CONTENTS

WEDNESDAY, 30 AUGUST

East Timor: Ballot............................................................................................. 16885
Crimes Amendment (Forensic Procedures) Bill 2000—
  First Reading ............................................................................................... 16885
  Second Reading........................................................................................... 16885
Telecommunications Legislation Amendment Bill 2000—
  First Reading ............................................................................................... 16888
  Second Reading........................................................................................... 16889
Petroleum Excise Amendment (Measures to Address Evasion) Bill 2000—
  Second Reading........................................................................................... 16889
  In Committee............................................................................................... 16916
Matters Of Public Interest—
  World Trade Organisation: Dispute Settlement System.............................. 16921
  Superannuation............................................................................................ 16924
  Multinational Corporations.......................................................................... 16927
  East Timor ................................................................................................... 16927
  Cities: Newcastle and Glasgow ................................................................... 16929
  Wesley Institute of Language and Commerce ............................................. 16932
Questions Without Notice—
  Goods and Services Tax: Petrol Prices ........................................................ 16935
  Economy: Tax Reform................................................................................. 16936
  Fishing: Outboard Fuel Prices ..................................................................... 16936
  Rural and Regional Australia: Health.......................................................... 16938
  United Nations: Non-government Organisations ........................................ 16939
  Women: United Nations Protocol................................................................ 16940
  Economy: Foreign Debt ............................................................................... 16941
  Standing Advisory Committee on Commonwealth-State Cooperation for
    Protection Against Violence ........................................................................ 16942
  Aged Persons: Savings Bonus ..................................................................... 16942
  Computer Software: Imports ....................................................................... 16943
  Sugar Industry: Rescue Package .................................................................. 16944
  United Nations: Non-Government Organisations ........................................ 16945
  Unisearch Ltd: Loan.................................................................................... 16946
  Education: Ses Scores....................................................................................... 16947
Notices—
  Presentation ................................................................................................. 16955
Committees—
  Selection of Bills Committee—Report........................................................... 16957
  Notices—
    East Timor: Ballot...................................................................................... 16958
    Information Technology: Outsourcing........................................................ 16958
    Lucas Heights: Nuclear Reactor .................................................................. 16959
    Kalejs, Mr Konrad—
      Suspension of Standing Orders................................................................. 16959
Financial Sector Legislation Amendment Bill (No. 1) 2000—
  Report of Superannuation and Financial Services Committee .................... 16961
Committees—
  Scrutiny of Bills Committee—Report ........................................................... 16961
Financial Sector Legislation Amendment Bill (No. 1) 2000—
  Report of Economics Legislation Committee.............................................. 16961
Veterans’ Affairs Legislation Amendment (Budget Measures) Bill 2000....... 16961
CONTENTS—continued

Veterans' Affairs Legislation Amendment Bill (No. 1) 2000—
Report of Foreign Affairs, Defence and Trade Legislation Committee....... 16961
Committees—
  Membership...................................................................................................... 16961
Gene Technology Bill 2000 .............................................................................. 16962
Gene Technology (Consequential Amendments) Bill 2000...................... 16962
Gene Technology (Licence Charges) Bill 2000—
  First Reading .................................................................................................. 16962
  Second Reading............................................................................................... 16962
Native Title Determinations.............................................................................. 16963
Adjournment—
  East Timor: Independence ........................................................................... 17000
  Poland: Anniversary of Solidarity ............................................................... 17002
  Australian Labor Party: Donations .............................................................. 17003
  Liberal Party of Australia: Tasmania............................................................ 17004
Documents—
  Tabling............................................................................................................ 17005
  Indexed Lists of Files .................................................................................... 17005
Questions on Notice—
  Genetically Modified Organisms: Crop Locations—
    (Question No. 2219) .................................................................................... 17006
  Department of Health and Aged Care: Rents Paid—
    (Question No. 2245) .................................................................................... 17007
  Department of Foreign Affairs and Trade: New Tax System Consultants—
    (Question Nos 2372 and 2377)..................................................................... 17008
  Goods and Services Tax: Department of Finance and Administration
    Research—(Question No. 2388) ................................................................. 17009
  Telstra: Call Centre Staff—(Question No. 2391) ........................................... 17010
  Department of Communications, Information Technology and the Arts:
    Programs and Grants to the Bass Electorate—(Question No. 2406)......... 17011
  Department of Foreign Affairs and Trade: Programs and Grants to
    the Kalgoorlie Electorate—(Question No. 2422)........................................ 17014
  Department of Communications, Information Technology and the Arts:
    Programs and Grants to the Kalgoorlie Electorate—
    (Question No. 2424) .................................................................................... 17015
  Department of Communications, Information Technology and the Arts:
    Programs and Grants to the Eden-Monaro Electorate—
    (Question No. 2442) .................................................................................... 17021
  Department of Industry, Science and Resources: Programs and Grants
    to the Gippsland Electorate—(Question No. 2467).................................... 17024
  Department of Employment, Workplace Relations and Small Business:
    Missing Laptop Computers—(Question No. 2502).................................... 17025
  Department of Education, Training and Youth Affairs: Missing Laptop
    Computers—(Question No. 2508)................................................................. 17028
  Department of Employment, Workplace Relations and Small Business:
    Missing Computer Equipment—(Question No. 2521)............................... 17028
The DEPUTY PRESIDENT (Senator West) took the chair at 9.30 a.m., and read prayers.

EAST TIMOR: BALLOT

Motion (by Senator Vanstone) agreed to:

That the Senate—

(a) notes that 30 August 2000 marks the first anniversary of the United Nations run ballot in East Timor;

(b) recalls the role played by the 50 unarmed Australian Federal Police (AFP) and six Australian Defence Force (ADF) military observers, as members of the United Nations mission in East Timor during the lead-up to the ballot, in ensuring security for the people of East Timor and providing confidence in the integrity of the ballot;

(c) commends the courage displayed by the men and women of the AFP and ADF in the face of violence and intimidation in the lead-up to the poll and the outburst of destruction and killing that followed the announcement of the ballot results; and

(d) recognises that their continued presence in East Timor at the height of the post-ballot violence was crucial to preserving the United Nations role in East Timor.

CRIMES AMENDMENT (FORENSIC PROCEDURES) BILL 2000

First Reading

Motion (by Senator Ellison), at the request of Senator Ian Campbell agreed to:

That the following bill be introduced: a bill for an act to amend the Crimes Act 1914, and for other purposes.

Motion (by Senator Ellison) agreed to:

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

Bill read a first time.

Second Reading

Senator ELLISON (Western Australia—Special Minister of State) (9.32 a.m.)—I table the explanatory memorandum and move:

That this bill be now read a second time.

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

Leave granted.
less than 10% of the community commit more than 90% of crime. The matching of DNA information will not only give law enforcement the capacity to catch those who re-offend, it will also add to efficiency and reduce inconvenience for those who are eliminated as potential suspects. The amendments to Part 1D proposed in this bill will provide the framework for providing this additional protection along with appropriate safeguards to ensure there is adequate accountability on the part of those who administer the system.

Part 1D also does not preclude the taking of forensic material from volunteers for investigative purposes and placement on the national DNA database system. However, there are no procedures for the taking and use of that material. I think it is very important that those who care enough about their community to volunteer samples should be afforded the type of safeguards concerning informed consent and the use of such material that is afforded to suspects and offenders. This bill provides for such procedures.

The bill has not been drawn up in haste. It is the result of extensive consultations throughout Australia and a concerted effort to get consistent legislation by the Standing Committee of Attorneys-General. The Standing Committee, in cooperation with the Australasian Police Ministers Council, tasked the Model Criminal Code Officers Committee, which is composed of criminal law advisers from Commonwealth, State and Territory jurisdictions, to produce a model bill.

After consultation on an initial draft developed in 1995 (which is the basis of the existing procedures in Part 1D) and a May 1999 discussion paper proposing the type of modifications I have outlined above, a final draft of the Model Forensic Procedures Bill was completed in February 2000. The 2000 Model bill reflects the consideration given to comprehensive submissions received from a variety of groups, including the Federal and New South Wales Privacy Commissioners, law enforcement agencies, forensic experts, defence lawyers, prosecutors, judges, bar councils, academics, law societies, civil liberties groups, human rights' organisations, victims groups, legal aid organisations and government departments.

The Government is very supportive of the 2000 Model bill because it provides a carefully balanced legislative regime, which when implemented in each jurisdiction will allow Commonwealth, State and Territory law enforcement agencies to better utilise DNA technology but at the same time will safeguard individual liberty and ensure there is adequate accountability on the part of those who administer the system. Accordingly, this bill updates Part 1D of the Crimes Act 1914 to implement the 2000 Model bill.

A national DNA database system is not a new concept to criminal investigation. The United Kingdom pioneered the national DNA database and have been using DNA technology as an investigative tool since 1986. Interestingly, the first use of DNA technology in the United Kingdom prevented an innocent man, who had confessed to a crime he did not do, from being tried and wrongly convicted on the strength of his false confession. DNA database systems are also being used as an investigative tool in other European countries, the United States of America, Canada, New Zealand and elsewhere with considerable success. It is anticipated that the national DNA database system established and administered by CrimTrac, and monitored by the Federal Privacy Commissioner, will be state-of-the-art, not only in its technology but also in the accountability mechanisms contained in the bill and the protocols for administering the system.

The substantive changes to existing Part 1D can be separated into 3 major categories.

First, the carrying out of forensic procedures on convicted offenders. Secondly, the carrying out of forensic procedures on volunteers. Thirdly, the rules regulating the use of forensic material taken and stored on the national DNA database system.

The bill complements the existing provisions in Part 1D of the Crimes Act 1914 which carefully balances the rights of suspects against the public interest in gathering evidence of offences by ensuring similar procedures and safeguards apply to convicted offenders and volunteers. For example, the special procedures for taking forensic material from a child or incapable person. The rules as to admissibility of evidence obtained from a forensic procedure that are contained in existing Division 7 of Part 1D will be extended to cover the offender and volunteer contexts. These safeguards are supplemented by criminal offences which provide for substantial penalties for those who misuse information derived from forensic procedures.

Forensic procedures on convicted offenders

Proposed Division 6A will regulate the carrying out of forensic procedures on certain convicted offenders ‘under sentence’ for law enforcement purposes.

There are two categories of convicted offenders: serious offenders and prescribed offenders. A serious offender is a person convicted of an
The qualification that the convicted offender must in the performance of such procedures.

Defusing any tension which might otherwise exist magistrate in these situations will play a role in

Further, the independent arbitration of a appropriate carrying out of such procedures.

Serious offenders will not be subjected to the safeguard. It provides some reassurance that procedure can only be carried out with the consent to the carrying out of an intimate forensic

If a serious offender does not give informed procedure (saliva or blood samples), then the

approval of a magistrate. This is an important procedure can only be carried out with the

consent to the carrying out of an intimate forensic and forensic information obtained from that material can be placed on the national DNA database system. This recognises that the proposed procedures are more intrusive and that resources should be focused on the more serious offences.

If a serious offender does not give informed consent to the carrying out of an intimate forensic procedure (saliva or blood samples), then the procedure can only be carried out with the approval of a magistrate. This is an important safeguard. It provides some reassurance that serious offenders will not be subjected to the inappropriate carrying out of such procedures.

Further, the independent arbitration of a magistrate in these situations will play a role in defusing any tension which might otherwise exist in the performance of such procedures.

The qualification that the convicted offender must be ‘under sentence’ is also important. It means that only offenders who are serving terms of imprisonment, or who are subject to certain release orders under Part 1B of the Crimes Act 1914 (for example, on parole) can undergo a forensic procedure under the bill. A distinction should not be made between offenders still in prison and offenders released on parole - a paroled offender may have committed a heinous crime for which the Australian community could rightfully expect the provision of forensic material. However, for practical purposes, the overwhelming majority of offenders convicted prior to enactment of the bill who will be required to undergo a forensic procedure will still be in prison. Further, in the future, forensic material will usually be obtained from offenders at the time of sentencing.

Forensic procedures on volunteers

There is one recent example of most male residents in a New South Wales country town volunteering to provide law enforcement authorities with forensic material in the investigation of a specific offence. Indeed, such investigations have also proven to be very effective in the United Kingdom. However, in the majority of cases the police are only likely to need the assistance of a small number of volunteers and the circumstances will vary markedly from case to case. Proposed Division 6B of the bill provides a secure legislative basis for carrying out forensic procedures on volunteers and ensures that volunteers, as well as the law enforcement authorities, can be certain of the way in which forensic material can be taken, how it can be used and when it will be destroyed. They will also benefit from safeguards which ensure that forensic material obtained from volunteers is used only as intended.

Subject to special procedures for children and incapable persons, forensic procedures can only be conducted on volunteers if there is informed consent. A volunteer can withdraw consent to the carrying out of a forensic procedure or the retention of the forensic material taken at any time. In limited circumstances, and in the investigation for a serious offence, a magistrate can authorise the retention of forensic material notwithstanding the withdrawal of consent. For example, where the volunteer withdraws consent because they conclude that suspicion has turned in his or her direction.

National DNA Law Enforcement Database

Proposed Division 8A deals with the establishment and operation of the national DNA law enforcement database by CrimTrac.

Because of the federal nature of Australia’s criminal justice system it is desirable that equivalent legislation in the various jurisdictions adequately describe the national DNA database system and the way in which different information may be stored and matched. This aspect of the bill is to some extent based on the equivalent Canadian legislation which describes that country’s DNA database and was developed after close consultation with the Federal Privacy Commissioner and those who will be administering the system.

The database is broken up into a series of indexes. For example, there is a suspects index, an offenders index, a crime scene index, a volunteers (limited purposes) index, a volunteers (unlimited purposes) index and some others. The DNA profiles are stored on these separate indexes and they can be matched with profiles in another index according to a set of tabulated matching rules. Matching according to these rules will be enforced by criminal offences carrying a maximum penalty of 2 years’ imprisonment. Normal police disciplinary procedures are not adequate to regulate the matching of DNA
profiles on the national DNA law enforcement database. Specific offences prohibiting impermissible matching is considered necessary to ensure the community can have confidence in integrity of the DNA profiles stored on the system.

It is important that we all appreciate the nature of the forensic information that will be stored on the national law enforcement database as a DNA profile. The analysis of the DNA samples will only reveal the sex of the person from whom it is taken. It does not reveal any other personal characteristics.

The privacy interests of Australian citizens are safeguarded because each step in dealing with forensic material obtained from a forensic procedure, either through the national DNA law enforcement database or otherwise, is regulated and reinforced by a series of criminal offences targeting the supply of forensic material, the use of information stored on the national DNA law enforcement database, the destruction of forensic material and the recording, the retention and the removal of DNA profiles on the national DNA law enforcement database. All these offences carry maximum penalties of 2 years’ imprisonment.

An additional privacy safeguard is that the Federal Privacy Commissioner will monitor CrimTrac’s administration of the national DNA database system.

Additional changes

Many of the changes contained in this bill are directly related to the insertion of proposed Divisions 6A (offenders), 6B (volunteers) and 8A (national DNA database system). For example, the provisions relating to the permitted disclosure of information derived from a forensic procedure are strengthened to take into account the fact that information can now be stored on a database. Proposed Division 11 recognises that the Commonwealth, the State and the Territories will cooperate in using the national DNA database system. Orders for the carrying out of forensic procedures obtained in one jurisdiction will be able to be enforced in another jurisdiction provided they are recorded on a Register of Orders. Pursuant to appropriate Ministerial arrangements entered into with participating jurisdictions, information contained on the national DNA database system can be shared between the jurisdictions for the purpose of criminal investigations.

Other changes which do not relate to proposed Divisions 6A, 6B or 8A, seek to improve the existing provisions of Part 1D. For example, proposed section 23XM(4) clarifies that a person is able to take a saliva sample or buccal sample from themselves. This will allow a person to self-administer a relatively simple forensic procedure provided the procedure is supervised by an appropriately qualified person. This approach avoids any unnecessary invasion of a person’s privacy.

Amendments that are not directly related to forensic procedures

The opportunity has been taken in the bill to clarify that State and Territory judges, magistrates or court employed officers who issue orders in relation to criminal matters under a law of the Commonwealth do so in a personal and voluntary capacity. Although some of these orders may relate to forensic procedures, most will relate to other criminal matters. Accordingly, it is proposed that these provisions be inserted into the general Part 1A of the Crimes Act 1914.

The bill also includes a minor amendment to the Mutual Assistance in Criminal Matters Act 1987 to ensure that Australia can fulfil its international obligations in assisting other countries seeking to enforce orders which are intended to preserve the suspected proceeds of crime.

Conclusion

In conclusion, I would like to stress that the national DNA database system and the use of DNA technology is but one investigative tool law enforcement agencies will be able to rely on to build a case against a suspect. In the vast majority of cases DNA evidence alone will not convict. In fact, DNA technology is likely to be at its most useful in eliminating suspects and focusing police investigations whereupon the more traditional methods of policing will come into play. I am therefore strongly of the view that this bill is best characterised as an initiative which will give the police an additional powerful tool to do their job properly.

The bill is very much part of this Government’s commitment to making Australia a safer place to live.

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

**TELECOMMUNICATIONS LEGISLATION AMENDMENT BILL 2000**

First Reading

Motion (by Senator Ellison), at the request of Senator Ian Campbell agreed to:
That the following bill be introduced: a bill for an act to amend the Telecommunications Act 1997 and the Australian Communications Authority Act 1997, and for related purposes.

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

Bill read a first time.

Second Reading

Senator ELLISON (Western Australia—Special Minister of State) (9.33 a.m.)—I table the explanatory memorandum and move:
That this bill be now read a second time.
I seek leave to have the second reading speech incorporated in Hansard.

Leave granted.

The speech read as follows—

This bill reinforces the Government’s powers to safeguard the public interest in the management of electronic addressing services, such as Internet domain names.

Electronic addressing services have become a crucial element of national infrastructure. The registration of a domain name is now a gateway to e-commerce for many Australian businesses, and crucial to the branding of an online presence.

As these services are a public asset, it is important that they are managed in the public interest. The absence of an appropriate competitive environment, adequate consumer safeguards, or technical competence and efficiency could have negative flow-on effects for the development of the information economy in Australia.

For this reason, the Government has developed this bill to clarify the powers of the Australian Communications Authority (the ACA) and the Australian Competition and Consumer Commission (the ACCC) in relation to electronic addressing services.

The bill has two elements: firstly, a clarification of existing provisions in the Telecommunications Act 1997 for the ACA to declare a “manager of electronic addressing”; and for the ACA and the ACCC to subsequently give directions to that manager; and secondly, a new mechanism in the Australian Communications Authority Act 1997 for the ACA to undertake the management of electronic addressing services, on the instruction of the Minister for Communications, Information Technology and the Arts.

Under the first measure, the ACA could determine that a manager of an electronic addressing service is not promoting adequate levels of competition or consumer protection. In either case, the ACA would be able to declare this manager under section 474 of the Telecommunications Act 1997, and either the ACA or the ACCC could then issue legally binding directions to rectify these problems.

Under the second measure, the Minister will be able to instruct the ACA to assume direct responsibility for electronic addressing services, including domain names. The amendments will allow the ACA to recover its costs of managing the service. This mechanism will serve as a safety net, for use in the event that a self-regulatory body at some time in the future proves incapable of managing an electronic addressing service in the public interest.

While the Government continues to promote responsible self-regulatory management structures for electronic addressing services in Australia, it is important that these clear backstop provisions are in place in case serious problems arise.

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

PETROLEUM EXCISE AMENDMENT (MEASURES TO ADDRESS EVASION) BILL 2000

Second Reading

Debate resumed from 29 August, on motion by Senator Ellison:
That this bill be now read a second time.
upon which Senator Cook had moved by way of amendment:
At the end of the motion, add:
“but the Senate:
(a) condemns the Government for its failure to take any responsibility for sky rocketing petrol prices; and
(b) condemns the Prime Minister for promising that petrol prices would not rise as a result of the GST when he had no intention of keeping this promise; and
(c) notes the total failure of the National Party to ensure that the country-city fuel price differential did not get worse as a result of the GST”.

Senator COOK (Western Australia—Deputy Leader of the Opposition in the Senate) (9.33 a.m.)—This is the third chance
This is the third chance I have had to address the Petroleum Excise Amendment (Measures to Address Evasion) Bill 2000. I have been interrupted on previous occasions because I have run out of time. However, let me use the remaining two minutes that it appears are left to me to make this point: the opposition have moved two amendments to the second reading, and I do commend them to this chamber. The first amendment is of course referring to the slowness with which the government has acted—and the confusion which has characterised its actions—on dealing with fuel substitution. One of the witnesses to the inquiry into this bill reported that the cost to revenue per annum is in the order of $300 million. One only needs to think about what the alternative socially valuable uses of $300 million would be in our community to see what a crime it is not to move to staunch a revenue drain of that order. It is therefore appropriate that this chamber record our views on the government not acting promptly and thus allowing the revenue to run down in this manner.

My other amendment refers to the current public concern manifested in the media—but most strongly felt in the Australian community—that petrol prices are out of control, that this government has options open to it to alleviate the pain of motorists, that there is now excessive taxation at the bowser and that the government has open to it measures that it could take to relieve that weight on the community. Bear in mind that higher petrol prices exhibit themselves in higher prices everywhere, adding to higher inflation, and the inflation level is what is used to adjust the excise. So when you have higher prices you end up getting higher excise as well, and this is an upwardly sustaining spiral. (Time expired)

Senator MURRAY (Western Australia) (9.35 a.m.)—The Democrats share the concerns of the government and the opposition about the substitution of lower excise petroleum products for transport fuels. The Petroleum Excise Amendment (Measures to Address Evasion) Bill 2000 seeks to address this practice as a matter of urgency. Besides the fact that not gathering revenue which should be gathered means that there is lower funding available for schools, hospitals and other services, the practice of substituting fuels for on-road use has the potential to damage vehicle engines and put consumers at risk. It also advantages those who run these corrupt practices versus those who do not in the business of supplying petroleum products.

The Democrats are broadly supportive of the measures contained in the bill but believe that more needs to be done if we are to address the issue of fuel substitution in a comprehensive and effective manner. Specifically, the Democrats support the measure contained in the bill to replace current references to specific petroleum product categories with a generic definition of ‘petroleum product’. That is a reform which we think is overdue and in fact is a very intelligent one.

The change will not affect the way excise is levied or the amount payable. However, it will enable the government and the ATO to act more swiftly to close off a taxation loophole when they become aware that it is being exploited. The Democrats also support the measures in the bill that will assist the government in effectively prosecuting offenders under the act. This includes the elimination of the need to prove an ownership trail of fuel back to original suppliers in order to prosecute an offence. Other measures will enable evidentiary certificates to be admissible in court in the same way that they are admissible in prosecutions for trading in narcotic drugs. In relation to the tracing of the suppliers of fuel, the Senate hearings into the matter were particularly illuminating. To enable those who evade tax to do so they need to be very significantly resourced. We discovered that they have large tankers, that they have access to large fuel tank supplies and that they can be relatively easily identified. I think the point is that the exercise of catching these people needs to be pursued with greater vigour.

We have concerns that the ATO are presently not fulfilling the role of having a physical presence in the industry and are taking a more hands-off approach which is, therefore, insufficient to inhibit these rackets.
I contrast the ATO’s activities in this area with the activities they intend on the tobacco side, where they are going to have very much a hands-on role. Considering the level of revenue that the ATO gain from fuel excise, the act of ensuring compliance needs to be taken far more seriously. In our view, this obviously means ensuring that the ATO have the resources to and can conduct an adequate level of testing. This includes testing fuel for substitution and also looking at how they can address the practice of people avoiding excise by delivering the petrol at a high temperature. The problem we face, as the ATO and others clearly outlined to us in the hearing, is that there is some inconsistency and contradiction around who should be responsible for testing and whether it is a state or an ATO function. That needs to be resolved otherwise we will never properly get on top of this thing.

To improve compliance, legislated fuel standards are needed, in our view. Currently it is difficult or virtually impossible for the state fair trading bodies to make a case on fuel substitution because the current fuel standard is too broad and has no legislative legs. The Australian Democrats have the belief that substitution rackets will not stop unless those who are involved are left with less space to move. Simply placing markers in the fuel and lifting excise on all products is insufficient to stop the current substitution rackets. We strongly support the development of a legally binding standard governing the content of petrol. Without this, it will always be difficult to prosecute substitution activities through trade practices legislation.

The Australian Institute of Petroleum have supported the need for a legislated fuel standard. Other bodies have commented on the difficulties of prosecuting fuel substitution offenders without a standard. We think, therefore, that those bodies which are expert in these areas should combine to make a recommendation for a standard which is capable of being legislatively applied. Professor Allan Fels, the Chair of the Australian Competition and Consumer Commission, commented on the issue at a recent parliamentary committee hearing, when he said:

We ran a case a few years ago on fuel substitution where we thought it was occurring illegally. It was a very, very difficult case to win. We had to prove in court that the fuel was no good. In the end it was not possible to prove it. It might sound simple, but I am afraid it is quite the opposite.

That quote comes from the draft transcript of the Senate Economics Legislation Committee inquiry and public hearing into the Fair Prices and Better Access for All (Petroleum) Bill 1999 and multisite franchising of 15 March 2000. He made the point—and I think we should pay attention to it—that it is not an issue as to whether the fuel is good or not; it is an issue as to whether it is of the correct legislated standard. That legislated standard has to be attacked from the point of view of what it means in terms of revenue consequences. The purpose of a legislated standard is threefold: firstly, to provide proper fuel for the running of very sophisticated engines; secondly, to ensure that, from an environmental perspective, the fuel is as least harmful as possible; and, thirdly—and, from the point of view of the ATO, perhaps most importantly—to provide a base for the proper generation of excise revenues. That is why, in my view, we need to attend to the legislated standard.

I want now, in my very brief remarks in this second reading debate, to turn to Senator Cook’s second reading amendment. He asks in item (a):

... that the Senate condemns the Government for its failure to take any responsibility for skyrocketing petrol prices ...

I am not sure that they have failed to take any responsibility. They have recognised and acknowledged that, if petrol is at 80c and the GST is at 10 per cent, the GST impost will be 8c. If petrol is at $1, at 10 per cent the GST impost rises to 10c. It is a simple mathematical equation to see that a rise in petrol price does generate additional GST revenue, and the government have accepted that. What the government have also said, however, is that the principal responsibility for skyrocketing petrol prices lies with the OPEC increases: the price has moved from $US11 a barrel to $US33 a barrel, and the forecast is $US50 a barrel. Frankly, the government should act as strongly as it can
in the international arena to try to persuade OPEC to bring its prices down, but that is a
different matter from condemning the
government for its failure to take any
responsibility at all for skyrocketing petrol
prices. The second part of the amendment
reads:

... condemns the Prime Minister for promising
that petrol prices would not rise as a result of the
GST when he had no intention of keeping this
promise ...

The Democrats think the Prime Minister
was seemingly foolish to make a promise
which sounded like he could hold petrol
prices down. Petrol prices will go up and
down according to the vagaries of the
market. What we have been most concerned
with is that we believe there should be up to
$1.50 per litre off the price and the
government should have honoured its
original promise, but that would not make a
vast difference to the price rising as a result
of OPEC price increases. Nevertheless, there
is the point there that, if you make a promise,
you should keep it, and the Democrats are
strongly of the opinion that there is up to
$1.50 a litre of broken promise in that price.

The third aspect put in the amendment by
the Labor Party is a very political one. It
notes:

... the total failure of the National Party to ensure
that the country-city fuel price differential did not
get worse as a result of the GST.

That positions the National Party as
clearly a country party and not a city party. It
also says that their prime obligation in
government is to fight for the country and
that the specific government commitment
was that the country-city fuel price
differential would not get worse as a result of
the GST. The fact is that the country-city fuel
price differential has got worse. The
difference, however, is not primarily a result
of the GST. The difference is primarily a
result of the pricing policies of the oil
companies, the wholesalers and the retailers,
based on the prices they receive which they
deliver.

So, in all, whilst we have some sympathy
with some elements of this amendment, we
think it is framed for a political purpose—
that may seem an odd thing to say in the
Senate, because most things are framed for a

Senator MURPHY (Tasmania) (9.47
a.m.)—Before I get to the Petroleum Excise
Amendment (Measures to Address Evasion)
Bill 2000 itself, I would like to take a couple
of minutes to deal with some matters that
Senator Murray raised at the end of his
contribution—in particular, when he was
addressing our amendment which was
moved by Senator Cook. I would like to
point out to the Senate and to Senator
Murray that the issue is not that the
government recognises that petrol prices
have increased and are hurting people; the
issue is that the government made, and the
Democrats supported, a promise that the
GST would not add to the cost of fuel—not
world oil prices and not the excise, but the
GST. That is the bottom line. Senator
Murray, through you, Mr Acting Deputy
President McKiernan, the GST has added
significantly to the cost of petrol. Nobody
can deny that world crude oil prices affect
the retail cost of petrol. That has been the
case forever, but the government and the
Democrats promised the Australian people
that the GST would not add to the cost of
petrol.

For the information of the Senate and
Senator Murray, I would just like to say that,
if we had no GST today—that is, if we only
had the excise applying to petrol—the tax
take on petrol would be about 44.8c per litre.
I think that is relevant today, because I
actually got this information on Monday.
What has happened is that at a particular
point in time the government reduced the
excise on fuel by 6.7c a litre. The other
smokescreen being promoted by the
government about world oil prices is that at
the time the government set its strike rate the
crude oil price was in the order of $US32
and something per barrel—I just cannot
remember the specific figure. The strike rate
was taken, if my memory serves me
correctly, from 99.9c per litre.

Senator Crane interjecting—
Senator MURPHY—I notice Senator Crane walking out the door making some comment. It is a pity he does not come in here and represent the people of Western Australia, particularly those out in the rural areas of Western Australia. Even his own state government is screaming about the GST impact on the price of fuel at the pump for motorists.

This issue is very important for rural and regional areas of Australia, because the GST is having an even greater impact in the rural areas of this country. I noticed that the price in one country area was around $1.06 a litre. If you look at the price differential between the country and city where you had, say, fuel at Broken Hill for $1.06 a litre and fuel in Sydney for $1 a litre, you see that the GST impact is much greater for the country and it is adding to the price differential between city and country prices. There is no doubt about that. I am not quite sure how the government can claim that that is not the case.

The tax take on petrol before the introduction of the GST was 44.8c per litre. If you reduce the excise on fuel by 6.7c per litre, the tax take will be 38.1c per litre. If you add the GST on a strike rate of $1.06, you will find that the price differential will be something like 5c a litre. That is what the sums add up to. That is the problem confronting the people in the country, let alone the people in the city. If the price of petrol is anything above $1, the impact of the GST is nearly 3c a litre. The Democrats have continually tried to defend the government because they helped create it. They accepted what the government said, as did the Australian public. They accepted a promise, a commitment from the Prime Minister, who loves to be known as honest John Howard.

With regard to the overall problem, of course we are moving a second reading amendment. Why wouldn’t we? Our responsibility in this place is to ensure that the government keeps the commitments it has made over and over again. Even as recently as 23 August, the Treasurer said in an interview on the Today program that the GST did not add anything to the pump price. I challenge the Treasurer, the Assistant Treasurer or any member of the government, the National Party—whose members seem to have disappeared into the ether, along with the promise that the GST would not add anything to the price of petrol—and the Democrats to stand up in parliament and explain how the GST has not contributed to the pump price of petrol, because it has.

The Petroleum Excise Amendment (Measures to Address Evasion) Bill 2000 that we have before us, which has finally made its way into this chamber—it has been coming for nearly two or three years, from memory—is not going to address the problem. Nevertheless, the scope of the bill is confined to the Commonwealth’s testing for the presence of the marker in fuel. Legislative changes in January 1998 required a chemical marker to be added by manufacturers, who are licensed for excise purposes, to fuels attracting a concessional rate. The use of the marker was to enhance detection in instances where fuels which attracted reduced or no excise were blended with, or substituted for, petrol which attracted the full excise.

The bill introduces amendments to seven acts; namely, the Aviation Fuel Revenues (Special Appropriation) Act 1988, the Excise Act 1901, the Excise Tariff Act 1901, the Fuel Blending (Penalty Surcharge) Act 1997, the Fuel Misuse (Penalty Surcharge) Act 1997, the Fuel Sale (Penalty Surcharge) Act 1997, and the Fuel (Penalty Surcharges) Administration Act 1997. The bill will amend the first six acts to replace references to specific excise tariff items with generic descriptions. This means that the excise tariff may be amended quickly to discourage substitution of various products for higher excise fuel. The bill will amend the first six acts to replace references to specific excise tariff items with generic descriptions. This means that the excise tariff may be amended quickly to discourage substitution of various products for higher excise fuel. The bill will amend the Fuel (Penalty Surcharges) Administration Act 1997 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, allowing the use of evidentiary certificates to facilitate prosecutions for fuel substitution offences, and removing the requirement for the ATO to show that the alleged illegally
blended fuel has entered into home consumption.

They are interesting objectives, but let us look at the case of toluene. I referred to the increase in toluene imports during the debate on the customs and excise tariff amendment bills. Most of the toluene used in fuel substitution is imported, and I find it amazing that Customs thought the increase in toluene imports was due to a lot more house painting going on today than there was yesterday. They did not pay too much attention to the volume of imports. That is why, despite the intent, the objectives, of the legislation, I am concerned about how we are going to make this work if we do not have the people on the ground and we do not have a strategy for the application of the measures.

Again, let me refer to the increase in toluene imports. In 1989 toluene imports consisted of only 394,127 litres. In 1998 it was 13.9 million litres. But it did not stop there. The substituters were well and truly into the racket here. By 1999 imports went up to 20.9 million litres. For January alone this year, it was 6.5 million litres. But no bells rang for anybody in Customs or the Taxation Office. They just thought the increase in toluene imports meant more house painting. I find that quite amazing. It was a known fact to Customs and the Taxation Office—if it was not, it ought to have been—that the domestic paint industry was primarily supplied, as is evidenced by these figures, from domestic manufacturers of toluene. Shell Oil was probably the only refiner of toluene. It essentially provided all the toluene that was needed for the domestic market. I cannot understand how imports could increase from 394,000 litres to 20 million litres—and 6.5 million litres in one month—and nobody switched on. That raises some serious questions as to how effective these amendments to address petroleum excise evasion will be.

In evidence to the committee, Liberty Oil raised the substitution issues with the department and the minister some 18 months ago. Liberty Oil sent a letter to Senator Kemp on 22 June 1999, enclosing a copy of a letter to the Minister for Justice and Customs, Senator Vanstone, raising their concerns associated with just the toluene problem in fuel substitution. Yet little or no action was taken. I hope when the minister gets up he will address some of these issues, and I hope they will be addressed when we go into the committee stage of this bill. Frankly, there would seem to be little point in us passing further measures to combat excise evasion and fuel substitution if the ones that we already have are not working because people are not doing anything about them.

Not only have the government foisted the problem of the high cost of fuel upon the Australian public, they have been allowing a major substitution problem to continue. It is one that is not only detrimental to the environment but is having, and has had, a significant impact on the motor vehicles that people drive. As motorists, when we buy our fuel some of us might buy Shell or BP and be very much name brand specific; but I buy it at the nearest fuel station whenever the fuel tank is empty, and I often consider the price. I noticed a very interesting trick that one service station was running in my home state. Given that the price of leaded and unleaded fuel was over $1.03 a litre, it had only the price of diesel on the price board, which was 99.9c per litre. I could not read the word ‘diesel’. The price board had ‘99.9c per litre’ up there, and I thought this is good—cheap fuel. I drove in, got out, put the nozzle in the car and then looked at the bowser—it was $1.03.

Senator George Campbell—Get Felsie on the job!

Senator MURPHY—Yes. Not only have the government foisted upon the Australian public a GST cost impost of at least 3c a litre—and I heard someone say yesterday that in some parts of the country petrol was $1.33, so that is probably about an 8c a litre cost impost from the GST alone; they have allowed this substitution racket to go on, and it is still going on. It is a major problem, and it has the potential to cost motorists as a result of damage to the engines of their cars. The point I was making with regard to buying fuel is that, unless you know specifically where you buy that fuel, you
cannot make a claim for damages. I think that was pointed out by Senator Murray.

One of the problems associated with this is that there is really no specific specification for fuel. This is another matter that the government will have to address. If you are going to have measures with regard to evasion of excise and fuel substitution, then you will have to tighten up the specification for fuel. It is too broad. The evidence that was heard by the committee when it dealt with this bill clearly went to some of those problems. The Victorians, who have been conducting some tests, clearly showed the problems associated from both a jurisdictional point of view and specification point of view. They showed that current specification simply does not work. Whilst we will be supporting this bill and moving second reading amendments, the government has to address the problems associated with these matters. If specification is not tightened up or an appropriate specification not developed for fuel, it could be taken to court and argued that substitution is taking place. There is too much flexibility in the various products that are used to make up unleaded fuel. It has to be tightened up.

Finally, can I say that, despite the attempt by the Democrats to avoid having an inquiry into petrol prices and the price differential, particularly between the rural and city areas of this country, it will happen. There is already a reference before the Senate economics committee, and it has an obligation as part of that reference to check that. So we will check those things, and we will come back in here and report to this parliament on things that the Democrats are denying the Australian public.

Senator GEORGE CAMPBELL (New South Wales) (10.06 a.m.)—It is not bad enough that petrol pump prices are now well over $1 a litre in most areas of Australia: it is a disgrace that consumers cannot be guaranteed that what they are paying for is actually 100 per cent petrol. Labor, as has already been said, is not opposed to the Petroleum Excise Amendment (Measures to Address Evasion) Bill 2000. In fact, it is a positive sign that this government is finally doing something about fuel substitution. Since it began to tackle this problem, the government has dropped the ball at each and every opportunity. It seems that, as the government moves to close a loophole, another one is soon opened up by those intent on illegal fuel substitution and excise evasion. This has not happened because the government is unable to fix the problem but is due to the unwillingness of the government to do so. The consequences have been higher maintenance costs for vehicles, for those unfortunate enough to be purchasing the polluted fuels, and a loss of hundreds of millions of dollars to the taxpayer in unpaid excise.

Petroleum substitution is one of the most dangerous of illegal practices and generally has two serious outcomes. Firstly, it can cause great damage to motor vehicles that use the substitute fuel; secondly, it severely undermines public confidence to the extent that people in Australia are unsure of whether the fuel is safe and is what they are paying for. The Commonwealth government has a responsibility to ensure the quality and safety of fuel on behalf of consumers. So far this government has taken several different approaches, but none have worked. In 1998 Minister Truss promised that the government’s measures would stamp out fuel substitution, but it is clear that it is still continuing today. What has occurred since then is that unscrupulous operators have exploited the difference between the rates of fuels by mixing and substituting fuels. This is done by mixing non-transport fuels carrying a lower excise or no excise at all with excisable transport fuels, such as petrol.

This become clear in the recent Senate Economics Legislation Committee inquiry into the Excise Tariff Amendment Bill (No. 1) 2000 and the Customs Tariff Amendment Bill (No. 1) 2000. In evidence given by Liberty Oil Pty Ltd to this inquiry, it was established that the practice of fuel substitution was continuing unabated. Liberty Oil had made several complaints to both the Australian Tax Office and the Australian Customs Service, through Minister Vanstone, about evidence of fuel substitution. The government was extremely tardy in dealing with their complaints.
During this inquiry I asked in the Senate Economics Legislation Committee both the Australian Taxation Office and the Australian Customs Service about who had responsibility for carrying out the government’s wishes and ensuring that consumers were not harmed by fuel substitution. Mr Jackson from the Australian Taxation Office said:

Our legislation does not empower us to deal with the quality of fuel. If people want to mix half a litre of water with half a litre of petrol and say that is petrol and, if they pay the excise on it, they have paid the excise.

So, as far as the tax office was concerned, as long as they got the money they did not care what was in the tank. As long as the money was paid, what was in the tank was irrelevant. Mr Burns from the Australian Customs Service said in response to the same question:

I think the point is that it was a responsibility of either other Commonwealth agencies or state governments.

What became abundantly clear to me was that no-one was willing to take responsibility for the problem. Both of the two responsible government authorities were passing the buck. Another concern was that the Australian Taxation Office was adamant that fuel testing was a low priority, in their view, and would achieve little. They believed that the solution would be found through pursuit of excise on the relevant products. In my view, this is a weak response to this problem.

It is bad enough that fuel substitution is taking place; what is much worse is that little or nothing is being done about it. Both agencies complained that they did not have the power to carry out Minister Truss’s instructions of 1998. There was nothing they could do about stamping out these dangerous practices, because they did not have the power. In 1998 the Taxation Office and Customs lacked either the capacity or the will to implement the wishes of the government. Instead of them taking action that was crucial at that time, we saw Assistant Treasurer Kemp attempting to evade responsibility for this issue and blaming it on the states. Minister Kemp was content to explain away the problem as being a state issue, with the federal government bearing no responsibility for the issue. It was one of the double acts that we are getting used to from this government. Minister Truss announces that the government is cracking down on fuel substitution and that operators will face penalties of up to $50,000 if they are caught in fuel substitution rorts. At the same time, Minister Kemp is denying that fuel substitution is a federal government concern and stating that it is a state government issue.

Since then, the government has changed its tune and has now realised that something needs to be done, otherwise fuel substitution will continue. Additional problems have arisen, due to the shifting of responsibility for fuel substitution testing between the Australian Customs Service and the Australian Taxation Office. In fact, since 12 July last year, when the tax office took over total control of fuel substitution from Customs, we found during the Economics Legislation Committee inquiry that a total of only 42 sites have been tested. Of those 42 testings, a total of eight instances of fuel substitution were discovered. This is confirmation that substitution is continuing. The Australian Taxation Office admitted that 20 per cent of the sites it has tested had tested positive for fuel substitution.

Compare that meagre number of 42 sites tested with the actions of Customs when they had responsibility for this in the previous year. Their annual report for 1998-99 reported that they had visited 551 test sites and had found 52 positive instances of fuel substitution. Again, during its period of responsibility, Customs detected a very serious level of fuel substitution. What did the government do about these results? It did nothing at all. Upon discovering this level of fuel substitution and transferring responsibility to the tax office, it reduced the number of tests. After the transfer of responsibility, the tax office had tested only 42 sites since 12 July last year. This is a 90 per cent reduction in the level of testing.

The real problem with fuel substitution is that the government is much more concerned with the implementation of the GST. It seems that any issue that was not GST related,
however important it was, was overlooked or regarded as unimportant by this government. There is now an incredible and growing list of problems with this unfair GST and, to complement it, a growing list of unresolved problems that the government has failed to take action on, because of its preoccupation with the implementation of the GST.

In the latest Senate Economics Committee inquiry into this bill, evidence given highlighted a range of issues that the government has failed to address. The most important of those issues was the broad range of support from operators for a national fuel standard. Fuel excise evasion, according to the evidence, is still occurring, and there are many different forms, including changing the temperature of petrol as well as substitution. The difficulty in prosecuting operators for fuel substitution was outlined by the Director of Consumer and Business Affairs Victoria when he stated:

The problem for us in achieving a successful prosecution of a retailer of contaminated fuel is that there is no mandatory standard for what actually constitutes petrol, so it is difficult for us to show that the consumer was misled about the fact that they were purchasing petrol because, whether or not the petrol is of a high standard, it is probably still petrol. Because there is no standard that has to be met, it becomes quite difficult for a successful prosecution to occur.

The evidence from both the industry and state government agencies clearly supported a national standard and a national approach to the whole petrol issue. A common problem is that petrol is manufactured in one state and delivered in another, making state government prosecutions difficult.

Evidence was also raised about a 10-point plan developed by New South Wales, Queensland and Victoria at the Ministerial Council of Consumer Affairs to address the problems and coordinate a national solution. CBA Victoria described it as follows:

The 10-point plan was not just about fuel substitution, it was about fuel pricing generally, so there were a number of things that we wanted the ministerial council to urge the Commonwealth to take action on, and there was quite a bit of discussion about these points.

The evidence indicated that the Commonwealth government did not support this 10-point plan, and it is now off the agenda at least until next year. These initiatives, although outside the scope of this bill, should be immediately pursued by the government.

Labor, in the minority report of the Senate Economics Legislation Committee, has noted these issues and recommended that there needs to be a federally based solution. It noted that:

The technical obstacles to testing against a possible national fuel standard are very considerable. This issue is also outside the scope of this Bill, which is confined to the Commonwealth’s testing for the presence of the marker in fuel. Despite these difficulties, the idea of a national standard for fuel received wide support by witnesses and it would therefore be worth developing such a standard.

This bill aims to amend a number of acts, including the Excise Tariff Act, to provide some more lasting measures to combat fuel substitution. The definition of ‘fuel’ will be changed to cover a broader range of products and remove the requirement for the Taxation Office to show that allegedly illegally blended fuel has entered into home consumption. This bill only goes part of the way to solving the excise evasion issue, but it is a step forward. This was accepted by all the participants, who viewed this bill as a positive development but not a final solution. The problem it seems, up to now, is more an unwillingness or unpreparedness to act rather than there being a legal barrier. If consumers are to regain confidence that the fuel they buy is not adulterated but safe, and if the government is to recapture the hundreds of millions of dollars in revenue that it is losing each year to fuel substitution, the government needs to act now and to act quickly.

The Australian Institute of Petroleum, for example, said:

These practices are now so widespread that the loss, in terms of government excise revenue evaded is many millions of dollars a month. Moreover, these practices are depressing wholesale and retail margins for diesel and petrol, and so threatening the financial viability of our marketing member companies and their resellers.

In a letter dated 16 June to Senator Vanstone, the Customs minister, Liberty Oil
outlines a loss of excise duty in excess of $300 million annually and goes on to say:

I would like to bring to your attention the well-known and widespread ongoing excise avoidance practice within the oil industry that continues to flourish and which remains unhindered. This practice appears to be immune from any action that may be taken by any of your departments. As a consequence, huge losses of revenue are now being sustained by both your government and by legitimate business operators who to date have not received the full benefit of any protection whatsoever from this illegal practice.

Over the past 12 months, Liberty Oil also wrote to the Treasurer, Mr Costello, and the Assistant Treasurer, Senator Kemp, in similar terms. There is no excuse—no excuse at all—that the government did not know that fuel substitution was going on. The Australian Labor Party will not oppose this legislation that deals with fuel substitution. The statements made by Minister Truss in 1998 concerning this issue were correct: fuel substitution is a highly dangerous and unacceptable practice, and it is the responsibility of the federal government to stop it. The coalition government has not shown that it has the ability to handle this issue. It has left a legacy of consumer concern and has allowed taxpayers to be ripped off by hundreds of millions of dollars. On every count so far, the coalition government has failed. I have now addressed the issues that were raised in respect of fuel substitution.

