be provided of all consultants engaged or used in relation to the purposes set out in (1), together with the cost of each consultancy.

Senator Alston—The Minister for Employment, Workplace Relations and Small Business has provided the following answer to the honourable senator’s question:

Department of Employment, Workplace Relations and Small Business

(1) (a) One.
(b) One.

(2) KPMG — $316 445.

Comcare:

(1) (a) In total, Comcare engaged four consultants (see response to question 2) to advise on various aspects of the introduction of the new tax system. The advice sought covered a range of implementation issues, and it is not possible to provide separate costings for parts (a) and (b) of the question. Accordingly, total costings are provided in response to question 2.
(b) See (a) above.
(2) The following consultants were engaged by Comcare:

<table>
<thead>
<tr>
<th>Consultant</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Blake Dawson Waldron</td>
<td>$10,180</td>
</tr>
<tr>
<td>Australian Government Solicitor</td>
<td>$4,725</td>
</tr>
<tr>
<td>Sparke Helmore</td>
<td>$4,800</td>
</tr>
<tr>
<td>Ernst and Young</td>
<td>$3,070</td>
</tr>
</tbody>
</table>

Office of the Employment Advocate (OEA)

(1) (a) None.

(b) None.

(2) Not Applicable.

National Occupational Health and Safety Commission (NOHSC)

(1) (a) One.

(b) One.

(2) Ernst & Young was engaged to undertake various projects, including the internal implementation of the new tax system at a cost of $51,000; and publicising the effect of the new tax system at a cost of $10,000.

Equal Opportunity for Women in the Workplace Agency

(1) (a) None.

(b) None.

(2) Not Applicable.

Australian Industrial Registry

(1) (a) None.

(b) None.

(2) Not applicable.

Defence Forces Remuneration Tribunal

(1) (a) None.

(b) None.

(2) Not Applicable.

Department of Industry, Science and Resources: New Tax System Consultants

(Question No. 2382)

Senator Faulkner asked the Minister for Industry, Science and Resources, upon notice, on 21 June 2000:

(1) How many consultants have been engaged or used by the Department, and all agencies in the portfolio, to 31 May 2000, in order to: (a) advise on the internal implementation of the new tax system; and (b) advise on, and/or publicise, the effect of the new tax system on the portfolio’s client group(s).

(2) Can a full list be provided of all consultants engaged or used in relation to the purposes set out in (1), together with the cost of each consultancy.

Senator Minchin—The answer to the honourable senator’s question is as follows:

(1) (a) The Industry, Science & Resources portfolio engaged 19 consultants under 27 separate contracts to 31 May 2000 to advise on the internal implementation of the new tax system.

(b) The Industry Science & Resources portfolio engaged 3 consultants to 31 May 2000 to advise on, and/or publicise, the effect of the new tax system on the portfolio’s client groups.

(2) Advise on the internal implementation of the new tax system.

<table>
<thead>
<tr>
<th>Industry, Science &amp; Resources</th>
<th>Consultant</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Walter &amp; Turnbull</td>
<td>$123,346.81</td>
</tr>
<tr>
<td></td>
<td>Ernst &amp; Young</td>
<td>$43,200</td>
</tr>
<tr>
<td></td>
<td>Wizard Information Systems</td>
<td>$40,822.50</td>
</tr>
</tbody>
</table>
Advising, and/or publicising, the effect of the new tax system on the portfolio’s client groups.

<table>
<thead>
<tr>
<th>Australian Sports Commission</th>
<th>Ernst &amp; Young</th>
<th>$53,100</th>
</tr>
</thead>
<tbody>
<tr>
<td>ANSTO</td>
<td>Walter &amp; Turnbull</td>
<td>$85,000</td>
</tr>
</tbody>
</table>

**Department of Defence: Programs and Grants to the Bass Electorate (Question No. 2409)**

**Senator O’Brien** asked the Minister representing the Minister for Defence, upon notice, on 26 June 2000:

1. What was the level of funding provided through programs and/or grants administered by the department to provide assistance to people living in the federal electorate of Bass in the 1999-2000 financial year.

2. What level of funding provided through these programs and/or grants has been appropriated for the 2000-2001 financial year.

**Senator Newman**—The Minister for Defence has provided the following answer to the honourable senator’s question:
(1) Nil.

(2) The 2000-2001 Appropriations include provision of $1.250 million for the Defence Family Support Program Australia wide. A submission for 2000-2001 grants has been approved by the Minister Assisting the Minister for Defence, but there are no grants included for organisations in the Bass electorate.

**Department of Defence: Programs and Grants to the Kalgoorlie Electorate**

(Question No. 2427)

Senator O’Brien asked the Minister representing the Minister for Defence, upon notice, on 26 June 2000:

(1) What programs and/or grants administered by the department provide assistance to people living in the federal electorate of Eden Monaro.

(2) What was the level of funding provided through these programs and/or grants for the 1996-97, 1997-98, 1998-99 and 1999-2000 financial years.

(3) What level of funding provided through these programs and/or grants has been appropriated for the 2000-2001 financial year.

Senator Newman—The Minister for Defence has provided the following answer to the honourable senator’s question:

(1) The Defence Family Support Program provides funds to support projects and services initiated by Defence families, and is available to existing groups in the community composed of, or benefiting, Defence families.


(3) The 2000-2001 Appropriations include provision of $1.250 million for the Defence Family Support Program Australia wide. A submission for 2000-2001 grants has been approved by the Minister Assisting the Minister for Defence, but there are no grants included for organisations in the electorate of Eden Monaro.

**Department of Defence: Programs and Grants to the Eden-Monaro Electorate**

(Question No. 2445)

Senator O’Brien asked the Minister representing the Minister for Defence, upon notice, on 26 June 2000:

(1) What programs and/or grants administered by the department provide assistance to people living in the federal electorate of Eden Monaro.

(2) What was the level of funding provided through these programs and/or grants for the 1996-97, 1997-98, 1998-99 and 1999-2000 financial years.

(3) What level of funding provided through these programs and/or grants has been appropriated for the 2000-2001 financial year.

Senator Newman—The Minister for Defence has provided the following answer to the honourable senator’s question:

(1) The Defence Family Support Program provides funds to support projects and services initiated by Defence families, and is available to existing groups in the community composed of, or benefiting, Defence families.


(3) The 2000-2001 Appropriations include provision of $1.250 million for the Defence Family Support Program Australia wide. A submission for 2000-2001 grants has been approved by the Minister Assisting the Minister for Defence, but there are no grants included for organisations in the electorate of Eden Monaro.
Department of Defence: Programs and Grants to the Gippsland Electorate
(Question No. 2464)

Senator O’Brien asked the Minister representing the Minister for Defence, upon notice, on 26 June 2000:

1) What was the level of funding provided through programs and/or grants administered by the department to provide assistance to people living in the federal electorate of Gippsland in the 1999-2000 financial year.

2) What level of funding provided through these programs and/or grants has been appropriated for the 2000-2001 financial year.

Senator Newman—The Minister for Defence has provided the following answer to the honourable senator’s question:

1) The Defence Community Organisation provided grants to organisations in the Gippsland electorate of $34,193.00 in 1999-2000.

2) The 2000-2001 Appropriations include provision of $1.250 million for the Defence Family Support Program Australia wide. A submission for 2000-2001 grants has been approved by the Minister Assisting the Minister for Defence. This includes grants totalling $21,400.00 for organisations in the Gippsland electorate.

Centenary of Federation Celebrations: Minister for Transport and Regional Services Staff
(Question No. 2488)

Senator Faulkner asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 28 June 2000:

With reference to the upcoming Centenary of Federation celebrations to be held in the United Kingdom:

1) Will the department be paying for a member or members of the Minister’s personal staff to accompany the Minister on the visit; if so: (a) which member or members of staff; and (b) what is the expected cost.

2) Will any officer from the department, or from any agency in the portfolio, be accompanying the Minister on the visit; if so: (a) which officer or officers; and (b) what is the expected cost.

Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

1) No. Travel for members of the Minister’s personal staff is paid for by the Department of Finance and Administration.

2) No. There will be no officers from the Department or any agency in the Portfolio travelling with the Minister.

Department of Immigration and Multicultural Affairs: Missing Laptop Computers
(Question No. 2511)

Senator Faulkner asked the Minister representing the Minister for Immigration and Multicultural Affairs, upon notice, on 28 June 2000:

1) Since 1 January 1999, have there been any laptop computers lost or stolen from the possession of any officer of the department and/or any agencies within the portfolio; if so: (a) how many have been lost; (b) how many have been stolen; (c) what is the total value of these computers; (d) what is the average replacement value per computer; and (e) have these computers been recovered or replaced.

2) Have the police been requested to investigate any of these incidents; if so: (a) how many were the subject of police investigation; (b) how many police investigations have been concluded; (c) in how many cases has legal action been commenced; and (d) in how many cases has action been concluded and with what result.

3) How many of the lost or stolen computers had, on their hard disc drives, or in the form of floppy disc, CD-ROM or any other storage device, departmental documents, content or information other than operating software.
(4) How many of the documents etc. referred to in (3) were classified for security or any other purpose and, if any, what was the security classification involved.

(5) (a) How many of the documents etc. referred to in (3) have been recovered; and (b) how many documents etc. referred to in (4) have been recovered.

(6) What departmental disciplinary or other actions have been taken in regard to the items referred to in (1) or in relation to the documents etc. referred to in (3) or (4).

Senator Vanstone—The Minister for Immigration and Multicultural Affairs has provided the following answer to the honourable senator’s question:

(1) (a) None lost.

(b) Two laptop computers, leased under outsourced desktop leasing arrangements, were stolen. Both laptop computers were stolen from staff private residences along with other personal items.

(c) Two laptop computers leased under leasing arrangements for a three year period. They were both stolen before the leasing arrangements had expired. The Department was required to pay out the remaining monthly leasing payments to the value of $11062.00.