I just want to draw attention to a document I received yesterday—and I think probably all senators would have received it—which goes to the issue of the amendment that was moved by the opposition in the second reading stage of this bill. It goes to the issues that have been argued in this parliament in respect of petrol pricing and the impact of the GST on the pump price of petrol. I think it is worth while reading into the record some of the material that is contained in the document. The document is from the Australian Automobile Association and is headed ‘Petrol Prices: Answers’. It states:

**Has excise gone down under the GST?**

Pre GST the Commonwealth collected excise of 44.2 cents per litre for itself and the States and Territories. It retained 36 cents and passed 8.2 cents to the States and Territories. Under the new tax system the States and Territories receive the GST instead of the 8.2 cents excise. The Commonwealth now retains excise of 37.5 cents per litre (plus 0.64 indexation in August) and the GST is 9.1 cents per litre (based on $1 per litre retail) instead of the 8.2 cents of the old state and territory excise. **No matter how it’s dressed up,** **if motorists were paying the same amount of tax on petrol today as they were paying on 30 June 2000, petrol would be 3 cents per litre cheaper.**

The second question they ask is:

*Is it true that the Commonwealth does not benefit from higher GST because of higher petrol prices—that the States get all the GST?*

That is another claim made by this government in the past couple of days. The document goes on to say:

The States do get all of the GST but for the first few years GST revenue falls short of pre-GST revenue. The Commonwealth has agreed to top up that revenue shortfall. Because the GST on petrol is higher than expected and the states will therefore get more GST, the Commonwealth top up will be less than forecast in the Budget. **The bottom line is the Commonwealth will be better off by an amount equal to the extra GST from higher petrol prices—about $140 million above budget estimates based on current petrol prices.**

It goes on to say:

*Can the Government afford to freeze excise?*

The higher the world oil price the more tax the government collects under the Petroleum Resource Rent Tax (PRRT). The Budget papers state that it is levied at the rate of 40% of the taxable profit from an offshore petroleum project (except the NW Shelf project which is dealt with separately). Because of world parity pricing this effectively means 40% on the difference between the $10 per barrel cost of recovery and the world oil price.

The 2000/01 Budget revenue estimate of $1.28 billion is based on a price of around US$16 per barrel. The current world oil price, however, is over US$30 per barrel. The windfall to the Government is difficult to estimate accurately but is likely to be well in excess of $300 million and if world prices remain high, could be well over $1 billion. Presumably Treasury has modelling available that shows the likely windfall more accurately.
The Government can easily use some of this windfall to freeze excise in February when the GST inflationary spike will increase petrol prices by between 2 and 3 cents per litre. This freeze is estimated to cost around $200 million and when taken from the windfall, would not impact on the budget bottom line.

If the increases are caused by higher world oil prices what can the Government really do about it?

The Government can do something. It can freeze or reduce excise. The fact is Australian motorists now pay 47 cents in tax per litre of petrol (based on a retail price of $1 per litre). If Australians paid the same level of tax as Americans do, the price of petrol in Australia would drop instantly from $1.00 per litre to 63 cents per litre.

(Time expired)

Senator SHERRY (Tasmania) (10.27 a.m.)—We are currently discussing the Petroleum Excise Amendment (Measures to Address Evasion) Bill 2000. The purpose of this bill is to combat what is known as fuel substitution. Fuel substitution represents a significant loss of revenue to the Commonwealth from excise taxes raised on petroleum products. It is interesting to note that in 1997 the federal government first introduced a number of bills aiming to stamp out the practice known as fuel substitution. They cited both revenue and consumer protection reasons for doing so. The Labor Party supported them on that occasion.

The Australian Taxation Office have said that they are responsible not for the quality of fuel but for ensuring that the correct excise is paid. This statement from the Taxation Office is in conflict with Minister Truss’s second reading speech on the fuel substitution legislation in 1997. I would urge the Australian Taxation Office to pay much closer attention to this matter. Of course, we had the initial legislation in 1997. It is now August of the year 2000 and we are still dealing with legislation relating to fuel substitution. We should be concerned about fuel substitution.

If we look at page 5.6 of Budget Paper No. 1, the estimated excise on petroleum products and crude oil going to the Commonwealth government, the federal Liberal-National Party government, in 1999-2000 was $11.419 billion. In the year 2000-01, it is estimated to be $12.968 billion—an increase of $1½ billion in revenue to the Commonwealth government from fuel excise. That is an increase of 13.6 per cent. It is interesting to note that the total revenue collected from excise duties in the year 2000-01 is estimated to be $19.779 billion, which is in excess of the revenue collected from other indirect taxes, primarily the wholesale sales tax in its last year of operation.

In this context, I turn to the criticisms of the wholesale sales tax—which has been replaced by the GST—made in the government document known as the ‘ANTS’ document. The criticisms made of the wholesale sales tax on pages 72 and 73 of that document include the statement that the wholesale sales tax gives scope for avoidance, and the document explains how wholesale sales tax can be avoided. It also says that taxing business inputs and exports makes business less competitive. It says on page 72:

While the wholesale sales tax exempts many items for use in the manufacture of other goods (for example, raw materials), it does not provide an exemption for goods used in service activities, such as trucks used in road transport. As a result, the wholesale sales tax paid on goods bought by service industries is passed on to goods producers who buy those services.

More than half of wholesale sales tax revenue is raised on goods used as inputs to one type of business or another. The hidden tax burden also makes Australian business less competitive against imports.

It notes that excise duty on diesel fuels imposes a heavy cost on business, particularly those in rural areas that rely heavily on road transport. These are some of the criticisms made of the wholesale sales tax. But, if they are true of the wholesale sales tax, they are true of fuel excise—in fact, they are more valid in respect of fuel excise. Yet the Commonwealth, the Liberal-National party, chose not to replace or get rid of excise duties—and, particularly, excise duties on petroleum products and crude oil. When you look at the revenue implications, it is quite obvious why it chose not to do that. What is also quite obvious and quite dishonest of the

...
Liberal-National party government is that, in maintaining the excise on fuel—including the GST component, which, although offset to some extent, is not offset effectively—the excise duty is indexed to the consumer price movements, to increases in prices. Increases in prices, the CPI, contain what is known as the GST ‘spike’. The GST leads to an increase in inflation. So the government gains a windfall as a result of the GST through the application of the consumer price index. It is no wonder that the government is anxious to protect the revenue it collects from excise duties on petroleum products and crude oil. It is no wonder the Liberal-National party chose not to abolish excise duties and particular excise duties on petroleum products and crude oil—because of the revenue it raises. It chose to get rid of the wholesale sales tax rather than excise duties.

The increase in petroleum product prices has a significant impact in rural and regional Australia for three fundamental reasons. Firstly, as I hope we all know, petrol prices in rural and regional Australia are higher than in the major urban centres. People in places such as Sydney and Melbourne, where petrol prices are now touching a dollar a litre or more, have just had this issue hit home to them. But people in rural and regional Australia, including my home state of Tasmania, have had to suffer these high petrol prices for some months. Secondly, petrol usage in rural and regional Australia is greater than in urban areas. It is greater for two reasons: people drive longer distances and there is less public transport available, if there is any public transport available at all. A third and very important issue is that incomes in rural and regional Australia are lower than in urban Australia, particularly Sydney and Melbourne. For these three reasons, petrol prices are particularly sensitive in rural and regional Australia.

I was talking only yesterday to a well-known resident of a town on the north-west coast of Tasmania, Mr Alan Beams, who gave me the latest petrol prices in Latrobe. Petrol there is $1.04 per litre for unleaded fuel and $1.09 per litre for leaded fuel. He also informed me that, on Flinders Island, it is $1.27 per litre. I thank Mr Beams for that information. If we look at the so-called savings in the government’s own ANTS package in respect of final income, after the implementation of the GST—bearing in mind this was before higher interest rates and before higher petrol prices—the government claims that a single income earner earning $75,000 a year gets a 7.3 per cent cut in their overall tax burden. That is worth $68.55 a week. If you earn $30,000 a year, the net tax cut is 1.7 per cent, or $7.78 per week. So, if you are a low income earner, by the time you take into account increases in interest rates and petrol prices, there is not much of the $7,78 of the single income earner earning $30,000 a year left. Take the example of a single income earner with two children. If they are on $75,000 a year, they receive an income tax cut of 12.5 per cent. They are allegedly better off by $121.70 a week. A person on $25,000 a year, however, in the same circumstances, receives a cut of 3.9 per cent, or $21.83. That is before increases in interest rates and increases in petrol prices. This provides a stark contrast and is an example of the dramatic erosion of the government’s income tax cuts, for lower income earners particularly, as a result of both interest rate increases and petrol price increases. This particularly hurts people in rural and regional Australia.

I would also like to mention, as an important aside on gas prices, information I received from a pensioner who lives in Devonport, Mr Rankin, known as ‘Irish’ to his friends. In Tasmania, pensioners, particularly the elderly, have been replacing oil heaters with gas. Mr Rankin sent me a copy of the invoice for one container of LP gas. Apparently, one container of LP gas usually takes four to six weeks to consume. The price, including GST—because gas is not exempt from the GST—of that container of gas is now $75.90, including $6.90 GST. Three or four months ago, the price of this container of gas was $53. It has gone from $53 to $75.90 in three to four months. This is another example of the erosion of the so-called benefits for elderly Australians, particularly in my home state of Tasmania, where for obvious reasons gas consumption...
for heating purposes is much higher in winter. That is an important aside.

Let me come back to the issue of fuel excise. Three reasons have been advanced for higher fuel prices in Australia: firstly, higher world oil prices—obviously a major contributor; secondly, the lower value of the Australian dollar; and, thirdly, the GST. I would like to spend a little time on the lower value of the Australian dollar. There has been little analysis of this either in a political context or in the economic journals in this country. The lower value of the Australian dollar obviously means we pay more for imports, we pay more for oil and therefore we pay more for petrol. Senator Kemp alluded to this in response to a question earlier in the week. Why is the Australian dollar lower in value? In part it is because of the US dollar and the strength of the US economy. Alan Wood, economics editor of the Australian, wrote a quite incisive article about this earlier in the week. He pointed out that it is because our national debt continues to rise and our national savings continue to decline, and he is right. This government has to take at least some of the responsibility for the increase in national debt and the lower levels of national savings, therefore for the decline in the Australian dollar, therefore for the increase in the cost of importing petroleum products and therefore for the increase in petrol prices.

The issue of the goods and services tax has been well canvassed by my colleagues. We know the Liberal-National party has shortchanged the Australian public in respect of GST compensation on fuel by about 3c a litre. That is having a significant impact right around Australia, and it is a greater figure in rural and regional Australia. My colleagues have touched on that. It is an important issue because of the commitment the Liberal-National party gave in the lead-up to the last election. Let me quote the Prime Minister, Mr Howard, in an address to the nation on 13 August 1998. He said:

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

The Treasurer, Mr Costello, on 7 September 1998, said:

The Government’s proposed New Tax System will not lead to any increase in petrol prices.

On 6 September 1998, Liberal campaign headquarters circulated a note that said:

There will be no increase in the price of petrol as a result of the GST.

These were claims made by the Liberal-National party about petrol prices in the lead-up to the last election, which we now know are not true. Senator Kemp and the Liberal-National party do not need to take my word for it; the Australian Democrats acknowledge that the Liberal-National party has misled the Australian community on this issue.

Interestingly, we do not even have to take the Australian Democrats’ word for it; we just have to look through the public comments made by the members of the Liberal-National party in recent times. It is no wonder that the National Party are sensitive about petrol prices—for obvious reasons. They claim to represent people who live in rural and regional Australia. We have had a variety of comments; we had comments from a member in the other place, Ms Hull. The city and country price gap has now been narrowed and, extraordinarily, city prices are about where country prices have been for so long. If you freeze the excise, it is still not going to bring down petrol prices. What it will do is stop them rising any further, but we are not going to get any benefits. We have had Ms Hull, and we have had a parliamentary secretary, Mr Entsch—I do not know what happened to cabinet solidarity; he has not been sacked—criticising the indexation of the fuel excise against the CPI. Ms Bailey, Mr Lindsay, Mr Wakelin and, in this place, Senator Chapman have been criticising fuel excise and the way it has been indexed. National Party members have been quite prominent in their criticism of the continued indexation of the fuel excise against the consumer price index—quite rightly, because of the GST impact on prices. That will add another 1½c to 2c to the price of petrol in this country. Quite rightly, the National Party have been particularly vocal in their criticism, but what have they done about it? As with a lot of other issues, the National Party have complained in the media
and have complained to the Prime Minister and to the Treasurer, Mr Costello. They have taken up the issue in the party room. Apparently, yesterday 15 speakers joined the debate in the government party room amid concerns over rising petrol prices and allegations of a tax windfall. Many of those 15 speakers were from the National Party. But at the end of the day—

Senator Crossin—There won’t be many of those left.

Senator SHERRY—And there will be even fewer after the next election. What has the National Party managed to achieve? It has achieved support for the introduction of the GST. We have ended up with higher petrol prices in rural and regional areas particularly, and the National Party has called for the ending of indexation. It has also called for the hypothecation of a greater proportion of the revenue from petrol excise for roads and has achieved absolutely nothing. The Prime Minister and the Treasurer, Mr Costello, have rejected the complaints of the National Party. What is the sense in people in rural and regional Australia electing National Party members and senators to the parliament if their complaints are totally ignored? They are totally ignored. Once again the economic interests of the Liberal Party, the dominant partner in the coalition, have absolutely crushed the interests of the National Party, which is supposedly representing rural and regional Australia. Senator Kemp, the Assistant Treasurer, knows all about this. He works hand in hand with the Prime Minister and the Treasurer in rebutting and rejecting the complaints of National Party members and he does it very well. I give Senator Kemp, the Assistant Treasurer, full credit for crushing the National Party time and time again in its complaints about fuel prices in this country. I give him that tribute. He does it very effectively.

Senator Chris Evans—Even Kempy can beat them.

Senator SHERRY—Even Senator Kemp, the Assistant Treasurer, can head off the complaints of the National Party. The Prime Minister has claimed that if the indexation of fuel excise is cut out we will have a lower surplus and that will put increased pressure on interest rates. Effectively, he is admitting that the income tax cuts that were delivered, particularly for high income earners, were too generous. I have outlined that the income tax cuts for high income earners were indeed too generous. Why did he deliver that at the expense of higher fuel prices for rural and regional Australia? Time expired

Senator CROSSIN (Northern Territory) (10.47 a.m.)—In speaking to the Petroleum Excise Amendment (Measures to Address Evasion) Bill 2000 this morning, I want to highlight a number of aspects related to petroleum and fuel, in particular the dangerous practice of fuel substitution in this country. It has taken this government quite a number of months to come to grips with, deal with and, finally, present this legislation. The Fuel (Penalty Surcharges) Administration Act of 1997 will be amended to improve the ability of the government to prosecute those who are involved in the practice of fuel substitution. This will be done by changing the definition of ‘fuel’ to cover a broader range of products and removing the requirement for the Taxation Office to show that allegedly illegally blended fuel has entered into home consumption. Apart from the many safety issues involved, which have been canvassed, excise evasion has cost this country millions of dollars. It has cost at least $100 million. The tax office admits to $100 million, but the figure is probably much higher. All in all, this legislation represents a clear example that the government has failed on fuel substitution. We know that there has been a disagreement between the Taxation Office and the Customs office over who is finally responsible for ensuring consumers are not harmed by fuel substitution. In a speech given in the House our member, Mr Kelvin Thomson, outlined the antics that have gone on before the Senate Economics Legislation Committee, when Senator George Campbell asked both the Australian Taxation Office and the Australian Customs Service who had responsibility for carrying out the government’s wishes and ensuring that consumers were not harmed by the fuel substitution. Mr Jackson from the tax office said:
Our legislation does not empower us to deal with the quality of fuel. If people want to mix half a litre of water with half a litre of petrol and say that is petrol and, if they pay the excise on it, they have paid the excise.

They have paid the excise. That is all that the tax office is concerned about. In response to the same question, Mr Burns from the Australian Customs Office said:

I think the point is that it was not Customs responsibility but it was a responsibility of either other Commonwealth agencies or the state governments.

So we have had some confusion between the Taxation Office and the Customs office. Earlier this year, in response to a number of questions to Senator Kemp about the use of trucks that have been outfitted by the Customs office to go around and check on the fuel substitution, he admitted that he was not quite aware where these trucks were and what they were doing these days. The government have also been changing their mind. Compare when Minister Truss introduced the legislation and said, ‘We’re cracking down on fuel substitution,’ with when Senator Kemp said, ‘No, this is really now a states problem’. The government have dropped the ball on allowing fuel substituters to get away with these very dangerous activities. The government have had people within the industry screaming at them to do something about the problem of fuel substitution for years, so why has it taken this government so long to try and clean up the problem—and will this bill in fact attempt to do that? Is it because of the GST? Is it because the poor Taxation Office, which now has the responsibility for this, has been so preoccupied with trying to get the GST up and running and regulated and issuing rulings that it has not had time to turn its attention to this important issue? One would think that that is probably the case. We support this legislation and we want the government to adopt a strong anti fuel substitution position. It is about time they took this action.

While I am on the subject of fuel, I want to turn my attention today to consider the government’s current inaction on the fuel crisis facing Australians right across this country, particularly in the Northern Territory. I have to say at the outset that I am not surprised at the Democrat position yesterday in not supporting an inquiry into what is happening with fuel prices. It is very rare to see a Democrat cross the border into the Northern Territory. In fact I think the only time they ever come to the Northern Territory is to work on parliamentary committees. They have no presence in the Territory. They barely run any candidates in any election we have up there, so they would not be concerned with or care about what is happening with petrol price increases in the Northern Territory. Let me quote from yesterday’s paper. On the very day in the Senate that we were talking about petrol prices and the need for a fuel inquiry the Northern Territory News ran the headline, ‘Petrol rip-off: NT tax highest.’ The Democrats do not care—they do not care because they do not have a presence in the Northern Territory—but it seems as if this government does not care either. This is just another example of people in rural and regional Australia being dropped off the back of the truck.

Like elsewhere in Australia, the Territory’s petrol prices have been increasing steadily over the last few months, aided by the GST, OPEC and a weakening of the Australian dollar. In his speech prior to mine, I think my colleague Senator Sherry outlined quite well the effect of the combination of world prices, our increasing debt and low national savings, and the falling rate of the Australian dollar. But already high prices have become even higher. Petrol prices in the Northern Territory now range from about $1.04 a litre in the Darwin metropolitan area and $1.09 a litre in Darwin rural areas up to $1.12 a litre in Alice Springs. But if you take a 15-minute flying trip north of Darwin to Bathurst Island, you will be paying $1.60 a litre for fuel.

What are the Howard government doing about these increases? Nothing—they are doing absolutely nothing. They sit here wringing their hands, wondering how to deal with the latest round of discontent from backbenchers, who admitted this week that there is a windfall. I am going to take you in a moment to a transcript of comments by my
colleague Senator Tambling, who admits that there is a windfall for this government with the current prices in fuel. But the government look for other causes to blame: they are ready to blame the Australian Automobile Association, world prices or even the retailers themselves, but they are not ready to tell the truth and face the consequences and the reality of the impact of their policies.

Let us have a look at the impact the GST has had on petrol, which this government is in denial about. Senator Grant Tambling, I noticed, had to pay up on a bet in Darwin the other week because he was wrong about this matter. Prior to the introduction of the GST, he said to a radio announcer up there that the GST would not—but then I think he changed his mind and started to use the words ‘should not’; so it went from ‘would not’ to ‘should not’ on whatever day Senator Tambling felt like using whichever word—or should not increase the price of petrol. He was wrong. Last Monday week he was forced to give Fred McCue his carton of green cans and pay up on his bet because he was wrong, and he had to admit that publicly on radio. Of course Senator Tambling blamed everybody else except this government. He chose to blame even the poor little old retailers in the Northern Territory who are struggling to cope under this government’s policies. But, at the end of the day, he had to pay up.

Let us have a look at this government’s promise. The Prime Minister, the Treasurer and other ministers promised that the GST would not increase the price of petrol or increase the tax take on petrol. A number of quotes categorically prove this. On 13 August 1998, in an address to the nation, Prime Minister John Howard said:

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

Not ‘should not’, not ‘maybe won’t’ and not ‘possibly that will not be the case’. He said that the GST ‘will not’ increase the price of petrol for the ordinary motorist. On 7 September the Treasurer, Mr Costello, said:

The Government’s proposed New Tax System will not lead to any increase in petrol prices.

Again, the same words: ‘will not’. There are not any inferences there. Clearly there can be no doubt that someone would be able to understand exactly the meaning of those words. On 6 September 1998 the Liberal Party campaign headquarters circulated a note that said:

There will be no increase in the price of petrol as a result of the GST.

In relation to the tax take, Mr Costello, in parliament on 25 November 1999, said:

... when you equalise out the tax arrangements, you get the same amount of revenue anyway. The excise comes down and the 10 per cent goes back up.

So it is a simple mathematical sum here. He continued:

It is the same amount of tax. It just depends on whether you are taking it in a form of excise or whether you are taking it in the form of the GST.

If we have a look at that very simple mathematical sum, we see the problem was that the amount of excise that was to be taken off each litre of fuel did not equal the amount of GST that was put back on. If you have a look at every litre of petrol bought in regional Australia today, you will see the Northern Territory is going to contribute significantly to this. Every litre of petrol does produce a windfall for the Howard government, and it has come about as a result of the GST. Even yesterday in question time the Deputy Prime Minister and National Party leader, John Anderson, either did not know or did not care when the example of his own electorate was used. When John Howard introduced the new tax system on 1 July, he cut the petrol excise by 6.7c a litre. I have said in this chamber time and time again that that amount of excise was based on the retail pump price in Sydney, and we have never, ever in the Territory had petrol prices equivalent to the retail pump price in Sydney. We have always paid far in excess of that.

A calculation based on the retail pump price in Sydney was never, ever going to help the reduction of fuel prices in the Northern Territory—6.7c a litre, and then of course you add a 10 per cent GST. So where unleaded petrol is selling for about $1.06 per litre, that means an extra 30c a litre in tax. So 6.7c less in excise; 9.7c more in GST. You can apply the same calculation at every petrol station throughout regional Australia.
This is a 3c a litre tax, based on $1.06 at the bowser. This is the windfall that John Howard pretends does not exist. This is the increase in petrol prices that has come about directly as a result of the GST.

Lauchlan McIntosh from the Australian Automobile Association has admitted this. When interviewed by John Laws, Mr McIntosh said:

'The Prime Minister and the Government deliberately increased the Commonwealth excise by 1½ cents a litre ...'

John Laws asked:

Can the GST be blamed for any of the rises?

Lauchlan McIntosh’s reply was:

Oh, there’s no doubt. At least 1½ cents a litre from the excise, and, of course, because the price is higher, the GST component is higher.

In fact, the GST has increased petrol tax in a number of ways. The level of excise reduction on petrol when the GST was introduced was too low, by 1.5c a litre. That is in the capital cities, let alone in Alice Springs, Darwin or Bathurst Island. The GST was pushing up inflation for the six months before 1 July, primarily through increased costs of housing insurance, motoring insurance, and house building and renovation. The indexation increase on 1 August 2000, which reflected inflation over the period, has led to a further 0.7c per litre in petrol tax. With the market price being around $1 per litre, there is around a further 1c of GST being charged, relative to the Prime Minister’s strike price of 90c. So we have had a lot of evidence that in fact we do have petrol price increases as a result of the GST.

The crucial thing about all of this is that the Prime Minister has misled the Australian people about the impact of the GST on petrol. It is a very serious allegation, but I think people out there—the Australian public—are quite angry about this fact. There has been a number of articles written in Northern Territory newspapers in which motorists and people who have been interviewed are saying exactly that—people have said that they used to spend $28 to fill up their car; they now spend $28 and it fills up only half of their tank. There was a taxi owner-operator who said that they really think the effect of the GST will be felt when they pay the tax after three months. A lady said that before the GST she used to work two casual jobs, and now she has to work three. This is the impact it is having on rural and regional Australia—an impact that this government refuses to actually recognise or do anything about. Petrol prices were about 89c a litre in Darwin. As I have said, we are now looking at upwards of $1.04.

Prior to the last election, when the issue of the GST and prices were being debated, we had the Leader of the National Party and Deputy Prime Minister come to the Northern Territory and tell people that fuel prices would fall. People in the Territory are waiting for that day. Since then all they have seen is a government that misleads them and petrol prices being further increased at the bowser. We then had the Northern Territory Chief Minister, who is now president of the Liberal Party, be more specific. He told Territorians back at the last federal election that he thought fuel prices would in fact fall by 7c a litre. He seems to have an amazing crystal ball that no-one else on the government side has. However, petrol prices have increased despite these way-out predictions from members of the government. The federal government is now feeling the heat, as it should.

Contrary to what the government has claimed, the GST has increased the price of fuel. The OPEC increases in the price of crude, the lower Australian dollar and of course the government’s excise may be contributing factors but they are not the only factors. And we know it is not the individual service station operators who should be singled out for harsh treatment. We have seen what their margin is in all of this.

With the introduction of the GST the federal government decided to cut the fuel excise by 6.7c. The oil companies were supposed to absorb the cost of 1.5c a litre, which they have been either unable or unwilling to do. This is based on a fuel price of 73c a litre. This story is not much consolation to Territorians. Darwin has the most expensive fuel prices of any capital city in Australia. Outside Darwin, the price of
fuel in the Territory is exorbitant—over $1.60 a litre in places. The Prime Minister has promised that there would be no net increase in the government’s effective tax take. This is a promise that has clearly been broken. Excises are the only taxes tied to inflation. This is a tax on top of a tax. (Time expired)

Senator O'BRIEN (Tasmania) (11.07 a.m.)—I rise to support the excellent second reading amendment, moved by Senator Cook, to the Petroleum Excise Amendment (Measures to Address Evasion) Bill 2000.

Senator Kemp interjecting—

Senator O'BRIEN—I will bow to your experience, Senator, on that matter. I am being distracted by the minister, who is not in his place.

The ACTING DEPUTY PRESIDENT (Senator Calvert)—Minister, the interjections are disorderly, as you know.

Senator O'BRIEN—The fact of the matter is that the issue of petrol prices is a vexed one, and historically has extensively occupied various parliaments of this country. There is good reason for that. The Managing Director of ANOP Research Services, Rod Cameron, is, one would have to say, a highly respected political analyst. In my view, he has no peer when it comes to picking the political mood of the community. In March this year Mr Cameron addressed a gathering of petroleum and automotive industry executives. His address was titled ‘Petrol, the GST and Motorists’. Rod Cameron told his audience that earlier ANOP research for the Australian Automobile Association showed that petrol prices were always a slumbering issue in Australia. He said that more recent research undertaken towards the end of 1999 showed that the issue of petrol prices was well and truly wide awake. He said that petrol prices were on the political agenda ‘big time’, and that they were a much bigger issue for regional motorists. Mr Cameron concluded:

The result is that petrol excise is one of the biggest political hot-buttons in the country.

The government was also well aware of the potential problem of tax induced petrol prices back in August 1998. The Prime Minister—in an address to the nation, no less—said on 13 August 1998:

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

That is the Prime Minister, on the record, in an address to the nation. Let us have no evasion about ‘should not’. He said:

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

In September 1998, his Treasurer, Mr Costello, told us:

The government’s proposed New Tax System will not lead to any increase in petrol prices.

Both Mr Howard and Mr Costello were keen to keep the real impact of the new tax system on petrol prices away from the public eye as long as possible. But the real impact of the tax policies of Mr Howard and Mr Costello are now out there for all to see. They are plastered on many of the service stations in the country. I must say that in the city that I live in, Launceston, most of the service stations do not put up a petrol price. It has gone over $1 for unleaded and leaded fuel. You know when you drive past a petrol station that is not exhibiting a price that you are likely to be looking at 102.9c for unleaded petrol—if you are lucky. But there are many stations that still exhibit a price, and it is enough to make many motorists draw breath as they drive past. Not only are motorists confronted with these prices as they drive along but also they are plastered all over the front of every newspaper and broadcast on every radio and television station around the nation.

The Australian Automobile Association released data on 15 August indicating that the price of petrol rose in 102 of the 108 locations surveyed between June and July. There is plenty of anecdotal evidence to support that claim. For example—you will be well aware of this, Mr Acting Deputy President Calvert—the front page of the Hobart Mercury on 3 July was headed: ‘Petrol Hits $1’. The article referred to prices in some areas of Hobart reaching close to $1.02 for unleaded petrol. It has gone up since then. At that time increases of up to 4c occurred. The page 1 lead in the Burnie Advocate on 26 July was: ‘Fuel Over A
Don’t blame us, says retailer. The Lismore paper, the Northern Star, led on page 1 on 18 August with the screaming headline: ‘Why Such A Difference? Petrol hits $1 a litre in bush’. On 4 July, the Bendigo Advertiser led with: ‘GST fuels anger’. It was surprising then to see that the Northern Times from Kerang in Victoria—the minister’s state—in its 8 August issue seemed to take a different tack. The headline stated, ‘Main concern. GST not to blame for petrol prices’. But, then, guess whose by-line is on the story: that of Dr Sharman Stone, federal member for Murray. You need to go inside the paper to get the real story in the Northern Times.

Senator Kemp interjecting—

Senator O’BRIEN—Wait, Minister. The best is yet to come. On the bottom of page 1, the reader is invited to go to pages 6 and 7 to read about what the paper describes as the ‘Great petrol price fiasco’. On pages 6 and 7 there are articles by the General Manager of the Australian Petroleum Agents and Distributors Association; Mr David Cumming, the Government and Corporate Affairs Manager of RACV; and Mr David Purchase, Executive Director of the Victorian Automobile Chamber of Commerce. I want to draw on what those gentlemen said. For example, David Cumming said:

The Federal Government under the guise of the GST, has increased its take from 35.8 cents per litre to 37.481 cpl. On top of this, the GST is added at the pump.

The promise that petrol prices would not rise due to the GST was not delivered, with petrol prices increasing across the nation. Once again, motorists are being used as a cash cow.

In fact the federal petrol tax (excise) is budgeted to rise 13.6 percent to $12.9 billion this financial year.

Later he said:

And, of course, the higher the federal tax, the higher the GST.

He went on:

The Government’s attempts to shift blame to the oil companies for the price increase just highlights how flawed its policies on petrol tax reform have been from the beginning.

That is from Mr David Cumming, Government and Corporate Affairs Manager of the RACV. David Purchase, the Executive Director of the Victorian Automobile Chamber of Commerce, could hardly be said to be a prominent supporter of the Labor Party or its policies; in fact, he is pretty closely aligned to the other side of the chamber. What did he say? He said:

Already record high petrol prices have jumped again with the Federal Government increasing the excise on petrol only a few weeks after trimming it.

The biannual ‘tax on tax’ increase by the Federal Government happened on August 1 with a rise of 0.7 cents per litre.

With the introduction of the GST, the Federal Government cut its excise ‘take’ on petrol by 6.7 cpl so that ‘petrol prices would not have to rise’. Now only a few weeks later, the Federal Government is increasing its excise on petrol again.

They cut their excise but grab back 10 percent at retail then tax the excise. It’s a joke but it is not funny.

What is the opinion of some of the citizens of Kerang as published in the paper? Mr Kevin Sambrooks is quoted as saying:

The taxes are far too high! The government is getting plenty out of the same group of people all the time.

Des Hunt said:

They are shocking.

Vannessa Giorgio said:

It’s too expensive for the old, the young and those who aren’t working.

This is from the paper that has on its front page the member for Murray, Dr Sharman Stone, saying ‘GST not to blame for petrol prices’. The paper was happy to give her the front page but then happy to shoot her down absolutely with the real stories published inside under the heading ‘The great petrol price fiasco’.

Mr Howard’s GST has forced up the price of petrol for a number of reasons. Firstly, the level of excise reduction when the GST was introduced was too low by 1.5c a litre. With petrol at 90c a litre, the government’s own figures show excise duty and the GST would lift its tax take from 44.137c a litre to 45.681c a litre; hence the increase of 1.5c. The GST will cost motorists 8.2c a litre on
that 90c figure, but the government has cut excise by only 6.7c.

Further, it should be said that the GST pushed up inflation for the six months leading up to 1 July, primarily through increased costs in housing insurance, motor vehicle insurance, and house building and renovation. It should also be said that there were price rises in anticipation of the problems that might have been faced with rising prices from 1 July, so some of those price increases were factored into the CPI increase for the six months leading up to 1 July. As a result, the indexation increase in August led to a further 0.7c per litre increase in the price of petrol. And now that the price of petrol is around $1 a litre, a further 1c of GST is being charged relative to the Prime Minister’s strike price of 90c a litre. This means a further 3c a litre of additional tax due to the GST since 1 July.

But the government is just getting warmed up in what is a revenue raising spree at the expense of motorists—particularly motorists in regional Australia. The main price impact from the GST will be in the September quarter of this year. Mr Costello’s budget papers estimate that inflation will reach a peak of 6.75 per cent in that quarter. I think that is a very conservative number, but this figure—whatever it is—will flow through to higher petrol prices in February next year when petrol excise is indexed again for inflation.

The Australian Automobile Association estimates that this will add around a further 2c per litre in tax. This indexation will then have GST on top of it, yielding a further increase of 0.2c per litre. So revenue to the government from petrol and diesel taxes is estimated to increase by well over $1 billion per year—that is, $1 billion per year more tax directly as a result of the GST. The government, however, wants to blame the oil companies for the 1.5c a litre increase in the tax take that Mr Howard imposed on Australian motorists on 1 July. Mr Howard has said that it is the oil companies that should make up the difference from the alleged cost savings. But while Mr Howard has been running that line, his Minister for Financial Services and Regulation, Mr Hockey, has been saying just the opposite. Mr Hockey has given the oil companies the green light to increase petrol prices. He said on 28 June that the ACCC could tick off on price increases if it was unable to identify cost savings by the oil companies.

Not only have Australian motorists, especially those in regional areas, copped it from the GST on petrol, but also farmers have to pay more tax for diesel. Let me remind the Senate what Mr Anderson, the Deputy Prime Minister, told the parliament at the end of May last year. He said:

The diesel fuel rebate will be kept in full ... All diesel used off-road by primary producers stays excise free.

From 1 July, Mr Howard, Mr Costello and Mr Anderson started collecting 37.481c in excise on every litre of diesel fuel used by Australian farmers. The rebate is set at 35.695c per litre, leaving the government with a nice little profit of 1.786c on every litre of diesel used on farms. On behalf of Australian farmers, perhaps I should say thank you to Mr Anderson.

Regional areas are also being hit. Small independent trucking companies are being hit hard by increasing diesel fuel prices. Diesel fuel prices have increased by 34c since the government announced its diesel fuel rebate scheme. That is an increase of 45 per cent, and it has well and truly wiped out the rebate of 24c a litre. Increased transport costs mean increased living costs, and that means a GST on a bigger number.

Mr Gary Wright operates a cartage business, G.L. & S.F. Wright, in Penguin in our state, Mr Acting Deputy President Calvert. His business is based about 1½ hours from where I live. He was recently quoted in the press as saying that some operators in the Tasmanian freight industry were even looking at charging their own customers a fuel excise to more easily pass on and identify the rising costs. Gary said that, in the past, price increases occurred every 12 to 18 months and said, ‘But now you’ve got to look at them every couple of months.’ Things are getting very grim very quickly.
When Mr Howard was pushed by his own backbench to commit the windfall financial gain that he and Mr Costello were about to enjoy from petrol tax to rural roads, he refused. The Prime Minister said that it would be irresponsible to speculate on the impact of rising petrol prices on the budget with another 10 months of the financial year to go. Anyway, he said that it was all the fault of the oil production countries and they do not sit on the front bench of the government. The Prime Minister has also blamed a falling Australian dollar for higher fuel prices. He also argues that any move to cut the level of excise on fuel could force up interest rates and that soaring petrol prices could blow a multimillion dollar hole in the budget. Mr Costello has told us that we need to pay more for petrol to pay for pension increases.

I agree with the Leader of the Opposition when he says that petrol price rises are worse than they need to be because the government has broken its promise on the GST. That is the bottom line in this debate. While the Prime Minister and the Treasurer blame everyone other than the government for this economic disaster that we now see playing out in regional Australia and while the Prime Minister and the Treasurer claim that any change to the current tax regime on fuel will force up interest rates, blow out the deficit, cut pensions and bring plague and pestilence to all the world, one thing is certain: the fuel tax regime that the government has in place will ensure nothing less than a vicious upward spiral in living costs in regional Australia and a downward spiral in regional living standards.

Senator FORSHAW (New South Wales) (11.26 a.m.)—I rise in this debate to make a contribution on this most important issue—that is, the absence of any government policy to deal with the huge increases in fuel prices that are occurring in this country. The Petroleum Excise Amendment (Measures to Address Evasion) Bill 2000 is an attempt to deal with one specific problem; namely, evasion. Whilst the government has introduced this legislation, it singularly fails to tackle what is a crisis throughout Australia—the crisis of ever increasing petrol prices, a crisis which is affecting people in the cities and in rural and regional Australia. A little later in my remarks I want to talk about the devastating impact that this government’s failure to act is having on rural and regional Australia.

I want to commence my contribution by referring to history. Prime Minister Howard is a student of history, apparently—in fact, he is a devotee of history. He believes that nothing would be better for Australia than going back to the great halcyon days, as he thinks they were, of Menzies and that era. If you are going to rely upon history, as the Prime Minister does, then you should remember that sometimes your own words will come back to haunt you. Let me quote the Prime Minister in 1986 when he was the Leader of the Opposition. He said:

There appears to be no end to the occasions on which the Government intends to deceive the Australian public on the question of fuel pricing. We must remember that when we talk about the price of fuel in Australia we are talking about something that affects every single sector of the Australian community. It is fair enough to say that whether one lives in the cities, the provincial areas or the bush, the price of fuel is of enormous daily importance. For example, the use of the family motor car is one of the most regular methods of ordinary pleasure taken by low income families in Australia and it passes strange that a government that historically has prided itself on representing the cause of low income families in Australia should be shaping up to cheat that very section of the Australian community...

What prophetic words. The Prime Minister, who at that time was the Leader of the Opposition, found it appropriate to get stuck into the then Labor government over the issue of fuel prices. This is a Prime Minister who, when he came to office in 1996, said that it was not appropriate to just blame everything on international economic factors. ‘You cannot do that; as the national government, you have to carry some of the responsibility for what occurs in the economy in this country.’ And Prime Minister Howard said that he was going to stand up for the battlers. He made promise after promise to the battlers of Australia, both in the cities and the bush.
Senator McGauran—And they voted for him.

Senator FORSHAW—And they did vote for him, Senator McGauran, you are correct. After 13 years of Labor government and after great benefits brought on during those years, they were nevertheless, in the natural political cycle, looking for a change. In 1996, they were prepared to put their faith and trust in Mr Howard because they thought, ‘Let’s give him a go.’ Particularly, they gave him a go because he stood before the Australian people and he made promises such as, ‘No Australian will be worse off under my government. Nobody will lose any wages, entitlements or conditions of employment.’ He would not touch Medicare; he would protect Medicare. He would not increase taxes. He would not bring in any tax surcharges, and so on. Most important of all, he said that he would never ever bring in a GST. These were all solemn core promises that this Prime Minister made, and he has broken each one of them. It is the height of hypocrisy for somebody to stand up year after year, make promises and then continue to break them. He is continuing to do that.

We know that this government, when it brought in the GST, on a number of occasions stated that fuel prices would not increase under the GST. In fact, this government promised that not only would they not increase but they would decrease. On 1 September 1998, Mark Vaile, then Minister for Transport and Regional Development, put out a news release which said that fuel would be cheaper under the coalition:

The Coalition is delivering tax cuts for everyone—and lowering fuel prices.

Further on in his press release he said:

What’s more—the Coalition will continue to promote competition to further reduce petrol prices in the bush.

Again, on 7 September 1998:

“Petrol prices for motorists in regional and rural Australia will not rise with GST as we are reducing the excise (tax) on petrol by an equivalent amount to offset the impact of the GST to zero,” the Federal Minister for Transport and Regional Development, Mark Vaile, said today.

The words ‘will not rise with GST’ were italicised to give them emphasis. Mr Vaile was going to great pains to say that, under this government, there would be no increase in petrol prices following the introduction of the GST and that prices would be held down because of competition. He said:

... petrol prices will fall by 7 cents a litre.

The most ironic comment that Mr Vaile must have made during his then short career in the ministry was:

Cheaper fuel and less tax is good news for the people of regional and rural Australia.

Mr Howard and Mr Vaile have not kept their promises. They have clearly and utterly broken them. Yet now they seek to put all of the blame for the current situation of the petrol prices in this country on international factors. These are the same conservative representatives that, when the world oil crisis occurred back in 1974 when the price of oil, from my recollection, went up by around 400 per cent almost overnight due to OPEC decisions, the Liberal opposition said, ‘The Whitlam government cannot blame international factors; you have to take responsibility for this yourself.’ But of course, as we know, when the Liberal government get into power, suddenly the rules of the game change. It is no longer their responsibility. I am sad to say that it is. The people out there know it, and they are going to deliver the message to you in spades at the next election, just as they have been delivering the message to you at each of the state elections and by-elections that have occurred over the last couple of years.

Mr Howard was actually right in 1986. For the average working man and woman in this country—the battler—particularly for the people in rural and regional Australia, the price of petrol is of fundamental importance to their standard of living. Whilst the government can wax lyrical about what it has done with respect to the diesel fuel rebate, it forgets that many people living in rural and regional Australia, as well as in the cities, do not rely upon diesel fuel. Every day they rely on petrol, whether it is to run their small
business, transport their kids to school or themselves to work, or do the shopping.

I want particularly to go to the situation in rural and regional Australia. The situation is, as we know, that the price of petrol at the pump in rural and regional Australia is always more expensive than in the city. Indeed, the differential that exists can sometimes be as high as 20c a litre. You only have to get in a car and drive out from the inner city of Sydney either up the north coast or out west and you will pretty quickly find that fact out. There has always been this historical differential between the pump prices, but what has happened since the introduction of the GST is that, because of the percentage application on that price, the differential has grown. As the price of petrol continues to rise, the differential becomes greater and greater. People in the bush suffer more and more, comparatively, from rising fuel prices than do their fellow Australians in the cities. Of course, they have a further disadvantage. For instance, they have to place more reliance on the motor vehicle. Why? Because they do not have access to the same transport systems, such as suburban rail or bus systems; they actually have to use their motor vehicles more often—whether it is, as I said, to get the children to school in the mornings or to get themselves to work. They invariably have to drive longer distances to do those things, as we know.

Senators who have been involved in committees, both Senate and joint committees, looking at the impact of a whole range of issues on rural Australia, such as the situation in the retailing sector, realise that people living in country areas often have to travel 40, 50 or 60 kilometres one way just to get to the supermarket to do their weekly grocery shopping. So not only are they facing higher prices through the GST but they are facing higher costs and, increasingly, comparatively higher costs than are their fellow Australians in the cities, through the increases in petrol prices. But this government’s response is, ‘Well, you are getting the benefits of the tax cuts under the GST.’ Go out to the bush; go out to those country towns. I invite Senator McGauran, who, as a lone representative of rural Victoria from the National Party, is sitting in this chamber—one of the few left—to go out to some of those rural areas and talk to the people, whether they be on the land or in the towns, and ask them how much these tax cuts are worth. They are not worth anything.

Senator McGauran—I am talking to them all the time.

Senator FORSHAW—These people are not earning incomes like you and I are. Senator McGauran, whereby you can benefit significantly from the recent tax cuts. They are in those income brackets where the income tax cuts are pretty well negligible and have been more than outstripped by the increase in prices and the increase in the cost of services. As we know, relying heavily, as they do, on contracting services in the bush—whether that be from electricians or plumbers—their costs are greater again because of increased petrol prices feeding into the costs of those small businesses. All the time it is compounding. What is really making it worse is not just the impact of the GST, for which they do not get any real offset in tax cuts to compensate, but also the significant increases in petrol prices, which are compounding that problem daily for these people. I am getting calls all the time from people living in my duty electorates asking, ‘When is this government going to do something about petrol prices?’ The government claims it has got all the answers and that it is running an economy which is bubbling along quite smoothly. Yet people out there know that this is a terrible crisis facing them.

If you actually have a look at some of the figures before and after the GST on petrol prices, you will see what I mean. Prior to the GST, the price for petrol in cents per litre in Lismore, in the seat of Page, was 87.9c. According to the figures I have been given today, it is now retailing at 95.9c. I do not think Mr Causley will be terribly happy with that figure—an 8c per litre increase. The increased tax that this government has taken from that increase is 2.67c.

Come a little further down the coast to Grafton, on the border between Page and Cowper. Fortunately, Garry Nehl does not have to worry about this any more, because
he is retiring at the next election. But I would not want to be the candidate for the National Party trying to hang on to the seat of Cowper in this situation. What has happened to the price petrol in Grafton? It has gone up by 8c per litre from 88.9c per litre to 96.9c per litre since the introduction of the GST. Again, the increase in the tax take for the government is 2.7c per litre. Over 25 per cent of that price increase at the petrol pump has gone back to the government in terms of the increase in the tax. I return to where I started, to what Mr Howard had to say back in 1986 when he was Leader of the Opposition:

There appears to be no end to the occasions on which the Government intends to deceive the Australian public on the question of fuel pricing.

How right he is. What a damning statement of the performance of his own government—a statement which correctly indicates what this government is really about and puts the lie to those untruths that were promulgated by Mr Vaile and Mr Howard and others that the price of petrol would not increase but rather would actually reduce following the GST.

We have never denied that international oil prices have an influence. That has always been the case, and we know that and we said that in government when we were affected by such things. As I said, one can remember back to 1974 and the oil shock then. We have never denied it and we do not deny it now. But what this government cannot deny is that it has markedly contributed to a worsening position for Australian motorists by feeding in, on top of that situation in the international environment, the GST and the increased tax take that this government is ripping out of the motorists of Australia. They are not going to forget it, they are not going to thank you for it and they are going to give you the clearest message at the next election.

Senator KEMP (Victoria—Assistant Treasurer) (11.46 a.m.)—The bill we are debating is the Petroleum Excise Amendment (Measures to Address Evasion) Bill 2000. Anyone listening to the second reading debate on this bill would have noted how rarely any of the Labor Party speakers traversed a wide range of issues, very few of which, as I have said, related to this bill.

However, I will make a number of observations about the remarks of the Labor Party speakers. They chose to comment on fuel prices and put their argument—as it was put yesterday—that the rise in fuel prices is, in part, due to taxes, and they have argued further that there is a windfall coming as a result of this rise. We have listened carefully to their remarks, but what we have not found out is: what is Labor Party policy on this? If the Labor Party believe that there is a windfall to come—and I think the Prime Minister has answered this question very effectively in the other place—and if they also believe that one of the current problems is the tax structure, one would think that Labor Party speakers would have proposed some solution. Do the Labor Party propose to change the GST treatment of fuel? No, not one spokesperson from the Labor Party had any views on that. Do they propose to cut the excise on fuel? No, there was not one proposal on that particular matter. A number of Labor Party senators spoke about the effects of indexation on petrol prices. Do they propose to change the indexation arrangements relating to fuel? No.

So what we have, I believe, is another total fraud by the Labor Party. The Labor Party, Mr Acting Deputy President McKieran, as you would well know, decided that somehow they were going to ‘surf into victory’ on the GST and that, therefore, they did not require any other policies. Do you remember that? The old surfing into office on the GST collapsed on 1 July—as indeed did Labor Party support, according to the many surveys taken. And now the community is quite rightly worried about the Labor Party’s roll-back. I am sorry to mention the ‘r’ word, but I have been provoked.

We are seeing a similar fraud by the Labor Party in relation to fuel. The Labor Party well know that the increase in fuel prices is as a result of trends on world markets; they well know that. But of course they endeavour to run a populist line in trying to blame tax changes for the rise in fuel prices. If the
position of the Labor Party is that they believe that to be true, one would think they would be proposing some changes in fuel taxes—but they are not. The worst question you can ask a Labor senator—and, undoubtedly, some of them spoke about their discussions with various people—is: what do the Labor Party propose to do? There then follows a dead, ringing silence.

So I think the community is quite right in assuming that the Labor Party are again indulging in a political fraud. They are trying to pretend something to the public but, when tested on it—when the question is posed to them: if you believe the tax structure has promoted the rise in fuel prices, what do you propose to do to change this tax structure?—there is dead silence; the Labor Party propose to do nothing. In fact, Mr Acting Deputy President, you would be well aware that, when Labor were in office, one of the changes they made regularly was to fuel excise; they regularly increased the excise on fuel. The excise on fuel rose from around 5c a litre when the Labor Party came into office and ended up at 34c a litre—a six-fold rise over the period of the Labor government. The Labor Party brought in the indexation of excise. So it is not surprising perhaps that there is no proposal from the Labor Party to change that.

But a number of other comments made by Labor spokespeople are, I think, a little bit worrying. Both Senator Sherry and Senator Forshaw sneered at the tax cuts—they sneered at $12 billion in tax cuts. It is our view that the Labor Party, to finance their big spending program in their policies, will take back the tax cuts which were delivered to the Australian public on 1 July. According to Senator Sherry, these tax cuts are worth nothing—and, effectively, the same words were used by Senator Forshaw. Senator Forshaw believes that $12 billion worth of tax cuts are worth nothing. I think that provides the hint to the public of just where Labor priorities will lie. Mr Beazley has been asked some 30 times, someone counted up, to guarantee the tax cuts. You had to do in your speech—and the Labor Party has had plenty of time to do it—was guarantee the tax cuts which this government delivered to the Australian public on 1 July. You sneered at them. They were after all only $12 billion, but Senator Forshaw sneered at that. When Mr Beazley is asked whether he guarantees the tax cuts, he refuses to answer.

In contrast to what Senator Forshaw said in his speech, I believe that the public well understand that the rise in fuel prices is due to the rise in prices on world markets. Prices have risen in Australian dollar terms from some $17 a barrel in February last year to around $55 a barrel currently. People well understand that this explains the rise in petrol prices that we are all experiencing. This government is concerned about these price rises and is doing what any responsible government should do—that is, to make its views known and, in conjunction with the US and other countries that are similarly affected by the rise in petrol prices, to put pressure on the OPEC producers.

It is total fraud for the Labor Party to pretend that it is tax changes which have led to the rise in petrol prices. As I said, if they believe that is the case, what do the Labor Party propose to do about it? The Labor Party solution, as was revealed by one of the great political thinkers of the modern era, Senator Peter Cook, is to have a review. I said it was the 31st review into the fuel industry. I was corrected by Senator Ellison, who said it was the 49th review. With his perception for great public policy initiatives, Senator Cook, having explained that it was all due to the tax changes, did not actually propose that any changes be made to the tax arrangements on fuel. He thought another review would solve the problem. Of course, that is total nonsense. Not surprisingly, Senator Cook was comprehensively defeated on that issue in the Senate last night.

Let me now return to the detail of the bill. The amendments proposed in the bill improve the government’s ability to address excise evasion occurring through fuel substitution. As I pointed out in my speech in the second reading debate, the bill facilitates prosecutions for fuel substitution offences by
removing some of the technical difficulties with the legislation, and I think that is a very important aspect of this bill. This bill also ensures that a broader range of imported products that can be used in fuel substitution activities, such as imported chemical grade toluene, are covered by this legislation. The record keeping provisions of the fuel substitution legislation are also extended to cover these products. This is an important bill. I welcome the fact that all parties to this debate have agreed that this bill should proceed, and I trust it will proceed without amendment. Apart from the foolish second reading amendment which has been proposed by Senator Cook, we are not aware of any amendments.

One of the issues that was raised—and Senator Murphy spoke at some length on what I think was an incorrect argument—is that the government have been slow to act in relation to fuel substitution issues. Let me deal with this matter. The government have acted decisively to address the practice of excise evasion through fuel substitution. The government implemented revised excise arrangements, which took effect from mid-November 1999, that removed from the excise tariff and fuel section of the customs tariff certain products that were being abused. Combined with administrative action by the Australian Taxation Office, the access of excise evaders to fuels that are at the highest risk of substitution for excise paid has been cut off. We have also brought forward the present bill, which passed in the other place on 31 May 2000. This bill will strengthen the existing petroleum market regime. The government have changed the regulations to remove the incentive to blend methanol with petrol after reports that blends of methanol may have detrimental effects on both engines and air quality. This change took effect on 28 July this year.

The government has implemented measures, applying from 10 March 2000, to take away the ability to import toluene for evasion by imposing an excise equivalent duty on toluene in the customs tariff. Let me make it clear that the government and the Taxation Office take compliance seriously. Should other innovative ways to evade or avoid petroleum excise crop up, these will be addressed in a way which protects legitimate users. I am sure Senator Murphy has a copy of the press release that was put out by the tax commissioner headed ‘Claims of inaction on excise evasion and fuel substitution simply untrue’. This is a statement from the Taxation Office by the Commissioner of Taxation, Michael Carmody. This is what he said:

Claims that the Tax Office has failed to act on complaints made 18 months ago of fuel substitution and excise evasion are simply untrue. The Tax Office only took responsibility for excise operations a little over 12 months ago ...

All complaints about excise evasion and related fuel substitution involving solvents and other products have been dealt with by the Tax Office. Not only that, they have been dealt with decisively and in a way that kills off abuse.

Complaints of fuel substitution involving abuse of lower excised petrol and diesel, heating oil and solvents were raised with us in mid 1999. Previous attempts to deal with this through the use of special chemical markers and testing involving a fleet of trucks had, in our assessment, proved ineffective. As a result the government implemented a systemic solution recommended by us involving revised excise tariff arrangements with effect from mid November 1999. That immediately closed off the excise evasion practices then in place. This included the use of domestically produced solvents.

I will not read the full text, but it seems to me that Senator Murphy would have been well advised to read what the commissioner said on this matter.

Senator Murphy—Sorry, Minister, I missed that.

Senator KEMP—This is a very serious issue, and the government takes the issue seriously.

Senator Murphy—It is. And you’re in diabolical trouble.

Senator KEMP—All I can say is: not according to the opinion polls. The Labor Party, with its massive internal divisions at present—

Senator Cook interjecting—

Senator KEMP—Why were so many Labor speakers brought on to speak on this bill? The short answer is: you are still trying
to work out the deal on the Queensland land rights issue. That is why. Your party is hopelessly divided over that key issue, which is coming before the chamber later today. The Labor Queensland senators are in an uproar.

Senator Murphy—Don’t ever accuse us of not responding to the bill!

Senator KEMP—I know I am responding to the interjection from you, Senator Murphy, but I think you should clean up your own house first. There is big trouble in the Labor stable, let me assure you, on a wide range of issues. Perhaps later in the day I might, with you, run through all those massive Labor divisions.

Senator Murphy interjecting—

Senator KEMP—Senator Murphy has now gone back to petrol pricing issues, which have nothing to do with this bill. Senator Murphy, if you believe what you have argued, we will be pressing you on what the Labor Party propose to do. It is a fair question. As you fell over yourselves and comprehensively made complete dopes of yourselves on the GST debate, equally, when the Australian public wake up to the Labor Party fraud in this debate, you will suffer a similar fate.

Senator Murphy interjecting—

Senator KEMP—It is going to be very interesting. Are we managing to detect the Labor Party policy? Senator Murphy, we do know there was an attempt by a Labor Party state treasurer, Dr David Crean, to remove the subsidy from fuel. He was found out. He was nailed by the Commonwealth Treasurer—not by any Labor Tasmanian senator.

Senator O’Brien—How do you know?

Senator KEMP—I will correct myself if I am wrong, but did Senator O’Brien make any press statement when Dr David Crean attempted to remove a state government subsidy arrangement on fuel? Did Senator Shayne Murphy make any press statement on that?

Senator Murphy interjecting—

Senator KEMP—I am listening. Senator Shayne Murphy and Senator O’Brien were jumping up and down here, but did they make any statement attacking Dr David Crean, the Labor Party state treasurer, when he attempted to remove a subsidy?

Senator O’Brien interjecting—

Senator KEMP—If you did, I would be very happy to hear it, but I do not think you did, Senator O’Brien. The trouble with you is that you never rate on the radar. The reason you never rate on the radar is that you never stand for anything. You ask a lot of questions. You jumped up and down for six months about the GST, and suddenly on 1 July Senator O’Brien becomes a supporter of the GST. No wonder you are treated with contempt by your own people.

Senator Murphy—Mr Acting Deputy President, I rise on a point of order. The minister just made a statement that is totally incorrect. I did put out a statement, for your information, Minister, with regard to the state government.

The ACTING DEPUTY PRESIDENT (Senator McKiernan)—That is not a point of order, Senator Murphy. Minister Kemp, in speaking on the bill, I would appreciate it if you would keep your remarks to the bill.

Senator KEMP—Thank you, Mr Acting Deputy President. I said that I would correct myself if I was wrong, but I trust the press statement was attacking Dr David Crean?

Senator Murphy—It was attacking the state government and the Treasury.

Senator KEMP—Before I make any further comment, I had better see the whole statement from you, Senator Murphy.

Senator Conroy interjecting—

Senator KEMP—Senator Conroy, given the trouble the Victorian Labor Party are in, I would not butt into this conversation if I were you. Your president, Mr Greg Sword, is not too pleased with you, Senator Conroy, and he is dead right not to be pleased with you. The government will not be supporting the second reading amendment moved by Senator Cook. The amendment has nothing to do with the bill before the chamber, and we will not be supporting it.

Question put:
That the amendment (Senator Cook’s) be agreed to.

The Senate divided. [12.10 p.m.]

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

Ayes......... 24
Noes......... 38
Majority...... 14

AYES

NOES

PAIRS
Bolkus, N. Evans, C.V. Faulkner, J.P. Lundy, K.A. Schacht, C.C. Reid, M.E. Lightfoot, P.R. Crane, A.W. Hill, R.M. Campbell, I.G.

* denotes teller

Question so resolved in the negative.

Original question resolved in the affirmative.

Senator Newman did not vote, to compensate for the vacancy caused by the resignation of Senator Quirke.

Bill read a second time.

In Committee

Senator COOK (Western Australia—Deputy Leader of the Opposition in the Senate) (12.15 p.m.)—During my speech in the second reading debate—


Senator COOK—Thank you, indeed, colleague. I admit I had three cracks at it because I ran out of time on three separate occasions.

Senator Kemp—It’s the story of your life, Senator.

Senator COOK—The scheduling of this bill meant that it was up against the deadlines of the Senate. However, during the second instalment of my speech—

Senator Kemp—It is indelibly imprinted on our memory.

Senator COOK—You were not at the desk at the time, Minister, but your colleague Senator Alston was there and I am sure your note takers were there.

Senator Murphy—Just hold you up to the light and we can see.

Senator COOK—I have to recognise Senator Murphy just to get that into the Hansard. I foreshadowed that I would ask a question at the committee stage. The question related to the ministerial council meeting at which the issue of fuel substitution was raised by Queensland and New South Wales. Indeed, they are two Labor states that are quite clearly conscientiously concerned about spurring the government to take some action sooner than it was apparently prepared to. They proposed at the ministerial council a 10-point plan of action. One of those points went to fuel substitution. As a consequence of the Senate Economics Legislation Committee hearing on this legislation, my colleagues sitting on that hearing referred in their minority report to this development at the ministerial council meeting. Can the minister tell me why it was that apparently the Commonwealth government chose not to proceed with those proposals, in particular the proposal relating to the fuel substitution issue as raised by Queensland and New South Wales?
Senator KEMP (Victoria—Assistant Treasurer) (12.17 p.m.)—Senator Cook, I am advised that you raised this issue. This was a ministerial council for consumer affairs, I believe. It was not a council which I as the Assistant Treasurer was at. I think Mr Hockey may have been there. I would like to properly apprise myself of the nature of the debate which occurred. I have not yet had that particular opportunity, but I shall do that. Let me make a number of observations. The issue of fuel standards is not a matter for the ATO, which is primarily concerned with the collection of revenue. We recognise, in relation to a number of issues which have arisen, it is clear that, in carrying out that duty, the decisions in relation to, for example, methanol and toluene will have some effect on the incentives that people have to conduct illicit activities.

In relation to the state consumer affairs ministers, my memory was that, when the issue of the substitution with toluene was raised in the public arena, the New South Wales consumer affairs minister did take a proactive approach in checking fuel standards. The Victorian minister I believe was very loath to make any move in this area and to look at what was happening in the Victorian arena. But, ultimately, the minister did carry out some checking arrangements. Consumer protection in the broad sense is a combined responsibility. The Commonwealth does have responsibility in the general area of consumer protection, as the states do too.

Fuel standards have recently been considered in various areas. Senator Cook raised one in relation to a proposal by a state government. In the federal arena there have been some discussions with the Department of the Environment and Heritage. I will check with them to see whether there is any particular information I am able to provide to you. Senator, I detect it was a genuine question. It is an important question. I have mentioned my understanding and I will have to check with my colleague Senator Hill about the actions that the department of the environment are considering in relation to emission standards. If I can provide that information to you, I will get back and inform you.

Senator COOK (Western Australia—Deputy Leader of the Opposition in the Senate) (12.21 p.m.)—Thank you for that part of the answer you have given, Minister. The reason I gave notice yesterday that I would ask this question was in the hopeful expectation that overnight you would have been provided with a brief and been able to answer the question before we dispose of this bill. My concern now is that you are indicating that you are not in a position to answer this question now and you need to take further advice in order to be able to answer the question. I am just wondering when that might be. That is my first follow-up question.

My second question is more in the form of an observation, and that is that it certainly seems you have been given a defensive brief in the sense that you are able to say what the New South Wales government did—

Senator Kemp—I was around at that time and there was a big debate between New South Wales and Victoria in relation to toluene. That is the point I was making.

Senator COOK—I should acknowledge that interjection because that is fair enough. It is not a defensive brief you are running off, it is your own personal recollection of what the New South Wales and Victorian governments did. I therefore find it odd, and I regret having to point this difficulty out, that you can remember what the state governments were doing but you cannot remember what the government of which you are minister, the Commonwealth government, was doing in this debate and now need to send out for a brief on it. While it was a consumer affairs committee, we are frequently reminded in this chamber that the Howard government operates with a whole-of-government approach. While you yourself may not have been at the meeting, I am sure—since it touched on matters concerning your portfolio—you would have been, as you have indicated, aware of the circumstances. I would be pleased if you could indicate to us when you might be in a position to answer those questions.
Senator KEMP (Victoria—Assistant Treasurer) (12.23 p.m.)—Let me just tackle the first part of your comments. You found it curious that I could recall a debate that I was actually involved in, but, at the same time, you found it odd that I could not recall a debate that I was not involved in. I was not at the ministerial council meeting. That was a meeting that Mr Joe Hockey, as the responsible Commonwealth minister, attended.

Senator Conroy—Did they not invite you?

Senator KEMP—I do not recall being invited, Senator. I may have the same particular problem as you: people do not invite you to various places, although I have read in the press that you have been invited recently to one or two activities. I was not invited because this was a matter for the ministers responsible, as I understand it, for consumer affairs. For all my portfolio responsibilities, this comes under Mr Joe Hockey's area. It is perhaps not surprising that I cannot give you chapter and verse on what happened at the ministerial council meeting. The reason for that is that I did not happen to be there.

In relation to the earlier matter I raised regarding the toluene substitution issue, I was involved in a debate on that. Various statements were made by the New South Wales Minister for Fair Trading and similar statements were made by the Victorian Minister for Consumer Affairs. I may not be able to provide it to you immediately, but I will provide you with a response from Mr Hockey. Whether this can be done immediately, I do not know. I think there are probably a few other things on in this parliament at the moment, including some which your own party is involved in. As I said, I will take that question on notice.

Senator Conroy interjecting—

Senator KEMP—I am sorry to be provoked, but talk about backbencher revolts! Given the agonies that the Labor Party is currently experiencing over land rights in Queensland, talk about the odd backbencher revolt. I could go on and list all those serious divisions in the Labor Party, but I will not because we are dealing with a serious bill here and I refuse to be provoked by you, Senator. I am sorry about that. As I said, Senator Cook, I will get back to you on that matter.

Senator COOK (Western Australia—Deputy Leader of the Opposition in the Senate) (12.26 p.m.)—I am sorry, Minister, but I must be persistent, particularly given your ability to extemporise away from the question in response to comments made in the chamber. Can I just get it clear. This bill may pass this chamber if the debate is dealt with promptly within the next few minutes, but we may not have an answer to a relevant question related to this bill until some indefinite time in the future. It would help me in forming my mind as to how I conduct myself if you would give me an assurance that you will give us an answer within a specific period of time. That is all I seek. You have indicated that you will go away, get briefed and provide an answer. All I am asking you is: when might that be and will it be within a timely period for our considerations here?

Senator KEMP (Victoria—Assistant Treasurer) (12.27 p.m.)—We are anxious to pass this bill. This is a matter which is not directly related to the bill; it is directly related to the minister for consumer affairs. It is not directly related to my responsibilities and nor is it directly related to the matter before the chamber. I will speak to Mr Hockey and attempt to provide you with an answer in a very short period of time. This involves not only me but also Mr Hockey. I understand your interest and I will see what I can do.

Senator COOK (Western Australia—Deputy Leader of the Opposition in the Senate) (12.28 p.m.)—At the risk of wearing out my welcome—

Senator Kemp—Never.

Senator COOK—Thank you, then I will not wear out my welcome. But at the risk of pressing this one step further, could you just put a ballpark time frame around what you are saying? Is it likely that you will give us an answer today or before the parliament
rises on Thursday night? What type of expectation might we have when you say that you will get back to us ‘shortly’?

Senator KEMP (Victoria—Assistant Treasurer) (12.28 p.m.)—I will certainly attempt to get you an answer by Friday, but I hope to get it earlier.

Senator MURPHY (Tasmania) (12.28 p.m.)—Minister, during the committee inquiry into this bill, issues were raised about the legislative authority and where that may lie with regard to prosecuting some of these matters. I wonder if we are able to throw any more light on that now as a result of the inquiry. Tax office officials at the inquiry responded to a question from Senator Murray, which can be found in the minority report. Senator Murray said:

I want to clarify that it is the states that do have the legislative backing to test the fuel. Is that correct?

Mr Colmer said:

I think that is a contested issue. As you heard earlier today, the Victorian department of fair trading believe that they do not have sufficient legislative power. I think that there is some disagreement about that. I think the problem with consumer affairs is that that is one of those split responsibilities.

Can we throw a little bit more light on that now?

Senator KEMP (Victoria—Assistant Treasurer) (12.30 p.m.)—I think that was an issue essentially about fuel standards, which I do not think is really about the legislation that we have directly before us. But my memory was that the Minister for Consumer Affairs in Victoria—and I do not wish to unfairly quote her—claimed at one stage that she did not have the legislative authority to prosecute. The response to that is: if she feels she has not got the legislative responsibility to do it, she should, presumably, deal with that issue by passing relevant legislation through the parliament. My understanding is that was not a complaint that was being made by the New South Wales minister for consumer affairs. My understanding was that that was a situation that the Victorian government, or the relevant Victorian minister, raised. My understanding is it was a matter essentially related to fuel standards. There was a complaint from the Victorian government that it felt that it did not have powers to act. An obvious response to that would be that, if the Victorian government does not feel it has the powers to act and if other states have not made a similar complaint—and I think this is the case; I may be wrong—then presumably it is within the ambit of the Victorian government to pass relevant legislation.

Senator MURPHY (Tasmania) (12.31 p.m.)—I thank the minister for that answer. But I am just looking at what Mr Colmer said. I might be not understanding all of this correctly but, as I understand it, the Victorian government had conducted a range of tests for fuel substitution, and a number of them found that there had been substitution. Of course, we know that even the Taxation Office and Customs have had a problem with regard to prosecuting substitution practices because, as I understand it, the argument relates to the fuel standard. I thought this went to the issue of who had the authority to prosecute if fuel was refined in one state—say, in New South Wales or Western Australia—and brought into another state—say, Victoria—and then tested and found to contain some substitution. This also goes to the national perspective.

In addition to that, Minister, there is the issue about a standard. I would be interested in hearing what the government is intending to do with the development of a standard and when you expect to actually have a standard where the specifications—the quantities of the various components that go to making unleaded petrol, for instance—are refined to the extent that it will alleviate the problems that have confronted Customs and the Taxation Office in the past. But the issue that I have asked about is in respect of Mr Colmer’s response to the question from Senator Murray, when Mr Colmer said:

I think that there is some disagreement about that.

In the Labor senators’ minority report we say:

... it raised complex issues of fuel standards and the division of Commonwealth/State responsibilities.

That is the issue I am looking at in terms of the legal aspects of it.
Senator Kemp (Victoria—Assistant Treasurer) (12.34 p.m.)—Let me just make a couple of observations. The first point is in regard to the legislation which is before us. What we are doing is amending legislation to facilitate prosecutions. So, to the extent there was an uncertainty in relation to the Commonwealth areas of responsibility, one of the key purposes of this legislation is to facilitate prosecution for fuel substitution offences. The measures in this bill will overcome technicalities, I am advised, which make it difficult to obtain the necessary standard of proof for some prosecutions. I am further advised the measure will also ensure that additional imported products that can be used in fuel substitution activities are covered by this legislation. So, to the extent that there was a legislative uncertainty relating to Commonwealth responsibilities, this bill deals with it. This bill deals with those matters.

There may be other Victorian issues. In order to meet our responsibilities, in order to ensure that we have the legal capacity to act, we have amended our bill. If the Victorians believe that they do not have sufficient legislative cover for their actions, they should be doing what we are doing and amending their bill. I cannot speak on behalf of the Victorians. I understand the Victorian minister—and I understand you have confirmed this—believes that in a number of areas she does not have sufficient legislative authority to undertake prosecutions. If she feels that, she should be amending the legislation in her parliament, as we are doing in this parliament.

Senator Murphy (Tasmania) (12.36 p.m.)—Thank you, Minister, for that response. The other aspect I asked about was the fuel standard, because that is seen as a problem. It is a current problem, despite the fact that we have various pieces of legislation in place that deal with substitution matters. And they have failed because of the complexity associated with actually proving in court whether or not it is a breach of the current guidelines. How will this legislation work any better if there is not a legislative standard or if the standard and the specifications for the standard are not tightened up?

Senator Kemp (Victoria—Assistant Treasurer) (12.37 p.m.)—The issue of a general standard for fuel goes far beyond the responsibilities of the tax office. The tax office would not, I believe, be responsible for developing a fuel standard. If there were a need to amend the current arrangements, presumably that would be done on a national basis in consultation with industry and the states. But I do not believe the tax office would be the responsible Commonwealth authority. I am aware that there is a debate on this issue. The states have raised various issues. I am aware of my response to Senator Cook. I am aware that the Department of the Environment and Heritage has undertaken some work in this area, particularly relating to emission standards. I undertook to inform Senator Cook of that work.

I think the substance of your concern is: can the Commonwealth act sufficiently to deal with a number of fuel substitution issues which we are all aware of? This bill will provide the legislative authority to act where Commonwealth responsibilities lie. There are state government responsibilities. The state governments, in my view, should, if they have not got the legislative authority to act, amend their bills in the way we are amending our bill.

If you cast your mind back to the toluene issue, I believe there were different responses by the two states. I think the responsible New South Wales minister was active when this came to public attention and immediately went around carrying out tests. A number of those tests proved that, in a number of areas, fuel substitution was occurring. The Victorian minister was, I believe, slow to act and, in fact, compared with her New South Wales colleague, very tardy in taking up this issue. But in the end testing was carried out by the relevant Victorian department—as it should have been. I think the Victorian minister then raised the issue that she was unsure as to whether she had sufficient authority to prosecute if cases came to her attention. My view—just to repeat myself—would be that, if she feels that she has not got the legislative
authority, she should ensure that her particular legislation is amended in the way we currently are amending our legislation to make sure the Commonwealth can carry out its responsibilities.

**Senator MURPHY (Tasmania)** (12.40 p.m.)—Minister, my point with regard to the issue of a standard is that we have got legislation—and have had legislation in place for a long time—that is supposed to allow the Commonwealth—

**Senator Kemp interjecting**—

**Senator MURPHY**—It used to be under the control of Customs; it came under the control of the tax office. It is their evidence that they have had huge difficulties. They found a significant number of cases, but they have been able to prosecute only one or two. It is all very well and good for you to say, ‘Well, look, this legislation sets out the Commonwealth’s parameters and capacities.’ The Commonwealth already has a lot of legislation in place that is there for the purposes of trying to stop fuel substitution and to prosecute it, but it has not worked. One of the reasons it would seem it has not worked is that there is not a national fuel standard—not one that is sufficiently tight. If the Commonwealth is going to prosecute fuel substitution on the basis of loss of excise, then it has to have the capacity to prove that. The evidence of the tax office and the evidence of Customs, prior to the tax office, is and has been that they cannot do that because the standard for the fuel is too loose. That is what I am referring to. The witnesses that came before the committee had differing views. One has to accept that. Certainly the people that represent car drivers and general consumers et cetera say that there ought to be. I think that a fundamental issue with regard to a fuel standard is that there ought to be a fuel standard to protect motorists.

One of the problems is that, due to the flexibility in manufacturing fuel, higher levels of toluene, for instance, can be put in fuel. And it is, as the tax office has said, a difficult process to pursue. What I am asking you, Minister, is: is the government going to take the steps to develop a national standard and, if so, when? I have now asked you this three times, and you keep talking about the Victorian government. I understand what you say about the Victorian government and its legislative processes. You have suggested that the Victorian government legislature does not have the powers and that they ought to legislate for them, as you are. That is fine. I am asking: when we pass this legislation, what chance of success does it have? If you look at the history of the legislation that has preceded this legislation, it does not have much chance. That is why we need to address the questions about standards. I would be interested to hear your comments in that respect.

**Senator KEMP (Victoria—Assistant Treasurer)** (12.44 p.m.)—Thank you, Senator. I have heard your views. You have pressed your point a number of times. You spoke about this in the debate at the second reading stage. I hear your views on this matter.

**Senator Carr**—Well, give him an answer! Give him an answer—here’s your chance.

**Senator KEMP**—Senator Carr, do not provoke me. I have got so much on you—just don’t start me. I can start off with John Cain’s view of Senator Kim Carr, if you want me to. We are having a serious debate here, and Senator Carr comes in. What a tragedy.

Progress reported.

**MATTERS OF PUBLIC INTEREST**

The **ACTING DEPUTY PRESIDENT (Senator Murphy)**—Order! It being 12.45 p.m., I call on matters of public interest.

**World Trade Organisation: Dispute Settlement System**

**Senator COONAN (New South Wales)** (12.45 p.m.)—I want to raise as a matter of public interest today an issue fundamental to Australia’s ability to participate in the World Trade Organisation—that is, our capacity to engage the dispute settlement system. Writing recently in the *Australian Financial Review*, the Minister for Trade, the Hon. Mark Vaile, recognised that there is an urgent need to increase understanding of the WTO dispute processes among Australian industry. Others have recommended a new statutory specialist legal agency to conduct WTO disputes. The foreshadowed demonstrations at next week’s World Economic Forum in
Melbourne will no doubt prompt further comment on how Australia fares in the new global trading system—what are our rights and what are our obligations? On any view, this is a subject ripe for discussion.

In January this year, with the assistance and encouragement of the Department of Foreign Affairs and Trade, I visited Washington and Brussels to examine the use of the WTO dispute settlement system by the United States and the European Union to see if there are lessons we could learn from their aggressive advocacy that has seen Australia on the receiving end of some pretty controversial cases—such as Howe leather, imported pig meat, Canadian salmon imports and, most recently, the United States ban on imports of Australian lamb. As a result of this visit and a recent visit to a legislators’ conference in Taiwan where I contributed a paper on Taiwan, Australia and the WTO, I was recently asked by DFAT to open two WTO dispute settlement seminars held in Parramatta and Sydney. The aim of these seminars was to inform and educate legal practitioners and other business people about the practical implementation and use of the WTO dispute settlement system. It is important for producers, exporters, industry representatives, financiers, legal advisers and government representatives to understand the dispute settlement system in order for us to effectively participate in the WTO.

The rules based framework of the WTO agreements covers more than $100 billion worth of Australia’s goods and services exports annually. Exports provide more than one in five Australian jobs; over half of Australian exports are generated in rural and regional Australia; and they account for a third of our work force. Put simply, Australia’s future economic prosperity is inextricably linked to our export success and our ability to get access to new and emerging markets. Whether Australia continues to be a successful exporting nation depends in no small measure upon how well it participates in the WTO system.

Since 1995, Australia has gained access for more than 130 new products in more than 80 countries, spanning traditional bulk commodity exports to newer products in information technology, intellectual property and the services sector. In short, Australia has a vital interest in maintaining and building the global trading system, and the key to this is understanding the rules governing international trade and the dispute settlement system. There is a need to raise the level of awareness in the business community of the way the rules work and the way in which they can help to develop new business. Whilst Australia has undeniably had net gains from its participation in the WTO system, it has also been on the receiving end, as I said, of some much publicised adverse decisions. These cases have been pursued by both skilful and aggressive use of the dispute settlement system rules by other member countries.

The impact of these decisions has led to strident criticism of the rules in some quarters and in the media. While some of the criticism is justified, it is worth noting that the rules also provided Australia—and they provide the same for other member countries—with the opportunity, for example, to take on the United States over its unjustifiable import restrictions on Australian lamb and, most recently, the Republic of Korea over restrictions on imports of beef, where Australia had some success. Prior to the WTO mechanisms, there was virtually no legally enforceable way available under the previous GATT procedures to challenge unwarranted safeguard measures that are nothing short of protectionism.

These cases merely serve to illustrate the importance to both government and industry of thoroughly understanding the rules, whether these rules are used defensively or proactively. As the rules have an impact on all cross-border transactions between member countries—from agriculture to pharmaceuticals, telecommunications, intellectual property, financial services and government procurement—both government and business ignore at their peril existing and future effects of the WTO rules in making strategic investment and policy planning decisions.

Recognising Australia’s interest in the WTO’s dispute settlement system, last year
the government established within DFAT a Dispute Investigation and Enforcement Section to play an active role in the investigation and handling of disputes. There are, however, a number of questions as to whether Australia’s efforts can be improved and even enhanced by the greater awareness and involvement of industry peak bodies, financiers, experts and advisers in identifying non-complying conduct by trading partners and bringing forward potential cases. Observations at close hand of how other countries use the dispute settlement system indicate that significant commercial advantages can be gained by both the participation in and strategic use of the dispute settlement system by governments to ensure compliance with WTO agreements. We are talking here about a partnership between government and business. The question is: how can industry participation be facilitated and how can the system be properly resourced?

The United States is undoubtedly the most prolific and aggressive user of the WTO dispute settlement system. For that reason, it is worth examining the approach of the United States to advocacy in the WTO. The basic set-up is that both the commerce department and the United States trade representative, the USTR, share responsibility for monitoring and compliance of trade agreements. The commerce department, through country market access officers and industry sector experts, identify problems in the foreign implementation of United States trade agreements. United States companies also report when they are not receiving benefits due to them under trade agreements. Aggressive compliance advocacy is used short of dispute settlement wherever possible. The Trade Compliance Centre coordinates these activities to identify potential breaches. Private resources, particularly exporters at the coalface, are a critical part of this strategy. A trade compliance hotline ensures easy and inexpensive access to report breaches.

The Trade Compliance Centre also has an important function in providing information to American companies about how to use trade agreements and how to identify and report any difficulties with market access. Where compliance fails, the United States trade representative assumes control of dispute settlement and enforcement. The WTO has become the preferred forum for asserting United States trade rights simply because it works so well. Indeed, I suspect that is what a lot of other interests, such as environmental groups and some labour groups, see as the use of the rules. Additionally, special domestic trade laws in the United States give enforcement responsibility to the USTR and provide effective tools for securing compliance through the dispute settlement system.

The WTO dispute settlement system has simply proved invaluable in achieving tangible gains for American companies and workers and has succeeded as a deterrent to their trading partners who know that it is ready and available to the US if they do not fulfil their obligations. Having such a well-developed system has meant that the United States has been successful in reaching rapid resolution of complaints and early settlement while also achieving benefits from fully litigating carefully chosen cases to enforce US rights.

The input from the United States legal profession, I think, is worth noting. It is proactive, and effectively underwrites the success of WTO advocacy, being financed by interested companies and associations. This input has proved extremely beneficial to the United States handling of WTO disputes, particularly in intensive fact based cases where the US relies on industry to gather and compile the evidentiary bases for the complaint and to share assessments of the legal arguments. In the European Union, the commission advised that, as a general rule, it does not outsource case management. However, the commission does contract outside consultants, mainly legal academics or other experts, to undertake special projects such as a recent study on the workings and implications of the United States Foreign Sales Corporation Act.

Larger law firms that I visited advised through their representatives that they were able to link their practice in antidumping countervailing cases to underpin the
development of WTO dispute handling expertise. It has become a policy in all their main practice areas to make a special effort to identify potential WTO issues and to educate clients about the WTO. They organise special training sessions for their staff to which they invite WTO secretariat members. I suppose we can only wait for the first professional negligence case where advice about the WTO has been wrong, inadequate or indeed missing.

Canada, on the other hand, outsources WTO case management to the private sector on appropriate occasions with private lawyers arguing WTO cases for the Canadian government. Moreover, Canada has been disposed to employ the very best lawyers available, irrespective of nationality, which has been used to good effect. In fact, an Australian trade lawyer—I hate to say—was retained by Canada on some aspects of the salmon case. Brazil, lacking in-house expertise, routinely outsources WTO work. Small developing countries have little choice but to outsource, and some trade lawyer contacts listed developing countries or representing NGO interests as the source of their WTO practice development.

Just to give you an idea of how the United States is prepared to use the WTO rules to force their trade agenda, let me run through a few instances which give some indication of their recent priorities, either current or recently passed. The United States has threatened to take action against Argentina, Brazil and India concerning their failure to enforce intellectual property rights and open access to markets. Somewhat paradoxically it has refrained from taking retaliatory action against Japan and China over what is in the vicinity of $100 billion worth of deficits or to take on the European Union in its annual review of trade abuses. Who said the WTO is not political? Reassuringly, Australia has been dropped from a United States ‘watch list’ on intellectual property rights enforcement, after it popped up for the first time last year.

The United States is also having a go at Brazil over its intellectual property regime and its textile pricing. It is putting pressure on the Philippines over local content requirements in its domestic car market. The United States has taken action to push United States interests in the Indian car market and has also threatened action against Denmark if it does not enforce intellectual property laws more stringently. It is also targeting Romania over clothing, poultry and spirits. The list goes on and on. It has also foreshadowed that some action may be taken against the European Union’s continuing subsidies to Airbus Industries, as a rival to Boeing; access to Japan’s glass market and public works; and barriers to entry to South Korea’s pharmaceutical and car markets. Mexico is also on the watch list because of imports.

That is not to say that the United States has not been on the receiving end of some decisions. The Foreign Sales Corporation case is the case in point that has attracted most attention. It shows that we do need to be well and truly aware of how we can use the WTO system, particularly the dispute settlement system, to enforce our rights. The starting point is to raise awareness of the huge potential gains from using the rules as an instrument not only to defend our position but also to free up trade. Quite simply, the WTO has transformed the international trading system. We do need to understand the rules so that we can play the trade bullies at their own game—that is, by the rules.

Superannuation

Senator SHERRY (Tasmania) (1.00 p.m.)—I want to speak today about some issues relating to superannuation. The Senate would note that, on a number of occasions, the Assistant Treasurer, Senator Kemp, generally in response to Dorothy D’ent questions proposed by his side of the chamber, has raised the issue of the asset growth in superannuation in this country. I want to make some remarks about that based on the latest figures on superannuation trends in the March quarter 2000, as released by the Australian Prudential Regulation Authority, commonly known as APRA.

The ‘Superannuation industry at a glance’ on page 3 of the document indicates that, at the end of the March quarter 2000, there was $455 billion in assets in superannuation funds in this country. If we look back through the historical data, there was $32
billion in superannuation in June 1983. So over the past 17 years there has been a growth of some $422 billion.

It is interesting to look at the period of the late 1980s. In the late 1980s, the Labor government encouraged the trade union movement and the then Industrial Relations Commission to ensure that superannuation coverage in this country was spread to almost all employees. Up until that time, superannuation was traditionally the preserve of a minority of the Australian employed work force—that is, managerial, white-collar, higher paid, generally male employees. That was a very critical decision taken by the Labor government and by the ACTU. The ultimate decision by the then industrial commission saw industrial awards used as the mechanism for the spread of superannuation for all Australian employees. There are some exceptions to that—for example, casual employees who work a very small number of hours are not covered by superannuation. That varies from industry to industry. It was in that period in the late 1980s when, looking at the historical data, superannuation assets really did take off. By June 1989, superannuation assets had reached $108 billion. We then had significant increases, in the order of 10 per cent to 15 per cent per annum, up until the March quarter this year.

If we look at superannuation coverage, we see that 91 per cent of employees have coverage in this country. In the employer category—and this includes the self-employed—some 36 per cent have superannuation coverage. Clearly, employers and the self-employed are not covered by industrial awards, are not covered by the decision of the industrial commission and are not covered by the superannuation guarantee legislation. So, even though the figures we have are very solid and robust, there is still an issue relating to the self-employed, which is a growing area of the Australian labour market.

During the period 1993-94, the Labor government, to enhance and improve superannuation coverage even further, ensured the passing of the superannuation guarantee legislation. That legislation built on the initial decision of the industrial commission which related to three per cent contributions. The Labor government’s legislation ensured the phased introduction of an increased percentage—from three per cent to nine per cent by the year 2002—of employees’ earnings paid by the employer into superannuation. As at 1 July this year, as a matter of interest, the level of contributions increased to eight per cent. At 1 July 1998 it was seven per cent, and at 1 July 1996 it was six per cent. So we have seen a significant increase in superannuation assets over the last 17 years.

There are a number of other interesting aspects of these statistics that were released by APRA. For example, in relation to the increase in superannuation assets, 77 per cent of the asset growth in the March quarter related to net earnings—not from the contributions flowing in from the employer, and the employees in some cases, but from the interest earned on the moneys invested over time in employees’ accounts in their particular superannuation funds. Net contributions comprised the remaining 23 per cent.

Why was it 23 per cent? There are a number of factors which drive the increase in superannuation assets. I mentioned one: primarily the net earnings, the interest earned on the funds, which accounted for 77 per cent of the asset growth. The other factor driving this growth is the increase in the superannuation guarantee, to which I referred earlier. There are a number of other factors which impact significantly on the base level of contributions. The first factor is the increase in ordinary time adult earnings. If we look at the latest figures that I was able to obtain through the library, the average weekly ordinary time adult earnings is now $768.60 a week for the year 1999-2000. As the earnings of employees increase, obviously the level of contributions to superannuation increases.

The other factor relates to the number of employed persons. Obviously, if the number of people in paid employment increases, the level of assets flowing into superannuation funds increases as well. In 1999-2000, there were 8,916,000 people employed. That is a growth of approximately 1,200,000 since
1993-94 when the superannuation guarantee came in. It is a good thing that we are seeing significant growth in assets and funds for superannuation. It is a good thing for the obvious and often discussed reason that we have what is called an ageing population. People are living longer and, regrettably, many people are working less. Over time this will put significant pressure on the budget in terms of the traditional age pension.

Superannuation assets will provide a significant additional supplement to the existing age pension. Why mention these figures? I must say I did find it somewhat odd that Senator Kemp should be drawing the Senate’s attention to these figures. Of course, he did it in the context of criticising me. That is his prerogative. I am happy for him to criticise if he wants to. But what in fact he was doing, and what I am doing here today in the Senate chamber, is drawing attention to one of Labor’s great policy successes. Senator Kemp has been doing the same thing. Every time Senator Kemp, the Assistant Treasurer, gets up to highlight the asset growth in superannuation funds, he is praising Labor Party policy: the spread of superannuation to almost all Australian employees and the steadily increasing contributions to superannuation funds.

I might remind the Senate that the Liberal and National parties, both in the 1980s and in the period 1993 to 1994, opposed superannuation. They fought the issue legislatively, they fought it vigorously and trenchantly. They opposed the spread of superannuation to employees in this country. I think that should be made clear for the public record.

But, of course, underneath those figures there are some concerns. Superannuation assets would in fact be greater than was indicated in the figures released by APRA if the Liberal and National parties had maintained their commitment—and they did make this commitment—to improving superannuation contributions by making what is called a co-contribution; that is, employers matching employees’ contributions up to a level of three per cent. The moneys for this were in the forward estimates after the first Costello budget of 1996. They then repackaged that into a so-called savings rebate in the 1997 budget. Then, of course, the savings rebate, which it was claimed would improve national savings, not just superannuation savings, disappeared as part of the tax cuts to convince people to accept a goods and services tax. So superannuation assets would in fact be greater and the country would be much better prepared for the ageing population that I referred to earlier. To give one example that struck home to me recently: my wife and I have been through the joy of the birth of a baby daughter.

Senator Coonan—Congratulations.

Senator SHERRY—Thank you. The average life expectancy of a female born this year is 93. That just gives you an example of the ageing population. I mean, there is a good chance that my daughter will live to the year 2100. This is without the impact of genetic engineering, another issue I am sure we will deal with legislatively on other occasions. So without the impact of genetic engineering a female born this year will have a life expectancy of 93, on average. How do we maintain a decent retirement income if people are retiring at the age of 65, when they are going to live for, on average, 25 to 30 years beyond what is currently the age at which the pension is paid, 65? It is one of the great challenges this nation has to face. I am proud to have been a member of a Labor government which has set down a very strong foundation to meet this challenge.

Of course, in those figures I referred to, there were some exceptional circumstances. There were some substantial one-off contributions amounting to, I think, $8.4 billion in exceptional payments for public sector funds, so we have to discount that from the figures that are in the APRA survey. It is my hope that the government will get on with the review of superannuation that it has announced. It appears to have stalled yet again. There certainly are some problems with superannuation. We have commented on that from time to time, and Labor will continue to comment on that from time to time. It is not all good news, unfortunately. But the basic good news we have in these APRA figures is a result of Labor policy.
Multinational Corporations
East Timor

Senator BOURNE (New South Wales) (1.15 p.m.)—This afternoon I would like to talk about the social responsibility of multinational corporations. Most of us, I am sure, remember the images earlier this year of the massive cyanide spill at the Australian owned Esmerelda mine in Romania. The environmental damage caused was huge and spread downriver into fisheries in Hungary. Also in July this year a report by the Indonesian Human Rights Commission was released. This report investigated the operation of Rio Tinto’s Kelian goldmine. According to Community Aid Abroad, the report documented 16 cases of sexual abuse against local women and female employees. Some of the victims were under age and the majority of these, according to the report, are alleged to have been the victims of an Australian who was a mine manager at the time.

These are just two more instances in a long list of environmental, human rights and labour abuses by multinational corporations. Australian companies, particularly mining companies, are unfortunately up there with some of the worst offenders. It is increasingly apparent that the advent of a globalised economic and trade system does not improve life for everybody. In fact, the divides are becoming more marked. It is equally apparent that globalisation in itself is not all that bad and there are obviously benefits. But it is crucial that questions are asked about who benefits and who makes decisions. A society must be judged on how it shares its wealth with its weakest, its poorest. The global society should be judged on the same criteria. In the words of Mahatma Gandhi:

Whenever you are in doubt, apply the following test: Recall the face of the poorest and the weakest whom you have seen and ask yourself if the step you contemplate is going to be any use to him. Will he gain anything by it? Will it restore him to a control over his own life and destiny?

Mr Claude Smajda, Managing Director of the World Economic Forum, speaking at the National Press Club in June, outlined a similar argument. He claimed that globalisation would not work if it remains one-dimensional. He is absolutely right. In order for it to work for everyone, not just the elite, it needs to include social, cultural and ethical dimensions. I hope he maintains this point of view when he is faced with the S11 demonstrations in Melbourne in a couple of weeks time. I hope that he and his colleagues remember that it is through interaction with civil society that social, cultural and ethical dimensions will be incorporated into globalisation and its effects. I also hope that we will see more than lip-service to a neat ideology emerging from the World Economic Forum in Melbourne.

There is evidence of the willingness of multinational corporations, governments and multilateral institutions to engage in the social responsibility debate. The Organisation for Economic Cooperation and Development recently undertook a review of its principles of corporate governance. The new revised guidelines were subsequently adopted at the OECD ministerial meeting in June by all 29 member countries, including Australia, and four other non-member countries.

The OECD guidelines are not, though, legally binding. They are principles that cover a range of areas in which businesses operate. They aim to ensure that multinational corporations act within the boundaries of their host country’s policies and social expectations. The OECD guidelines are to be commended because they have kept the corporate social responsibility agenda on the table. They have ensured a discussion of what role multinational corporations should play in our society and of the interaction between government, corporations and civil society.

However, to be effective, the guidelines must pervade national government policy at all levels and across portfolio areas. I do not consider this has happened yet. In fact, in this place just 20 days before the OECD adopted those guidelines, with Australia as a signatory, Senator Hill made the following statement in response to a question on Rio Tinto’s interests in Freeport:

It—

that is Freeport—
is predominantly owned … in the United States. The connection between Australia and Rio Tinto being that Rio Tinto also owns assets in Australia is a rather strange one to draw a responsibility upon Australia. I think our responsibility is as a good neighbour and supporter of Indonesia.

I think Australia has a responsibility to ensure that our companies act as good corporate citizens around the world, wherever they are. At best, Senator Hill’s statement indicates a lack of inter-portfolio consultation and knowledge. It also exemplifies that, despite the rhetoric and fanfare connected with the guidelines, governments are still reticent about advocating them. Until this occurs, the OECD guidelines are nothing more than a set of well-meaning but useless principles. The guidelines provide for a National Contact Point to be the focus of all activity related to those guidelines. This group is charged with promoting adherence to them within a country. The NCP in Australia is located within Treasury—or so I am told. My office has made inquiries as to how the NCP intends to promote the guidelines and we are still looking forward to a response to those.

The efficacy of the OECD guidelines is immediately limited as they are not legally binding on corporations. This is similar to the situation in Australia where we generally rely on voluntary industry codes to regulate our corporations overseas. Some corporations have led the way to triple bottom-line reporting and should be commended for that. Others, though, have not addressed the issue at all and continue with total disregard for any damage they wreak. Industry bodies such as the Minerals Council of Australia have created voluntary codes, but it should be remembered that Rio Tinto is a signatory to this code. It also raises the problem of regulating companies that are not signatories, such as Esmerelda.