(d) The replacement value for each leased laptop computers is $278.51 per month for a three year period, totalling $10026.36.

(e) Laptop computers were not recovered, but have been replaced.

(2) (a) Two

(b) Two

(c) None

(d) The police conducted investigations into the theft of both laptop computers. On both occasions, they were unable to identify the offender(s) or recover the laptop computers.

(3) Two laptop computers

(4) None

(5) (a) None

(b) None

(6) No disciplinary action has been taken because the police have been unable to identify the offender(s).

The Department has in place the following security measures:

. Protective Security and Information Technology Security Instructions, which are based on the polices outlined in the Commonwealth Protective Security Manual and relevant Defence Signals Directorate manuals;

. Code of Conduct policies;

. Home Base Work procedures;

. encryption software installed on all laptop computers. The function of this software is to protect the data stored on the laptop computer’s hard drive from unauthorised persons by encrypting the hard drive and providing password protection; and

. ongoing Code of Conduct and security awareness training, which is a mandatory requirement for all staff to attend.

Foreign Aid: Cambodia
(Question No. 2555)

Senator Brown asked the Minister representing the Minister for Foreign Affairs, upon notic- e, on 4 July 2000:

(1) How does the Australian Government ensure that its aid to Cambodia has not been, and will not be, misused or diverted from its intended use.

(2) How will the Australian Government respond to the Cambodian Opposition’s call for a genuine focus by donor countries on fraudulent land transactions.

(3) What role has the Cambodian government taken in ending corruption in private and public activities in Cambodia.
Senator Hill—The Minister for Foreign Affairs has provided the following answer to the honourable senator’s question:

1. The Australian Government places great emphasis on identifying effective channels for the delivery of assistance that minimise the potential for diversion of overseas aid. In the case of Cambodia, Australia’s bilateral assistance is provided mainly in the form of goods and services delivered by Australian firms in accordance with clearly specified contractual requirements. In accordance with the Government’s shift to results based management, these contracts focus on outcomes which the contractor is obliged to report against and which AusAID monitors regularly in accordance with six monthly Country Program Risk Assessment Monitoring Plans. In addition, there is ongoing routine contact between Australian Development Assistance staff in Phnom Penh and project staff to discuss project and sector-related issues.

Some assistance is also channelled through United Nations agencies, multilateral organisations and Australian non-government organisations. These organisations have demonstrated effective financial controls that fully account for all grants.

The Australian Embassy in Phnom Penh administers several relatively small programs which provide grants to recognised Cambodian community groups, institutions and non-government organisations. Projects are self-contained with finite time lines and are monitored in accordance with appropriate risk management strategies.

Quality control is also maintained through audit provisions. Contracts with Australian Managing Contractors and NGOs contain provisions allowing full audits to be undertaken by AusAID in accordance with AusAID Annual Audit Plans. In addition, the Australian National Audit Office undertakes independent performance assessments and accountability checks.

2. The May 2000 Consultative Group (CG) meeting in Paris provided an opportunity for donors, including Australia to discuss with the Cambodian delegation the need to address inequities in land allocation, including through a major and long-term program of land management and titling. Progress in the implementation of this program will be closely monitored over the coming year through a donor working group on natural resource management.

3. The Government of Cambodia presented a draft Governance Action Plan to the May 2000 CG meeting. The plan covers a range of governance issues, including corruption, building credibility in the legal and judicial system, protecting human and property rights and pressing ahead with public administration reforms. The CG meeting agreed on the establishment of a formal Government of Cambodia/donor working group to monitor progress in the implementation of the Action Plan. This development is a useful step forward in addressing corruption and other governance issues in Cambodia. Australia and other donor countries recognise that substantial progress will depend on the commitment of the Cambodian Government.

Department of Industry, Science and Resources: Salaries
(Question No. 2572)

Senator Faulkner asked the Minister for Industry, Science and Resources, upon notice, on 7 July 2000:

‘as a dollar amount, and as a percentage of the department’s total outlay on salaries, what was the cost of: (a) staff training; (b) consultants; (c) performance pay, in the 1999-2000 financial year.’

Senator Minchin—The answer to the honourable senator’s question is as follows:

<table>
<thead>
<tr>
<th>1999/2000</th>
<th>$’000</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Salaries Expense</td>
<td>98,053</td>
<td></td>
</tr>
<tr>
<td>Staff Training</td>
<td>2,053</td>
<td>2.1</td>
</tr>
<tr>
<td>Consultants</td>
<td>17,201</td>
<td>17.5</td>
</tr>
<tr>
<td>Performance Pay</td>
<td>84</td>
<td>0.1</td>
</tr>
</tbody>
</table>

It should be noted that the figures provided are for the Department of Industry, Science and Resources (DISR) only, in line with the question asked by the Senator. The information is provided from the draft annual financial statements. Whilst draft, no significant changes are expected.
The response excludes agencies which are considered to be prescribed agencies under the Financial Management and Accountability Act 1997 - Intellectual Property Australia (IP) and the Australian Geological Survey Organisation (AGSO).