There is a general feeling among community groups that voluntary codes and reporting have failed to deliver significant improvements across the board. The cynics see much of the corporate world’s initiatives as being nothing more than a glossy public relations exercise. This is a problem for companies, particularly if they are really committed to taking a socially responsible role. Perception is often reality and their brand will suffer if they fail to convince the community that there are real and measurable outcomes from their programs.

It could be argued that one of the biggest issues to be resolved in order to effect change is that of directors’ responsibilities. As long as directors are required by law to concentrate exclusively on maximising shareholder wealth, they can reasonably argue that increasing their responsibility to the community in which they work may diminish returns to their shareholders. This is particularly so in the short term, which unfortunately correlates to the average tenure of a modern CEO. Expanding responsibility to include other stakeholders is not simple. It raises difficult issues of setting boundaries and defining what is a reasonable sphere of influence. There is a sea change in attitude, and both the corporate world and the community are doing that.

Civil society is increasingly more sophisticated in harnessing international networks. Corporations also are sensitive to the image they portray. There is no benefit in investing millions of dollars on slick advertising campaigns only to have your brand undermined overnight by allegations of human rights abuses or of operating sweat shops.

Voluntary codes will never lead to an optimum standard. It is obviously in a corporation’s interest to lead the debate and coopt the regulatory regime, which is what has happened in the case of many of the voluntary codes of conduct that are currently used. Until there is an across-the-board approach through amendments to company law, any real social and environmental outcomes will be limited.

The Australian Democrats will shortly table a corporate code of conduct bill which will attempt to provide legal certainty in the areas of human rights, environment, labour and occupational health and safety. The Democrats are not alone, though, in considering regulatory options. Last year, the European Union passed a resolution for corporate codes of conduct. The UK also has considered several of the issues in their company law review, and the US is currently
discussing the McKinney bill for compulsory codes of conduct. This international movement is important in order to maintain a level playing field. A new regulatory framework obviously will not garner broad political support if it results in reducing the competitive advantage of Australian companies.

The Australian Democrats are committed to ensuring that globalisation does become multidimensional; that social and ethical outcomes are integrated into all regulatory regimes and that operations of Australian companies overseas become the benchmarks against which other companies measure themselves. The corporate code of conduct bill will provide the legislative framework to achieve this.

While I am on my feet, I would also like to mention that today is 30 August, which is a very important anniversary. It is the first anniversary of the ballot in East Timor. Two, three, four, five, six years—back to about 20 years—ago, I was saying there should be a ballot in East Timor so the East Timorese people could determine their own future, but not a lot of people were listening.

One year ago today, I was in East Timor and I was one of the Australian delegation present for the ballot in East Timor, and it was just the most amazing and emotional thing I have done in my life. One year ago today, thousands of East Timorese people were lining up very early in the day to have their say about whether they would be independent. Many of them were wearing black armbands, because they had had relatives and friends killed, some of them quite recently. Many East Timorese would be killed immediately after that. The East Timorese people showed immense courage in registering for the ballot and in turning up for the ballot. It was immense courage. It was the sort of courage that I wonder whether I or many people would be able to display.

It is worth mentioning today, of all days, that I am very proud of the way Australia reacted to that ballot. I was not very proud of the way Australia had reacted in relation to East Timor for many years up to then. In fact, I thought it was an absolute disgrace. But in terms of the ballot and how Australians across the board and all political parties reacted after the ballot, I was proud to be an Australian at that point. I congratulate the East Timorese people and their leaders for their very democratic outlook, for their commitment to democracy, to sustainability, to human rights, and to making sure they keep their environment and are able to look after themselves. I think it will take a long time for that to happen. We have to make sure that we are fully involved for as long as it takes.

**Cities: Newcastle and Glasgow**

Senator TIERNEY (New South Wales) (1.26 p.m.)—I rise to speak about what is happening to some of the major cities as they go through the transformation from the smokestack age to the information age. On a number of occasions in this chamber I have spoken about my own city of Newcastle and how, in the 1990s and the early part of this century, Newcastle is handling the challenges of moving from the smokestack age to the information age—and doing it very well, I might add, with 40,000 new jobs created in the last year. It is instructive to learn from the experience of cities overseas and to examine what Australian cities like Newcastle can learn from that experience.

Recently I had the opportunity to go to the city of Glasgow in Scotland. I was there to learn about the number of ways they have developed strategies to handle this transformation from the smokestack age to the information age. Of course the scale and nature of the problems in Glasgow are far greater than those of Newcastle. It was interesting to spend time there and to speak with their senior officials and observe the miraculous transformation of Glasgow. There are a number of similarities between Newcastle and Glasgow. Historically, both cities have relied on heavy engineering, steel making and shipbuilding. Both cities faced massive downturns in all three of these industries in the 1980s in addition to quite a number of other industries, as the forces of globalism and economic rationalism swept the world. Micro economies at the regional level had to survive more on their own merits. The difference between the two cities
and the similarities between their experience have a lot to teach us in this country.

In Newcastle, when BHP announced it was closing steel smelting in 1997, job losses ran into the thousands, as indeed happened in the earlier down-phasing of BHP in Newcastle in the mid-1980s. In Glasgow, the situation was much worse in the 1980s. Steel making actually collapsed totally. There is no more steel produced in Glasgow. Shipbuilding in Clydeside, where they used to be world leaders, virtually ceased and heavy engineering was very severely wound back. The job losses in Glasgow measured in the tens of thousands as opposed to the thousands in Newcastle. How does a city recover from such a massive downturn in its employment in such a short period of time? That was one of the things I wanted to discover. But first we have to look at how Glasgow originally developed to understand why it had the problem and why these transformations had to take place.

If we go back to the 19th century, Glasgow was one of the leading cities of the industrial revolution. Manufacturing grew incredibly fast at that time, the population jumped dramatically due to immigration from other areas of Scotland and England and there was a vast supply of labour, and industries such as heavy engineering developed and thrived on the nearby coal supplies. In the late 1800s and early 1900s, Glasgow was regarded as one of the richest cities in Europe. It was actually a model for the coming industrial revolution. But, particularly since World War II, and since the 1950s, Glasgow moved into a severe decline. Heavy industries that brought wealth and fame to the city could not cope with the cheap labour costs that were emerging from overseas competitors, so the city had to look elsewhere for its employment opportunities.

The seventies and eighties, as part of this rapid change, saw a massive clean-up of the city. When 150 years of industrial grime was removed, it revealed a city with tremendous wealth in its architectural and cultural heritage. This is something we discovered when we went to Glasgow. When I was doing my appointments in Glasgow, I said to my wife, ‘I don’t know what you’re going to find here; I don’t think it’s much of a city.’ But she came back after the first day absolutely delighted as she had discovered some of this cultural heritage and what was available in what really should be Newcastle’s sister city, Glasgow.

Today the city has transformed dramatically from its industrial origins. As much as 79 per cent of the employment in Glasgow is in the services industry, 14 per cent is in manufacturing and only six per cent is in construction. It has been a turnaround of gigantic proportions for a city of over 600,000 people which, like Newcastle, had to deal with major industrial changes. Both Newcastle and Glasgow have rapidly diversified their economies through the nineties and through the century—Glasgow in a spectacular fashion—and that is what we have to learn from. It has done this to a point where it is now a textbook case study in how to turn around a rust-belt city. Glasgow’s problems were even more extensive than Newcastle’s. I went there to have a look and to meet representatives from groups such as the Scottish Inward Investment Corporation, the Glasgow Alliance and Scottish Enterprise Glasgow. All the people I met emphasised the imperative of local leadership and community consultation during a time of rapidly changing industries.

Glasgow has been going through a post-industrial city transformation now for the last 30 years. Civic and business leaders, in particular, and a number of visionary people began with some very basic infrastructure and then introduced a number of programs to help change the image of the city. Guided by community consultation, the city’s public housing stock was assessed. Much of the inadequate 18th century and 19th century housing, some of which did not have bathrooms, was torn down, and the best of the historic stock was kept and renovated. Key infrastructure, such as art, theatre and convention centres, were built at this time and a number of major cultural events were attracted to the city. This is no mean feat considering that Edinburgh—only about an hour and a half away—is considered the cultural capital of the north with the Military
Tattoo and the Comedy Festival being just two of its excellent cultural exhibits. But certainly Glasgow now gives Edinburgh a run for its money in this area.

The other thing that is very similar in relation to Newcastle, and parallels this, reflecting the move from the smokestack age to the information age, is that a significant number of new types of industries were attracted to Glasgow from the mid-1980s on, particularly in electronics and communications. Glasgow is the communications capital of the north and, in the information age, this gives an enormous boost to the local economy. In addition to this, it has the natural advantage of a very large pool of labour that is very well educated. The Scottish education system is one of the superior education systems in the world, with many great scientists, leading physicians and people in industry coming out of Glasgow and Scotland. Certainly this highly educated pool of people has stood Glasgow and Scotland in good stead in the information age.

The other thing it had going for it during this time was its membership of the European Union, as a lot of local initiatives have been funded not from Westminster but from Brussels. All the European countries contribute to a common pool of money which is then redistributed across Europe to those regions which have under 75 per cent of the average income level. In the nineties the whole of Scotland fell into that category and received additional funding. Glasgow was one of the major beneficiaries of that. Funding is allocated on very strict criteria, I discovered. They were not just giving out a lump of money to Scotland. Each project was assessed very carefully and monitored in terms of delivering job outcomes and meeting specific employment goals.

Specific regional structures have also been established in Glasgow to help this process along, not only to work out ways in which they can invest European Union money but also to attract private investment money to Glasgow, which they have done in large measure. Organisations like Glasgow Alliance, Scottish Enterprise Glasgow and Scottish Inward Investment have a very successful track record in growing the local economy and attracting both public and private funding to the city.

There has been a major push for industries that have high growth. There is commercialisation of academic research in the excellent universities in Scotland and there is also particular emphasis placed on attracting smaller businesses and start-up businesses. There are some leading examples of this push into new types of industries. The first is biosciences. Glasgow’s bioscience industry is small, with only about 35 companies, but it has very strong links to local universities and employment is growing in this area at a rate of 25 per cent a year. In order to support this industry, investment has been made in business incubator facilities, which have a close relationship with the universities. The development of an extensive bioscience industrial base to house companies within this industry has also been developed, and business mentoring programs have been put in place so expert advice is available to these new companies that are expanding so rapidly.

Software is another area which is receiving tremendous support. Again, there is a strong role for the universities, both in research and the supply of graduates, to feed this booming industry. At the moment Glasgow is losing a considerable number of its graduates from the city, so programs are being designed to improve incomes and job opportunities so graduates stay in this area.

Glasgow’s creative flair is another area that is proving to have plenty of employment opportunities and potential. Glasgow already has a number of strengths to build on in broadcasting, film, publishing and design in particular. The City of Architecture and Design was opened in 1999 and is proving to be a tremendous drawcard in terms of tourism and education. The fourth industry booming in Glasgow is call centres, with over 3,000 jobs created in this area this year so far. The main focus of Glasgow for creating new jobs and development in the post-industrial era has been very much in high-tech, light industry, small business and inward investment.
Like Glasgow in Scotland, Newcastle in New South Wales has also found success in areas outside heavy industry. Contrary to popular belief, as people still see it as dominated by manufacturing industries, the largest employer in the Hunter Valley is actually the Hunter Area Health Service, and the second largest employer is the University of Newcastle. This shift to the new information and service economy, which happened in Glasgow, has also occurred in my own city of Newcastle.

Part of that is driven by assistance—as it was in Glasgow, and it has also happened in Newcastle—from governments, both state and federal, that have put in place specific programs like the Hunter structural adjustment package to help our city cope with the transition from the smokestack age to the information age. This is working, because last year employment in Newcastle grew by 40,000—that is, 40,000 new jobs in Newcastle—which has driven unemployment down to 7.4 per cent. We have not seen figures like that since the 1960s. That has all happened in the last three or four years. Because of the similarities between the two cities—their similar histories and the similar way in which they have gone through a rapid transition stage—one of the things I now plan to do is to try to build a sister city relationship between Glasgow and Newcastle. We do have a lot to learn from each other.

Wesley Institute of Language and Commerce

Senator CARR (Victoria) (1.40 p.m.)—Today in matters of public interest I do not particularly want to talk about the government’s funding proposals for private schools; I do not want to necessarily talk about how this government, as the Herald Sun says this morning, is providing for millionaires’ children to have their schooling subsidised under a new federal government plan. Nor do I want to talk about the statement of the Minister for Education, Training and Youth Affairs that a millionaire living in a low income area will get the socioeconomic status score of a low income area. Nor do I necessarily want to talk about the minister’s duplicitous and nefarious response to the return to order of this Senate for the provision of perfectly legitimate information about how his new $22 billion funding program will actually apply to individual schools. We will have an opportunity to discuss that later this afternoon when the government has to respond to that return to order.

What I would like to talk to the Senate about today is the circumstances that surrounded the collapse of a relationship between the Uniting Church of Australia Property Trust for the Wesley Mission and a body known as the Wesley Institute of Language and Commerce, WILC, which I understand occurred around, on or about 18 August just passed. Today I have put down 36 questions on notice in response to a statement made by Minister Ellison yesterday where he said that the Wesley Mission had guaranteed that it would refund all monies owing to students of the WILC. He said these funds were protected by a notified trust account established by the Wesley Mission in accordance with the legislative provisions.

My concern here is whether or not this notified trust account existed, who administered this notified trust account—which is operated under the provision of the ESOS Act, and who was responsible for issuing refunds to the 600 or so students who, I am told, were enrolled at the time of the collapse of this entity known as the Wesley Institute of Language and Commerce, or Vision College in another form. I also am interested to know the circumstances which have led to the merger, the new partnership as it is described, of the Wesley Institute of Language and Commerce and the entity known as the Australian Institute for Commerce and Language. I am concerned because I understand that, of the 600-odd students who were enrolled at the Vision College, the Wesley Institute, some 200 or so have been reported for non-attendance to the department of immigration. I am told that substantially larger numbers than that were in breach of student visa arrangements but no records were kept by the body known as the Uniting Church of Australia Property Trust to the Wesley
Mission. That particular entity is important because that is the agency that had the company registration, the CRICOS registration, to offer educational services to overseas students. I am led to believe that the Uniting Church of Australia Property Trust for the Wesley Mission leased out to another body, known as the Vision College, its registration under CRICOS and its registered training organisation licence.

I am also advised that arrangements were entered into with students to provide what is known as a parent organisation guarantee. That is a provision under the ESOS Act which I understand is used very rarely. I have asked questions about where this particular instrument has been used. This is an instrument which is provided in the regulations of the ESOS Act. Sub-regulation 9(2) provides that a provider is able to seek an exemption from the Commonwealth department of education where it has sufficient reason not to be part of a tuition assurance scheme. This is particularly important because the minister told this parliament that an NTA, a notified trust account, was operating. If that is occurring, why was it necessary to have a parent organisation guarantee in place?

I am concerned about these matters because international education is a major export earner for this country. It is one of our top export earners. It is an industry that is very heavily dependent upon our capacity to maintain a good reputation overseas. In fact, it is critically dependent upon that capacity. When students are badly treated in this country, any government has a responsibility to ensure that abuses are stopped and students are well treated and adequate protections under law are provided by officers of any government department associated with that particular enterprise. When I read in a letter to students that only a small proportion of the balance of tuition fees will be refunded, fees which Wesley Mission is currently holding in the trust account, I want to know why it is that small amounts of the balance of tuition fees will be refunded. I also want to know why students who had started courses only two weeks prior to the collapse of these arrangements were not entitled to their full refund. I am also interested to know why students are now being asked to pay an additional $120 change of provider fee—a charge imposed by the department of immigration, I am told—how long such a charge has been in place and how often it occurs.

I am also interested to know why so many students were not able to attend classes on a regular basis, which is a condition of their visa. What supervision was arranged to ensure that students actually met their visa requirements? This is particularly important given that the Wesley Institute has been operating in the industry for some time, although I understand the company structure was only fairly recently established. Vision College Ltd was run by Rachael Ong, who established that enterprise on 23 December 1998. She had previously been a director of an institution known as the Sydney International College of Business, to which I have referred in the past in this chamber. I also understand the new entity has been in operation for only a short period of time as well; in fact, from 22 April 1998. The new merged structure, which was run through Cornerstone Investments Pty Ltd, has been established to take what remains of Vision College and is operating under its own registration, as I understand it.

I am interested to know what level of supervision is currently being undertaken by this government in regard to what is a critical industry for this country, possibly our fourth largest export earner. I would be interested to know whether this government is doing its job, whether there has been sufficient coordination between the officers of the department of immigration and the department of education, and whether there has been close collaboration with state officials with regard to audit provisions, both at the registered training organisation and the international student college. I understand that some time ago Wesley Institute college moved to new premises in the Sussex Centre in Sussex Street, Sydney. I would be interested to know what inspections were made, what audit arrangements were put in place and whether or not any breaches of any registration or licences at that time were
identified. I would be interested to know whether or not this government has actually taken this matter seriously at all. It strikes me that there would appear to be a number of serious breaches emerging of both immigration and education laws. It would appear that this seems to be part of a general pattern that is still continuing.

I understand that we are likely to discuss some changes to the ESOS Act. A new bill is being proposed, I would suggest very much due to the concerns that have been expressed in this parliament over the recent 12 months or so about the failure of the regulatory regime that currently exists for international education in this country. It would strike me as particularly odd that that new bill was not able to address problems that have been identified by this particular case. I would be interested to know how often it is that a company using its CRICOS registration, its Commonwealth registration, is able to lease out that registration to another entity, which is not registered, and be able to use in a subcontracted way an operation which would appear to be outside the normal legislative framework. That would appear prima facie to be the case.

We were told yesterday by the minister that there existed this trust account, a notified trust account, under the law. I would like to know exactly who administered that trust account. I would be interested to know whether it was the minister, referred to under sub-regulation 9.1—gave the exemption to Vision College to provide such a parent organisation guarantee, which provided the opportunity to sidestep the tuition assurance schemes which were put in place by the ESOS Act. I come back to this simple point: why are students not entitled to a full refund? Why are they not entitled to the protection of the law? What level of legislative negligence are we going to have to expect from this government? It would appear at this point that this is a clear case of the government’s officers failing to fulfil their obligation to ensure that there is an appropriate supervisory role played and that students could have the full expectation of protection under the ESOS Act. I am also very concerned to ensure that our reputation is not damaged by a repeat of these types of examples. They have happened too often before. I mentioned last night in the chamber the fact that the Department of Trade still manages to provide export grants to colleges that are under investigation. I am interested to know why it is that that is going on and whether or not it is possible for the government to actually have an effective regime in place that sees a level of interdepartmental cooperation in such a way as to genuinely protect our international reputation.

This matter requires urgent action by the government. The 36 questions I am putting down today I trust will be answered promptly and we will not see any more of the attempt to sidestep responsibility, as we have seen with Dr Kemp in terms of his response to the return to order for the schools legislation. It may well be that the government takes a different attitude on this matter simply because we are not dealing with Australian millionaires here. We are not dealing with Australian millionaires sending their kids to elite schools and therefore getting a big hand-out from the government. What we are talking about is international students and maybe they are treated by this government differently from the sons and daughters of millionaires at various elite schools. I trust that is not the case and I hope that the government will find it possible to ensure that the operations of this college, which I understand ceased on 18 August, are in fact addressed. The correspondence that I have seen and the operations of the meeting that took place in Sydney on Friday of last week, in which officers of the department of education and officers of the department of immigration were present, leave me very concerned that adequate protections have not been provided. I am very concerned that this government is neglecting its responsibility to protect our international reputation on such an important matter.

Sitting suspended from 1.54 p.m. to 2.00 p.m.
QUESTIONS WITHOUT NOTICE

Goods and Services Tax: Petrol Prices

Senator GEORGE CAMPBELL (2.00 p.m.)—My question is to Senator Hill, representing the Prime Minister. Can the minister confirm that the next indexation of fuel excise, due in February next year, will be abnormal in that the CPI will reflect the inflationary spike caused by the GST? Is it true that this is likely to add around 2c to 3c per litre to the price of petrol? Can he explain why the ever growing number of government backbenchers calling for a freeze on fuel excise indexation are, in the words of the Prime Minister, naive and irresponsible? Is the Australian Chamber of Commerce and Industry also naive and irresponsible in calling on the government to consider using a discounted CPI measure for the indexation—one that is not distorted by the GST’s impact on inflation?

Senator HILL—Since coming to office in 1996 the coalition has not increased petrol excise; it has of course continued the usual indexation in line with the CPI. Compare that with the record of the previous Labor government: when Labor came to office, petrol excise was 6.155c per litre; when it left office, excise was 34.183c per litre—an increase of 28c per litre or over 550 per cent. That was the Labor record in relation to excise.

Senator GEORGE CAMPBELL—I ask a supplementary question, Madam Deputy President. I ask the minister: where is that fairness in jacking up the government excise on petrol in response to an abnormal CPI increase caused entirely by your GST?

Honourable senators interjecting—

The DEPUTY PRESIDENT—Order! The level of noise on both sides of the chamber is not tolerable.

Senator HILL—I am sorry that Senator Campbell did understand the answer, so I
will repeat it for his benefit. It was the Labor Party that introduced indexation. The Labor Party also voluntarily added extra taxes on petrol. This government has not increased the indexation; it has only been indexation in relation to CPI. The real contrast is that, when Labor came to office, petrol excise was 6.1c per litre; when they left office, it was 34.1c per litre. That is what the Australian people ought to think about. Yet even with that record the Labor Party seek to alarm the Australian people today. It is just a political hoax. Their record is appalling. This is a low tax government, and we are proud of it.

Economy: Tax Reform

Senator Mason (2.06 p.m.)—My question is addressed to the Assistant Treasurer, Senator Kemp. Will the minister inform the Senate of the latest economic figures in relation to exports and company profits? Will the minister also provide details of any recent surveys which confirm the strong performance of the Australian economy after the implementation of tax reform on 1 July?

Senator Kemp—I thank Senator Mason for that important question. Senator Mason, I think, has a reputation of being a senator who always stands up for the state of Queensland. We do have some Labor senators in this chamber who go missing in action when they are required to stand up for their state. Senators will be aware—and I know this causes some depression in the Labor Party—that Australia is one of the world’s best performing economies. We are a high growth economy. We are an economy where the levels of unemployment are coming down from the very high levels that we inherited from the previous government.

Senator Mason today asks me about profits, and let me turn my attention to that. The ABS yesterday released company profits for the June quarter. These figures indicate that company profits before interest appreciation and tax grew by some 31 per cent through the year, and profits in the manufacturing sector were up some 47 per cent through the year. This is very good news and, again, this gives confidence in the Australian economy and confidence in the strategy that the government has adopted.

In addition to these figures, the bureau also released the July trade statistics, showing a $241 million increase—or in percentage terms a 1.6 per cent increase—in exports in the month of July. Rural exports grew by over 12 per cent. As senators would be aware, July was the first month of the new tax system. Exporters are the big winners, of course, under the new tax system—and that has been conceded by the Labor Party. Not only has the Labor Party now adopted the GST as part of its policy but it has always conceded that the exporters are big winners under the new tax system.

Another statistic of interest is the Yellow Pages Small Business Index, indicating that small business confidence is growing and that there is growing support for the goods and services tax—and, I might say, very little support for the proposed Labor roll-back. Some 46 per cent of surveyed small businesses said that the government was doing a good job in implementing the GST, as compared with just 28 per cent who were not so favourable towards the government. This is a complete about-turn from the situation of the survey in May. More importantly, let me make this point: only some 25 per cent of small businesses supported Labor’s roll-back plans, as compared with a massive 65 per cent opposed. It is no wonder that we never hear Labor mention the ‘r’ word—roll-back—given the concern in the small business community about Labor’s proposed tax plans in the area of roll-back. While the good figures continue to come in for this government—(Time expired)

Fishing: Outboard Fuel Prices

Senator Forshaw (2.11 p.m.)—My question is directed to Senator Alston representing the Minister for Agriculture, Fisheries and Forestry. Is the minister aware that many commercial fishermen are now paying over $1.20 per litre for their outboard
fuel and between $70 and $200 a day to run their boats? Is the minister aware also that these exorbitant costs are threatening the viability of many small commercial fishing businesses? Does the minister acknowledge that this is a particularly severe problem for communities which depend on fishing to generate employment and income, such as those on the south coast of New South Wales, where outboards are used not just by commercial fishermen but by oyster farmers as well? What is the government doing to address these very severe problems facing these businesses and these small communities?

Senator ALSTON—It sounds to me as though Senator Forshaw wants the return of the command economy. He somehow thinks that we should be out there controlling all the cost inputs of government, despite the fact that—

Senator Hill—That’s Faulkner’s position.

Senator ALSTON—Well, I know Senator Faulkner certainly does. It is a requirement, if you are in that faction.

Senator Hill—We thought Senator Faulkner was the only one left.

Senator ALSTON—It seems he has company, because, quite clearly, Senator Forshaw has not the vaguest idea that some people have to take prices that are administered in the marketplace, or that costs can rise because of factors beyond their control—and, indeed, beyond the control of governments. The fact that the cost of fuel might rise because of an increase in the price of crude oil imported from offshore and that there may be a whole range of factors affecting the cost structures of business is certainly not a basis for government intervention.

We, of course, do sympathise with all those who had to suffer for very many years under your whole range of impositions. Obviously, if you still had your wholesale sales tax in place, it would be a lot more expensive for them to do business. But now at least they have that dramatic breakthrough that everyone except the Labor Party seems to have endorsed since 1 July. The cost of fuel is simply one of those items that will fluctuate for a variety of reasons, but certainly not through any fault of the government. It is therefore not the responsibility of government to—

Senator George Campbell—including the GST.

Senator ALSTON—So you are opposed to the GST, when the rest of your party is now in favour of it?

Senator George Campbell—Always been opposed to it.

Senator ALSTON—I am delighted to hear that there is yet another split in policy on the other side of the chamber. I suppose Senator Campbell will stop at nothing to ensure that he gets onto the frontbench, but that is a hell of a way to do it, because it is not the policy of Mr Beazley: he is in favour of roll-back. It is certainly not the policy of Mr Crean, because he is not in favour of roll-back but is in favour of handouts. So we do already have a couple of splits there. But we are delighted that Senator Campbell is adding more fuel to the flames. Labor clearly does not have a clue where it stands on taxes in general or on fuel costs in particular.

Senator FORSHAW—Madam Deputy President, I ask a supplementary question. I thank the minister for his answer. I am sure struggling businessmen will be very pleased to hear your response, while you tuck into the Atlantic salmon and the abalone in your box at the Olympic Games. I ask: can the minister confirm that fishing communities will face a further increase in outboard fuel of 2c to 3c a litre as a consequence of the next indexation of fuel excise, which will be driven by the GST-inspired inflation spike?

Senator ALSTON—I can categorically confirm the opposite, Madam Deputy President. The fact is that indexation is built into the regime, as you well know. It has nothing to do with the GST.

Senator Conroy—What?

Senator ALSTON—It is a statutory factor; it is a statutory requirement—

Senator Conroy—You’re an idiot.

Senator ALSTON—and you well know that.
Senator Lightfoot—Madam Deputy President, I raise a point of order. Senator Conroy made a most unparliamentary comment with respect to Senator Alston.

Honourable senators interjecting—

The DEPUTY PRESIDENT—Order! I would like to actually be able to hear Senator Lightfoot’s point of order.

Senator Lightfoot—Senator Conroy made a most unparliamentary comment with respect to Senator Alston, and you should direct him to withdraw.

The DEPUTY PRESIDENT—I am sorry, Senator Lightfoot, but up here I could not hear Senator Conroy making any comments. If you did make some unparliamentary comment, Senator Conroy, you may wish to withdraw. But up here we did not hear precisely what was said. Actually we did not hear anything, apart from the noise.

Honourable senators interjecting—

The DEPUTY PRESIDENT—Order! The noise was on my right and on my left.

Honourable senators interjecting—

The DEPUTY PRESIDENT—Order! As I did not hear what the alleged comment was, I am unable to rule as to whether it was unparliamentary. I have asked the person, if they thought they had made an unparliamentary comment, to please assist. But I did not hear it and I am therefore unable to rule.

Senator Kemp—Ask him whether he made an unparliamentary comment.

The DEPUTY PRESIDENT—He has not risen. Senator Alston has the call.

Senator ALSTON—Madam Deputy President, let us be perfectly clear here. The fact is, as you well know, that the GST is an enormous boon to businesses because they are in a position to claim back the costs of their inputs. To the extent that there is a spike as a result of any GST, that will result in increased costs that they can claim back. So business at the end of the day is much better off as a result of our regime than it would be with any wholesale sales tax regime that you would like to reintroduce. If you want to go down that path, we are happy to hear about it. Let us spell out the detail of roll-back. Let farmers and others know precisely what the cost burden will be under you, and they will feel much better. (Time expired)

Rural and Regional Australia: Health

Senator SANDY MACDONALD (2.18 p.m.)—My question is addressed to Senator Ian Macdonald, the Minister for Regional Services, Territories and Local Government, and it concerns the very considerable effort that the government has made in regional health. Minister, will you outline how the government is working to improve access to health and health related services for Australians living in regional and remote areas? Also, will you advise the Senate of any specific initiatives in this area?

Senator IAN MACDONALD—I thank Senator Sandy Macdonald for that question. He realises just how important health is to Australians living in rural and remote areas. Senator Sandy Macdonald would be interested to know that this federal government has taken a lot of initiatives to help with health services for people in rural and remote areas. We do that for two reasons. One is that it is a question of basic fairness and equity that Australians, no matter where they live, should have access to adequate health services. That is something that the Labor Party in their 13 years in government absolutely ignored; they did nothing for people in rural and regional Australia. You hear these pious words from Senator George Campbell about fairness and equity in fuel prices. What about some fairness and equity for those remote and rural Australians who do not have decent health services, Senator? Your government did absolutely nothing about that in the years they were in parliament.

A lot of the wealth of Australia comes from rural and regional Australia. Unless the people of rural and regional Australia have decent and adequate health systems, you are not going to get people going into those areas where the wealth of Australia is created. This government has done something with the creation of new medical schools: one at James Cook University, another here in Canberra to serve the Southern Highlands of New South Wales, and a clinical school in
Wagga Wagga. That will get rural students into those medical schools—and the expectation and the likelihood is that more of them will return to the country.

We have introduced the bonded scholarship scheme: 100 scholarships paying $20,000 per annum to students who take them up, provided that they spend six years in a practice in rural and regional Australia. The Rural Australia Medical Undergraduate Scholarship Scheme provides $10,000 a year to students from rural and regional areas. There are some 600 John Flynn Scholarships, paying $2,500 each, to get students out into country areas each year. We have also introduced a HECS reimbursement scheme so that medical students, recently qualified doctors, who go into rural and regional areas will get one-fifth of their HECS payments back for every year they spend in rural and remote Australia. That is a great initiative and will encourage doctors there.

I could go on for hours about what this government has done. There is the allied health work force program, with $50 million in the budget to increase access to services; the Remote and Rural Nursing Scholarship Scheme; the rural specialists outreach program, where we actually put specialists into the bush; and the Fly-In Fly-Out Women’s GP Service—something Labor completely ignored in the time that they were in power. Madam Deputy President, as a former nurse, you will know just how important that initiative of the Liberal-National Party government is.

There are real opportunities for young doctors and medical students in the bush, and I issue a challenge to them to consider country practice. Those who accept that challenge will be making a significant contribution to nation building as well as, from a personal and professional point of view, getting experience and opportunities in the bush which they would never get. I might say with respect, in practice in the city areas. These are the Howard government’s initiatives for rural and regional Australians, and we are doing this to be fair.

**United Nations: Non-government Organisations**

Senator COOK (2.23 p.m.)—My question is to Senator Hill. Does the minister agree with the member for Wentworth, Mr Andrew Thomson, that the UN is ‘just a theme park for indulging the fantasies of the global NGO guilt movement’ and that what really gets the UN going is ‘hearing these unrepresentative NGOs heap abuse on gold plated democracies like Australia’. Minister, if you do not agree with those words, will you repudiate those views in order to try to limit the damage they will do to Australia’s international reputation?

**Honourable senators interjecting—**

The DEPUTY PRESIDENT—Order! If you want to have a conversation with somebody, please do not do it across the chamber—go outside and have the conversation.

Senator HILL—I thought that Senator Cook was going to ask me about the current account result—a favourable result, Senator Cook would have noticed. I suppose it is not surprising that I did not get the question, but I will take the opportunity anyway just to draw it to Senator Cook’s attention, seeing that he is interested in trade matters. On the subject that he did raise, that of the need to reform the United Nation treaties system, I appreciate the opportunity to outline the government’s position. The government are not walking away from our international obligations or disengaging from the UN system. Our concern is that the UN human rights treaty committees are not working as well as they should and that the views of democratically elected governments like our own are not given due weight in these processes.

The government have therefore decided on a series of strong measures to improve the effectiveness of the treaty committees with two objectives in mind. The first is to send a strong political signal that the system needs substantial reform. The second is, at the same time, to preserve sufficient leverage to be able to work with like-minded states to bring about this reform. The measures we have taken are not about repudiating the UN human rights system; rather, they are about making the system work more effectively.
both for democratic countries like Australia and for the United Nations as a whole. Australia’s future engagement with the system will be dependent on the degree to which the reform process delivers the sort of overhaul Australia believes is needed.

Senator COOK—Madam Deputy President, I have a supplementary question. Minister, I did not ask you the question that you read an answer for. I asked you a question about what Mr Andrew Thomson has said. Given that the Leader of the Government in the Senate has now not repudiated the views of the member for Wentworth, are we correct in assuming that he supports them? Do you support them, Minister? Are they the prevailing views within the government’s ranks? Can the minister inform the Senate which are the NGOs that comprise the ‘global guilt movement’?

Senator HILL—Senator Cook obviously did not understand what I said, and that is that the government is committed to a process of reform of the UN treaty committee system, because the government does not believe that it is working well enough and the government believes that the views of democratically elected governments are not being sufficiently taken into account. The government wants this system to work well and is committed to reform to enable it to work better. That is the position of the government.

Senator Cook—You are a gutless wimp.

The DEPUTY PRESIDENT—Senator Cook, would you please withdraw that unparliamentary language.

Senator Cook—I withdraw the words ‘gutless wimp’.

Women: United Nations Protocol

Senator BOURNE (2.28 p.m.)—My question is addressed to the Minister representing the Minister Assisting the Prime Minister for the Status of Women, Senator Vanstone. I ask the minister: was the government’s refusal to ratify the optional protocol to the Convention on the Elimination of Discrimination Against Women done on the advice of the Office of the Status of Women? Did cabinet override the minister and her department on this issue?

Senator VANSTONE—Thank you for the question, Senator Bourne. I do have a brief on this matter, but it does not cover the specific questions you have raised as to whether any advice was offered or sought from the Office of the Status of Women. In any event, I would remind you that advice is of course there to be considered. Ministers take the responsibility for the decisions they make. I have yet to find the public servant who offers to retire when they give bad advice and the minister has to wear it. So, in a sense, it is irrelevant whether they offered advice or not, because ministers and the government have to take responsibility for the decision. I will ask the minister to take that question on notice. If there is anything she wants to add to what I have already said, I am sure that she will.

The simple point is that the government does not believe it is appropriate to sign that protocol while the question of the treaty committees is under review. I have some interest in human rights law—in fact, it was the only law subject I got a distinction in when I was at law school. And I did it before it became a trendy issue. I am sure you understand, Senator Bourne, that if you are committed to international instruments and the value they have in showing the right way to go, you will also appreciate that it is important to have an enforcement of those instruments that has credibility. To have an enforcement system that has no credibility, that brings the UN into disrepute, damages the value of those instruments.

Senator BOURNE—Madam Deputy President, I ask a supplementary question. I thank Minister Vanstone for her answer. I am sure she is aware that the enforcement of any of these human rights treaties is not helped by the more developed of the countries getting out of that enforcement. I thank her for passing my question on to the Minister Assisting the Prime Minister for the Status of Women. Will she also pass on to the minister the following questions: is there a link between the watering down of Australia’s UN obligations relating to women and the government’s plan to water down the Sex
Discrimination Act so it can discriminate against some single mothers using IVF? You know we have already signed the first optional protocol to CEDAW. Do you believe we would be taken to the UN if we ratified it?

Senator VANSTONE—Senator Bourne, you have misunderstood the government’s view in relation to the availability of artificial reproduction technology services. You seek to describe it as a view that in some way discriminates against women. The government would describe it as a system that protects the right of a child to grow up with a biological father and mother known to them.

**Economy: Foreign Debt**

Senator SHERRY (2.31 p.m.)—My question is to Senator Hill, the Leader of the Government in the Senate. How does the minister explain the massive jump in foreign debt from $195 billion in June 1996 to $268 billion in June 2000? Didn’t the Liberal-National party government promise to reduce foreign debt? How is it then that the government has allowed it to increase by a massive 38 per cent since it took office?

Senator HILL—I remember when I used to ask similar questions from the opposition side, and the answer was always: the important thing is not the level of debt but the debt servicing ratio. I inform the honourable senator that Australia’s net debt servicing ratio—that is, the net debt interest repayment as a proportion of exports—fell from 10 per cent to 9.8 per cent in the June quarter. That was despite increasing world interest rates indicating a strong capacity to service our foreign debt. The ratio is currently less than half the peak of 20 per cent in the September quarter of 1990.

The important thing is whether you have an economy strong enough to manage these debt levels, and the difference you see with the economy now, under this government, is that it is a strong, healthy economy. Under Labor, it was weak and endangered. Why is the economy so much stronger now? Because this government had the courage to take the hard decisions to haul in the deficits that it inherited—$10 billion in the year before it came into government and a net government debt of $80 billion, Senator Sherry will remember, over just five years of Labor government. It hauled in its expenditure, got the budget back into surplus, brought down interest rates to record low levels and brought down inflation to record low levels, as a result of which the country now has a better capacity to service foreign debt. That is a good thing, and I would have thought Senator Sherry would have applauded it. If he were answering this question from the other side, that is the answer he would have given.

Senator SHERRY—Madam President, I ask a supplementary question. Given the concern of the Treasurer, Mr Costello, over the foreign debt in 1995—when he calculated it to be $10,000 for every man, woman and child in Australia—how concerned is the government now that the figure has risen to $14,000 for every man, woman and child in Australia?

Senator HILL—I have answered that question. I have said that Australia is now better able to service debt than when it was under Labor. Whilst it maintains a strong economy, that trend will continue. That trend is demonstrated by the figures that have been released today. Senator Sherry can rest in the knowledge that, as a result of the hard but fair economic decisions that the Howard government took, Australia is now better able to cope with debt levels than it was in the past.

**Standing Advisory Committee on Commonwealth-State Cooperation for Protection Against Violence**

Senator HARRIS (2.35 p.m.)—I ask the Minister representing the Attorney-General, Senator Amanda Vanstone, what is the Standing Advisory Committee on Commonwealth-State Cooperation for Protection Against Violence, known as SAC-PAV? When was it established? What was it established for? What operations has SAC-PAV carried out? What are the plans for SAC-PAV now and in the future?

Senator VANSTONE—SAC-PAV was established following the Hilton bombing.
The head of the Protective Security Coordination Centre is the chair of SAC-PAV. It involves at least the deputy police commissioners—if not the commissioners—of all the states, a representative of each of the premiers and representatives from a variety of law enforcement agencies. It meets twice a year and more often if necessary. I do not have figures for the number of occasions on which it has had to meet more than twice a year. Its role is to offer advice on protection against violence, particularly in relation to terrorism and how it will be handled at a practical level. The question on the operations SAC-PAV has carried out is, with respect, Senator, a misplaced question: it is not an operational body. It is a committee that meets twice a year to sort out the Commonwealth and state arrangements for handling terrorist violence.

Senator HARRIS—Thank you for those answers, Minister. Madam Deputy President, I ask a supplementary question. Is the Prime Minister, Mr John Howard, addressing Forum 2000 in New York between 4 and 10 September, and will SAC-PAV be providing any of the security? Will the Prime Minister be addressing the World Economic Forum in Melbourne on 11 September, and will SAC-PAV provide any security? Does the government intend to utilise SAC-PAV at the Sydney Olympic Games, the Paralympic Games or the imminent World Economic Forum to be held in Melbourne on 11 September?

Senator VANSTONE—I am not sure if that question really belongs with me. I am advised by my colleague Senator Minchin that the answer to the first question is yes and the answer to the second question is no. SAC-PAV is an advisory body, not an operational body that provides security and, in any event, there are quite understandable limitations on the operation of law enforcement in other countries. They are reciprocal limitations; we do not generally allow people to come here and operate law enforcement, so we would not be doing that. I understand the answer to the third question is no. In relation to Olympic security matters, I will refer your question to the Attorney-General and see if there is anything he wants to add. I remind you that, in relation to that question, SAC-PAV is not an operational body; it is an advisory body. The primary responsibility for Olympic security rests with New South Wales, and the senior operational person would be the New South Wales Police Commissioner. There is Commonwealth involvement, and we hope there will be no circumstances either at the Olympics or elsewhere where a Commonwealth role is called in.

Aged Persons: Savings Bonus

Senator CROWLEY (2.40 p.m.)—My question is to Senator Hill representing the Prime Minister. Is the minister aware that the Prime Minister has claimed that his promise of a $1,000 savings bonus to elderly Australians was a ‘misunderstanding’? Can the minister indicate where the misunderstanding could have arisen in the Prime Minister’s statement of 25 August 1998 that, ‘You get a $1,000 savings bonus for all people over the age of 60’? Can he explain how anyone could have misunderstood the Prime Minister’s promise on 18 August 1998 that:

... for every person 60 and over there will be a savings bonus—a one-off tax free payment of $1000 in relation to any investment income that you might have.

Senator HILL—This is really a question of a few weeks ago. I am not sure where Senator Crowley was when the subject matter was in the news. That is the problem when you have a free question time and everyone is allowed to have a go. But if Senator Crowley would like to refer to the Hansard of the other place, she will see the answers that were given by the Prime Minister to a question in the terms of that which she has just given, which quite clearly demonstrate that there was no misrepresentation whatsoever. As a matter of interest—it may be a little belated, but Senator Crowley nevertheless has some interest in this matter—I will say to Senator Crowley that over 1.3 million older Australians have now been paid an aged person’s savings bonus since 1 July 2000, and nearly 70 per cent of these bonuses are of more than $500. That has been good news for older Australians and is another
demonstration of this government’s determination that the benefits that flow from the GST—from this major reform of the taxation system—will be properly shared across the community, especially with older Australians, for whom we are particularly grateful.

Senator CROWLEY—Madam President, I ask a supplementary question. I ask Senator Hill again: how can the statement made by the Prime Minister on 25 August 1998, ‘You get a $1,000 savings bonus for all people over the age of 60,’ possibly be open to any explanation other than the one I asked about? Does the minister accept that Australians over the age of 60 have every right to feel cheated, given these unequivocal promises and the fact that over 40 per cent of them got not one cent of compensation and a further 10 per cent got less than $50?

Senator HILL—I regret that Senator Crowley finds it so difficult to understand this concept. This was a one-off, untaxed payment to older Australians who relied on savings and investment for the purpose of maintaining the value of their retirement income, so it depended on the level of savings and investment. If Senator Crowley wishes to take the Prime Minister’s comments out of context, she can relay them in any way she wishes. That was the promise that was made to older Australians. Like all promises the Howard government made, it has been kept. As I said, 1.3 million older Australians have benefited from this particular bonus.

Computer Software: Imports

Senator COONAN (2.45 p.m.)—My question is to the Minister for Communications, Information Technology and the Arts, Senator Alston. Is the government committed to ensuring that Australian businesses, particularly small businesses, have ready access to the latest available computer software products at internationally competitive prices? Is the minister aware of any alternative proposals? What would be the impact of these proposals on businesses?

Senator ALSTON—That is a very insightful question by Senator Coonan and it gives me the opportunity to highlight the fact that, in relation to computer hardware, under Labor you were paying sales tax in most instances at 22 per cent. That has been replaced by a GST of 10 per cent, so prices have fallen quite dramatically on the hardware side. When it comes to software, we have the Intellectual Property and Competition Review Committee report which says in very clear and unequivocal terms that the restrictions that had been imposed to date in terms of parallel imports of software are damaging consumers and that the profits are going to foreign rights holders who are, in the main, very large international corporations. In other words, consumers are being ripped off.

The latest Yellow Pages survey shows that 84 per cent of Australian small businesses and 100 per cent of medium-sized businesses use a computer, so it is an essential tool of trade. The latest Yellow Pages report on SME use of IT shows that in 1999 Australian small businesses spent an average of $1,500 on software, and medium-sized businesses spent an average of $44,000. A report to the government by the ACCC shows that over the past 10 years Australian businesses, particularly small businesses, have had to pay an average of 27 per cent more for packaged business software than their US counterparts. There it is. If you maintain the current arrangements, you are imposing an unnecessary 27 per cent cost impost in relation to imported computer software, but that is the Labor Party’s policy. Not only is this pandering to selfish minority interests and very narrow interest groups but it has also provided the opportunity for Duncan Kerr, the shadow minister for the arts, to put in a gold medal entry for the most desperate press release of the new millennium. I cannot imagine anyone could do any better than this, so let us hear it. He said:

The dissenting opinion of the Intellectual Property and Competition Review Committee Report into Parallel Importing has effectively refuted the Government’s arguments...

In other words, one minority view effectively refutes the majority view. Have you ever heard anything more ridiculous in all your life? Talk about the tyranny of the
minority. What Labor are apparently saying is that they are not interested in a majority view. You send something off to a committee, the committee comes back with a report and you say, ‘We prefer the minority view.’ That effectively refutes the majority. This is unbelievable nonsense. It clearly shows that Mr Kerr is on a par with Daryl Melham—

The DEPUTY PRESIDENT—Mr Melham, thank you.

Senator ALSTON—and the ‘minister for getting rolled’ Senator Faulkner, who is a very strong advocate of unfree trade, as we know from Hobart recently.

Senator Hill interjecting—

Senator ALSTON—He has been rolled by Senator Cook. How low can you get? Ask Senator Ray what he thought of that one, after all he is the sponsor. Mr Kerr’s press release also said:

‘Labor’s ‘use it or lose it policy ... will ... give Australian consumers access to the latest and the best ...

Under this regime you have to wait 30 or 90 days. In terms of the Internet, that is light-years. You would be out of business if you had to wait 30 or 90 days to import the latest in software technology. So let us be absolutely clear: Labor can never be accused of pandering to the majority; Labor are interested in that minority vote and they are doing their best to get it. Mr Smith today put out a press release, once again talking about the bribes to the bush from the proceeds of the sale of Telstra. They are doing their very best to alienate rural Australia, and here we have it and we are rubbing their noses in it. They say, ‘We hate consumers. We are certainly not going to go down that populist track of the government. We will put consumers last.’ (Time expired)

Sugar Industry: Rescue Package

Senator McLUCAS (2.49 p.m.)—My question is to Senator Alston, the Minister representing the Minister for Agriculture, Fisheries and Forestry. Is the minister aware that the sugar package has been imminent for weeks now and that its imminent release has been forecast regularly by the members for Leichhardt, Kennedy and Dawson? Does the minister understand that the window of opportunity to begin replanting cane is fast closing and that an assistance package is now a matter of real urgency?

Senator ALSTON—I think the government is aware that there are changing circumstances in relation to the sugar industry and that there are times of need. But if you are asking me to comment on political statements made by various participants in the debate, then I have to confess I am blissfully unaware of them. I am not aware that the Deputy Prime Minister has been out there—

Senator Robert Ray—You just concentrate on Mr Katter.

Senator ALSTON—There are more important issues in life. I presume Mr Katter kept a judicious silence on this issue, otherwise he would have been quoted. If the best that you can do is to quote Mr Paul Neville, then I think we are travelling quite well, thank you very much. The fact is that there will be a number of people in seats that have particular sugar interests who will have an acute interest in the outcome of any government policies in this area, and it is perfectly legitimate for them to express those views and to make their views known to government. But I think you will have to do a lot better than that to suggest that somehow there is any difference of view either within the National Party or between the National Party and the Liberal Party. The coalition government is very much aware of the particular needs of the sugar industry and will be addressing those in due course.

Senator McLUCAS—Madam Deputy President, I ask a supplementary question. Why is it that the Prime Minister has made so little progress on this issue since he assumed the chair of the cabinet subcommittee managing the issue and took the matter out of the hands of the Minister for Agriculture, Fisheries and Forestry last week? When will cane growers be informed what federal assistance will be available to assist them to replant this season?
Senator ALSTON—I am very disappointed to hear that the agriculture subcommittee has a Labor plant on it. We will have to see what we can do about that, because clearly we do not want any of those insights being outlined in the Senate chamber. The fact is that Senator McLucas has no idea about what might go on within the agriculture subcommittee or indeed about the very substantial progress that the government has been making throughout rural Australia. If there is ever one group in society that knows who is barracking for it and who is not, it has to be rural Australia. They know this not just because of Senator Boswell’s visionary leadership at his end of the chamber but because of all of my Liberal colleagues who have been very much in touch with the interests of rural Australia. I see Senator Troeth down there. She has a very particular interest as Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry. Senator Macdonald, who was born and bred in regional Australia, understands entirely what goes on.

(Time expired)

United Nations: Non-Government Organisations

Senator RIDGEWAY (2.53 p.m.)—My question is to the Minister representing the Minister for Foreign Affairs, Senator Robert Hill. Did the minister hear the member for Wentworth and chair of the treaties committee on the AM program talking about the UN treaty committee system and the non-government guilt movement? Is that a reference to churches, charities, hospices and others who are the bedrock of our civil society? Does he consider that the Amnesty report 2000 on East Timor is indulging in fantasy when it claims:

A UN-sponsored ballot in East Timor, which resulted in Indonesia relinquishing its claim to the territory, was marked by systematic and widespread human rights violations—including extrajudicial executions, rape and forcible expulsions.

Is it also a fantasy that we have been willing to take credit from the United Nations on our role in East Timor and not criticism on other matters? What is fantasy and what is fact?

Senator HILL—I did not hear the AM program; I was travelling to Melbourne to address a conference of public servants.

Senator Cook—Convenient.

Senator HILL—No, not convenient, because we have an interest in supporting the public service, Senator Cook. I think Senator Ridgeway misunderstands the situation. This government is strongly supportive of the UN treaty system, but it is also concerned that in many instances it is not working effectively and needs to be reformed. Rather than just turn away from a system that is not working as well as it should, this government has committed itself to that reform process, and shown international leadership in doing so. To the extent that the government is ultimately successful in strengthening the UN system, that will be of benefit to the global community.

Senator Bourne interjecting—

The DEPUTY PRESIDENT—Order, Senator Bourne!

Senator HILL—I could not hear Senator Bourne’s interjection.

The DEPUTY PRESIDENT—Ignore all interjections; they are unruly.

Senator HILL—Obviously it was not her turn to ask the question today. So that is the position, and I am sorry that Senator Ridgeway misunderstands it. I think it will be interesting to note the level of support that Australia gets in the next few weeks on this issue. There is a widespread view by governments around the world that this system needs to be improved. In some ways it has been the fault of governments. All too often these bodies have been set up and governments have taken a step back, whereas they should maintain their responsibility to ensure that the bodies work both efficiently and effectively. But at least the Australian government is getting in there and seeking to improve the system. That ultimately has to be to the global benefit, particularly for those who are disadvantaged—whether it is through human rights abuses or in other ways. So I hope, as a result of my answer, the position has been clarified.

Senator RIDGEWAY—Madam Deputy President, I ask a supplementary question. I
thank the minister for his answer and I am sorry that he did not understand the question. Does the minister consider it appropriate that the chair of the treaties committee, which is yet to report on the UN treaty committee system, has already made it clear that he has no faith in the treaties system? Minister, isn’t the chair meant to be independent and unbiased in his position and isn’t it true that these comments are likely to be picked up by other countries to undermine the international human rights system?

Senator HILL—Obviously any member of parliament, when they publicly express a view, hopes their view will be noted by some and will be commented upon. I do not think there is any rule that suggests that a committee chairman should not have the right to comment on current issues, particularly current issues which the chair of the committee is engaged upon. That does not seem to be an unreasonable position. But with respect to the position of the government on the UN treaty system, which is what I was responding to—because that is what I would have thought would have been of particular interest to Senator Ridgeway—the government supports the treaty system. It wants it to work better and it is committed to constructively working towards an improvement.

Unisearch Ltd: Loan

Senator O’BRIEN (2.58 p.m.)—My question is to Senator Ellison representing the Minister for Education, Training and Youth Affairs. Is the minister aware of a report in the Sydney Morning Herald of 24 August which draws attention to the fact that the commercial arms of a number of publicly funded universities have made losses of millions of dollars over the last few years? Specifically, is the minister aware that Unisearch Ltd, a wholly-owned company of the University of New South Wales, received a loan of $10 million from the university last year in order to keep it afloat? Can the minister assure the Senate that no Commonwealth moneys were involved in the making of that loan?

Senator ELLISON—It is a fact that we have encouraged universities in this country to be more entrepreneurial, because we believe in giving those universities a greater resource in relation to raising funds and in them not just being reliant on the government purse. In fact, there is a record amount of funding—I think it is just over $9 billion—available to universities in Australia today as a result of that policy. We are allowing them to set fees and to go into partnership with industry. We have provided incentives in relation to donations and tax. And, of course, there is the increased funding in relation to the higher education sector.

In fact, it is quite interesting to see the universities which form the group of eight developing a policy position in respect of the future direction of the sector. This is a group of universities which are entrepreneurial and looking to the future. They are not looking backwards to the old days of just relying on the government purse. We are saying that universities should have some autonomy in this regard, and we are saying that this will only make more funding available for the higher education sector.

Senator Carr—You’re driving them into bankruptcy.

The DEPUTY PRESIDENT—Order! The level of noise is far too high. And, Senator Carr, there is no need to shout.

Senator ELLISON—The government is pleased that this sector is actively pursuing options for its future in respect of funding, and it looks forward to this forming part of the debate on the government’s white paper, ‘Knowledge and innovation’. The government is taking this initiative—something which the opposition is not doing and never did in relation to the higher education sector.

Senator O’BRIEN—Madam Deputy President, I ask a supplementary question. I reiterate, Minister: can you answer the question whether any Commonwealth money is involved in the making of the loan to Unisearch Ltd? Further, is the minister aware that, of the six sandstone universities that have private commercial arms, four are in serious financial trouble? Does this represent a failure of the government’s policy on higher education? Isn’t this government’s cavalier, destructive approach to higher
education funding responsible for the fact that Australia’s universities are being forced into dodgy and questionable commercial ventures in order to pay their staff and to meet their running costs in a climate of severe funding cuts?

Senator ELLISON—The opposition is trying to beat up an issue to bring discredit on this sector which is trying to do good things. In fact, what the group of eight—which comprises the Australian National University, the University of Melbourne, Monash University, the University of New South Wales, the University of Sydney, the University of Queensland, the University of Adelaide and the University of Western Australia—are calling for is deregulation of the sector so that they can have greater freedom to pursue this source of funding. What we have here from the opposition is going back to the days of the dinosaurs, where universities would be entirely reliant on the public purse. That flies in the face of the initiatives that these universities are seeking so that they can seek further private, as well as government, funding.

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

EDUCATION: SES SCORES

Senator ELLISON (Western Australia—Special Minister of State) (3.02 p.m.)—I seek leave to make a brief statement in response to the order of the Senate dated 29 August of this year relating to SES scores.

Senator Cook—Madam Deputy President, I raise a point of order. Have the normal courtesies been observed here—in that, if a minister is going to make a statement, he shows a copy of that statement in advance to the opposition so that they can respond?

The DEPUTY PRESIDENT—I am not aware of what discussion has taken place.

Senator ELLISON—It is a return to order. Madam Deputy President, I have provided the opposition with a copy of the document I am seeking to table.

Leave granted.

Senator ELLISON—There is some confusion in the opposition, obviously. In relation to item (a) of the order mentioned, the Minister for Education, Training and Youth Affairs, Minister Kemp, refutes that he has only partially complied with the order of 17 August 2000 for the following reasons. The guidelines were provided. All the SES scores of the 2,262 schools that participated in the 1998 SES simulation project were provided. The order required the tabling of the scores but required neither the names of each school to be identified nor that a score be specified for each of those schools. In addition to fully complying with the terms of the order, the minister offered to arrange to be tabled, when they become available, actual SES scores upon which non-government schools’ funding entitlements for the years 2001-04 will be based. The minister reiterates this offer. In relation to subitems (i), (ii) and (iii) of item (b), I will table shortly a document entitled ‘Information for response to Senator Carr’s recirculated notice of motion of 29 August 2000’. This contains all the information requested.

In relation to the balance of the requests in item (b), which relate to the individual SES scores of the 2,262 schools that participated in the 1998 SES simulation project identified by the name of each school, the minister is unable to comply with the order for the following reasons. Firstly, the minister understands the data was collected from the schools on the condition that it would be used only for the purposes of the SES project and that the schools’ confidentiality would be protected. The minister also understand that this assurance was reiterated in post-budget consultations to explain the new SES funding arrangements. The tabling of the information requested by Senator Carr not only would disclose material that may have been provided in confidence but may also in the future prejudice the free flow of information from the education sector to the government, as potential providers of information may not come forward in the future if they believe that the information they will provide will not be kept confidential.
Finally, the data provided by participants formed the basis of cabinet deliberations on the SES project, thus the release of the SES simulation project scores would be likely to reveal not only the deliberative processes of cabinet but also the internal workings of the government which have resulted in the new and fairer SES funding system. I table the government’s response to this order and some of the information sought in the order.

Senator CARR (Victoria) (3.06 p.m.)—by leave—I move:

That the Senate take note of the statement.

What we have heard today, and on many other occasions, from this government is that when it comes to welfare this government wants to make sure that millionaires are not on welfare. However, when it comes to education, this government wants to make sure that millionaires have access to public subsidies to ensure that their children go to the school of their choice. The minister said that a millionaire living in a low income area will get the socioeconomic status score of a low income area. So, under this government, we have an assault on people on unemployment benefits and social security payments of all descriptions on the basis that it is alleged that millionaires are on welfare. But, when it comes to the question of education, there is a deliberate policy by this government to ensure that those millionaires have access to public funds to ensure that the schooling of their children is subsidised by the new federal government measures that are under debate at the moment. Yesterday I once again moved a return to order relating to information of vital relevance to the States Grants (Primary and Secondary Education Assistance) Bill 2000, information which today the government again refused to provide.

The opposition, using the legitimate processes of the parliament, sought details of the results of the 1998 simulation studies on which the legislation I have referred to is based. We now have twice sought details of the SES scores of each non-government school as determined by this 1998 simulation study. Two days ago the government tried to play games with the opposition about this matter. They have misled the public about this matter. We have been offered a cute reply: we have been provided with a completely useless list of SES scores from 56 to 135 with the number of schools which were allocated to each score. But no individual schools have been identified. That is not what we asked for. The order of the Senate two days ago clearly indicated that that information should be provided. We asked again to make it clear, so that even a person as nefarious as Dr Kemp could not manipulate his way out of answering.

The DEPUTY PRESIDENT—Order! Senator Carr, you might like to consider withdrawing some of that language, please. It is unparliamentary.

Senator CARR—If you regard it as unparliamentary, I will withdraw it. We made the situation clear, even for Dr Kemp, who is a past master at manipulating data, press releases and public statements to reflect a situation which is different from what is in reality occurring. We said in our return to order that we wanted the names of each school provided. This is not particularly revolutionary information. You would not think this was a great state secret. However, it would appear that this government has no intention of providing that information. From what we have seen in this bill, it is important for the Senate to consider the actual application of the $22 billion we are being asked to appropriate to individual schools. Members of this Senate have a right to know how the money is being spent. It is not as if the government does not know this information, because the government has provided these scores to each and every one of the schools that participated in the simulation study. We are being told that the schools concerned are entitled to know this information and how much money they can anticipate will flow from the changes to government policy, but the Senate is not entitled to know. The situation is that the schools can know, but the Senate is not to know.

We are told the state governments are in a similar position. The state governments, as you are aware, top up the various amounts of money provided to non-government schools by this parliament with contributions from
their own resources. The situation now is that schools know how much money they will get from the Commonwealth, but the states have not been told what the impact is on those individual schools as a result of the change in policy by the Commonwealth government. They therefore have no way of knowing the impact on the state budgetary arrangements. This clearly is a ludicrous position. The government’s view quite clearly is that contributions to millionaires will remain a state secret, because that is the effect of this legislation.

A principal who appeared before the Senate inquiry that examined this bill—the principal of Lowther Hall, a girl’s school in Melbourne—was quite willing to tell the Senate inquiry the consequences of the simulation study for her school. She identified the SES score of the school—103, I recall. She then went on to say that this score was worth an additional $1 million; that is, $1 million extra, provided by the Commonwealth under this bill, on top of what already is provided to her school. She did not try to keep it secret; it was no great mystery as far as she was concerned. Other schools, other associations, identified for us that a number of schools will get $10 million. Various other sums of money were identified through the processes of the Senate inquiry. Those particular schools did not regard it as a great secret. They did not try to keep it secret; it was no great mystery as far as they were concerned. Other schools, other associations, identified for us that a number of schools will get $10 million. Various other sums of money were identified through the processes of the Senate inquiry. Those particular schools did not regard it as a great secret. The Catholic Education Commission identified that they would get $100 million extra for the 65 per cent—over 1,600—of schools that they represent. They did not find that a matter of disgrace. They did not see it as being any great secret that had to be kept from the public. After all, this is all public money. The public have a right to know where their money is being spent and the reason. It is only the government that appears to keep this information secret.

Yet we are told that this is a bill we must pass quickly. We are told that this information is not a matter that should be any business of ours. ‘This is confidential,’ the minister said. ‘This is information that would go to the workings of cabinet,’ he said. What it also goes to is the workings of the parliament, and the parliament has rights in this matter as well. We are entitled to ask how this $22 billion is actually being spent and what arrangements there are for how that money should be distributed. We should not necessarily have to respond to any nonsense from the government that this bill must be passed without delay and without proper scrutiny. After all, this is a bill which did not see the light of day in a public sense until 416 days after the minister first announced it. It took the government 416 days to display the bill after it had announced it, yet we are told that we have to pass it immediately. We are also told that we cannot have information about the distribution of the moneys concerned.

I say to my colleagues in the Senate: I think this is a serious issue. The government is asking us to rubber-stamp a new formula for the spending of this money. But we find that, automatically, 65 per cent of schools are outside the formula and a further 20 per cent of schools will not lose any money—so they have the no-disadvantage test applied to them, and some of these are very wealthy schools—and we therefore see a model being applied to about 750 schools. It would seem that, on average, at least $1 million extra will be spent across those category 1 schools.

What we know is this: 46 category 1 schools participated in the simulation study
and 45 of those schools would get an increase in money—a significant increase, I would suggest. It would appear that, under the strict application of the formula, only one other school would have less money. But under the terms of this bill they will be guaranteed the same amount of money, so no non-government school will be worse off. We were told today that the mean score of 119 across the SES range therefore produces supporting evidence for the claim I have made that the application of the schedules already in the bill—on page 114 of the bill, schedule 4, part I—can determine the distribution of moneys on an estimated basis. The point comes back to this: if we can do it on an estimated basis, why can’t we do it on the real basis? Why aren’t we entitled to see the real effects?

Senator Tierney—Wait.

Senator CARR—We are told to wait. We are told to wait until the full SES scores are in place in the third week of September. We are told to pass the bill before the full SES scores are in place. We already know what they were in 1998—well, the government knows and the schools know, but the parliament and the state governments do not know. We are told to take all of this on trust. We are then told that, with an increase to non-government schools of nearly eight per cent in real terms, we are expected to pass the bill, but no extra money goes to the government system when you take out enrolments and you take out price movements. We are told that an eight per cent growth should automatically apply without question. And that is the irony here: it is without question. We are told that this is the basis on which we should be examining this bill.

Why is this information a state secret? What is the government trying to hide? Why should we take this on trust? This is a major change in policy, with radical changes being proposed by a highly ideologically-driven minister—a minister who is seeking to reshape the entire schooling system, a minister who said on 11 May 1999 when he proposed these changes: this is a ‘major reform’. This is a ‘significant departure’ and a ‘historic decision’. Therefore, given those caveats that the minister himself has imposed on this bill, we have a right—we in fact have an obligation—to give this bill a close examination. The legislation embodies a radical reform of school funding, and we have a clear duty to come to an understanding of its provisions before we pass it—not when it has done the damage in the schools.

This government tells us over and over again that this whole debate is about choice. It is about the choice for parents in education, but I think the parliament itself has to make a few choices. It has to determine whether to pass this bill unamended or whether to seek to alter its provisions to ensure that the funding outcomes for non-government schools are fair and equitable. The government also has a few choices here; and, Senator Tierney, I suggest you take back to your minister the message that the government has a few choices of its own. If it wants this bill to pass as quickly as possible, it can provide the information that is actually required by the return to order. I suggest that the government cease putting this parliament in the untenable position it is in at the moment. We cannot do our duty blindfolded, which is what the government expects us to do at the moment. I think all senators—even you, Senator Tierney—need to approach this matter with our eyes wide open. We need to have the full facts explained to us so we fully understand the implications of a government policy which is giving aid and comfort to the wealthiest, most privileged and most powerful schools in this country when there is an extraordinary crying demand by the impoverished and the underprivileged in government schools and in the Catholic education system in this country, not to mention those in the poorest of the Christian schools.

You have an enormous imbalance, a great inequality, in this country. This government is giving aid, comfort and largesse to the millionaires of this country at the expense of millions of Australians. This government ought to be condemned for that. Until we can see the full details of what is proposed in the bill, I will have great difficulty saying to my
colleagues in the Senate that this bill ought be rushed through parliament. This is a message we all have to take back to people we talk to in the community at large. This is a matter of great concern to all, not just to those who will directly benefit from the extraordinary largesse from an ideologically blinkered government that seems obsessed to protect and advance the already privileged.

Senator TIERNEY (New South Wales) (3.22 p.m.)—We do not normally respond to such things but, seeing as we are being broadcast, we would hate the Australian people to be led astray by the ramblings of Senator Carr, which have been entirely misleading. I wonder whether, within the Labor Party, the left wing knows what the right wing is doing on this issue. Senator Carr, I want to quote your leader, Kim Beazley, on his attitude to the States Grants (Primary and Secondary Education Assistance) Bill 2000. He said:

We have accepted the changed basis of the needs arrangement associated with private schools. We will not try to block the bill. It would simply produce the situation where nobody got any money. That would be a dumb thing for us to do. We certainly won’t be trying to do that.

That was what Kim Beazley had to say at a doorstop in Victoria on 4 August. Senator Carr, have you checked with your own party what the policy of the Labor Party is on this? I wonder what Mr Beazley would make of your comments, not to mention Michael Lee, who is the shadow minister, who presumably is driving policy on this matter—or maybe is not. When he was communications minister we referred to him as the Rip Van Winkle of communications policy. If he is letting you go ahead like this today, he must be doing the same thing on education. Of course Mr Beazley is a former failed minister of education and does not take a lot of interest in it anyway.

I want to address some of the points Senator Carr raised, because he seems quite intent to develop some class warfare on this matter by making a lot of incredibly misleading statements about education policy and what has happened with this bill. First of all, there has been a major change in the way we are funding private education under this bill. It is a change that is long overdue. It is a change that is accepted by the coalition. It is a change that is accepted by the Labor Party. It is a change that is accepted right across the private school sector—by the so-called rich schools, by the Catholic schools, by the new Christian schools, by everyone it seems except Senator Carr.

The basis of and the need for the change was that for many years Labor had an incredibly unfair system of allocating money across schools, called the education resource index. This locked schools into a particularly unfair mechanism of funding which did not take account of their changing needs. Over time, schools that were entitled on any fair basis to more money did not get more money. That is what Senator Carr is comparing the new system with. He is comparing the new system with—and doing his calculations based on—a totally unfair, completely discredited system of funding. He is saying, ‘You are changing from A to B. Look at what these changes are and how it is advantaging rich schools.’ Let me hit that on the head for a start. This is part of Senator Carr’s class war rhetoric. He is trying to make out that everyone who sends their children to an unfairly classified category 1 school—that is, the level of school that gets the lowest level of funding—are millionaires. That is not true. There are huge numbers of struggling families who send their children to these schools at incredible personal sacrifice. In particular, the farmers of this country, who are doing it tough on the land, still continue, because of the lack of alternative education choices, to spend an enormous amount of money—much more than they can afford—on sending their children to these so-called rich schools.

The new funding formula bases the funding on the income levels of the people who go to the school. What can be criticised about that? Certainly the Labor Party does not think it can be criticised. All the private schools do not think it can be criticised. It seems as though Senator Carr is all by himself on this. This was revealed to Senator Carr in a great deal of detail last week. He said that there was not enough scrutiny of the bill. We had two days of hearings on this bill
that revealed all these particular points. He spent the entire time nitpicking and point scoring on peculiar, as he saw it, isolated areas.

This legislation will give us a much fairer system for funding schools in this country. It will allow proper parental choice—something the Labor Party tried to deny the parents of this country in their 13 years of rule. Back then, not only did they have the old, discredited, unfair education resource index but they also had what they called the new schools policy. I was chair of a private school during the 1980s, and we used to call it the 'no new schools policy' because the so-called new schools policy's main aim was to block the creation of new schools. It made it incredibly difficult for new schools to set up. The amazing thing was that new schools did grow and boom during that time, not because of the Labor government’s policy but in spite of the Labor government’s policy. That is why, when we won government in 1996, one of our first measures in education was to abolish Labor’s new schools policy and allow parents their rights. Parents have the right to establish schools. Provided they meet the curriculum criteria of the particular state, provided they meet all those rules, they are entitled to this funding. A lot of schools struggled, a lot of schools went belly up, and the reason was the old, unfair ERI system of funding, which I presume Senator Carr is determined to defend. He has not put up any other alternative. He does not like the SES system, so I assume he wants to go back to the old ERI under which schools struggled and failed.

What we need to do is move on to this new system. In regard to his rather strange behaviour in relation to this bill, Senator Carr really has to answer why he is so out of step with the private school sector in this country, which unanimously wants this new system of funding? Why is he so out of step with the shadow minister, Michael Lee? Why is he so out of step with his leader, Kim Beazley? This is part of the class warfare that Senator Carr wants to perpetuate. He keeps trying to put across the view that we are giving much more money to private schools than we are giving to public schools. He tries to make this out by ignoring the block grants that the federal government give to the states to fund public schools, in addition to the other moneys we give. What he can never explain is the fact that we are increasing public school funding by five per cent a year over the next four years. That is a real increase in funding in the public school system. He also fails to explain why some of his Labor government colleagues are not keeping up with the federal funding of public schools. New South Wales, for example, with less than two per cent growth per annum, spends its money on other priorities or does not spend it at all—with the difficulties it has with its budget. Why is it not at least matching the increase in funding from the federal government to state schools?

So the picture overall is that this federal government is increasing funding to the public school system at a higher rate than many other governments. We are also putting the private school system on a much fairer basis of funding through this SES model. It is a model that is totally supported by the private school system in this country. It is a model that is totally supported by the Labor Party and by the government. So why are we wasting time on this debate? Senator Carr is off on another one of his class warfare crusades, and he should be condemned for that.

Senator ALLISON (Victoria)  (3.31 p.m.)—I want to add my condemnation of the government’s refusal to provide information which is absolutely critical to the Senate in considering the States Grants (Primary and Secondary Education Assistance) Bill 2000, which will come before us in the next week or so. The government claims that the issue here is commercial-in-confidence. I would like to ask why it is that this information is suddenly commercially confidential when in the past there has been no problem with us understanding which school is under what category. Under the old ERI system, this kind of information was not hidden. In fact, we knew how much funding was coming from Commonwealth coffers and how much was coming from state governments’ coffers to go to each of these schools. The only thing
we did not know was how much money was being invested—if I can use that word—by those schools in each student's education. I want to draw attention to the fact that the average cost of educating a student in the government sector is just over $6,000. Some of the schools we are talking about here—the Melbourne Grammars, Scotch College, Wesley College and the like—have parents who send their children there and can afford $11,000, twice as much as we spend, on average, in government secondary schools. That is what we are talking about.

The real question here is need. The government has sold this legislation on the basis of its fairness. It has said it is much more needs based than our current system, which has been discredited—all of those kinds of words. But the real question is: should those schools which can manage to charge as much in fees as those that do be entitled to a massive increase in funding coming from the Commonwealth government? That is the real issue. This is something that the Senate cannot determine unless it sees those figures. About 2,200 schools took part in the modelling process some time ago, and each of those schools knows exactly what their score will be. We could probably sit down and telephone each of them, and they would probably tell us. But we in this place are not going to be given that information by the government. The government and the department have the information. Everybody, it seems, knows what this legislation will mean for wealthy schools—everybody but us.

Senator Tierney said that this is class warfare. If anyone is engendering class warfare, it is this government, because this legislation will deliver a 40 per cent increase to non-government schools over the next four years. Senator Tierney said there will be a five per cent increase a year to government schools. That may be true but, as Senator Carr pointed out, that will barely cover inflation and increased enrolments, whereas there will be a 10 per cent increase to non-government schools. Senator Tierney said that we are out of step; that the opposition parties and those who want to see this information and not deal with the bill until we do have it are simply out of step. He said that all private schools and non-government schools support this legislation. But that is not the message I am getting. On a regular basis I get telephone calls from schools to my office saying, 'Our school has low fees and we are a relatively modest private school. The school up the road is not. It is wealthy, and it can charge $10,000 or $11,000 in fees. But we will both be on the same SES score. Where is the fairness in that?' This is what the Senate needs to consider. It needs to look at those comparisons in order to be able to judge whether this legislation is about fairness and is needs based—and the early indications are that it is not.

I must indicate that I will be recommending to my colleagues that we seriously consider whether we can deal with this bill in the current circumstances. We are not persuaded that the ERI index is a discredited form of funding. There may be ways in which it ought to be changed, but the real question is whether, at this point in time, we need to go straight into a new system on which we do not have information as to the impact it will have.

I urge the government to reconsider its decision. If it wants this legislation dealt with and dealt with promptly, then the Senate ought to have it, just as non-government schools currently have it in an individual sense and just as the department has it. Senator Tierney says that the information is not ready yet, but the modelling which was done some time ago would certainly indicate over a broad range of schools what the likely impact is on the rest of the schools in the system. After all, 2,200 schools is a very substantial number, and the Senate would get a good understanding of the implications by looking at that modelling outcome.

It is my understanding that a school that got a score through that modelling will retain that score. That will be the final figure that they will work from. I indicate that the Democrats are extremely concerned about the government's reluctance to pass on this information. It should not be commercial-in-confidence. They are final figures for many schools, and we should not be asked to wait
until after the legislation is dealt with before we know what the implications of that bill are.

Senator CARR (Victoria) (3.38 p.m.)—in reply—It is important to state clearly what the issues are here. The government has been asked to supply, on two occasions now, information which it has provided to individual schools and which is known to have been provided by individual schools but which the government has not provided to the parliament and the state governments, both of whom have a clear interest in the information that has been provided—information that will tell us what each of the schools can anticipate receiving as a result of the measures that are contained in the states grants bill.

It is not about class warfare, any more than it is about the warfare that is likely to eventuate as a result of the conflicts that will arise between the different sectors of education, as the implications of this bill are understood. The minister has, in my judgment, behaved in a nefarious way. He has sought to manipulate the clear meaning of the English language and not provide information, in the first instance. In the second instance, he has refused on the grounds that the information has been provided to schools on a confidential basis. Well, the dollars will not be provided on a confidential basis and, before we legislate, the position the opposition puts is that we are entitled to know the implications of this massive change in policy that the government has initiated.

With regard to the questions that have been raised by the government as to the distribution of the Commonwealth funding to the different sectors of education, the situation was made perfectly clear in the very hearings that Senator Tierney referred to, where government officials indicated that our estimates on the effect of the distribution were reasonable. That our estimates were reasonable was the point made by the chief modeller, the consultant professor that the government had engaged and that had appeared as an expert witness for them at the Senate hearings themselves.

As for the claims about the government’s largesse towards government schools, this proposition is clearly refuted by the expert testimony of the senior officers of the Department of Education, when it came to the information that, in 1996, 43 per cent of specific purpose payments for education made by this parliament went to government schools. The figure for the same purpose, when applied to 2004 under this bill, drops to 35 per cent. That is a clear, unequivocal position. I am not trying to confuse anyone by mixing up state money with Commonwealth money or by mixing up one program with another program. Putting it in aggregate, putting like with like, you see a shift from 43 per cent to 35 per cent over an eight-year period—a substantial shift in the allocation of public moneys between government and non-government school education in this country.

When you apply various indexes, you see that in real terms—hard cash dollars buying the same thing from one day to the next—the shift is eight per cent real growth for the non-government sector. So the two figures combined produce a substantial change in the policy directions that this parliament is asked to endorse, effectively to rubber-stamp. When you combine the three changes that this government have made in education—the abolition of the new schools policy, which they did when they first came to office; the EBA, which has seen $60 million move from one sector to the other, from the private to the public sector; and now this new SES model—what you are seeing is a revolutionary change in the distribution of moneys by this parliament. We are asked to do this without question—effectively, without serious debate based on informed decision making—and we are asked to do this quickly.

I suggest that, while we have never at any point said that we are not going to pass the schools bill—at no point has that ever been said—we have said that the form in which that bill exits this chamber is a matter for this chamber. We need to make decisions on informed positions: not on guesswork, not even on the basis of our own estimates which, to date, have been so alarming. It is
up to the government to provide senators with information that they are legitimately seeking and to do so speedily. Already the Senate committee report has been delayed until 4 October. The question that now arises is: will the government respond adequately to legitimate questions asked, in time for that report to be prepared and brought down on 4 October? As I have said, these are choices that people make, and choices that the government has to make as well.

Question resolved in the affirmative.

Senator O'BRIEN (Tasmania) (3.44 p.m.)—Normally at this point the opposition would move to take note of one of the answers to questions in question time today. However, given that the order of the Senate requires consideration of business of the Senate notices of motion Nos 1 to 13 commencing no later than 5.00 p.m., that there are a number of potential speakers to that debate, and that there is a time limit for the debate requiring the question to be put no later than 7.20 p.m. tonight, the opposition—with the agreement of others in the chamber—will not be moving to take note of answers. I simply put on the record that that is the reason we do not do so today.

NOTICES
Presentation

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

That the time for the presentation of the report of the Community Affairs References Committee on the provisions of the Gene Technology Bill 2000 be extended to 10 October 2000.

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

That the Select Committee on Information Technologies be authorised to hold a public meeting during the sitting of the Senate on 5 September 2000, from 6 pm to 8 pm, to take evidence for the committee’s inquiry on e-privacy.

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

That the Senate—

(a) notes, with deep concern, the Government’s abrogation of its responsibilities for Australia’s participation in the United Nations Human Rights Committee system;

(b) in particular condemns the Government for refusing to sign the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women, which the former Labor Government was active in initiating; and

(c) calls on the Government to reconsider this hasty and ill-considered action which will damage Australia’s international reputation and its national interests.

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

That the Senate—

(a) congratulates Mr Stuart Rendell, a member of the staff of the Senate, on his selection in the Australian team for the Year 2000 Olympic Games being held in Sydney; and

(b) wishes Mr Rendell the very best in the hammer throw event.

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

That the Senate—

(a) notes that:

(i) Channel 7 will be captioning the 2000 Olympic Games and will be extending its captioning from its previous prime time-only time slot to the hours of 6 am to 11 pm,

(ii) while Channel 7 is an industry leader in the field of captioning programs, it captions only 49 hours per week out of a possible 168 hours, and

(iii) since the inception of captioning in Australia, there has been a strong demand from the deaf and hearing-impaired communities for television programs to be captioned; and

(b) calls for all television programs to be captioned by the end of 2001, and for full captioning of the 2000 Paralympics in line with the full captioning of the 2000 Olympic Games.

Senator CALVERT (Tasmania) (3.45 p.m.)—On behalf of Senator Coonan and on behalf of the Standing Committee on Regulations and Ordinances, I give notice that at the giving of notices on the next day of sitting she shall withdraw business of the Senate notice of motion No. 1 standing in her
name for the next day of sitting for the disallowance of the Defence (Prohibited Words and Letters) Amendment Regulations 2000 (No. 1) as contained in Statutory Rules 2000 No. 41 and made under the Defence Act 1903. I seek leave to incorporate in Hansard the committee’s correspondence concerning these regulations.

Leave granted.

The correspondence read as follows—

Defence (Prohibited Words and Letters) Amendment Regulations 2000 (No. 1)
Statutory Rules 2000 No. 41
13 April 2000
The Hon Bruce Scott MP
Minister for Veterans’ Affairs
Parliament House
CANBERRA ACT 2600
Dear Minister

The Committee notes that new subregulation 4(2), which is inserted by item 3 of the Schedule to these Regulations, provides the Minister with the discretion to grant permission to use a phrase, word or letter with or without conditions. The exercise of this discretion does not appear to be subject to external merits review (or, indeed, any review at all). The Committee would appreciate your advice as to whether such review would be appropriate. If so, the Committee notes that the exercise of the Minister’s discretion to consent to the use of a phrase, word or group of letters, in existing subregulation 4(1), is also not subject to any form of review, and that some form of external merits review may be appropriate.

The Committee would be grateful for your advice as soon as possible but before 19 June 2000 when disallowance action may be initiated.

Yours sincerely
Helen Coonan
Chair
6 June 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 13 April 2000 relating to the absence of external merit review for parts of the Defence (Prohibited Words And Letters) Amendment Regulations 2000.

I note that subregulation 4(1) of the Regulations has never been subject to external merit review. As a consequence, a decision was taken to follow this stance with new subregulation 4(2). However, in light of your concerns, this issue is being given fresh consideration, to ensure that this stance is the most appropriate in the circumstances. I will write to you again when I have further information.

Yours sincerely
BRUCE, SCOTT MP

16 August 2000
Senator Helen Coonan
Chair
Senate Standing Committee on Regulations and Ordinances
Parliament House

CANBERRA ACT
Dear Senator Coonan

As I foreshadowed in my letter, subregulation 4(1) of the Regulations has never been subject to external review. I have consulted with relevant operational areas within the Department of Defence who consider Defence is uniquely placed to determine whether words or phrases should be prohibited and that the status quo in this matter should remain; that there are appropriate informal review mechanisms in place. You may care to note that there has been no recorded instance where a problem has arisen.

However, in consultation with the Attorney-General’s Department, this matter has been referred to the Administrative Review Council for consideration. I will keep you informed of the developments in relation to this matter.

Yours sincerely
BRUCE SCOTT MP
COMMITTEES
Selection of Bills Committee
Report
Senator CALVERT (Tasmania) (3.47 p.m.)—I present the 13th report of the Selection of Bills Committee.
Ordered that the report be adopted.
Senator CALVERT—I seek leave to have the report incorporated in Hansard.
Leave granted.
The report read as follows—
SELECTION OF BILLS COMMITTEE
REPORT NO. 13 OF 2000
1. The committee met on 29 August 2000.
2. The committee resolved to recommend—
(a) That the following bill be referred to a committee as follows:

<table>
<thead>
<tr>
<th>Bill title</th>
<th>Stage at which referred</th>
<th>Legislation committee</th>
<th>Reporting date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vocational Education and Training Funding Amendment Bill 2000 (see Appendix 1 for a statement of reasons for referral)</td>
<td>Immediately</td>
<td>Employment, Workplace Relations, Small Business and Education</td>
<td>13 October 2000</td>
</tr>
</tbody>
</table>

(b) That the following bills not be referred to committees:
Higher Education Funding Amendment Bill (No. 1) 2000
Social Security and Veterans' Entitlements Legislation Amendment (Private Trusts and Private Companies—Integrity of Means Testing) Bill 2000

The committee recommends accordingly.
The committee deferred consideration of the following bills to the next meeting:
(deferred from meeting of 30 November 1999)
Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Bill 1999
(deferred from meeting of 6 June 2000)
Tobacco Advertising Prohibition Amendment Bill 2000
(deferred from meeting of 27 June 2000)
Family and Community Services and Veterans' Affairs Legislation Amendment (Debt Recovery) Bill 2000
Gene Technology (Consequential Amendments) Bill 2000
Gene Technology (Licence Charges) Bill 2000
(deferred from meeting of 15 August 2000)
Coal Industry Repeal Bill 2000
Criminal Code Amendment (United Nations and Associated Personnel) Bill 2000
Indigenous Education (Targeted Assistance) Bill 2000
Protection of the Sea (Civil Liability) Amendment Bill 2000
Trade Practices Amendment Bill (No. 1) 2000
Treasury Legislation Amendment (Application of Criminal Code) Bill 2000
(deferred from meeting of 29 August 1999)
Sex Discrimination Amendment Bill (No. 1) 2000
(Paul Calvert)
Chair
30 August 2000

Appendix 1
Proposal to refer a bill to a committee
Name of bill(s):
Vocational Education and Training Funding Amendment Bill 2000

Reasons for referral/principal issues for consideration
Reasons: This bill provides interim funding for one year only and thus the long term future and direction of the Australian National Training Authority (ANTA) Agreement are in question.
Issues: Future of ANTA Agreement; demand in VET/TAFE and need for growth funding (which is not provided for in the bill)
Possible submissions or evidence from:
State governments; employer and employee peak bodies

Committee to which bill is referred:
Employment, Workplace Relations, Small Business and Education Legislation Committee.
NOTICES
Postponement

Items of business were postponed as follows:

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 4 September 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 5 September 2000.

General business notice of motion no. 663 standing in the name of Senator Cook for today, relating to questions taken on notice during estimates hearings by the Economics Legislation Committee, postponed till 31 August 2000.

EAST TIMOR: BALLOT

Motion (by Senator Bourne) agreed to:

That the Senate notes that 30 August 2000 is the first anniversary of the ballot for independence in East Timor, and:

(a) congratulates the people of East Timor on this occasion;
(b) remembers all those who died before and after the 1999 ballot;
(c) commends the United Nations Transitional Administration in East Timor, particularly the Australian contingent, for its ongoing role in the rebuilding of East Timor; and
(d) congratulates the East Timorese people and their leaders on their commitment to democratic processes and reconciliation.

INFORMATION TECHNOLOGY: OUTSOURCING

Motion (by Senator Stott Despoja, at the request of Senator Allison) agreed to:

That the Senate—

(a) notes that:
   (i) the Commonwealth Scientific and Industrial Research Organisation (CSIRO) is conducting a rally outside Parliament House on Wednesday, 30 August 2000, drawing attention to the fact that the Office of Asset Sales and IT Outsourcing is forcing the CSIRO to outsource its information technology (IT) against its will and better judgement,
   (ii) the CSIRO has highly specialised and complex IT needs, often on a project by project basis, and
   (iii) the CSIRO judges that its IT service is best suited to in-house provision; and
(b) urges the Government to:
   (i) reverse its ideologically-driven decision to force IT outsourcing on all its agencies, given the dubious success of the move,
   (ii) reassess the drive to outsource in light of the massive expansion and uptake of e-mail and the Internet over the past few years,
   (iii) allow agencies to decide the question of IT outsourcing, based on reasoned analysis of the benefits and disbenefits,
   (iv) reverse the so-called penalty payments it has imposed on the CSIRO so far for not contracting out its IT services, and
   (v) recognise the important contribution this research institution makes to science and indeed to the development of IT in Australia.

LUCAS HEIGHTS: NUCLEAR REACTOR

Senator STOTT DESPOJA (South Australia—Deputy Leader of the Australian Democrats) (3.49 p.m.)—I move:

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.

Question resolved in the negative.

KALEJS, MR KONRAD

Senator GREIG (Western Australia) (3.49 p.m.)—I ask that general business notice of motion No. 620 standing in my name for today and relating to Mr Konrad Kalejs be taken as a formal motion.

Leave not granted.

Suspension of Standing Orders

Senator GREIG (Western Australia) (3.49 p.m.)—Pursuant to contingent notice of motion and at the request of the Leader of the Australian Democrats, Senator Lees, I move:

That so much of the standing orders be suspended as would prevent me moving a motion relating to the conduct of business of the Senate, namely a motion to give precedence to general business notice of motion No. 620.

Mr Acting Deputy President McKiernan, I believe that this matter is urgent and ought to be dealt with today by the Senate. I am sure you would be aware, having been through the processes of the anti-genocide inquiry as I have, that there is a very serious circumstance surrounding the presence in Australia of Mr Konrad Kalejs who, contrary to popular perception, has been found guilty of war crimes in both Canada and America. He was also of a mind to leave Britain at a time when he was under scrutiny for war crimes in that country and of course ended up in Australia and is now living in Melbourne.

This motion simply is to ensure that, if Mr Kalejs should present himself to an Australian airport or seaport, the Senate is empowered through Customs officers or empowers Customs officers to effectively confiscate his passport such that he cannot leave the country. Why would this be the case? It is the case because we understand that Mr Kalejs is shortly, hopefully, to be sought extradition of by Latvia, where we hope he will return to Riga and be properly investigated for the considerable allegations surrounding his war crime activities in Latvia during World War II.

We know also from his past behaviour that there is every chance that he may seek to leave Australia prior to that happening. I know that outside this place there are some people who believe that this motion is not in order or is beyond the power of the Senate. The reality is that no court has ever adjudicated on this matter, so it is at best mere speculation—a case of who has the better legal opinion. The government has been wrong before in both the Mabo and Wik cases. The Commonwealth unsuccessfully argued for the non-existence of native title—how wrong they were! It is clear under section 6A of the Passports Act 1938:

An Australian passport remains always the property of the Commonwealth.

The assertion made by some that a proper purpose test should be made out before return to order is complied with is neither current Senate practice nor current political reality. I also understand that both Senator Vanstone and the Minister for Foreign Affairs, Mr Downer, have received advice from their own departmental officials which says that the motion is entirely within order and that the Senate has the power to take this course of action.

Australian governments have consistently failed to adequately investigate and prosecute people who stand accused of the murder of children, unarmed civilians, Jews, gypsies, political detainees, homosexuals and others. The reality is that Mr Kalejs is free to evade justice again by jumping on a plane and leaving this country at any time so that he can avoid proper investigation and potential prosecution in Latvia. That is clearly unacceptable. Throughout much of this debate as it has occurred in Australia, Senator Vanstone has been at pains to try to mislead the public and Holocaust survivors with the view that Mr Kalejs is only an ‘accused’ person and that he has been only accused of wrongdoing. That is wrong. The US Court of Appeals found that Mr Kalejs had been ‘a key officer in a unit that killed tens of thousands of innocent civilians’. On 1 November 1988, Judge Petrone of the US Immigration Court found the Australian criminal standard
of proof was beyond reasonable doubt, although it was a civil defence. His judgment stated:

[Mr Kalejs]’s actions on the Eastern Front in 1942, his role at Salaspils and Sauriesi camps and his participation at Porkhov and Skuano in 1943 were under the leadership of the Arajs Kommando in association with the Nazi military and civil authorities responsible for the occupation of Latvia. The incarceration, forced labour and brutal treatment of Jews and political prisoners at Salaspils, Sauriesi and Porkhov, the killing of civilians at the front and the execution of gypsies were acts of persecution because of race, religion, national origin or political opinion. The respondent assisted and participated in this persecution. Therefore I find that the respondent is deportable under section 241(a)(19) of the act as charged.

In other words, he was deportable for crimes against humanity and the heinous crime of genocide. Even Senator Vanstone’s colleague Senator Helen Coonan said on 15 August 1997:

... there can be no argument that there is a moral imperative to pursue alleged war criminals—no matter how old the atrocities and no matter how feeble the accused.

This is an opportunity to ensure that Mr Kalejs does not leave Australia prior to any potential and thorough investigation into his activities during World War II and to ensure that Latvia has every opportunity for extradition so that that can take place. Now is the time to act, and there should be no further procrastination on this issue.

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (3.55 p.m.)—I state that the government will not be supporting this motion. We think it is an extraordinary use of the Senate’s powers. I think it would certainly ensure that anyone who sought to portray it as such would be successful in saying this was a purely politically based action. I do not think the Senate should sit as a jury in this matter. As I said, we do believe that this impinges on executive power or judicial power or both. Although Senator Greig’s motives are clearly beyond reproach, I do not think it was necessary for him to make any sort of reflection on the minister’s views on this matter. I think Senator Greig’s
FINANCIAL SECTOR LEGISLATION AMENDMENT BILL (No. 1) 2000
Report of Economics Legislation Committee

Senator McGAURAN (Victoria) (3.58 p.m.)—On behalf of Senator Gibson, I present the report of the Economics Legislation Committee on the Financial Sector Legislation Amendment Bill (No. 1) 2000, together with the Hansard record of the committee’s proceedings and submissions received by the committee.

Ordered that the report be printed.

VETERANS’ AFFAIRS LEGISLATION AMENDMENT (BUDGET MEASURES) BILL 2000
VETERANS’ AFFAIRS LEGISLATION AMENDMENT BILL (No. 1) 2000
Report of Foreign Affairs, Defence and Trade Legislation Committee

Senator McGAURAN (Victoria) (3.59 p.m.)—On behalf of Senator Sandy Macdonald, I present the report of the Foreign Affairs, Defence and Trade Legislation Committee on the provisions of the Veterans’ Affairs Legislation Amendment (Budget Measures) Bill 2000 and the Veterans’ Affairs Legislation Amendment Bill (No. 1) 2000, together with the Hansard record of the committee’s proceedings and documents and submissions received by the committee.

Ordered that the report be printed.

COMMITTEES

Membership

The ACTING DEPUTY PRESIDENT (Senator McKierman)—Order! The President has received letters from party leaders seeking variations to the membership of various committees.

Motion (by Senator Ian Campbell)—by leave—agreed to:
That senators be discharged from and appointed to committees as follows:

- Employment, Workplace Relations, Small Business and Education Legislation Committee—

  Substitute member: Senator Crossin to replace Senator Collins for the consideration of the Vocational Education and Training Funding Amendment Bill 2000

Rural and Regional Affairs and Transport Legislation and References Committees—

  Participating member: Senator Sandy Macdonald.

GENE TECHNOLOGY (CONSEQUENTIAL AMENDMENTS) BILL 2000
GENE TECHNOLOGY (LICENCE CHARGES) BILL 2000
First Reading

Bills received from the House of Representatives.

Motion (by Senator Ian Campbell) agreed to:
That these bills may proceed without formalities, may be taken together and be now read a first time.

Bills read a first time.

Second Reading

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (4.01 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—

GENE TECHNOLOGY BILL 2000

The Gene Technology Bill 2000 is the Commonwealth’s component of a national regulatory system for genetically modified organisms. With the passage of the gene technology bill and mirror legislation in all states, Australia will, for the first time, have a comprehensive independent and accountable regulator of GMOs—a regulator with the sole purpose of protecting the health and safety of the community and protecting the Australian environment by identifying and managing risks posed by or as result of genetically modified organisms. To secure such a regulatory system, we must be mindful of the fact that the states and territories must pass legislation that is consistent with this bill.

The bill in its current form represents the regulatory system preferred by all states and territories. It is not a coalition government bill, nor a Labor bill, but rather legislation supported on a bipartisan basis by all jurisdictions. I ask you to be con-
sicious of the fact that major changes to the bill may not find favour with state and territory governments and this would have major ramifications for our chance to introduce uniform national regulatory measures. I take this opportunity to recognise the concerted effort that each state and territory has put into the development of the gene technology bill. It is an excellent example of Australian governments working collectively to the greater good of protecting the people of this country and its environment and promoting its research and development base as a burgeoning industry.

Throughout the past 12 months, the Commonwealth has made a concerted effort to find out the needs and expectations of the Australian community in relation to the regulation of GMOs. I am glad to have the opportunity to acknowledge a range of sectors and organisations that have contributed to the development of this world-class regulatory system, including the research and development sector, primary producers, environmental and consumer groups and the biotechnology industry. We have, for example, responded to the overwhelming view of interested parties that the regulator must be independent. The bill therefore establishes the regulator as a statutory office holder with powers and independence akin to the Auditor-General, the Ombudsman or the Commissioner of Taxation. The regulator will be able to report directly to Parliament on matters of concern and will be the absolute decision maker on all applications that come to the office. Another matter on which there is complete agreement from the industry and environmental and consumer groups is that the need for the protection of the health of the community and the protection of the Australian environment are to come before all other considerations.

There is no doubt that biotechnology holds great potential for this country. In terms of health, agriculture, industry, primary production and environmental benefits we have seen only the prelude to the possibilities. Nevertheless, it is appropriate that this new regulatory system has the driving imperative of identifying and managing any risks associated with the technology before all other matters, only then can we be truly confident about reaping the broader benefits. The bill establishes the framework for the most comprehensive risk assessment and risk management system it has been possible to develop. All applications for GMOs to be released into the environment will be made available to anyone who wishes to see them. They will also be automatically forwarded to each state and territory government, existing regulators and the Commonwealth environment minister for advice. Once all comments from government and non-government parties have been considered by the regulator and a risk assessment prepared, each party will have the opportunity to consider and comment on the regulator’s draft decision. This is a system Australia has every reason to have confidence in. It must be acknowledged that the Australian industry and our research and development sector have made every effort to comply with the voluntary administrative system of GMO controls that will be replaced by this legislation. I commend them for their efforts.

This is legislation with teeth. The financial penalties for criminal offences are significant. In addition, the regulator will be able to appoint inspectors, undertake routine monitoring and conduct spot checks. I mentioned earlier the support this bill has in states and territories. I have, however, heard calls from Tasmania for the bill to include an explicit opt-out provision. I reiterate the advice repeatedly given to Tasmania, which has been acknowledged by all other governments: it is not possible for such a provision to be included. All governments must have regard to the constitutional impediments and risks resulting from our international obligations. This bill demonstrates that it is possible to effectively regulate risks associated with technology. For Australia to lose the benefits of this technology when we are able to manage those risks would be an irresponsible and insupportable step for government to take. We have adopted a cautious approach to regulation. We recognise the great diversity of application of gene technology and have tailored the bill so that for each application the level of regulation is commensurate with the risk. We have been careful to ensure that our hand is not so heavy that it will stymie our research and development sector or limit the opportunities that the technology holds. But, without question, it is appropriately firm and cautious for higher risk activities and is conscious of the need to protect our community and preserve the diversity of our environment.

GENE TECHNOLOGY (CONSEQUENTIAL AMENDMENTS) BILL 2000

The Gene Technology (Consequential Amendments) Bill is the third bill in the package of regulation of genetically modified organisms. The bill creates an interface between the new Gene Technology Regulator and existing regulatory agencies, including the Therapeutic Goods Administration, the National Registration Authority for Agricultural and Veterinary Chemicals and the Australia New Zealand Food Authority.
GENE TECHNOLOGY (LICENCE CHARGES) BILL 2000

The Gene Technology (Licence Charges) Bill supports the Gene Technology Bill 2000 by providing a framework for recouping costs of the Gene Technology Regulator through the levying of licence charges. This bill is an important adjunct to the main bill, which I have already addressed in detail.

Debate (on motion by Senator O’Brien) adjourned.

NATIVE TITLE DETERMINATIONS

Senator BARTLETT (Queensland) (4.02 p.m.)—by leave—At the request of Senator Woodley, I move:


That Native Title (Approved Gold or Tin Mining Acts—Queensland) (Surface Alluvium (Gold or Tin) Mining Claims) Determination 2000, made under subsection 26B(1) of the Native Title Act 1993, be disallowed.

That Native Title (Approved Gold or Tin Mining Acts—Queensland) (Surface Alluvium (Gold or Tin) Mining Leases) Determination 2000, made under subsection 26B(1) of the Native Title Act 1993, be disallowed.

That Native Title (Right to Negotiate—Alternative Provisions) (Queensland Laws about Exploration Permits) Determination 2000, made under paragraph 43(1)(b) of the Native Title Act 1993, be disallowed.


That Native Title (Right to Negotiate—Alternative Provisions) (Queensland Laws about Mining Claims) Determination 2000, made under paragraph 43(1)(b) of the Native Title Act 1993, be disallowed.


That Native Title (Right to Negotiate—Alternative Provisions) (Queensland Laws about Mining Claims for Alternative Provision Areas) Determination 2000, made under paragraph 43A(1)(b) of the Native Title Act 1993, be disallowed.

That Native Title (Right to Negotiate—Alternative Provisions) (Queensland Laws about Mining Leases) Determination 2000, made under paragraph 43(1)(b) of the Native Title Act 1993, be disallowed.

This is a very important issue for the state of Queensland, and it is crucial in terms of our treatment nationally of indigenous rights and native title. Many Democrats have spoken often about the importance of native title across a range of issues. I raised it in my very first speech in this chamber as an issue of great significance. It is particularly important in Queensland, and these motions are crucial. My colleague from Queensland Senator Woodley has a history in this area and gave notice of these motions some time ago. He is the Democrat spokesman for this area and will be speaking in detail about these motions. As a senator for Queensland, I am happy to have the opportunity to fully support all 13 of these motions to disallow components of the Queensland native title act, and I hand over to my colleague to enable him to elaborate on those issues.

Senator WOODLEY (Queensland) (4.03 p.m.)—I draw the chamber’s attention to a most remarkable press release that has today’s date and the time of 2 p.m. and is re-
leased under the name of the Premier of Queensland. It tells all and sundry what the Senate is going to do. It is remarkable and outrageous that a premier of a state should announce, before the Senate has even voted on an issue and before the Leader of the Opposition—who, I believe, is having a press conference at 5 o’clock—has had a chance to have a press conference on the issue, what the Senate is going to do. Before the vote has been taken and before the Leader of the Opposition has had a chance to make a public announcement, the Premier of the state of Queensland is telling us what we are going to do. That is absolutely outrageous and underlines the very problem we have had with this whole issue. I am very angry about it. I do not know whether it breaches privilege, but I am going to take up the issue after this debate. The press release says:

The Senate allowed seven of Queensland’s 13 submissions, rejecting those that provided modified procedures for mining and high impact exploration on pastoral leases ...

The Premier goes on and tells the Senate what it is going to do. It is going to be a few hours before we vote on this issue. This press release is just unbelievable. We have tried to work honourably with the Labor Party on this issue—for example, I agreed that I would not bring on this disallowance for three months so that the Labor Party would have time to sort it out—and this is what we get. I have been asking for a briefing from the Labor Party for the last 24 hours, but that has been ignored. But, until today, I kept them informed about what we were doing. That is no way to treat the Senate or other people who are interested in this issue.

I will now deal with the issue of disallowance. My colleague Senator Bartlett has already moved the 13 motions together. I am going to take them in four sections because the 13 bundles of legislation deal with four particular parts of the Native Title Act and the Native Title Amendment Act. I will not identify which pieces of legislation refer to section 43; but they are all listed in the red, so senators will be able to follow the debate in that way. Under the various pieces of legislation which refer to section 43, the Attorney-General has determined that these proposals comply with the section 43 standards set out under the federal Native Title Act. The Democrats believe that there are two very serious problems with this view. The first problem is that it in no way ensures that the standards of section 43 are always maintained. There is absolutely no guarantee at all.

The second problem is even more serious: the problem of the states having the say in Aboriginal people’s right to negotiate. The Democrats have said many times that we believe this should be considered under a federal regime. There is no doubt that a fundamental issue arises here. State governments rely heavily on mining royalties and revenue. History suggests—in fact, history does not only suggest; in Queensland the dreadful history of the relationship between mining companies, the state government and Aboriginal people has been recorded many times—that most states, if not all, will place greater importance on the interests of mining companies and state governments than on the interests of Aboriginal people and their right to negotiate. For those reasons, even though section 43 has application to the original Native Title Act, we do not believe that using section 43 provides in this instance the kind of security that was intended when the original 1993 act was passed.

I now turn to the legislation that deals with section 26A. These determinations relate to prospecting, mineral development licences and exploration permits. They operate to remove the right to negotiate and replace it with a meaningless and unenforceable right to consultation. In the end, it means very little and probably nothing. This is a classic attempt to give Aboriginal people nothing more than permission to hold their own meeting. Under these proposals, Aboriginal people are allowed to make comment, but there is no guarantee at all that these comments will be heard, and there is certainly no right to objection available to Aboriginal people. I see the right to be consulted as the right to stand outside the door while a meeting is being held inside and shout out objections which may or may not be heard.

I would also like to refute the claim that these determinations only relate to low-
impact mining activities. This is a furphy. They will apply to nearly all mineral exploration in Queensland, apart from the dozing of grid lines and bulk sampling. In fact, the Queensland government have indicated that they intend to deal with the vast majority of the 1,200 permit applications that form the present so-called ‘backlog’ under the section 26A regime. This means that Aboriginal people will be excluded from any say over vast areas of land subject to exploration. In addition, no account has been taken of the aggregation of actions when defining low impact and the cumulative impact when the actions are taken together.

While I am talking about this so-called ‘backlog’—and I use that term in a tongue in cheek way, quoting former Premier Borbidge and Premier Beattie—it is important we look at some of the facts of this matter. The great shame in all of this is that the Queensland Indigenous Working Group, at the request of the Queensland government, has been facilitating a process amongst land councils in Queensland to come up with a template for an indigenous land use agreement to negotiate these permit applications. This is the sensible way to go that benefits all Queenslanders through a process of negotiation and conciliation. The template has been developed by QIWG and awaits the Queensland government response. In the meantime, we are dealing at the same time with determinations that will wipe out Aboriginal people’s right to negotiate, in the ways that I have outlined above.

I now turn to those parts of the 13 pieces of legislation which deal with section 26B. These determinations apply to alluvial gold and tin mining. The same comments that I made in relation to section 26A apply here, and I would like to make some additional points. Firstly, we are dealing with extraction, not even exploration. That is, Aboriginal people’s rights are being taken away even as the bulldozers are heading in to conduct mining operations—operations that will often leave permanent and lasting scars on their land. We cannot be fooled by the claims that this relates to small-scale operations only. Anybody who has spent time on the Palmer River or around Herberton in North Queensland, as I have, can attest to that.

The Queensland Indigenous Working Group has been working on facilitating the small mining applications that are presently in the system. To date, 150 agreements have been made in principle. Yet—and I say again—we are today dealing with determinations that will seriously interfere with this very constructive process. In short, there are no consequences so dire as to need such a draconian solution. It is like cracking a hazelnut with a sledgehammer—a ridiculous situation, given the efforts that have already been put in by the Queensland Indigenous Working Group. And let me pay tribute to them. While I am talking about the backlog of mining applications, the backlog in Queensland—and it was a similar backlog with the Northern Territory and Western Australian governments—was caused by the Borbidge government and later the Beattie government refusing to process those applications. The Queensland Indigenous Working Group took it upon themselves to come up with a solution to that backlog. It is because of work that they have done that the problem of the backlog has in part been solved. Yet the Beattie government is now using the goodwill that the Queensland Indigenous Working Group put into that process to beat them over the head with the current proposal.

Let me now deal with section 43A. This is an attempt to implement one of the cornerstones of the Howard Wik 10-point plan of 1997. These determinations apply to mining leases, mining claims, high impact exploration and mineral development licences. They apply to any land ever covered by non-exclusive leases and reserves—that is, vast areas of Queensland and vast areas of interest to Aboriginal people. In relation to mining, while a limited and much reduced right to negotiate is provided by the Beattie plan—with the clear intent to look as though he is complying with federal ALP policy—it really is paying lip-service only. The Attorney-General has determined that the proposals meet the minimum standards in the Native Title Amendment Act. The Democrats believe these rights are not enough anyway.
But I would like to make the additional comment that any rights above the minimum standards in the Native Title Act that are provided today can be taken away tomorrow by Premier Beattie or any other subsequent Premier of Queensland. There is absolutely nothing this chamber can do about it and the Democrats are not prepared to take the gamble or trust any Premier of Queensland, including Premier Beattie given some of his conduct over the past year on this whole issue. In relation to exploration, the comments I have made above also apply when we are talking about bulk sampling and dozing grid lines. For the reasons I have outlined, the Democrats believe that these determinations by the Attorney-General should be disallowed, and disallowed vigorously. I am asking for the support of this chamber to enable that to happen.

I want now to deal a little bit with the announcement by Premier Beattie which finally reveals what the Labor Party intend to do in this debate unless, hopefully—and I am always hopeful—the federal Labor Party do not do what Premier Beattie has already announced they are going to do. I believe that to disallow the 13 pieces of legislation before us is consistent with Labor Party policy. It is consistent also with the pledge given by the opposition leader to the Queensland Indigenous Working Group a couple of weeks ago. It is consistent also with their action in regard to the Northern Territory legislation, which senators will remember was disallowed on the vote of Senator Brown, the Democrats, the Labor Party and perhaps one of the other Independents as well.

I cannot understand why, given the Labor Party’s action in relation to the Northern Territory legislation, Premier Beattie now believes that somehow or other they are going to do something different when it comes to the Queensland legislation. By analysis made by the Queensland Indigenous Working Group, it is quite clear that the Northern Territory legislation has some aspects which are better than the Queensland legislation. By analysis made by the Queensland Indigenous Working Group, it is quite clear that the Northern Territory legislation has some aspects which are better than the Queensland legislation. I have issued today a six-page analysis of the Queensland legislation and the Northern Territory legislation which shows that the Northern Territory legislation in some aspects is better than the Queensland legislation. The Labor Party, having disallowed the Northern Territory legislation, now, according to Premier Beattie, are going to pick and choose out of the legislation which is before us and allow seven of the 13 Queensland submissions through this chamber.

I do not understand that. It makes me very sad. It must make Mr Melham very sad too, because I have had many discussions with him. He has probably shed a lot of blood over this. I do not know whether his shedding of blood is terminal. I was asked today whether or not he should resign. I am sure that is up to him, but I certainly know he needs a blood transfusion if he is going to survive. I think he has acted honourably. He certainly has acted honourably in keeping me informed up until the last 24 hours, but I understand the problem he would have there. He has at all stages acted with the utmost commitment to native title holders and indigenous people. I wonder what he is thinking at this very moment.

The other problem is the whole issue of security. If there is some proposition that at this late hour Premier Beattie believes would solve many of the problems which have been identified in terms of native title, there is a very easy way for that to be dealt with—that is for the Labor Party to vote against the 13 propositions which are being put, allow Premier Beattie to put his proposals in the proper way—by negotiating with indigenous people in Queensland and other interested parties—and then to bring that proposition back to the Senate. To allow some of the propositions from the Queensland government through this afternoon will ensure that the issue of security is dealt with in a negative way forever, because I propose that the Queensland legislation would never return to this parliament.

Once it has been allowed through, then the whole issue of scrutiny by the Senate, which Senator Harradine ensured would happen with his amendment during the debate on the Wik amendments, will have been abolished and that will set a precedent for other states. Once one state’s legislation has got through, other states will immediately model their regimes on the same proposition—and their
regimes too will pass through the Senate. This means that that ongoing scrutiny, which has been debated so often and which was one of the bases on which the Labor Party voted against the Northern Territory legislation, will have been cancelled. There will be no possibility of maintaining ongoing scrutiny of this issue. The whole security which Senator Harradine sought to ensure will have been lost.

So what I am saying to the Labor Party is that we can take account of Premier Beattie’s proposition. I believe it has some good aspects to it—I am not arguing about that. What I am arguing about is the way in which it has been brought to this chamber. It is the fact that he announced at 2 p.m. today what the Senate was going to do later in the day—which I find outrageous—that is the problem. But if the Labor Party are fair dinkum about having an agreement with the Premier of Queensland, they should vote against the 13 pieces of legislation—disallow them—and then the new proposition, which Premier Beattie has put to his federal colleagues, can be dealt with properly. It can be negotiated with the indigenous people. Then we can have a proposition before this chamber which can be dealt with in the proper way and not by way of a press release or an announcement by a state premier about what this chamber is going to do later today.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (4.23 p.m.)—The fatal coincidence of malice and incompetence that characterises so much of what the Howard government do and fail to do is again represented in the matters that we have before us today. They have reversed the historic trends in this nation towards reconciliation between indigenous and non-indigenous Australians. The original Native Title Act 1993 was an honourable and decent attempt to begin to deal with what, for this nation, was a socially and legally new concept of native title. The Mabo decision of 1992 meant that Australia became the belated and last nation working within the common law tradition to recognise the pre-existing native title that indigenous peoples had before European settlement—to find that it was capable of survival and that it had in fact survived in some places, despite later inconsistent grants by colonial and later governments. This was a statement of fact self-evident to the rest of the world. That did not stop the conservative coalition stirring up fear and hysteria and feeding misinformation across the country.

In the face of this, the then Labor government sat down and negotiated with all interested parties and drafted Australia’s first native title legislation. This legislation had the aim of calming the fears of the wider community by validating all past tenures and associated rights granted since European settlement. It acknowledged our international undertakings under the Convention on the Elimination of All Forms of Racial Discrimination that led to the enactment of the Racial Discrimination Act 1975. In doing so, it set out to provide a decent and non-discriminatory means of identifying, protecting and recognising native title into the future and the means through which governments could approve grants or rights to non-indigenous Australians in places where native title may still exist while respecting and protecting indigenous rights.

The centrepiece for the protection of indigenous rights in the act was the right to negotiate. The Mabo case took a decade to resolve in the courts. This was a case where there were no big minds or developments at stake. The thought of resolving issues over the grant of every one of the tens of thousands of interests in land into the future and the potentially thousands of claims to native title through this lengthy and costly process was unthinkable. A process of mediation and negotiation, more effective in terms of time and cost and innately more sympathetic to indigenous custom, was instituted in a National Native Title Tribunal. We must look at the circumstances that surrounded its introduction.

The bill was greeted by hostile and negative opposition bent on, I think, statutory vandalism. The government had only one piece of useful case law for guidance. It was inevitable that this act would need to be amended in the light of later court decisions and practical experience. However, I would stress three critical points relevant to today’s
deliberations. First, the then government set out to draft legislation capable of receiving the informed consent of indigenous Australians. The committee for CERD found that the legislation achieved that aim, and indigenous leaders have consistently acknowledged this fact since its introduction. Second, the then government set out to resolve all competing interests in compliance with our obligations under the Racial Discrimination Act. The High Court later found in Western Australia v. the Commonwealth that it achieved that aim. Third, the act made provision in section 43 for states to set up and run their own native title regimes so long as they did so under the national standards set down in the act. The centrepiece of this requirement was the maintenance of the right to negotiate. Having denied the validity of the concept of native title when in opposition, having used the issue as a tool for racial and social division across the nation and having opposed any constructive approach to dealing with the issue, the Liberals and Nationals provided no surprises when they came to government. Their pretext was the Wik decision of 1996. The majority in the Wik decision found that native title could survive and coexist on a range of non-exclusive tenures granted by the Crown, including on pastoral leases. They further found that later granted interest took precedence over any existing native title. This was a natural extension of the doctrine expounded in Mabo. This did not stop the coalition from following their instincts. A campaign of fear and loathing—with the hot breath of Pauline Hanson on their necks—followed. Titles legally validated in the original act were declared to be at risk. The end of civilisation as we know it was declared. Spurious answers to spurious and concocted problems and questions followed. The Prime Minister spoke in this parliament of his covenant with the miners and the pastoralists on this issue. His failure to acknowledge the very people whose human rights and property rights were directly affected by the legislation was no accident. In the framing of both his infamous 10-point plan and the legislation that followed from that poisonous document indigenous people were excluded from any meaningful process of negotiation.

The Native Title Act as amended by this government in 1998 has been investigated on three occasions by the relevant United Nations committee and found to be inconsistent with our undertakings as a signatory to the Convention on the Elimination of all Forms of Racial Discrimination. The Howard legislation is unjust, unworkable, widely open to legal challenge, and of course it is accused in Australia and internationally of being racist.

The accusations of racism go to a number of things, but let me begin with the process by which the amendments were framed. On two occasions the Senate passed his bill with amendments the Prime Minister found unacceptable. Those amendments were put forward in the constructive intent of improving the legislation. More importantly, they were arrived at through negotiations with the representatives of indigenous Australians, including the National Indigenous Working Group. In July 1998 under a pall of secrecy and to the exclusion of all other interested groups the government cut a deal with Senator Harradine to concoct a version of the bill that could pass the Senate with the help of Senator Harradine’s vote.

Without doubt the most obnoxious element of this Frankenstein’s monster was section 43A. This was the section designed to eliminate the consequences of the High Court’s decision in the Wik case. The effect of the 1998 legislation was to strip away the only substantial protective instrument available to native title claimants and holders under the original 1993 legislation. That instrument is, of course, the right to negotiate. The section 43A scheme was not only discriminatory in intent and effect but also based on a view of the law that has yet to be endorsed by the High Court.

The same problem infects many aspects of the 1998 legislation. The 1998 legislation is predicated on the assumption that native title is a bundle of personal rights that can be disaggregated and treated as inferior to the property rights of other title holders. This view holds that native title, having been partially extinguished by a later grant, now persists as a lesser, inferior residual right or
collection of rights. The Howard logic then leads to the justification of ascribing means of protection for those rights that are measurably inferior to those available to other non-indigenous title holders. This view of the law has never been endorsed by the High Court. It will now have to rule on the matter.

The fact is that after Mr Howard had his legislation passed by the Senate a Federal Court judge found against this view in the original Miriuwung-Gajerrong case, a claim over land in the East Kimberley region and parts of the Northern Territory. Mr Howard was overturned on this matter by a full bench of the Federal Court by a majority of two to one. So there we have it: two Federal Court judges agree with Mr Howard’s view; two disagree. The matter will be resolved by the High Court.

There is a strong possibility that the Native Title Act 1998 will collapse in an unlawful heap, yet the government proceeded, against ample available advice as to this and many other legal problems. But the problem does not end there. Should the High Court find in a way that endorses the bundle of rights view of native title, other legal and moral issues come into play. Such a decision would clearly show that native title is more vulnerable to extinguishment than any other form of title and that the Howard government in embracing that view was in breach of its undertakings under the Convention for the Elimination of all Forms of Racial Discrimination in particular—and, of course, international law in general—in legislating in the way that it did.

Our undertakings in the CERD, particularly in articles 2(2) and 5, very specifically require that the greater the vulnerability or disadvantage of a group, the greater the obligation on government to implement special measures to protect their rights. We have undertaken to ensure that if indigenous Australians cannot enjoy any fundamental human right equally with others in society—because of either the operation of a law or their social economic disadvantage—measures must be taken to remedy the disadvantage and ensure that substantive as well as formal equality is achieved. If the common law of this country is found to discriminate against indigenous Australians, we must legislate to correct that fact and not compound or exacerbate it. Even if he is ultimately right on this matter of common law, Mr Howard has adopted the ‘kick them while they are down’ approach. We will not follow him in this.

Mr Howard’s and Senator Harradine’s section 43A is anathema to the Labor Party. Our recent national conference confirmed that such schemes are inconsistent with Labor Party policy. Senator Harradine would have it that, as I appreciate, some of the shortcomings of the 1998 legislation are unintentional. But, given the secrecy, the haste and the absence of consultation in his deal with the government, it is possible they got under his guard on a number of things. Only Senator Harradine knows the truth of that. But the fact is that we now have a racist and legally defective piece of legislation, and it is hard to graft a good vine onto bad stock.

Peter Beattie has worked over the last 18 months or so to glean something acceptable from the unacceptable. In the face of a government in Canberra committed to native title and its legislation being discredited, he has pressed on to find a solution for Queensland. He has done so through a process of ongoing negotiation with indigenous interests. He has consistently placed faith in the agreement process as the decent way forward, and is at the point of achieving indigenous land use agreements historic in their scope. They will provide a just, secure and pragmatic way forward for indigenous and non-indigenous Queenslanders alike. Let me say that I think the pressure on Mr Beattie, the Premier of Queensland, has been enormous, just as it has been on us in the Labor Party at a federal level on this difficult matter. Kim Beazley and the Labor Party have stayed at the table until this late hour to assist in arriving at a decent and workable outcome. Following written, unconditional undertakings received today from Premier Beattie in respect of the section 26A instruments, I am able to say that we have achieved that end. I seek leave to table Mr
Beattie’s letter to Mr Beazley. I have distributed copies.

Leave granted.

Senator FAULKNER—I thank the Senate. The effect of this letter is that we will vote to allow the section 26A and section 43 instruments before us and to disallow the rest. The effect of this is the retention of the right to negotiate over all high impact exploration and mining in Queensland. Mr Beattie has written to Mr Beazley:

The Senate will today consider a motion to disallow the instruments needed to establish a State based Native Title regime for Queensland.

In the interests of an acceptable outcome in the Senate today, I wish to make the following unconditional undertakings. In the event of the Queensland Low Impact Exploration Scheme being approved in the Senate, the Queensland Government will before the end of this year, amend that scheme to provide substantive and procedural rights and acceptable definitions of the nature of low impact exploration that are no less favourable to indigenous interests than those in the New South Wales scheme recently endorsed by the Federal Attorney General. I further undertake that a Beattie Labor Government will never derogate those improved statutory provisions.

Thirdly, I intend to pursue the negotiation and implementation of ILUA’s to deal with both the backlog of applications and future applications for exploration permits in Queensland and my Government will meet the necessary resourcing implications of achieving that outcome.

Yours sincerely

PETER BEATTIE
Premier

This compromise is endorsed by the Queensland government and by federal Labor. Peter Beattie knows that there will have to be further changes when Labor comes to office federally and amends the Howard government’s unlawful and racist legislation.

This has been a tough issue for Labor. This afternoon one of my colleagues has tendered his resignation on a matter of principle that he holds dear. Daryl Melham has been a friend, a colleague and a comrade of mine for more than 25 years. I am personally sorry that he has taken that decision, but I understand and I respect why he has. There will be many more battles for Daryl to fight, many more struggles for him to be involved in, but as a shadow minister he leaves a great legacy as a courageous and forthright person and, I believe, a person of very great integrity. He is and will remain a committed advocate for our party, for the interests of indigenous Australians and for this nation. I commend the approach of the Labor Party to the Senate.

Senator HILL (South Australia—Minister for the Environment and Heritage) (4.42 p.m.)—That was a great deal of huff and puff to camouflage the fact that Mr Beazley has again failed the leadership test. What a weak, wimpy, pathetic performance! Hauled between two different interest groups, what was his outcome? His outcome was to approve seven and to disapprove of six—seven on the one hand, half-a-dozen on the other. That is not what leadership is about. That demonstrates why it was necessary for the Howard government to take some hard and difficult decisions when it came to office to, in effect, make the native title legislation fair and workable. It simply was not working, and it required reforms so that in practice it could achieve its objectives. Those reforms may not have pleased everybody but they did pass this chamber, and states have sought to operate under the law of the land as it now stands and to implement alternative right to negotiate schemes. The Australian Democrats are not prepared to accept the changes that were made in this place, and choose to use the disallowance provisions in the legislation—in effect, to revisit that earlier decision that was made quite a long time ago.

The Labor Party adopted a similar technique when we debated the Northern Territory’s alternative right to negotiate scheme, but that was different for the Labor Party because there was a government of a different political persuasion in office—that is, the Country Liberal Party in the Northern Territory. So, in that instance, it was able to side with the Australian Democrat position and argue, ‘We’re opposed to the amendments that provide an alternative right to negotiate scheme. Therefore, we will use the disallowance provision to vote down the Northern Territory scheme.’ But when faced with a different situation in Queensland—that is, a
Labor government in office—the federal Labor Party had to find a different set of words, and we have heard that different set of words from Senator Faulkner today.

We have had two interest groups pulling Mr Beazley in different directions. The Beattie Labor government in Queensland has been saying, ‘We have operated under the federal law. We have consulted under the federal law and met all the procedural safeguards under the federal law. We have now brought determinations to the federal parliament. You must therefore accept our right to operate in the way that we have and our right to set up our alternative scheme.’ That was Mr Beattie pulling Mr Beazley in one direction. On the other hand, indigenous negotiators have been saying, ‘Mr Beazley, you have not offered us what we want. In other words, you have offered us procedures that don’t go as far as we would like. We therefore pull you, Mr Beazley, in the other direction.’ A stretched Mr Beazley has said, ‘There are 13 determinations before the Senate. We will vote to allow the determinations to stand in seven cases and we will vote to ensure that they fall in six in the hope that we can keep both sides of the debate happy—in the hope we can keep the Beattie Labor government happy and in the hope we can keep the indigenous negotiators happy.

That is not a demonstration of leadership. That is, as I said, a weak, pathetic performance by Mr Beazley of the Labor Party. He had a chance here to take a consistent, honourable position, and he wimped it. He could have gone either way. He could have maintained the position that he adopted when he was faced with the Northern Territory alternative rights scheme, stayed with the Democrats and voted for the disallowance. Alternatively, he could have gone the other way and said, ‘Okay, We now accept that the parliament has legislated for alternative rights. Mr Beattie has gone through proper processes. We accept that we lost that battle in the parliament a long time ago, and we will now let the states get on with their business of allowing the mining opportunities in this country to be progressed in a way which is fair to both indigenous and non-indigenous Australians and which can proceed outcomes in terms of wealth for the benefit of all Australians.’ Mr Beazley could have gone that way, but he did not have the courage to do that either. Instead, we have this pathetic mishmash in which he has tried to please both sides and in the end, I suspect, he will please no-one.

I suspect—and no doubt my colleague Senator Minchin will develop this theme further when he looks at the consequences for resource development in this country—that we will end up with something pretty much as we have at the moment in Australia, which is literally thousands of opportunities for licences to explore, let alone leases to mine, being held up and nobody gaining any benefit from that: nobody, not indigenous Australians and not non-indigenous Australians. If Mr Beazley thinks the mark of success is that we maintain the situation we have today where economic opportunities are lost and nobody is a winner, then he has a funny definition of success.

The point I wanted to make in this debate is that, when the alternative rights scheme was written into legislation after it was passed in this chamber, it was designed to have within it a process to ensure fairness. In other words, procedural thresholds were set in the legislation and they had to be certified to be followed by the relevant Commonwealth minister—in this instance, the Attorney-General of this land. It was to ensure proper practice when a state implemented its own scheme and to ensure it fitted with its management of property laws, and that is what it is all about. The Labor Party scheme was something artificially set at a Commonwealth level, but the Commonwealth does not manage resource development at state levels. It does not provide for title aspects at a state level. Management of title is run by the states in this country. Therefore, when the states sought to look at what the Commonwealth had imposed, they found it unworkable. As an alternative, they wanted to develop their own schemes that would mesh with their own property laws. We said that was fair enough provided they met certain safeguards, and the safeguard was that the Attorney-General would have to certify that the procedures had been followed. In this
instance, the Attorney-General has so certi-

fied, and that is the point I wanted to make.

The criteria for alternative state schemes
were agreed by this parliament as an appro-
priate package of procedural rights for native
title holders, taking account of the level of
impact on native title rights and the interest
that can be expected depending on the type
of land over which the grant will be made—
that is, whether or not the land is vacant
crown land, and the types of activities that
are permitted; that is, full-scale mining, low
impact exploration or prospecting, set out in
the legislation. This approach is also re-
flected in the Queensland scheme. It pro-
vides a varying level of process depending
on the varying effects of activity on the land
and on native title. It would seem that the
Queensland scheme not only has met the
criteria set out in the Native Title Act but
also has gone beyond them to provide addi-
tional procedural rights to indigenous people.
So the Queensland scheme balances the im-
perative of respecting native title interests
with ensuring that development in the state
of Queensland can provide for the economic
benefit of all. Others might seek different
procedural outcomes, but this is the proce-
dural outcome that was determined by the
Queensland government and passed by the
Queensland parliament after several years of
negotiating with all parties. That is the only
way this can work.

If we adopt the Australian Democrat posi-
tion, which is that unless all parties agree,
unless a consensus between all interest
groups can be achieved, a workable scheme
should not be set up, then we will never get
the development that needs to take place and
the economic benefits that can flow to both
indigenous and non-indigenous Australians.
That is the failure of the position put by the
Australian Democrats. The right to negotiate
that Labor wrote into its legislation did not
work, but the Democrats are not prepared to
give the alternative state based schemes a go.
Anyway, in this instance, Mr Beattie com-
plied with that requirement of negotiation
and brought in a scheme that would allow a
progression of licensing to explore and ulti-
mately mine leases but yet was fair to those
who have a legitimate native title claim.

I can assure the Senate that the Attorney-
General took great care in meeting his statu-
tory responsibilities in relation to this matter.
He sought and listened to the views of the
Aboriginal and Torres Strait Islander people
before he decided to approve the Queensland
scheme. He undertook a comprehensive con-
sultation process with the representative
Aboriginal and Torres Strait Islander bodies
in Queensland. He complied with his statu-
tory obligation in this regard and he went
further to ensure that all relevant matters
were brought to his attention. These consul-
tation processes included an early informal
briefing of the Queensland Indigenous
Working Group, the provision of extensive
explanatory material, a presentation to each
of the representative bodies outlining the
Queensland proposals, discussions between
representative bodies and officials, and a
meeting between the Attorney-General and
representatives of the representative bodies.
The Attorney-General carefully considered
each of the issues raised during this exten-
sive process and concluded that all of the
Queensland alternative provisions satisfied
the criteria set out in the Native Title Act.

Therefore, honourable senators can today
be assured that the Queensland scheme meets
the statutory criteria. In other words, it meets
the requirements for procedural fairness. In
those circumstances and despite the assur-
ance from the Attorney-General, acting pur-
suant to his statutory responsibility, the La-
bor Party has said today, ‘We will not sup-
port Queensland in relation to about half of
its determinations because we want to try to
get a deal that is fair to two of the major
stakeholders’ interests—one being the Labor
Queensland government and the other being
the indigenous negotiating group.’

The position of the government is clear. I
do not make a judgment on the Queensland
package as such other than that I can be as-
sured, through the Attorney-General’s de-
termination, that it meets the statutory re-
quirements and that it is procedurally fair. I
have reasonable confidence that the package
developed will enable exploration and min-
ing to get started again in Queensland, oth-
nerwise there would have been no point for
the determinations to have been made and
brought to this place. Unfortunately, the result of Labor voting with the Democrats on seven out of 13 occasions today will be that the Queensland scheme will be wrecked. Nobody will be the winner. Mr Beazley certainly will not be the winner because he has demonstrated again that he is a weak and inadequate leader. More important than the future of Mr Beazley is the loss that will occur in economic opportunities for Queens-landers and for indigenous and non-indigenous Australians. This should not be a proud day for the Australian Labor Party. This is a disappointing day on which they have again demonstrated that they are not fit to govern this country.

Senator RIDGEWAY (New South Wales) (4.56 p.m.)—I would first like to acknowledge the members of the Queensland Indigenous Working Group who have travelled to Canberra to represent their communities and the interests of native title holders in Queensland. I beg to differ with the views expressed by government in relation to what is so flawed about the Australian Democrats position. I think you can only ever judge these types of regimes on the basis of whether there is a promotion and a protection of the principle of non-discrimination. Any law that is put forward and has the potential of allowing further discrimination, particularly on the basis of race, cannot be good law.

I hope that the presence of those who have travelled from Queensland, who are in the gallery, is a reminder to all senators in this place that we will make vital decisions today. The Australian Democrats do take seriously the views that have been expressed across the board and acknowledge the views that have been expressed by many people in Queensland, including those from industry. The simple issue is one of dealing with a regime that is fair and reasonable. The native title legislation at the federal level has the intent to protect and preserve native title; yet the legislation before the Senate today seeks to undo any protection or preservation of native title, including an extension of native title rights as a result of the Wik 10-point plan from 1998.

The Australian Democrats believe that our decisions today will have much broader ramifications beyond just the borders of Queensland. This needs to be taken into account in considering the question of the regime being put before us by Queensland. If the Queensland legislation is approved by this chamber, it will be a backward step. It will mark a new low in relations between Aboriginal and Torres Strait Islander people and the government. The Queensland legislation is yet another failure of the parliament to recognise and respect the ancient but continuing relationship that all indigenous Australians share with country. Regardless of what decisions the Senate reaches today, the bonds that indigenous people continue to feel with traditional country and the responsibilities that our cultures require to be honoured will continue.

This is an issue that the High Court had to grapple with not that long ago. It recognised the reality and corrected the legal fiction of terra nullius which had distorted our nation’s history for more than 200 years. But today we seem intent upon reviving the fiction of terra nullius. I think it is important today to remind ourselves of the depth of meaning behind the two words ‘native title’. Native title has its origins in, and is given its content by, the traditional laws of Aboriginal people. These laws are acknowledged and practised by the indigenous people of Australia, as was recognised by the High Court. It essentially comes back to the right to control access to and activities on traditional lands. It is a consistent feature of Australian indigenous laws. It is what a Pitjantjatjara man once defined as: ‘The first law of Aboriginal morality is always to ask.’

The government, and I dare say the Australian Labor Party, are proposing a legal framework that will determine the ongoing cultural and spiritual relationship that traditional owners of Queensland will be able to enjoy with their country. Our decisions today will shape the extent to which traditional customs and practices will be able to be maintained and responsibilities honoured. The views of indigenous people in Queensland are very clear when it comes to the Queensland native title legislation. As Mr
Terry O’Shane, chair of the Queensland Indigenous Working Group, recently said:

[It] will operate to remove native title holders’ right to negotiate all mineral exploration including high impact exploration, which can cause widespread and permanent damage to country and to our peoples’ cultural heritage.

The impact of our decisions on the lives of indigenous people in Queensland will also attract considerable international attention—more negative attention that we can ill afford, particularly only 14 days out from the Olympics.

It is not surprising that this follows in the wake of the finding of the committee on the Convention on the Elimination of All Forms of Racial Discrimination, which found that the federal government’s 1998 amendments to the federal Native Title Act are in breach of Australia’s obligations under that convention. The committee was careful in going through the evidence that was provided and in reaching its decision when it assessed the Native Title Act in relation to its implementation of the following principles: whether all people are treated equally and in a non-discriminatory manner, and whether the act ensures the effective participation of indigenous people in decisions which affect them. On both matters, CERD reached the conclusion that Australia had failed and that the Native Title Act does not treat indigenous Australians equally and in a non-discriminatory manner, and that the Australian government is not providing indigenous Australians with effective participation in the decisions that affect their daily lives. The guiding principles of equality and effective participation have been eroded by the government’s amendments to the Native Title Act and diluted by an ever-expanding labyrinth of state legislation. That is the question that we have to deal with today.

Indigenous Australians did not consent to the significant amendments to the Native Title Act in 1998, and indigenous people have not consented to the proposed legislative regime for Queensland. As the Queensland Indigenous Working Group has already pointed out:

The Howard government’s approval has only confirmed that the Queensland legislation meets the discredited, racially discriminatory standards of the Howard government’s amendments to the Native Title Act.

What is most concerning about the Queensland legislation is that it would further erode the ability of indigenous people to effectively participate in decisions which affect their traditional lands and their relationships to those lands and cultural identity. The Queensland native title laws will reduce the already inadequate right of native title holders to negotiate on the impacts of new mining development and would leave native title holders’ rights vulnerable to later removal by the state without Commonwealth oversight. There are no rights pertaining to registered native title claimants at all. Only those traditional owners who have gone through the courts and proved the existence of their common law native title rights have any chance of their territorial and cultural rights being recognised and respected.

The Australian Democrats and I personally appeal to all senators in this place, particularly those belonging to the Australian Labor Party, to remember the spirit of the Mabo decision in 1993 and to take the opportunity that is before them today to recognise and respect the wishes of the indigenous people in Queensland. To do so would be consistent with ALP policy and, in particular, would be consistent with their disallowance of the Northern Territory’s native title legislation. Even for the hard-headed rationalists, it does not take a grand leap in logic to acknowledge the irrationality of this law, and I am confounded by and critical of the prospect that the ALP may give it their support in any form whatsoever.

The Queensland government’s proposal is bad law. This parliament simply cannot afford to deliver another blow to indigenous Australians. There should be no doubt that the impact of our decision today will impact on indigenous people across the country. If any of the motions today will impact on indigenous people across the country. If any of the motions are successful, the bar will be lowered for all of the other states to follow suit. If the motions are all dismissed,
there is hope that the other states will see that they must do better than the Queensland government. We have failed indigenous people on mandatory sentencing. We have failed them on grounds of racial discrimination. We must disallow all the 13 motions before us today and bring an end to the consistently bad decisions that have been made for indigenous Australians in recent times. We need to go back to the Queensland Indigenous Working Group and the indigenous people of Queensland. I implore the Australian Labor Party to see sense in their position and understand that the argument of the ideals being put forward by Aboriginal people, particularly those in the gallery, should be more than just the ideals of those in power—some sense of justice should be greater than giving power to those already in charge. As the Pitjantjatjara man said so wisely, ‘Always ask’—but Mr Beattie has not spoken to these people at all.

Senator BOSWELL (Queensland—Leader of the National Party of Australia in the Senate and Parliamentary Secretary to the Minister for Transport and Regional Services) (5.06 p.m.)—I find myself in the extraordinary position—I have been in the Senate for 18 years and I have never had this happen before—where I am defending a Labor state government Premier against his enemies, the federal ALP. It is the most incredible situation I have ever been in. But politics is always uncertain, and nothing is more uncertain than native title. The Original Act’s achievements have made a few lawyers rich, provided a soapbox for what I would call the chardonnay socialists, halved mineral exploration, divided the nation and failed Aboriginal people. The Wik decision is now over 3½ years old, and we still do not have a workable system for dealing with this issue. The Northern Territory put forward a scheme which met the requirements of the Native Title Act as amended by this parliament two years ago, and members opposite knocked it back. Now we have the Labor state of Queensland putting forward a scheme that Labor in Canberra is also going to knock back, partly on the essentials. What that shows beyond doubt is that, on this issue, the opposition leader has been left floundering like a whale on the beach. The Left, through the member for Banks in the other place and through Senator Bolkus in this chamber, has exercised total control of the Native Title issue. The clear message for the Australian people is that there can and will be no resolution of this issue as long as the Labor Party is captive to the Left and the Australian Democrats hold the balance of power in this place.

The big issue here today, as it was during the long debate on the Wik amendment almost three years ago, is the right to negotiate. The claim of members opposite is that the right to negotiate is the core of native title. The right to negotiate is not the core of native title. The right to negotiate was a bargaining tool in 1993—it was a political construct. In one version, it was compensation for what was first presumed to be virtually complete extinguishment. When it was determined in line with Mabo that native title had probably been extinguished in this country by prior grant on virtually all ten-
ures, it was understood that it probably only existed on unallocated state land—almost exclusively. I can remember that debate. Unallocated state land was land on which there had been no prior extinguishing event, so that the potential was that native title holders would be the only title holders other than the Crown and should, therefore, be granted a right to negotiate. That, in Queensland, is about two per cent of the land—or a little under two per cent.

Another version from members opposite was that the right to negotiate was compensation for the validation of titles granted between the passage of the Racial Discrimination Act in 1975 and the Mabo decision. In any event, there was no discussion in 1993 of the right to negotiate being somehow basic to native title or being a core element of native title. There was no discussion on it in Mabo or in Wik. The right to negotiate was a political bargaining chip offered at the eleventh hour in 1993, when negotiations looked as though they would fall over. The right to negotiate is a political construct, a statutory construct. As such, it was always properly open to revision. The need for that revision was established by the Wik case, in which various tenures of pastoral lease in this country were not regarded as grants of exclusive possession—which would have extinguished native title—but were, according to the court, mere bundles of statutory rights that did not necessarily extinguish all native title.

This is where we had the revisionists come in. We started seeing the left wing flex its muscles over a weak and ineffective opposition leader. The right to negotiate was a political and statutory add-on in 1993, had suddenly become a core element of native title. The fact is that the move to give states and territories the right, subsequent to the Wik decision, to void the right to negotiate on non-exclusive land was commonsense. The right to negotiate was devised to apply only where native title holders were the only people, other than the Crown, with a possible interest in land. Post Wik, they might hold an interest in land along with the leaseholders—whose rights, according to the High Court in Wik, were so substantive that they overpowered the native title rights. Where rights clashed, native title rights had to yield to the rights of the pastoralist. In these circumstances, we had the position from the Left in this country that Aborigines should have a special right to negotiate, while leaseholders should not have rights any greater than those they had traditionally enjoyed.

The National Party argued in the negotiations on the Wik package that there should be equality of rights: both categories of people with an interest in the land—Aboriginals and leaseholders—should have the same set of rights. It was one of the better and more sensible outcomes of that Wik amendment package that this principle of equality was upheld by Senator Harradine, my colleague, so that, if mining were proposed on land in which both Aborigines and leaseholders held an interest, a state or territory could devise a scheme based on equality. It is that relative equality which in fact has, in the Queensland scheme, a heavy bias in favour of Aborigines, especially in relation to exploration—to which the Left now objects. It wants the right to negotiate to apply in relation to mining on all native title land—which is, in itself, a massive extension of the intended reach—and on exploration as well.

What the Left of the Labor Party is actually saying in seeking that extension to exploration is this: we are not satisfied that we have halved mineral exploration in Queensland; we want to kill it altogether. That is what will surely happen if this chamber backs the disallowance motions put up by the Democrats.

The regime put forward by Queensland is, if anything, already overly generous to Aboriginal interests. In order to remain in line with the parameters set by this chamber two years ago, it retains—where it does not have to—a right to negotiate in relation to the development phase of mining. Industry is reluctantly prepared to live with that on the basis that the scheme on offer from Queensland is at least a scheme: one that can enable some progress, however much the package might otherwise be improved upon.

But that reluctant preparedness to accept the package is based in very large measure
on the fact that the scheme—as presented to the Senate—does not have a right to negotiate on exploration. What it does have, however, is a very significant set of rights associated with exploration. We need to look particularly at this area of exploration in the regime from Queensland which is before us in terms of what the chamber does tonight.

The first thing that has to be recognised is that most exploration will be held to be high impact exploration, which would attract the right to negotiate under Labor’s position. I do believe that the Labor Party and the Premier of Queensland in this letter are saying even now, ‘We want a right to negotiate on low impact exploration.’ That is what they are saying here, and my learned colleague who is a member of the legal fraternity says I am quite correct. But even Paul Keating and Michael Lavarch back in 1993 felt that low impact exploration should not attract a right to negotiate and it is not afforded a right to negotiate under the Queensland scheme—and nor should it be. But the problem is that, on the definitions in the act, low impact exploration will be restricted to very low impact activities indeed.

You can theoretically engage in the sort of small-scale drilling operations that are the basic method of most exploration and stay within the definition of low impact—but only if there is virtually no disturbance on the surface of the land. You can clear a pad slightly larger than the drilling rig and clear a few hundred square metres around it to protect against fire and to provide a safe and practical working environment for the crew. But any form of clearing of a track for the rig means that low impact exploration becomes high impact exploration. So, as soon as a few metres of rocky ground is graded, or there is some disturbance of a gully or a creek crossing to get a rig into position, the exploration becomes high impact. That will mean that most exploration will become high impact. In fact, after this Beattie backdown, whether it is high impact or low impact, it will attract the right to negotiate.

I want to run through what the Queensland government is offering in relation to high impact exploration, because I am utterly convinced that the overwhelming majority of Australians would think that it offers Aboriginals a very fair go—in fact, some would say it is very generous. First, the applicant for the exploration permit must notify in writing registered native title bodies, corporate registered native title claimants, and the relevant representative Aboriginal and Torres Strait Islander bodies—as well as the Registrar of the national Native Title Tribunal. There are then two months for any of those groups to object in relation to the potential impact of the permit on their native title rights and interests. If there are objections, there is then a two-month period for consultation, which can be extended to try and reach agreement on how the impact of the grant on those native title rights and interests can be minimised. One or other of the applicants and any element of the Aboriginal side can, at any time, seek mediation if they are not content that the consultations are going appropriately. That mediation can be by a person or organisation jointly agreed, or it can be by the Land and Resources Tribunal, or a person appointed by the tribunal.

If there is still no agreement after consultation and mediation, the Land and Resources Tribunal must hear all objections and make a native title issues decision. The tribunal can determine that the permit be granted, with or without conditions, or that it not be granted at all. The decision of the tribunal is subject to judicial review. So there is a lot of in-built safety there for the Aboriginal people. Compensation for any adverse impact of native title can be addressed either by agreement through the consultation process or through agreement via a mediated outcome, via the Land and Resources Tribunal hearing, or through judicial review. The minister has a limited right of override, which can be exercised in the interest of the state, Aboriginal and Torres Strait Islanders, the region or the locality.

That is a very significant set of rights for the Aboriginal community. It is a set of rights that is way in excess of the rights currently available to any other land-holder in Queensland—which basically amounts to a right to object and to have objections considered by the mining registrar. I believe that they are a set of rights that the vast majority
of Australians would accept as thoroughly adequate to protect native title rights. The whole purpose is to protect native title interests, to minimise the impact on native title rights, to protect cultural heritage and to determine compensation—where that is relevant. But even that vast array of rights is not enough for members opposite. What they want to impose is a full-blown right to negotiate.

One of the very few ways in which the proposed Queensland scheme offers any hope of renewal of the once vigorous mineral related activity in Queensland is via the very fact that there is no right to negotiation at the exploration stage. If that goes, so does the minimal attractiveness of the scheme, which was put up by Mr Beattie, to the Queensland mining industry. If that very important sector of the Queensland economy loses any more confidence then the free fall that we have seen in recent years in minerals activity will become an absolute collapse and a rout. If that happens—and it is beginning to look like that—then the Labor Party in this place will have undermined one of the great pillars of the Queensland economy and the Australian economy. It will rob thousands of workers of the potential for jobs in the mining industry. It will end the potential for thousands of jobs downstream and upstream in elements of that industry and thousands more in support industries. Reducing royalty revenue from mining projects will reduce the services offered by the Queensland government.

These are outcomes which should shame members of the Labor Party. It is a party which claims support of the workers. Queensland now has one of the highest unemployment rates in this country—it is still almost eight per cent. The direct flow-on impacts on employment from the mining industry are one of the best ways the state has to try to reduce the rate of unemployment. The Queensland Premier has promised that the unemployment rate will fall to five per cent, but his colleagues in Canberra are tonight consigning his ability to achieve that target to the wastepaper bin.

Senator BROWN (Tasmania) (5.24 p.m.)—One has only to look at the hope of 1993, which was that the indigenous people of this country would at long last be recognised as the original occupiers of the country and as the original Australians and would have that right recognised in law, to see how far this nation has failed indigenous Australians. This afternoon is another episode of disgrace as far as the wind back of the rights of indigenous Australians is concerned. On this occasion, it is about indigenous Queenslanders.

The Peter Beattie government in Queensland is part of that disgrace, and it has been embraced by the federal Labor Party in its decision to go along with the majority of what this is about—that is, giving miners rights over indigenous people in this country and in particular in Queensland. Amongst this, one person in the Labor Party hierarchy has stood on principle. That is Daryl Melham. Daryl Melham was prepared to bell the Beattie cat and take a stand on principle. He made it clear to all those who are close to him and to the indigenous community that he would stand for that and that he would stand against his own party on principle and against the Beattie Labor government in Queensland on principle because it was right to do so, because that is what the party stands for and because indigenous people deserve a stand by a shadow minister in this country, and they will not get it from their own minister in the Howard government. I commend Daryl Melham. He has taken a stand for principle in an air in which principle has evaporated.

Senator Faulkner this afternoon said that we will have to wait for an ALP government to get rid of racist legislation that the parliament has serially passed against the rights of indigenous people, and yet here is the Labor Party failing to stand against the further racist exclusion of the rights of indigenous people to have a say in what is happening on their land. Of course, the winners are the miners, and that means wealth and the big money in this country. The position of their advocate, Mr Beattie, and his government in Queensland is on this matter not distinguishable from a National Party regime. We have just had Senator Boswell speaking for the National Party in this chamber with a note of
gloat about how he has to come in here and stand on the side of the Beattie government and for once congratulate the Beattie government. That is how low Labor has been led by the Beattie government and how far it has been led away from its own statement of principles as far as indigenous people in this country are concerned. So the ALP has backed off, the miners have won and indigenous people are again left to shed tears of frustration at the denial of their rights to their land.

I wonder when the day will come when the shedding of tears will not be enough, when this parliament will take part of the responsibility for a calamitous breakdown in relationships between indigenous Australia and the rest of us. This is part of a process of denial of rights, denial of a spiritual relationship with the land and denial of a whole range of values which we in non-indigenous Australia would do well to encompass. There is more to this life than making money out of digging up the country and exporting it, but it is those who have that at the front of their philosophy in life who won out this afternoon yet again. The pity of it is that it is a Labor government and a Labor set of politicians that is allowing that to happen.

We would do well to stop and consider the values which indigenous Australians retain. We would do well to think about our relationship with the land. We would do well to think about the rights of those who will come after us and the country they are going to inherit. But all that is being sacrificed in the ‘me, now, let’s get it, let’s make ourselves rich quick and let’s deny the rights of the original owners of the land’ process. A fault in all of this was the arrangement that the government and Senator Harradine made in this place several years ago, which allowed the states to take unto themselves the ability to set the terms for the right to negotiate, as it is called. It was flawed at the time, and it has been shown to be flawed now. Let us not forget this: despite the letter of commitment from Premier Beattie to Mr Beazley, which was circulated here this afternoon and which will, no doubt, be published, in which the Premier says:

I further undertake that a Beattie Labor Government will never derogate those improved statutory provisions—

that is, what little there is that is assured in this arrangement for indigenous people—he is underscoring the fact that, even if the Beattie government does stick to its word on that, no future Queensland government is bound to. There is no way we will get the opportunity again of saying, ‘This is not right. Go back and fix it.’ The inherent future that we are dealing with here will not be able to undo the damage being done now, but it will be able to compound it, outside the powers of the Senate. Those powers were handed to the states and territories and, when they were handed to the states and territories, they were handed to every government that will come down the line in the future. What a failure that compromise is now shown to have been.

Senator Boswell says that industry is prepared to live with this arrangement, and Senator Hill says that this is balance. As an environmentalist, I know what he means when he says that—that is, it is a further slide of values. It is a further giving away of the values on which this parliament should be standing up to those who are going to make money out of somebody else’s failure to have rights. If industry is prepared to live with this, what about the indigenous people? They are not prepared to live with it; they should not be asked to live with it. This is the outcome of racist legislation in this country. Only today, we see—hand in hand with this process—the country being put in the odious situation of a federal government moving to turn its back on the United Nations provisions to see that human rights are kept at an international standard in all countries. Australia is demurring, because Australia not only is in the business of selling out the rights of its indigenous people but also foresees more of that down the line.

There are bigger players behind the big parties in this place: the multinational corporations, who, in Aboriginal lands right across this country, see money to be made out of extracting resources and taking over that land. We are in a political situation where that money speaks louder than any other
value, and I am appalled by that situation. That is not a fair go, that is not wisdom and that is not balance. That is sheer greed, and that is the guiding principle behind what we are going to see as the outcome of this debate when the Labor Party supports the government in the majority of provisions of this Beattie arrangement with the miners in Queensland. The leader said that the Attorney-General has informed, consulted with, discussed with and concluded negotiations with the indigenous people. But he has not signed off on anything, I can tell you that. This has become a charade: you go through the actions and, at the end of the day, regardless of what the indigenous interests are, they have to wear it. One of these days, this country may be in the position where they will wear it no longer.

In the last few months, we have seen over a quarter of a million people walk in Sydney for reconciliation. Remarkably, 25,000 people walked for reconciliation in Hobart. In this nation’s heart, there is a mood for reconciliation. But, under the perversion of politics by wealth interests—not least the miners—we are seeing, in this centre of the democratic arrangement of this country, the trampling over of reconciliation, indigenous rights and minimal values which should be built into any honourable country moved to the reconciliation process with its indigenous people. First, they had a right to the land; then they had a right to negotiate and now, when it comes to thousands of exploratory activities—which are predicated on a total change of the land and the extraction of the monetary values from the land—indigenous people of Queensland will be found to have no rights at all.

I cannot help but think that the other base principle involved here is politics. How is it that, not so long ago, the Labor Party turned down the arrangement in the Northern Territory—and very likely will make a stand against the arrangement coming from Western Australia—but when it comes to Queensland, where there is a Labor government, there has been a cave-in? It has been such a cave-in that the ALP spokesperson, who stands on a principle that is not widely held within the hierarchy of the Labor Party—although I think many people who have less influence with the Labor Party would stand by Daryl Melham on this—has been left with no option but to resign. I congratulate him on his sense of principle. I feel that the government and the opposition have failed the nation this afternoon. They have particularly failed Queenslanders who have a sense of fair play and, most of all, they have failed indigenous Queenslanders with the approach they have taken on this matter. I want to congratulate the Australian Democrats and Senator Woodley, who has this disallowance motion before this place, which I will be supporting.

Senator MINCHIN (South Australia—Minister for Industry, Science and Resources) (5.38 p.m.)—I would like to say a few words on this debate as the Commonwealth minister for resources, as one of the architects of the 1998 legislation and as the person whose lot it was to take it through this parliament on the three occasions before it was finally passed. Today is a very grim day for Australia’s magnificent resources industry; it is also a very grim day for the prospects of Aboriginal employment in Australia’s resources industry. It is a day of utter humiliation for Premier Beattie and a day on which we can nail Mr Beazley as one of the weakest leaders the opposition has ever had. The saddest part for me was Senator Faulkner’s speech. I am sure Senator Harradine, who was so intimately involved in the very difficult process with the 1998 legislation, would agree that it revealed that the person who wrote the speech on behalf of the federal ALP—and who therefore reflects the ALP’s position—really does not, even eight years later, have any real understanding of what the Mabo decision was all about, let alone the Wik decision of 1996. It is clear that the author, and therefore Senator Faulkner and the ALP, do not understand what common law native title really is, what it constitutes, what it is all about, what the High Court actually said about it and what the relationship of common law native title is to statutory title across Australia.
It is also clear from the ALP’s position today in effectively gutting the Queensland regime that there is absolutely no understanding, or willingness to comprehend, because of partisanship, the very significant procedural rights that are guaranteed to native title claimants in the 1998 legislation. What Labor has done today is a smokescreen for completely gutting the Queensland scheme by abandoning the Queensland government’s proposed section 43A alternative provisions to the right to negotiate. There is not much left at all that enables workable procedures to operate in Queensland. The position adopted by the Labor Party today ignores the fact that section 43A provides guarantees of substantial rights on pastoral leases for native title claimants. Those rights are in fact in excess of the procedural rights of the pastoral lessees. The High Court made it clear in Mabo and Wik that the statutory titles are stronger than the common law titles. When you have a clash between the common law native title and the statutory title, the statutory title must prevail. That is the basis in essence of our whole legal system. Whether the statutory title is held by an Aboriginal person, an Anglo-Saxon person or an Islamic person, it makes no difference. In our legal system the only way it can operate is if the statutory title holders’ rights prevail where there is a clash with the common law. We did work out a system where you could satisfactorily ensure that those rights could coexist. We did it in a very sympathetic way and, with the very strong position taken by Senator Harradine on behalf of Aboriginal Australians, ensured that the statutory procedural rights available to native title claimants on pastoral leases were superior to the procedural rights of the pastoral lessees. They are rights which any reasonable person would regard as more than satisfactory in respect of proposed mining or exploration on pastoral leases where it affects the native title claimants.

The Labor Party’s support of the disallowance motion by the Democrats today in relation to the core elements of the Queensland legislation will result in all mining applications on pastoral leases in Queensland having to run the gauntlet of the full right to negotiate process which, it must be recalled, was never designed to apply to pastoral leases. A fundamental fact which Labor always seeks to ignore of the 1993 legislation, which contained this new, incredibly complex and legalistic process called the right to negotiate, is that it was based on the then clear legal position that native title was extinguished by pastoral leases. In other words, the whole foundation of the legislation was that this right to negotiate process would never apply to mining applications on pastoral leases. That is an absolute fact supported by people like Bob Collins. The right to negotiate process has, as is conceded by many, proved to be a huge stumbling block and an unworkable process in many respects for the development of Australia’s resources industry and therefore—something that Senator Brown continues to ignore—for the prospects of employment for Aboriginal people who live in regional Australia.

In my view, despite Premier Beattie’s best attempts to put a gloss on it, the outcome today guts the legislation and is a disaster for the Queensland resources industry. It is, as I said, a humiliation for Mr Beattie, who has been beaten by the left faction in Canberra. I understand Mr Melham has resigned but I must say I do not know why. I think he has had a considerable victory in ensuring that the section 43A provisions have been wiped out.

The fact is that some 50 to 60 per cent of Queensland is covered by pastoral leases or reserved land that would have been covered by this section 43A determination. It is also a fact that about 63 per cent of Queensland is land claimable under native title and about 90 per cent of that has been claimed; in other words, 54 per cent of Queensland is under claim. Together with the fact that over half of Queensland is pastoral lease land, what has happened today really will be a complete disaster for the Queensland resources industry.

I think the future looks extremely grim for the resources industry, not only in Queensland but Australia wide if this process continues. Exploration has, in effect, collapsed in this country. It is going overseas at an increasing rate. A recent world risk survey of the resources industry and of the 20 major
nations that are prospective for minerals rated Australia equal worst for land access; that is, 20th out of 20 for risk in relation to land access. There are many other countries that are becoming much more prospective and willing to welcome investment in their resources industries and that are aggressively competing with Australia. We cannot assume that the Australian resources industry will continue to grow in the face of this increasing difficulty to access land.

That has enormous implications for Australia’s economy and for the living standards of every single Australian, including those in Sydney and Melbourne. But more particularly and I think more tragically—and as recorded only recently by the Queensland Labor Minister for Mines and Energy—it has implications for the prospects for employment of Aboriginal people in regional Australia. For those Aboriginal people who live in regional Australia, the most prospective area of employment has to be the resources industry. There is no other industry in regional Australia that is likely to give Aboriginal people prospects for worthwhile jobs and employment than mining. By what can only be described as feelgood approaches of the kind that we are seeing in the Senate today, you are actually employing what has been described as the kindness that kills. It is the ‘kindness’ that kills employment prospects for Aboriginal people in regional Australia. As Mr McGrady was reminding me only the other day, the Century mine, which was so aggressively opposed by so many on the left of Australian politics who think they are doing good, has fortunately proceeded. It has resulted in magnificent employment prospects for the local Aboriginal people who are engaged not only directly in the mine but also in businesses supporting and servicing that mine site.

As minister for resources in this country, I believe that, if this is a precedent for what is likely to happen with Western Australian legislation and for the future of any legislation in the Northern Territory, our critical mining states, this country faces very grim prospects if this continues. While the mining industry today is healthy, these are based on mines that are operating now and that had their approvals granted many years ago. There is very little coming down the stream. What are our children going to do for the sustenance of our standards of living and the health of our economy if we do not have exploration activity that discovers new prospective mineral deposits? It will simply cease to exist as an industry in this country. This is the one industry where we are world leaders. It is progressively being undermined and potentially destroyed by this action.

I close in commenting on what appears to be the foundation for the Democrats’ ideological opposition to these state regimes. They have the argument that, because as a matter of fact democratically elected governments in the various states can alter these regimes in future, therefore even if they now satisfy every test that could possibly be applied to them, they should be struck down by this Senate—contrary to its whole foundation, which is as a states house. Their opposition seems to me extraordinary. It ignores the absolute fact that the state laws cannot legally or validly give native title claimants lesser rights than those set out in the Native Title Act of this parliament do. As a result of Senator Harradine’s activities and work in this matter on behalf of Aboriginal people, it is a very substantial set of rights that cannot be abrogated by any state parliament or government. It sets a very high minimum standard which all state legislation must at all times comply with, and no amendments can ever reduce those rights below the standards set by Senator Harradine in his work in 1998. So the Democrat argument has absolutely no foundation. All they are doing is contributing to a very sad day for the Australian resources industry.

Senator HARRADINE (Tasmania) (5.50 p.m.)—I am sorry that Senator Faulkner and Senator Brown are not here, because I detected from their submissions that they needed a bit of instruction as to what it is all about. It seemed to me that they were saying that the issue of native title rights and interests is just handed over to the states. Point No. 1: what are we doing here debating the matter if it has been handed over to the states? One of the things that I stood for and would not give away was that, because of the
constitutional provisions relating indigenous persons, the Commonwealth parliament and the Commonwealth government needed to have a telling say about the matter. That was preserved, for example, by the state alternative schemes under section 43A which would require the approval of the federal Attorney-General by way of an instrument that was disallowable in this parliament.

I think I should put down a few points on record so that they can look at it and not make the same mistakes next time. If you recall the last occasion, the legislation came before us in the same form and it was going to be a double dissolution trigger. Let me remind the Senate of the atmosphere at that time. What would have occurred is that there would have been a race-based double dissolution election. First of all, race relations in this country would have been set back 10 or 15 years. To prove the issue, let me remind the Senate that at the next state election in Queensland 20 per cent of the votes went to a party whose views on these matters are certainly not mine and certainly not those of indigenous people and indigenous organisations.

A total of 11 members were elected to the Legislative Assembly in Queensland. Multiply that throughout Australia and what would you have had? Put yourself in my position at that particular time. Having said that and while that weighed on my mind at that time, I believed that on the key sticking points the interests of the indigenous people of Australia were absolutely upheld. The principal sticking points following the collapse of the debate before Easter in 1998 were the threshold test, the Racial Discrimination Act, the sunset clause and the right to negotiate. On each of those items my 10-day negotiations with the government resulted in a win for the indigenous people. I ask anybody to get up and say that it did not, and to prove it.

On the question of the threshold test, the government’s registration test for native title holders was in fact changed as a result of the negotiations to enable children of the stolen generation and victims of locked gate practices to have their native title claims registered. This allows those people who were previously locked out full access to the benefits of the legislation. Senators who were interested in the matter will recall that the government did not have this legislation in a position to be read and construed by reference to the Racial Discrimination Act. As a result of the negotiations, the government eventually agreed to the Native Title Act being read and construed by reference to the Racial Discrimination Act. You will recall that the government had insisted that there be a six-year sunset clause, after which time no indigenous group could lodge a claim under the act. The provisions of the act allow for a much easier mechanism than trying to have these matters determined under common law. On my insistence the government then scrapped that sunset clause. I give full credit to the government for agreeing to those particular matters. It was not easy, as of course Senator Minchin and his advisers know. They were very difficult times, and some very free and frank discussions were held.

I turn to the last matter: the right to negotiate. Let me put this on record: we have heard a lot about the right to negotiate, but most of it is very ill informed, with due respect. On the question of the right to negotiate, registration gives native title claimants access to the provisions of the act, including the right to negotiate with other title holders. The government was opposed to any right to negotiate for native title claimants on pastoral leases granted by the states and territories. It wanted to have so-called ‘equality of procedural rights’ for pastoralists and native title claimants. I maintained that the nature of the titles and interests were not equal. There could not be such equality unless the nature of native title rights was recognised as unique and their interests as different. On the basis of that I was able to secure what is in effect a right to negotiate under state schemes. You can call it what you like, but in effect that is what it is. I will come to that question as it relates to this motion in a minute.

These are some of the requirements of the scheme under section 43A: notification of a proposed act, for example mining, to native title holders and claimants—that is point No. 1; consultation with a view to minimising any effect; mediation; and then, in the event
of disagreement, arbitration by an independent person or body. If favourable, that decision by an independent person or body can be overturned only by the relevant minister after consultation with the Minister for Aboriginal and Torres Strait Islander Affairs and only in the public interest. And all of that is to be subject to judicial review to ensure procedures are properly and fairly carried out. Any compensation must be on just terms decided by an independent tribunal. The state scheme requires the approval of the federal minister and, as I have said, the approval must gain the support of the Senate. If not, the Native Title Act federal right to negotiate will apply. I do hope that honourable senators will look at that before they next enter the debate, so they are more informed as to what occurred on that occasion.

In respect of the matter at hand, it was indicated to me by the Labor Party whip that Senator Faulkner wanted to table a letter from Mr Beattie. I asked for a copy and was generously given a copy as Senator Faulkner was speaking. It is worth while reading out what is contained in that letter to Mr Beazley from Premier Beattie. The letter reads:

The Senate will today consider a motion to disallow the instruments needed to establish a State based Native Title regime for Queensland. In the interests of an acceptable outcome in the Senate today, I wish to make the following unconditional undertakings. In the event of the Queensland Low Impact Exploration Scheme being approved in the Senate, the Queensland Government will before the end of this year, amend that Scheme to provide substantive and procedural rights and acceptable definitions of the nature of low impact exploration that are no less favourable to indigenous interests than those in the New South Wales scheme recently endorsed by the Federal Attorney General. I further undertake that a Beattie Labor Government will never derogate those improved statutory provisions.

Then it goes on:
I intend to pursue the negotiation and implementation of ILUA's—

indigenous land use agreements—to deal with both the backlog of applications and future applications for exploration permits in Queensland and my Government will meet the necessary resourcing implications of achieving that outcome.

By the way, if this legislation, as amended in 1998 by the arrangements between the government and me, had not been approved, the ILUAs would not have been there. Let us face that. It is quite clear. You hear all about what happened in 1998 in this deal—here is the Premier of Queensland talking about the ILUAs, and I have heard the Labor Party and in fact the Democrats talk about what great things these ILUAs are. They would not have been there but for us. But I digress.

The substantive part of that letter talks about:
... acceptable definitions of the nature of low impact exploration that are no less favourable to indigenous interests than those in the New South Wales scheme recently endorsed by the Federal Attorney General.

First of all, that is an admission that in the view of the Premier of Queensland they are substantive. One wonders why he did not put legislation through the Queensland parliament which did have regard to certain standards. These standards were the result of negotiations in recent months between the federal Attorney-General, the New South Wales government, Aboriginal interests and other title holder interests. But the Premier of Queensland has known—he should have known—for a year at least that unless the security issue was completely guaranteed the Senate would be reluctant to not disallow an instrument from the federal Attorney-General containing the provisions of Queensland legislation. And I myself have mentioned this.

The problem really is this: a state government can send to the federal Attorney-General a scheme which is a Rolls Royce scheme so far as indigenous people are concerned. When it came to us we could give it the tick by not disallowing it but, in the next week, the state government concerned could change it. Unfortunately, under the legislation they do not then have to send it to the federal Attorney-General for a tick and it would not come to the Senate or the parliament. That is a problem that needs to be addressed and, in a way, the Queensland government is trying to do that. But it should, in the last few months, have taken the thing back to the parliament in Queensland and
made sure that the security issue was completely attended to. I have not seen anything other than this. I have not been contacted by the Queensland government, so I am in the dark. What I have before me does not represent security. I am sorry, but it does not represent security unless somebody can prove otherwise. I have made my position perfectly clear: I am not prepared to vote for an alternative state based scheme unless that position of security is made absolutely clear. I do feel that it might have been desirable for the Queensland government to have thought about that and acted before it proceeded as it has done.

Senator BRANDIS (Queensland) (6.09 p.m.)—Today is a catastrophic day for the Queensland mining industry, it is a catastrophic day for the Queensland economy and it is a day of abject humiliation for the Premier of Queensland, Mr Beattie, and his government. On 20 April this year, Mr Beattie spoke of the consequences of what we now face this evening in the Senate—that is, if the Queensland state based scheme were to be voted down or substantially compromised. He said:

A defeat—

of this legislation—

will be the most savage blow for both mining and indigenous communities in more than a generation.

He went on to say:

No-one has a better, more workable alternative to our legislation and after an impasse of more than three years it is essential we gain a positive outcome now.

Those are not the words of a coalition politician; they are the words of the Premier of Queensland, Mr Beattie—and how right he was. It is a terrible thing that, as a result of pressure from the national left within the Labor Party, the Queensland legislation either will be entirely voted down in this chamber tonight or, to the extent to which any of it is to remain, will be token pieces of legislation subject to undertakings given by Mr Beattie to Mr Beazley, the leader of the Labor Party, which will not remotely resemble the original Queensland legislative scheme. Let it be remembered that the Queensland legislation which has been destroyed by the federal Labor Party tonight was legislation so shocking to the conscience of the Labor Party that every single member of the Labor Party in the Queensland state parliament voted for it—every last one voted for it.

The legislation was introduced into the Queensland parliament by Mr Beattie on 21 October 1998. He told the Queensland parliament on that occasion:

This is an historic piece of legislation that could well become a precedent for other states. This legislation is the culmination of three months of intense negotiation with all stakeholders; the only jurisdiction in Australia where all the stakeholders have been involved in this process. This bill provides certainty, it provides a balanced, practicable, workable approach that is fair and drives jobs. But more than any of that this is an honourable and a principled outcome.

Mr Beattie on that occasion, on 21 October 1998, went on to say:

Every parliament and every government has its important milestones. This is one of ours.

Mr Beattie spoke of the legislation as being the fulfilment by his government of:

... the historic opportunity ... to end the division and the suspicion that has characterised this debate for too long. The time for blame and recrimination is over.

What we on this side of the chamber—and I am sure all Queenslanders—are looking for is a decisive lead from government on how to accommodate the legal reality of native title in the conduct of everyday business. How right Mr Beattie was then and how wrong, in a policy sense, in an economic sense and in a moral sense, too, is the outcome which has been displayed to the Senate today.

The Queensland government issued a press release at 3 p.m. Brisbane time today in which Mr Beattie tried to cover his abject humiliation, as if he were retrieving some semblance of honour from the negotiations with the national left of the ALP. Anyone who reads that press release will see what a sad, sad attempt at catch-up politics it was. The outcome of the negotiations—and Senator Faulkner told us earlier this afternoon that these were the negotiations at which Mr Beattie and Mr Beazley had stayed
long at the negotiating table; that was his expression—is that the whole native title scheme put forward by the Queensland government and supported by every one of its state members has been gutted and ruined. As recently as last week Mr Beattie was urging his federal colleagues that it was an integral part of the future of the Queensland mining industry. There will now be instated a full right to negotiate in respect of mining and high impact exploration on all tenures. Insofar as the Queensland statutory scheme was inconsistent with that, the Labor Party in this place will vote to disallow it in the course of this evening. In relation to low impact schemes, in the letter tabled by Senator Faulkner earlier in the afternoon, Mr Beattie gave an undertaking to introduce extensive amendments to it so as to deprive the efficiencies of that part of the scheme of any practical effect.

I agree with the observation of Senator Minchin earlier. I, like Senator Minchin, cannot begin to understand why Mr Melham felt the need to resign from the shadow ministry on this issue, because the left and the ideological point of view which Mr Melham and his colleagues represent appear from my point of view to have had an almost complete win, with the victims being the people of Queensland, those who seek their employment in the mining industry and those who have an interest in seeing the Queensland economy continue to prosper.

Honourable senators, this is not an academic argument. When you decide from an ideological position to destroy or substantially damage one of the great industries in the land, that is not an academic discussion. What the Senate is proposing to do tonight is one of the great pieces of economic vandalism in Australian history. Let me remind honourable senators, if they need reminding, of the importance of the mining industry, in particular in my state of Queensland. In 1999-2000, the mining sector represented 38.8 per cent of all export earnings sourced from Queensland. It was the largest generator of export income of any industry group. The mining industry represents more than five per cent of the gross state product of Queensland, almost a quarter more again than the agricultural sector. It employs directly 19,300 people in Queensland, many of them Aboriginal people, and it employs indirectly in excess of 100,000 people.

In the last couple of years, we have seen unemployment in Queensland flat-lining at about eight per cent. Queensland is unaccustomed to being the basket case economy in mainland Australia, but that has been the position over the last two years. It has made a mockery of the election pledge of the Premier, Mr Beattie, to achieve a five per cent unemployment target. As anybody who has the faintest comprehension of the Queensland economy will tell you, the principal reason—but not the only reason—for the stagnation of the Queensland economy over the last couple of years has been the paralysis of the mining industry while it has waited for this legislation to be approved. Now, notwithstanding all the attempts of the Queensland Premier through the byzantine structures of the Labor Party to get factional approval for this legislation here tonight, it is being gutted and it is being destroyed. Nobody knows where the Queensland mining industry will go from here. All we know is that the paralysis will continue and the stagnation will continue. When Mr Beattie has to face the people of Queensland at the state election next year, he will have only his Labor colleagues to blame for the continuing stagnation of high unemployment in Queensland. This is bad policy. It is disgraceful politics. It is economic vandalism. And this is a very, very dark day for the Queensland people.

Senator Harris (Queensland) (6.21 p.m.)—In rising to speak in opposition to Senator Woodley’s disallowance motion, I would like to bring to the attention of the chamber that I do have mining interests. The debate we have before us relates to the state of Queensland putting to the Commonwealth government a series of alternative procedures for mining. What seems to be lost in the vigour of the native title issue is that in Australia minerals are reserved to the Crown. In other words, they are owned by the Australian people. They are held in trust by the government. Yes, they do belong to Aboriginal people. They belong to farmers. They
belong to people who live in the cities. They are an asset of the Australian people. So when ministers, members of the House of Representatives and senators say that one group of people’s rights are being removed to the disadvantage of the other, that is incorrect. In actuality, the rights are owned by all Australian people.

The granting and the use of land is a state right. The Constitution clearly sets that out. When our founding fathers put together the Australian Constitution, which resulted in the Commonwealth being established, they did not release to the Commonwealth government the appropriation of land. By default, in the Native Title Act the Commonwealth government now dictates to the states how they will appropriate the use of land, including mining. It is interesting to note that senators, different from members in the House of Representatives, are there to represent the state from which they were elected. It is quite interesting to see a state government putting forward a set of regulations and the possibility of certain senators who represent that state and the party in government in that state voting it down.

Along with Senator Ridgeway, I would also like to recognise the Queensland Indigenous Working Group representatives who are here this evening in the gallery. Going back to 1996, the Queensland government placed a freeze on the issuing of mining leases for all mining tenure. If they thought that was going to bring pressure on the federal government to resolve the issue, clearly it has not. We are still in the same situation in Queensland as we were when the Wik decision was made. I would like to take a very brief moment to speak to some of the issues leading up to what is called the Wik decision.

The Mabo cases were initiated by Eddie Mabo. The first case is one that is not very well spoken of in the media or in any debates. To paraphrase it fairly simply, in the first Mabo case Eddie Mabo tried to take control of the garden plots on the island. He claimed to be adopted by Mr and Mrs Mabo. So he was not their biological son. He lost that case and, through a series of interesting situations while working as a gardener at the JCU in Townsville, spoke to Nugget Coombs, Henry Reynolds and a gentleman by the name of Peter Jull. They were the people who suggested to Eddie, having lost the initial case, ‘Why don’t you claim the whole island?’ That brought forward the second Mabo case.

I would like to place very clearly on the record some distinct differences between the Aboriginal people who lived on that island and mainland Aboriginals. The Aboriginals on that island had a very clear and well-known history and a definition of ownership of land. Even through the government administrators, they always continued to administer their own land and their own island. So, in principle, I have no problems whatsoever with the Mabo decision. The problem that I do have is when that is transferred to the mainland where, to a large degree, there is far less rigour in identifying land and ownership.

The other problem with the Native Title Act is the differences between the two groups of people. It is best articulated by using the word ‘law’. To Aboriginal people, their law is lore. It is handed down from father to son, from mother to daughter, and is verbal. When you compare that with the English process of law, which is written down and becomes a precedent—in other words, a ruling that can be referred to—we have two totally different processes of law. In each instance, in their own groups they are both applicable and correct—law as the English and Australian process and lore as the Aboriginal way of life. The problem is that they are like oil and water—they do not mix—and we have this battle when trying to reconcile law with lore.

I believe very strongly that we are approaching a period where the wedges that have been so decisively and effectively driven between the Aboriginal people, the pastoralists and the miners of this nation are going to be kicked out. We are seeing in Queensland, particularly in what I phrase the ‘non-corporate mining area’, a sense of cooperation with the indigenous people, who I call TOs—traditional owners. I do not use that term lightly, and I use it with a great degree of humility and respect. It is wonderful to walk around with TOs in their areas and
actually hear them articulate that they would like funding from the Commonwealth government to assist them to teach miners how to recognise their artefacts and sacred sites. I believe that that is the epitome of how the Native Title Act should be used: in other words, we should depoliticise the process. We should throw party politics out the window and sit down as Australians and resolve the issue.

Senator Woodley, in moving his disallowance motions, has done it in a blanket sense, right across the regulations. It is a shame that Senator Harradine, Senator Brown and our Labor colleagues are not here, because I would like to take just a moment to try to articulate to them what they are actually doing. It has been indicated by the opposition that they are going to oppose motion No. 4. That motion is with regard to a mining area that is about the size of this chamber. It is 100 metres by 100 metres. It is a mining area that can be operated only by hand—there is no machinery. With the exception of a small electric jackhammer, the whole process is carried out by hand. We are going to exclude today, if the Senate votes that process down, the livelihood of probably a considerable number of husbands and wives. We are not talking about corporate mining; we are talking about squashing Aussie battlers. If we go to motion No. 11, we find exactly the same thing. We are going to remove the right of a person to operate a mining claim of an area measuring 100 metres by 100 metres, which is worked by hand with no machinery, and there is no money going from it to any overseas multinational corporations or anything like that.

There has been a reference made to the Wik decision. Fellow senators and Australian people, that is a myth. The Wik decision has not been made. The Wik decision that was challenged in the High Court was challenging Justice Drummond’s original decision that pastoral leases extinguished native title. He did not make a decision on the Wik case. There are 13 properties involved in that decision. They are still under negotiation today. I can drive to the Wik area in about eight hours from my place. It is very interesting that the Wik claim itself originated from a gentleman by the name of David Byrne, who is as white as I am—

Senator Chris Evans—You are more grey than white!

Senator HARRIS—Okay! He flew into Kowanyama with a set of documents and asked a group of people to sign them. Amongst the people was a gentleman by the name of Holleroid and two of his nephews. It is interesting to note that they are full-blooded Wik people, but what is more intriguing is that one of the properties that they claimed belonged to their cousin and nephew. They did not know when they signed that original document that they were actually claiming their cousin’s and nephew’s land respectively. That is how much input these people had in drawing up those documents. Why is that important today? It is important because the 10-point plan that we have is falsely based on a Wik decision that has not been made. Senator Harradine raised the point that, if it were not for his negotiations with the government, we would not have indigenous land use agreements. Indigenous land use agreements, I believe, particularly for non-corporate mining, will become the way of operating mines in Queensland.

As I said earlier, I travelled the whole of the state and spoke to approximately five of the six land councils. It is also interesting to note that when the Northern Queensland Land Council responded to 28 or 29 notices it cost them $150,000. They had no option because the legislation said, ‘If you do not respond, you have no native title over those areas.’ So we have 28 miners who want to go out and mine, and the land council is subjected to $150,000 worth of legal costs. They are sitting down and speaking with the mining industry. They are talking about ILUAs, but ILUAs are only one part of this process.

The resolutions also come from an exhaustive consultative process between the traditional owners, the indigenous working group—who are here with us—and the miners. They do represent a balance, I believe, of respecting the rights of the traditional owners but also affording Queensland the ability to get out there and add to the economic wealth
of Queensland and Australia. In closing, I oppose the Democrats disallowance motion and I fully support the Queensland government’s regulations.

Senator CHRIS EVANS (Western Australia) (6.38 p.m.)—I rise to support my leader, Senator Faulkner, in outlining Labor’s position on these disallowances. I generally agree with Senator Woodley on a whole range of issues. On this occasion I find myself agreeing with him on six out of 13, which is a bit less than his normal batting average. Nevertheless, I think that reflects a common view about some of the propositions in relation to the native title propositions for Queensland.

This debate has been characterised—as the native title debates always are—by full-blown rhetoric. Native title seems to bring out the rhetoric in all of us, and I have been guilty of it myself in the past. That shows that there is a lot of passion about the issue on all sides of the debate, but we do need to concentrate a bit more on what is at stake here. As many speakers have indicated, we have been debating native title since 1993. It was an issue that came onto the agenda just as Senator Woodley and I entered the Senate and it was, from my point of view, a very important debate. The issue of native title has certainly become one that I and many of my colleagues are very much committed to, because it has become a very important aspect of our recognition of Aboriginal people and the expression of their rights. Allowing them to express their rights to land is obviously very important to them and, I think, important to the future of Australian society.

Labor will vote to disallow a number of the propositions in accordance with Senator Woodley’s disallowance motion. We will be looking at disallowing the packages that relate to sections 43A and 26B. However, we will oppose the disallowance in relation to a couple of other packages, which relate to section 26A and section 43. The Labor Party at a federal level have been in negotiation with the Queensland government for some time to try to achieve an acceptable outcome for the progression of mining and other activity in that state, while protecting Aboriginal rights to native title and the rights that we enshrined in the Native Title Act in this parliament. The Labor Party have always accepted the possibility of state based regimes being erected, and we have been prepared to support that development in Queensland as part of the resolution of native title issues in that state. So part of what we do by opposing this disallowance is to allow for that regime to be put in place.

But it has been made clear by Kim Beazley and Senator Faulkner that Labor have rejected those propositions that basically sought to remove the right to negotiate on mining and that we thought sought to diminish Aboriginal interests and rights. We will support those disallowances, because we do not find those propositions acceptable. We do not think they meet the tests set down by this parliament. I am surprised that the Attorney-General found himself able to give a tick to those propositions. In any event, the final part of the process was for this Senate to consider those propositions, and we will be voting with the Democrats, hopefully to defeat those that I have outlined.

However, as we all know in this place, the disallowance motion is a very blunt instrument. Like many other senators, I have been frustrated on many occasions when I did not actually want to disallow a resolution but wanted to make a small amendment or achieve a partial change to a proposition. That is not a luxury open to us. We are not able to do that. We have the choice of either voting for a disallowance motion or not, and the regulations either disallow it or not; it is not amended. That has always been a blunt instrument. So Labor have been in the position of trying to work through how we can respond to Senator Woodley’s disallowance and get the best possible outcome, given all the circumstances in Queensland.

Our concerns have remained about a number of the propositions, and we have resolved those concerns in some instances by determining to vote with the disallowance motion, to strike down those propositions under sections 43A and 26B. But, in terms of the concerns about section 26A proposals of the state government, we have sought to work with the Queensland state government to achieve a better outcome. We have sought
to ensure that the state based regime may proceed, that some of the concerns that have been expressed on behalf of the mining industry and others can be expressed by the state government quickly, thus allowing them to get on with the business of resolving some of those issues without, as I say, reducing Aboriginals’ entitlements to express their rights to native title and to utilise their rights to negotiate. We have resolved our concerns on those instances by negotiation directly with the Queensland government. That has therefore allowed us to develop a position whereby we will not support the disallowance in relation to the 26A provisions.

We have from the Premier of Queensland his unconditional undertakings in relation to those matters, and we take those undertakings in good faith. Therefore, we will be reflecting that in our position in the parliament. I point out that I think, at the end of the day, we will end up with a 26A regime in Queensland that is acceptable to the majority in the Senate. I think we will end up with a regime with 26A which is similar to that of New South Wales, which I hope this Senate will approve of and which I think will properly protect Aboriginal interests. Those, as I say, were negotiated in good faith by Premier Beattie and Mr Beazley. Those arrangements have been agreed to. The letter was tabled by Senator Faulkner for the information of the Senate. On that basis, Labor will not be supporting the disallowance in relation to the section 26A propositions.

I do think though that the government must decide what its rhetoric is on this, because tonight we have had a couple of different versions. We started off with Senator Hill saying that it was a sign of Beazley’s weakness that he had somehow capitulated. He then was followed up by Senators Boswell and Brandis, who said it was a Beattie backtrack, as he was the one who had been weak and folded under pressure. It is a sign that this government is not interested in the issue; it is interested in the politics. The government wants to seize immediately on any decision we make so as to run the politics—and it depends on whether its priorities are the politics of Queensland or the politics of the national government as to how it seeks to portray the position adopted by Labor on this issue.

I think Senator Brandis then went on to do a very good impersonation of Premier Court. I have not heard anything quite so hysterical since Premier Court was going on about people’s backyards. He played that for all it was worth politically as well, but it has done him no good. The community is much more sophisticated about native title. People are beginning to understand much more about native title.

Senator Lightfoot—The Miriawung Ga-jerrong decision did take—

Senator CHRIS EVANS—They have, Senator Lightfoot, failed to respond to that constant campaign of fear and loathing and those that try to divide. The community is recognising—as I think all sensible parliamentarians are starting to realise—that it is a question of honest and good faith negotiations among parties that will bring a resolution to native title issues throughout the country. The whole industry, Aboriginal groups, and policy makers more generally have come to understand that the best way forward to resolving many of the issues of native title is via negotiation.

We had the good news this morning of the successful conclusion of another native title negotiation in Western Australia. That is a sign of what can be done with goodwill. Unfortunately, we have had a range of governments, particularly in my home state of Western Australia, that have sought to frustrate that process. Rather than facilitate it, they have actually sought to frustrate it—to stop parties negotiating in good faith and to put legal and other impediments in the way of people trying to reach solutions through
negotiation. That is not in the economic interests of Australia. I really fail to understand why they continue to do that.

Senator Lightfoot—It is no credit to you that it was—

Senator CHRIS EVANS—We have evidence of the state government trying to stop development in Broome because of your failure. We must also remember that this government has been in power for 4½ years and the state government of Western Australia has been in power for seven or eight years—but it is always Labor’s fault; it is always somebody else’s fault that native title issues cannot be resolved. After a couple of goes at it, the excuses used by this government and by state governments are starting to wear pretty thin with people. I do not think it is the potent electoral issue, in terms of the wedge politics that have been used, that some people think it is—because people are beginning to wake up to it. They have heard it all now for five or six years or longer. They have heard all this debate about how the mining industry has ground to a standstill through unreasonable Aboriginal demands and the cumbersome and unwieldy nature of the Native Title Act. That violin has been played over and over again, and people are a bit cynical about that—as they are about the motives of some politicians who continue to run those lines.

We have had to deal here with a state government proposition which we had some concerns about. The Labor Party have gone about trying to negotiate an outcome which advances the economic interests of Queensland and the ability of Aboriginal people to assert their native title rights in Queensland. We think we have got the balance right; others obviously have other views. That is a judgment call. But the proposition we advanced today does allow Queensland to get on with the job but also ensures that there is protection of indigenous native title rights and that that protection is consistent throughout the country.

In closing, I want to make a couple of short remarks about the resignation of my colleague Daryl Melham from the position of shadow minister. I have a great deal of respect for Daryl and his contribution to Aboriginal affairs since he has taken up the portfolio. In fact, even before that, he had a keen interest in the 1993 act and the debate, mainly because of his legal background. Those who know him know that anything Daryl has an interest in he pursues with enthusiasm and vigour. He has pursued his role as shadow minister for Aboriginal affairs with enthusiasm, with vigour and, I think, with sensitivity. He has attempted to be a force for bringing people together rather than dividing them, and I think that is to his credit. I am sorry he saw fit to resign his shadow ministry over this issue. That was obviously a decision for him, but I wish he had stayed, because I think he has a contribution to make and that the Labor Party contribution on Aboriginal affairs would be enhanced by his contribution. But no doubt he will continue to contribute as a backbencher.

I do wish to place on the record my appreciation of the work he has done, my support for the work he has done and the role he has played and my best wishes. I think it really is interesting that Daryl has chosen to take that course and handle himself with such dignity, given what we have seen in recent times in terms of the performance of ministers when faced with some conflicts of interest. There has not been the same commitment to principle that Daryl has shown. I conclude my remarks there. I think the Labor approach to this is a balanced one and will allow a good outcome in Queensland, and for that reason we will be voting as I have indicated.

Senator COONAN (New South Wales) (6.54 p.m.)—I seek leave to incorporate in the disallowance debate a speech of Senator Eggleston’s and notes of Senator Crane’s.

Leave granted.

Senator Eggleston’s speech read as follows—

The 1993 Native Title Act which was conceived in a flush of idealism and high principle by the Keating Government failed because the former ALP Government failed to provide a satisfactory process for establishing the legitimacy of claimants having the right to negotiate and then the determination of these claims.

The failure of the Keating Government legislation is demonstrated by the fact that of the hundreds of claims lodged since the legislation was intro-
duced, only 4 claims have been determined, the most recent being one in the Gascoyne region of Western Australia yesterday, the Nharnuwangga, Wadjari, and Ngarlawangga claim.

Among the problems arising from the 1993 Native Title Act were multiple claims, because there was no adequate threshold for the right to negotiate, no limitation on the number of claims that could be made on the same land and there was no time limit on the lodgement of claims. This meant, in effect, that native title claims could be made forevermore, which underlined the need for a sunset clause to be included in the legislation.

However, the key problem in the Keating Native Title legislation was the low threshold of proof required by a claimant group that they held some legitimate claim to the land under question and had a “right to negotiate” that claim.

As the former President of the Native Title Tribunal, Justice Robert French said on the 10th of March 1997:

Difficulties in the operation of the right to negotiate procedure relate to the ease with which a claimant can be registered and the absence of any requirement that the claimant or claimants consult with the relevant group of native title holders about the lodgement of the claim or any agreement that may be made under the procedure for which the Act provides. Overlapping claims ... are common place. A significant number of claims are brought outside the framework of official representative Aboriginal bodies.

As a result of the morass of problems caused by the Keating native title legislation with its resultant endless claims and counter claims, mining exploration in this country has all but come to a halt and many developments have had to be deferred or abandoned. This includes everything from tourist projects, industrial developments and great agricultural developments such as the second stage of the Ord River Irrigation Scheme, which is the subject of three competing native title claims.

The second stage of the Ord scheme was to provide an extra 65,000 hectares of irrigated farm land, and would have transformed the economy of the East Kimberley providing many jobs for Indigenous people, so enabling them to have a better socio-economic status, and the dignity of work, if they wish to avail themselves of it.

The Howard Government, while accepting the validity of the concept of native title, sought to establish a new legislative structure which had the object of providing an orderly mechanism for expeditious resolution of native title claims. The new structure was the so-called Wik Legislation which in recognition of Justice French’s views provided for a higher threshold for claimants to meet before having the right to negotiate a title claim and devolved the question of determination of native title to the States, which under our Constitution, have responsibility for land title.

The Wik legislation was widely acclaimed because it was believed it would bring order and rationality and most importantly certainty to both sides of the determination of native title claims. The Wik legislation provided for the State native title regimes to be subject to disallowance by the Senate.

I have a clear memory of Senator Woodley saying in this Chamber at the end of the Wik debate that at the passing of the Wik legislation was not the closing of the book but merely the ending of one chapter in the matter of native title legislation. To me Senator Woodley seemed to be warning ominously that the return of the State regimes to the Senate for possible disallowance might not be trouble free.

My instinctive fears proved to be well founded when last year the Democrats rejected the Northern Territory native title legislation. This occurred even though the Northern Territory legislation was the product of a long process of consultation between all stakeholders. In view of this, I found it disturbing in the extreme that the Senate disallowed the Northern Territory legislation and I find equally disturbing today that the Democrats decision to seek disallowance of the entire Queensland package.

For a Western Australian—a state of which over 80% is subject to native title claims and which has borne the brunt of the devastating impact of the 1993 native title legislation—the positions of the Democrats and the ALP today are a disquieting warning of what may befall the Western Australian Native Title legislative regime when it is brought before the Senate for consideration of disallowance.

What I see ahead is the end of any prospect of rationality, the end of any prospect of order, and the end of any prospect of certainty in matters to do with native title claims. Instead, I can see a situation developing where there will be no prospect of expeditious resolution of native title claims, where developments will be held up, where there will be no further development of the mining industry because the prospectors and exploration companies will have gone off-shore. Perhaps more importantly from the point of view of the broad Australian community, there will be frustration, anger, increased racial tension, and no winners.
In the end, unless there is a recognition of the need to have a rational, orderly and certain legislative structure for the determination of native title, the whole Australian community will be the losers.

The solution to this prospect lies here in the Senate. I would urge my colleagues in the ALP and Democrat benches to think carefully about the consequences for Australia before voting today because there is much at stake for our nation.

Senator Crane’s notes read as follows—

Key issues for consideration by Senator Crane

In 1998 this Parliament passed amendments to the Native Title Act that would enable States and Territories to, by way of legislation, establish alternative regimes to deal with the future grant of exploration, mining and land titles.

The Northern Territory Government has already passed legislation that was determined to comply with the amended Native Title Act. This determination was subsequently disallowed by this house in a blatant political move by the opposition.

Today we are considering a series of determinations made by the Attorney General in respect to a legislative regime that has been passed by the Queensland Parliament.

The Queensland laws are complex and differ significantly from the legislation that has been passed in the Northern Territory and in my state of Western Australia.

The Queensland legislation is best described as a compromise on a compromise. The amended Native Title Act provides for the States and Territories to replace the "right to negotiate" in respect to land where native title is a coexisting right, such as pastoral leases, with a "right to consult".

The Queensland legislation does not provide a right to consult but in effect re-establishes a right to negotiate for high impact exploration and developmental mining.

The opposition will not even support this greatly watered down version of an alternative pastoral leasehold land regime.

Yesterday in Western Australia the Federal Court announced the consent determination of a native title claim in the Murchison/Gascoyne region known as Nganawongka claim.

What is significant about the settlement of this claim is that the claimants have agreed to replace their right to negotiate with a right to be consulted over exploration and mining on the determination area.

This determination shows that the native title claimants were prepared to accept the State based right to consult regime in the context of the comprehensive settlement of native title claims.

It is also a clear signal to the Labor Party that the States right to consult provisions should not be disallowed when they come before this house.

The Western Australian Premier has made it clear that he can deliver positive benefits to Aboriginal People in terms of land and the settlement of native title claims if the Senate will just give him a chance to demonstrate how an alternative state native title regime can work in practice.

He is convinced that with the extra flexibility that a State regime provides there will be more agreements between the State Government, miners, pastoralists and native title claimants.

He has even proposed that there be a sunset provision applied to the State regime so that if it does not result in the predicted benefits it will cease to operate and the state will return to the Commonwealth Native Title Act regime.

Senator FERRIS (South Australia) (6.54 p.m.)—The Labor Party today stands at the political crossroads in Queensland. It has decided to walk away from the full support of its Queensland Premier and the state’s mining industry. It has opposed the total package before the chamber, which Mr Beattie had described as ‘a fair outcome to enable and encourage mining while ensuring there are benefits for indigenous Queenslanders’.

We all know on this side of the chamber where Mr Beattie wanted his Labor colleagues in Canberra to go. He wanted them to go with him to tick off on all of the determinations before the chamber so that the resource industries could get on with what they do best and at the same time earn export dollars for Australia. I listened to Senator Evans’s contribution and note that there are two Queensland colleagues of Senator Evans’s in the chamber tonight: Senator Ludwig and Senator Hogg. I am puzzled as to why Senator Hogg and Senator Ludwig are not making a contribution to this debate. I wonder whether it is because they, like many other members of the Labor Party, are embarrassed about this outcome for Queensland. It is not as if all local Aboriginal communities in Queensland are opposed to Mr Beattie’s position. In fact, the Century Zinc agreement in Queensland is probably one of the best examples of how a mining
company can work with the local indigenous people for the mutual benefit of all of them: jobs, training and sensible environmental and heritage management of a mine site.

Why wouldn’t the Labor Party in Canberra agree with what the Labor Party in Queensland wanted? As we all know, the Labor Party in Canberra had been cogitating on this issue for at least eight months and still in the end were unable to match one wing with the other. Surely the resignation of the shadow minister today is very clear evidence of that. Quite correctly, Premier Beattie’s immediate concern was the huge backlog of permit applications in the Queensland Department of Mines and Energy. While he has today told Mr Beazley by letter that he will ‘pursue the negotiation and implementation of indigenous land use agreements to deal with both the backlog of applications and future applications for exploration permits in Queensland’, there is absolutely no doubt that it is a second prize for Premier Beattie.

On 31 May this year, there were 1,197 exploration permits, 235 mining claim applications, 73 mineral development licence applications and 384 mining lease applications all awaiting determination in Queensland. So there are 1,889 mineral applications being held up right now because the federal Labor Party refuses to agree with pleas from the Queensland Labor Party to pass this native title regime. Equally disturbing is the fact that between July 1999 and the end of May this year only 94 exploration title applications had been granted compared with the 400 issued each year by the Queensland government before the Wik decision. This scandalous backlog of permits, which is growing every month, has had a devastating effect on mineral exploration in Queensland. In fact, the Queensland Mining Council says that the value of mineral exploration in the state has now declined by more than $300 million.

The Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund, which I have the honour of chairing, was in Queensland recently taking evidence on this very issue. One of the witnesses who came before us, Mr Michael Pinnock, the Chief Executive of the Queensland Mining Council, gave some very disturbing evidence to the committee about the difficulty the mining industry faces with its exploration permits. For example, he said:

BHP went to see the Queensland Premier and made public their statement a month ago. They said that they have applied for 102 exploration permits in the last two years in Queensland and they have received two. On that basis they say they will seriously consider not continuing exploration in Queensland because if you cannot get permits you cannot explore. It is not just the small miners; it applies even to the very big ones like BHP. That suggests we have a major problem.

Mr Pinnock is right: it is a major problem for the mining industry and, also, for the federal Labor Party. The right to consult contained within the Queensland legislation is capable of providing a workable solution to this problem. This was proven in Western Australia yesterday by the Federal Court, where a settlement that covered a 53,000 square kilometre area was negotiated with the state government, three native title claimants, 24 pastoral interests and 28 mining companies. This makes yesterday’s agreement the largest native title settlement in the nation. What a great example of what can be achieved when communities sit down together to identify individual priorities and resolve differences. As Justice Madgwick quite eloquently said in his comments yesterday, the agreement ‘shows what mature and resolute people, acting in good faith to reconcile difficult—indeed potentially inflammatory—issues, can do’. The Queensland Premier has been unsuccessfully pleading with the federal Labor Party to show the same maturity and good faith and to ensure that the Queensland scheme is passed in full today. Mr Beattie said yesterday:

... a warm inner glow is not good enough, if at the end of the day there is no benefit to indigenous Queenslanders and to the mining industry.

We agree with Mr Beattie but, unfortunately for Mr Beattie and for Queensland, he has little more today than a very pale version of a warm inner glow. In trying to retrieve some dignity this afternoon, Mr Beattie put out a media release claiming that he now accepts that Mr Beazley is unable to fully support Queensland’s original scheme. What
sort of a deal is that for Queensland? The federal Labor Party’s position on native title is already confusing. Let us recall the comments of the now former shadow minister for Aboriginal affairs on the Sunday program back in April. About the only thing that was consistent in that interview was the number of times Mr Melham said, ‘Laurie. Look, Laurie.’ I thought it was 41 times, but Daryl corrected me—he said that it was 43. Unfortunately, the confusion and division within the federal Labor Party over native title will continue to threaten the development and prosperity of Queensland’s $7.4 billion mining industry.

There are no winners from Labor’s party policy wimp-out today—certainly not the mining industry, which will continue to be frustrated by long delays; certainly not the pastoralists, on whose properties mines often have their genesis; certainly not the Queensland Labor Party, who desperately needed these determinations passed as a package before they faced the polls; and most certainly—and most importantly—not the indigenous communities of Queensland, who will continue to spend unknown amounts of money and countless hours trying to secure outcomes for their people. Senator Faulkner, listen to the pleading of your Queensland colleagues, your Queensland Premier and, most of all, the remote communities of Queensland—and of all states in Australia—whose prosperity and continued development depend on certainty for the mining and pastoral industries. Senator Faulkner, when the division bells ring for the Australian Labor Party to vote on these determinations today, make a stand for Queensland: vote to pass all of them.

Senator LIGHTFOOT (Western Australia) (7.04 p.m.)—My colleague Senator Ferris noted one positive thing that has come out of the tortuous eight years since native title was introduced: the light yesterday when the rights to over 50,000 square kilometres of land in the Murchison and Gascoyne region of Western Australia—an area where I lived for many years and where I had a large station property—were settled. The matter was settled out of court, and it was settled largely without the interference of the debilitating effect of lawyers with respect to Aboriginal and white Australians. It was good, and I do congratulate Clarrie Smith, the leader of the people up there—the Nganawongka, Wadjari and Ngarla people, who are traditionally from that area. But they did not want to maintain the right to negotiate. They wanted consultation, they got it and they settled with the pastoralists. The pastoralists knew them. Clarrie Smith and his people trusted the pastoralists, and the pastoralists trusted and admired Clarrie Smith for his forthrightness. I congratulate Clarrie for bringing about that settlement.

Did the senator for Queensland, Senator Ludwig, speak this evening on behalf of Queensland? No, he did not. Did my friend Senator John Hogg speak on behalf of Queensland? No, he did not speak. We had someone from Western Australia, Senator Chris Evans, who has opposed this settlement and who has opposed the type of thing that was brought about yesterday without the interference of lawyers. Why do we think the disallowance motion should be not allowed? It is not just because of John Woodley who moved the disallowance. John does not have a clue about it. John seems to have lost his way. John does not worry. Senator Woodley is going to get a good pension from this place. Senator Woodley is going to benefit a great deal more than when he was a preacher. He is well-off.

Let me tell you what is happening in Western Australia. Western Australia contributes 43 per cent of Australia’s mining and energy production. We are now the biggest energy producers in the nation in terms of petroleum. Some of those things are in jeopardy. In 1994 we produced $13 billion worth of energy, and within Western Australia the minerals industry accounts for 75 per cent, or $11 billion worth, of export income, 66 per cent or $4 billion worth a year of private investment and, directly and indirectly, for 250,000 jobs. Why am I saying this? I am simply asking what the Labor Party’s position will be when it comes to vote on the Western Australian legislation that needs ratification. Who is going to vote to have that disallowed?
Senator Ferris—Would Senator Evans stand up for Western Australia!

Senator LIGHTFOOT—Senator Evans and all the other senators in the Labor Party and the Democrats never stood up for Western Australia when we were pleading for them to allow the type of legislation that we had perfected in Western Australia through this house. They did not stand up, and I am going to follow them right through to the election. I am going to tell the people of Western Australia what has happened there. Let me proceed with some of those things that the court ratified in that historical agreement—as I might refer to it—involving 53,000 square kilometres of land, done outside the court system and only ratified by the court system. The representatives of the claimant group, as I said, were led by Mr Clarrie Smith, a well respected Aboriginal person around the Carnarvon, Meekatharra, Murchison and other areas. Judge Madgwick said:

Over the great bulk of the land, there are now 20 functioning cattle stations operating under pastoral leases. In addition, the WA State government has, over many years, asserted its right to many parts of the land for roads, other infrastructure and various other public purposes.

... ... ...

The active parties have managed to arrive at a settlement of the case. No other party has appeared to call that settlement in question.

It was left to the native title claimants, the pastoralists and a few miners. The judge went on to say:

This is a considerable achievement. I have been told that, if the Court gives effect to the settlement proposed, it will be

- the first consent determination of native title in Western Australia;
- the first consent determination arising out of a native title claim where the hearing has commenced in the Federal Court; and
- a consent determination of native title in respect of the largest land area than has previously been achieved.

That is vastly different to the settlement with Justice Malcolm Lee over the Miriwoong Gajerrong people last year, when a devastating decision was brought down by him over a 7,000-odd square kilometre area of land that was, thank God, overturned by an appeal to his colleagues on the full bench of the Federal Court. That was overturned, and just as well.

I have to wind up and let my colleague speak because it is an important issue for the Northern Territory as well. I will wind up with this last quote from Judge Madgwick from that momentous decision of yesterday. He said:

After a considerable amount of evidence had been taken from Aboriginal and pastoral witnesses, it became apparent that there was strong, personal goodwill between at least the elders of the claimant group and at least a number of the present pastoralists with long family associations with the land concerned. The Court therefore took the initiative of urging the parties to try to build on this goodwill through mediation. To their great credit and guided by their legal advisers, the parties agreed. They jointly invited the Court to ask Mr Graeme Neate, President of the National Native Title Tribunal to act as mediator. However, a breakdown of negotiations was reported to the Court. While the mediation was not immediately successful, the Court is grateful to Mr Neate for interposing this matter among his onerous commitments as the leader of the Tribunal. Subsequently, at the instigation of the Court, the parties agree to renew negotiations between themselves, without a mediator. These negotiations ultimately proved successful.

I think this is a wonderful settlement. It is something that the other side would do well to follow. I see that Senator Ludwig has come in here again tonight, but he has not spoken on behalf of his constituents in Queensland. We are not afraid to speak for our constituents in our states, Senator Ludwig, and I hope you make a contribution for your people at some stage of this sitting.

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (7.12 p.m.)—I last spoke on the issue of native title almost a year ago, on 31 August 1999, when the Northern Territory’s three alternative provision schemes were disallowed by the Labor Party after they had lodged motions of disallowance against all three schemes on 24 June. Let me first raise some of the very important and, I fear, little known facts regarding land administration and the effects of various legislation over the years in the
Northern Territory that I discussed previously and now compare with today’s dealings with Queensland. States ought to be able to legislate in this area, but the Northern Territory in particular has to have even more import because 50 per cent of the Territory now comes under the control of the Aboriginal Land Rights (Northern Territory) Act. Of that, 42 per cent is currently Aboriginal land and another eight per cent is under claim. The Northern Territory is also faced with the situation where a further 49 per cent of its land is pastoral lease over which there may be coexisting native title. The combined effect of these two acts is that special restrictive land administration laws apply to 99 per cent of the Northern Territory. There are various provisions that need to be looked at, and I would certainly refer to my previous speech in Hansard in stating the fact that there are so many areas. It is so easy to see where this impasse, imposed by the Labor Party, has left the Northern Territory government. They are, in effect, punishing the Northern Territory for enhancing its legislation beyond the standard set out in the Native Title Act and for doing more than it actually needed to do. The land rights act has been successful in returning land to Aboriginal Territorians, but it has failed to deliver and has had a detrimental effect on employment opportunity for Aboriginal Territorians. This is an important fact. If the Labor Party is prepared to accept any part of the Queensland legislation, it is acting against the good intentions of the Northern Territory government and playing politics with Territorians' and Aboriginals' jobs, lifestyles and futures.

If federal Labor and the Democrats in the Senate today cobble together a strange voting coalition, they will be frustrating Queensland state legislation that has been agreed by the Queensland state parliament. By fiddling around in the Senate, the principle of parliamentary consideration has again been prostituted by the ALP. The Queensland Premier Peter Beattie said during the debate on the Northern Territory determinations that the Queensland legislation will not face the same fate due to an agreement with officials in Mr Beazley’s office. He was right: he knew the fix was on; the backroom boys were at it again, and he got duded in the process.

I must also ask why Senator Crossin is supporting parts of this Queensland native title legislation and not the Northern Territory’s? Why isn’t she standing up for the Territory? Her inconsistency is transparent and hypocritical. Her left factional colleague Daryl Melham, who today resigned over this issue as part of the ALP squabble, has seen the hypocrisy and the inconsistency. He is so embarrassed that he has resigned. Not Senator Crossin who has made no sensible contribution to this important debate here in this Senate. In fact, she made none. Instead she must be working the corridors competing with her House of Representatives nemesis Warren Snowdon for the replacement position as shadow minister. Talk about crass politics.

The 13 Queensland proposed alternative determinations relate to mining exploration permits, claims and leases. The Labor Party has attempted to pick and choose and select seven out of the 13 determinations in the package. It is a pathetic mishmash. The schemes should be allowed to come into operation as a package, not as some piecemeal deal designed to kowtow to interest groups while trying to save face with the Queensland Labor Party. At absolute best, the outcome will be a second-rate deal that will not solve the problems faced by Queensland.

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a scrambled egg of a solution based on smoke and mirror deals by the ALP.

Senator WOODLEY (Queensland) (7.16 p.m.)—I want to speak in reply to some of the things that have been said, although I do not believe I will have enough time to answer everything. Let me first of all place on the record my sadness at the fact that Daryl Melham has resigned, but I understand what caused his resignation. I want to turn now to what Senator Hill said. I do not want to misquote him but I think it is fair to say that he criticised the Democrats because they demand consensus and if we had to have consensus we would never arrive at any agreement. That is nonsense, Senator Hill.

Let me point out that in South Australia they had a section 43 scheme, state based regime, based on the 1993 act, which has worked for six years. A lot of people have spoken about the agreement reached yesterday in Western Australia. Let me point out that that agreement was reached without any Western Australian state regime, and let me congratulate the indigenous people, the pastoralists and the Western Australian government. I notice that no miners were involved. In Western Australia they have also almost reached agreement on the spinifex claim on the Western Australian eastern border. That also was done without any Western Australian state regime.

In the Northern Territory, access for the extension of the Adelaide-Alice Springs railway to Darwin was also reached without any Northern Territory state regime. In Queensland, under the current legislation—not under any Queensland based state regime—there has been the Cape York land use agreement; the agreement between Redland shire and the indigenous people of Stradbroke Island; and the Century Zinc mine, which everyone else has used as an illustration, where again the agreement was reached without any state based regime. The agreement on access for the Chevron gas pipeline from Papua New Guinea to south Queensland where there are 25 native title claim groups was reached by consensus, without any state regime. Agreement on the Millmerran powerhouse development in Queensland was also reached without any state based regime. In New South Wales, they are close to agreement on a state based regime but with the agreement of all parties.

Let me also address the statement of Senator Boswell in which he tried to say the right to consult was as good as the right to negotiate. The right to negotiate means that indigenous people can join other people at the negotiating table; the right to consult means that they stand outside in the corridor and shout through a locked door in the hope that they might be heard—and I say ‘Fat chance.’ Senators Minchin and Brandis said that the Democrats and native title have caused a decline in mining activity, but what they did not mention was the collapse of the price of minerals worldwide. They did not mention that mining companies in Western Australia have used the native title regime in order to savage one another. What has that done to mining activity?

The DEPUTY PRESIDENT—Order! It being 7.20 p.m., I put the question on the motions moved by Senator Woodley pursuant to the order of the Senate agreed to yesterday. I understand there has been a request for questions to be put in groups. Accordingly I now put the question in respect of the disallowance motions Nos 1, 2, 3, 6, 8, 10 and 12 moved by Senator Woodley be agreed to.

Senator Harris—I wish to bring to the Senate’s notice, before voting, that I have mining interests.

The Senate divided. [7.25 p.m.]

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

| Ayes | 10 |
| Noes | 56 |
| Majority | 46 |

AYES

Allison, L.F.  Bartlett, A.J.J.
 Bourne, V.W *  Brown, B.J.
 Greig, B.  Lees, M.H.
 Murray, A.J.M.  Ridgeway, A.D.
 Stott Despoja, N.  Woodley, J.
The DEPUTY PRESIDENT—We shall now move to disallowance motions Nos 4, 5, 7, 9, 11 and 13, covering determinations made under sections 26B and 43A of the Native Title Act. The question is that the motions moved by Senator Woodley be agreed to.

The Senate divided. [7.30 p.m.]

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

Ayes............ 34
Noes............. 31
Majority......... 3

AYES

Allison, L.F.
Bishop, T.M.
Brown, B.J.
Carr, K.J.
Conroy, S.M.
Cooney, B.C.
Crowley, R.A.
Evans, C.V.
Ferris, J.M.
Gibbs, B.
Harris, L.
Herron, J.J.
Hogg, J.J.
Kemp, C.R.
Lightfoot, P.R.
Macdonald, I.
Mackay, S.M.
McGauran, I.J.J.
McLucas, J.E.
Murphy, S.M.
Ray, R.F.
Tambling, G.E.
Tierney, J.W.
Watson, J.O.W.

* denotes teller

Question so resolved in the affirmative.

Senator Newman did not vote, to compensate for the vacancy caused by the resignation of Senator Quirke.

ADJOURNMENT

The DEPUTY PRESIDENT—Order! I propose the question:

That the Senate do now adjourn.

East Timor: Independence

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (7.32 p.m.)—Today marks the first anniversary of the East Timor independence vote. This time one year ago was a harrowing time for the East Timorese people, who lost their homes, their livelihoods and, in many cases, their loved ones. This time one year ago Australia was shocked and appalled by the senseless violence taking place right on our doorstep. This time one year ago was a tragic day, for the events which took place on that day and those that followed would change East Timor forever. Ironically, what should have been a day for celebration for the East Timorese
independence campaign instead degenerated into bloodshed and destruction.

One year on, the persecution of the East Timorese people—the killings, the forced removals and the other acts of violence—may have stopped, but for many the nightmare goes on. Uncertainty about the future and a lack of even the most basic infrastructure has hampered development in so many areas. I said at the time that it was important we did not lose sight of the human face of the East Timor conflict and the lasting impact that those momentous events of 30 August would have on the East Timorese people. Australians had, and still have, a responsibility in terms of helping the new East Timor nation develop its commercial sector, health infrastructure and education systems. It is a responsibility that we will have for many years into the future.

Australia’s involvement in the East Timor peacekeeping operation has been ongoing. As I speak there are more than 1,500 Australian Defence Force personnel still deployed in East Timor, with another 80 Australian personnel remaining in East Timor as part of the United Nations civilian police. Currently Australia has spending commitments of more than $25 million for its UNTAET police presence in 2000-01, a level it will maintain for the next four years. Australia’s Defence Force spending in East Timor is much more substantial: more than $948 million in the current financial year.

The efforts of ADF and Australian Federal Police personnel has been valiant. They have already faced great difficulties, and security in the region, particularly along the western border, is still of grave concern to the federal government. Crucial to the resolution of underlying tensions in this region and the disarmament of militia groups is the cooperation of the Indonesian government. The Australian government is continuing its dialogue with its Indonesian counterparts to defray conflict in this area. Keeping this intransigency in check is the main short-term goal of the government. Helping to rebuild the nation is the much bigger task facing Australia in the longer term.

The rampant vandalism and destruction which plummeted East Timor into ruin was compounded by the departure of the many Indonesians who had administered the local government, justice and health systems, as well as much of the local commercial activity. In virtually every area of infrastructure there is work to be done at the most basic level—most importantly in education, health and welfare, and in the development of strategies to stimulate the local economy.

Australian assistance via AusAID totalled $81 million in the 1999-2000 financial year. AusAID has proposed spending of $40 million for 2000-01, including various amounts on education, health, agricultural and rural development, water supply, governance, and humanitarian assistance. In the next four years AusAID will commit a total of $150 million. There are many other areas for which international donors have promised $870 million to rebuild East Timor. I sincerely hope this money is forthcoming. Frankly, I am cynical about this commitment, and I want to see it on the ground where it is needed. AusAID has helped the UNTAET effort too, through the trust fund, to the order of $27 million in cash and in-kind assistance.

We need to take into account also the important input of private Australian companies to the reconstruction effort. Australian firms are involved in the reconstruction. Harvey Norman has opened a franchise in Dili. About 200 Australian firms are registered as suppliers and contractors in road and bridge repair, electricity, telecommunications, shipping, security, and hotels and restaurants. There are transport groups operating, and Qantas plans to open air services between Dili and Darwin. The Darwin based airline Air North currently has a monopoly on the Dili to Darwin services. Yet, for all the optimism inherent in this commercial activity, some Australian companies are concerned that their efforts are threatened by a UN administration which they claim is often incompetent, colonialist and patronising. These issues need to be addressed in the longer term. UNTAET, for example, had a budget of $US350 million for the 1999-2000 year; yet it spent only $US225 million of that to May this year. Has UNTAET allocated the almost $US125 million left over? Its proposed budget for 2000-01 supposedly is $US584
million. How will that money be spent? But, perhaps more importantly, is there a guarantee that this source of funding will continue? It is most important to the community.

We need to see that basic services are switched on through practical support for education and the provision of seeds, tools, clean water and housing and roofing kits. We need to be vigilant to ensure that UN money is best utilised in this area. Some of the initiatives being taken by UNTAET and other international aid organisations in rejuvenating East Timor are important. There is the World Bank process of reconstruction to ease unemployment pressures where US government relief has been involved. The numbers of people employed are very important. UNTAET is planning to undertake its own capital investment projects using funds from the trust fund and from the World Bank. There is also the rebuilding of markets and other places throughout the area. These are signs of hope. International aid coming into East Timor will help stimulate local growth. For example, nine Timorese companies have been selected by the UN Office for Project Services to tender for the rehabilitation of a prison administration office, a court and a prosecutor’s office in Baucau. Another 13 Timorese companies have been invited to tender for the construction of a court, a prosecutor’s house, an education store and an employment service centre in Dili.

Yet there is much still to be done, and I expect Northern Territorians, who were instrumental in the provision of a safe haven in Darwin after the 30 August ballot, will give a big hand in that. It is now up to us to ensure that the good works are carried on; that the UNTAET administration—which I admit has faced difficult conditions—is held to account for its spending. Already, it has restored security, stabilised the humanitarian situation and commenced reconstruction, making good progress in building the foundations of governance, a judiciary, a central finance sector and a police service. Just as Australia must provide a guiding hand to help East Timor on its way to independence and ensure that appropriate leaders are installed in government, it is vital that the good work by outside organisations is maintained. The road ahead is a challenging one, particularly for the local East Timorese people, but it is one that, with continued international engagement and scrutiny, will see the birth of a new chapter in East Timor’s history.

Poland: Anniversary of Solidarity

Senator MARK BISHOP (Western Australia) (7.40 p.m.)—Earlier today Senator Bourne made reference to the 12-month anniversary of the vote for independence by the people of East Timor. We all wish those people, our neighbours, all the best as their country develops in the coming years.

Also today I was reminded by Senator Hutchins of New South Wales that it is the 20th anniversary of the formation of a small trade union in a shipyard in Gdansk in Poland. Today we note for the record books that that event, that anniversary, both created history and changed the world. It created history in that for the first time since, in the immortal phrase of Winston Churchill, ‘an iron curtain descended across Eastern Europe’, a group of shipyard workers formed an independent trade union in a country that hitherto had resisted such formations. That trade union in a shipyard in Gdansk evolved in succeeding years into a social movement that covered industrial workers, agricultural interests, intellectuals, adherents of the Roman Catholic faith and a whole host of other progressive causes and interest groups in Poland. That trade union became known as Solidarnosc or, roughly translated in the English language, the Solidarity Movement.

Its initial focus was on routine trade union matters, wages, working conditions and the establishment of mechanisms in workplaces to mediate oppressive authority. Over time, its principal leaders developed an intellectual base to give focus to their core concerns of improving the interests of working and other people in Poland. More importantly, as I said at the outset, Solidarnosc created history in that it successfully challenged the authority of the governing totalitarian regime in Poland and became the bedrock upon which similar ideas and similar movements were created or evolved in and throughout the former empire of the Soviet Union. In successive years, regimes in Czechoslovakia, Hungary, East Germany and the Soviet Union...
The desire of those men and women for freedom as expressed through the trade union movement they created is an enduring testimony to capable leadership, clear moral authority and the legitimate authority that exists in worker organisations created to advance their interests.

I said at the outset the creation of Solidarnosc created and changed history. At this stage, judgment is clear. Their movement has been unambiguously good for the interests of Poland and other Eastern European countries. It is entirely appropriate that this parliament simply notes for the record the 20th anniversary of the foundation of that great social movement in Poland.

**Australian Labor Party: Donations**

**Senator BRANDIS (Queensland) (7.46 p.m.)—**The issue of disclosure of political donations is something about which we hear a lot from our opponents. Unable to develop a policy and plans for Australia—and needing a break from being ordered about by their union bosses—Labor senators often come into this chamber to launch cowardly attacks on Liberal Party officials, make outlandish allegations and then scurry away. The sanctimonious nature with which Senator Faulkner has pursued this issue would make you believe that the Labor Party is holy when it comes to political donations. In reality, we learn today of another example of Labor’s hypocrisy. And their hypocrisy has its root in the home state of Senator Faulkner.

In today’s *Bulletin*, we learn that Labor have been organising fundraising events in a sleazy and dodgy manner to avoid full and transparent disclosure under the Electoral Act. In May last year, the New South Wales branch of the ALP—Senator Faulkner’s home branch—held a fundraising dinner, the Gough Whitlam Tribute Dinner, which netted the party half a million dollars. The dinner was organised for the New South Wales ALP by Max Markson, whose company, Markson Sparks, takes a commission that neither Markson nor the ALP are willing to reveal.

Part of the evening was an auction which included a series of Labor Party memorabilia.
and other collectibles, such as an Olympic torch. The auction was financially successful. For example, $40,000 was paid for lunch for eight with Gough Whitlam, and $5,000 was paid for a framed print of Westminster, a book about Tony Blair’s victory and an autographed poster of Bob Hawke. In fact, prices paid for the 13 auctioned lots ranged from $5,000 to $55,000. Here is where the deception begins. Had the ALP organised the dinner itself, rather than commission Markson, the disclosure requirements would have meant that any item or package of items worth more than $1,500 and donated for the purpose of being auctioned would have to be included in declarations to the commission. Senator Faulkner knows how the Electoral Act works. In fact, he preached to this chamber on 3 March 1998 that:

It is useful to remember the obligations of political parties. All donations over $1,500 to political parties, of course, must be disclosed.

What Labor have done is establish a mechanism to protect the identity of individual donors to the party and keep them hidden from the full scrutiny of the Electoral Act and the Australian public. Remember, Senator Faulkner told this chamber that:

It is useful to remember ... all donations over $1,500 to political parties ... must be disclosed.

Senator Faulkner was right. It is useful to remember this, because the fact is that, when you search the returns for the 1998-99 financial year, you find no detail about individual donations at the Gough Whitlam Tribute Dinner. All that is declared is a single item in the annual return of the New South Wales ALP branch—a donation of $499,849 from Markson Sparks.

What the New South Wales branch of the ALP have done is use Markson Sparks as a front through which they can launder money into their coffers without having to answer to the AEC or to the Australian public. To comply with the legislation, the New South Wales ALP must name those at the dinner who paid more than $1,500 for items and must list individuals or companies who provided goods or services with a value greater than this amount. But Labor will not. They have vigorously searched for a loophole in the Electoral Act, and the New South Wales Labor Party—Senator Faulkner’s home branch—is exploiting it for all it is worth.

The question is: what are the ALP trying to hide? Why are they engaging in such sneaky and sleazy tactics to prevent full and frank disclosure? Which individuals are the ALP trying to protect? The real question is: why is Senator Faulkner letting them get away with it? We all know that Senator Faulkner parades himself as the moral custodian of the electoral laws. He would have you believe that Labor are the party of openness, accountability and transparency. After all, the Labor Party’s platform states:

Labor supports public transparency of political donations. Labor believes all original sources of political donations should be disclosed.

Labor have long had a history of saying one thing but doing another, and the actions of the New South Wales ALP expose just how hypocritical they really are. If Senator Faulkner is serious about public disclosure, he will ring his state secretary and demand that he release the names of all those people who paid more than $1,500 immediately to the AEC. But we all know he will not. Is he trying to protect his mates? Was he one of the people who attended the auction? Or is it because he really has no morals and will say anything and do anything if he thinks there is a political point in it?

Remember, we have a situation where Senator Faulkner’s home branch has deliberately employed a company to launder donations to avoid the scrutiny of the public and the electoral laws, and Senator Faulkner is saying nothing. This is the same Senator Faulkner who stood in this place on 17 February last year and boasted, ‘As far as the Labor Party is concerned, we have always advocated tight and transparent funding and disclosure provisions’—except, it seems, in his home branch. This is the same Senator Faulkner who further said, ‘We need to retain the integrity of the Electoral Act and ensure that those who donate to and support political parties have those donations disclosed. That is in this parliament’s interest’—except, it seems, for his home branch.

Senator Conroy—We look forward to your speech on Greenfields. Where’s your
speech on Greenfields, you hypocrite? You are a hypocrite.

The DEPUTY PRESIDENT—Order! Senator Conroy, will you please withdraw that unparliamentary language.

Senator Conroy—I withdraw.

Senator BRANDIS—This is the same Senator Faulkner who stood in this place on 3 March 1998 and said:

What we say in the Labor Party—and I know that my colleagues agree with me very strongly on this—is that the public has a right to know who these donors are. They have a right to know because the business of government needs to be transparent. It is a fundamental principle.

Except, it seems, for his home branch.

This is the same Senator Faulkner who stood in this place on 26 June this year and said:

We will be arguing for accessible and transparent electoral laws.

Except, it seems, for his home branch.

This is what happens to Labor when they have a weak and indecisive leader, as they do in Kim Beazley. They have an ALP branch member being locked up in jail in Queensland for electoral fraud; a dispute in the Victorian court between Labor candidates, which will drag in the Premier, Mr Bracks; and the New South Wales division adopting sleazy and dishonest fundraising techniques. From this moment on, every time Senator Faulkner stands before this chamber and pontificates about disclosure transparency, as he so often does, the actions of his home state will continually remind us of his hypocrisy.

The DEPUTY PRESIDENT—Senator Brandis, I also ask you to withdraw the word ‘hypocrisy’.

Senator BRANDIS—I withdraw.

Liberal Party of Australia: Tasmania

Senator CALVERT (Tasmania) (7.54 p.m.)—I wish to correct the record. In the other place at 6.10 p.m. yesterday, Mr Duncan Kerr, the member for Denison, quite graciously corrected the record on some concerns and matters he raised about my so-called activities in branch stacking in Tasmania. I defended myself on 22 June and, in conclusion, I said that the member for Denison had misled the parliament and the media. He said last night in the other place that he had made a mistake. Whilst not apologising directly, he corrected the record, as he promised me he would. And I thank him for that. He also said:

... I thought it would be appropriate for me to at least mention that and to indicate that any awkwardness that I caused him I certainly withdraw.

I suggest that I have been vindicated. I would like to thank Mr Kerr for correcting what he said. At the same time, I was quite incorrectly quoted by the media. I am not holding my breath for the ABC to correct their statement. In my reply, I did mention two very strong members of the Liberal Party—Mr Brendan Blomeley and Mr Steven Mavrigiannakis. I certainly did not mean to impugn their integrity. I repeat: they are both very good members of the Liberal Party. They are very solid workers. What I said on 22 June was in no way meant to impugn their integrity. I hope that clears up that misunderstanding. The member for Denison has corrected the record. I appreciate that. I do not expect the ABC will; they never do.

Senate adjourned at 7.57 p.m.

DOCUMENTS

Tabling

The following government document was tabled:

Airservices Australia—Maximum movement limit compliance statement for the period 1 April to 30 June 2000.

The following documents were tabled by the Clerk:


Indexed Lists of Files

The following document was tabled pursuant to the order of the Senate of 30 May 1996 as amended 3 December 1998:

Indexed lists of departmental and agency files for the period 1 January to 30 June 2000—Statements of compliance—Central Office, Department of Transport and Regional Services.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Genetically Modified Organisms: Crop Locations
(Question No. 2219)

Senator Brown

With reference to genetically-engineered crops:

(1) Are precise details of the location of such crops available; if so, where; if not, why not.

(2) Why has the Tasmanian Government received no reply to its request to have no genetically engineered crops planted in the state.

(3) Why is there no ‘opt-out’ clause in the proposed legislation on genetically engineered crops for states wishing not to allow genetically engineered crops for states wishing not to allow genetically-engineered crops.

(4) Will indicative labelling be required of all foodstuffs containing genetically-engineered materials; if not, at what level of genetically-engineered contamination will labelling be required.

(5) Does the Government support local government having power to determine whether genetically-engineered crops be allowed.

(6) Is there a premium on the sale of organic foods in Australia and from Australia for export; if so, what is the approximate percentage on sale price of that premium.

Senator Herron—The Minister for Health and Aged Care has provided the following answer to the honourable senator’s question:

(1) Precise details of the locations of trial crops of genetically modified organisms (GMOs) are not made available under current administrative arrangements because there are legal restrictions on disclosure of information and there is no specific legal provision allowing such disclosure. This is one of the reasons that new legislation is necessary.

With no legislation in place, the information is protected by certain rules and considerations. These considerations include that:

- the Commonwealth must comply with requirements of the Privacy Act 1988, including the Information Privacy Principles;
- the Commonwealth may be under a duty of confidence arising under the general law in relation to the information;
- release of the information may disclose trade secrets, or otherwise adversely impact on the business operations of an entity; and
- release of the information may impact on the Interim Office of the Gene Technology Regulator’s (IOGTR) ability to obtain accurate information and, as a result, adversely affect its oversight of the current administrative system.

Nevertheless, the name of a contact officer in the organisation which is undertaking the field trial may be provided, and the decision on whether to release information on the precise locations then rests with the organisation.

Under the proposed new legislative system, the Gene Technology Regulator (GTR) will treat all information provided to it as publicly available information, unless a proponent can demonstrate that the information should be treated as confidential commercial information (for example, trade secrets). And even in these latter instances, the legislation still provides the GTR with the capacity to release the information if he or she believes that it is in the public interest to do so.

(2) It is wrong to suggest that the Tasmanian Government has not been fully briefed on whether or not a prohibition on GMOs can be implemented in Tasmania.

Tasmanian officials from the Department of Primary Industry and Energy have been working for over five years with other States and Territories, as well as the Commonwealth, to develop a national regulatory framework for GMOs. This work has been underway since that time because no jurisdiction, including Tasmania, had jurisdictions specific legislation that controlled GMOs.
All jurisdictions are committed to the introduction of a national uniform regulatory controls for GMOs.

In May last year, the Minister for Health and Aged Care was given responsibility for drawing this protracted work to a close, as efforts to date had failed to result in agreement amongst jurisdictions, or in draft legislation. Between May 1999 and February 2000, significant progress was made on this framework, with officials from all jurisdictions agreeing the detail of legislation (although Tasmania continued to call for an explicit ‘opt-out’ to be included in the Commonwealth component of the scheme. This matter is addressed in response to Question 3) in February this year.

The new legislation is on track to be fully implemented by 3 January 2001.

In the context of this work, Tasmanian officials are fully aware that under the legislation:

- All GMOs in Australia would in broad terms be prohibited, unless the risks resulting from the genetic modification had been assessed, and the GMO and dealing licensed by an independent regulator;
- Tasmania, like all States and Territories and any interested party in the community, would have two separate opportunities, for each GMO application to highlight specific concerns about the risks of that GMO to the Tasmanian environment or the health and safety of the Tasmanian community;
- Any GMO that presented a risk to the environment or to human health that could not be managed would remain prohibited;
- The legislation focuses on environment and human health because of community concerns that any reference to trade issues would result in trade considerations overriding the protection of the environment and human health;
- That concerns which are broader than environment risks and human health risks can be dealt with under the legislation, but must be agreed by majority vote of all Ministers on the Ministerial Council and be expressed as a Policy Principle under the legislation;
- Having extensively covered all environmental and health concerns, an explicit opt-out provision based on other grounds (such as trade considerations) cannot be included in the Commonwealth Bill as discussed at Question 3.

The Tasmanian Government therefore has full access to information on why, in the absence of any Tasmanian or Commonwealth legislation at this point in time, GMOs cannot be prohibited in Tasmania. This information has been reiterated in correspondence from the Secretary of the Gene Technology Advisory Committee (GMAC) to the Hon David Llewellyn MP, Minister for Primary Industry, Water and Energy in Tasmania on 1 June 2000 and correspondence from the Parliamentary Secretary to Mr Llewellyn on 4 June 2000.

(3) The Government’s policy position is that there are a range of potential risks associated with providing for an opt out provision in the legislation, including risks in relation to Australia’s international obligations.

(4) The Australia New Zealand Food Standards Council is currently scheduled to consider the labelling of genetically modified food by the end of July.

(5) Yes, within the parameters of response to question 3.

(6) While the new regulatory system is responsible for identifying and managing the human health and environmental risks posed by, or as a result of, genetically modified organisms, inquiries to relevant portfolios would indicate that there is not a standard premium for organic foods; it is a question for the individual manufacturer or retailer.

Department of Health and Aged Care: Rents Paid

(Question No. 2245)

Senator Robert Ray

(1) What amount of money has the department and any agency of the department paid so far in the 1999-2000 financial year for properties rented by the department and its agencies.

(2) What amount of money has the department and any agency of the department projected to spend on property rents for the remainder of the 1999-2000 financial year.
**Senator Herron**—The Minister for Health and Aged Care has provided the following answer to the honourable senator’s question:

(1) The Department of Health and Aged Care and agencies within the portfolio have expended $34,862,471 from 1 July 1999 to 31 May 2000 in the 1999-2000 financial year for properties rented by the department and its agencies.

(2) The Department of Health and Aged Care and agencies project an amount of $5,205,639 to spend on property rents for the remainder of the 1999-2000 financial year.

**Department of Foreign Affairs and Trade: New Tax System Consultants**

*Question No. 2372 and 2377*

**Senator Faulkner**

(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 Hill**—The Minister for Foreign Affairs and the Minister for Trade has provided the following answer to the senator’s questions:

**DFAT**

(1) and (2) The following provides details of the consultants engaged by the Department of Foreign Affairs and Trade to 31 May 2000:

(a) to advise on the internal implementation of the new system:

<table>
<thead>
<tr>
<th>Consultant</th>
<th>Task</th>
<th>Cost to 31 May 2000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minter Ellison</td>
<td>Advice on ‘connected with Australia’ issue.</td>
<td>$1,056</td>
</tr>
<tr>
<td>KFPW Pty Limited</td>
<td>Review GST implications on domestic leases.</td>
<td>$1,875</td>
</tr>
<tr>
<td>Bright Star Information Technology</td>
<td>DFAT used their services to assist with the re-configuration of the Department’s Financial Management Information System.</td>
<td>$121,800</td>
</tr>
</tbody>
</table>

(b) to advise on the effect of the new tax system on the Department of Foreign Affairs and Trade’s client groups:

<table>
<thead>
<tr>
<th>Consultant</th>
<th>Task</th>
<th>Cost to 31 May 2000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Attorney General’s Office of Legislative Drafting</td>
<td>Drafted Indirect Tax Concession Scheme Determinations under Diplomatic and Consular Privileges and Immunities Acts.</td>
<td>$20,193</td>
</tr>
</tbody>
</table>

**AusAID**

(1) Nil

**Austrade**

(1) (a) Austrade has engaged three consulting firms which have provided advice on the internal implementation of the new tax system.

(b) No consultants have been engaged or used by Austrade with respect to advising the effect or publicising the effects of the new tax system on Austrade’s clients.

(2) In relation to Austrade, the provision of Commercial-In-Confidence information may breach the Secrecy Provisions of Section 94 of the Australian Trade Commission Act 1985. Therefore Austrade has provided a total figure for all consultants rather than individual cost of consultancy.

Consulting firms used by Austrade to 31 May 2000:
BHP Information Technology Pty Ltd
KPMG
Mallesons Stephen Jaques
Total cost of consultancies: $178,919.00

Export Finance and Insurance Corporation (EFIC)
(1) (a) 3 firms
(b) None
(2)

<table>
<thead>
<tr>
<th>Consultant</th>
<th>Cost to 31 May 2000</th>
</tr>
</thead>
<tbody>
<tr>
<td>PricewaterhouseCoopers</td>
<td>$40,000</td>
</tr>
<tr>
<td>Middletons Moore &amp; Bevins</td>
<td>$1,522</td>
</tr>
<tr>
<td>Minter Ellison</td>
<td>$3,630</td>
</tr>
</tbody>
</table>

Goods and Services Tax: Department of Finance and Administration Research
(Question No. 2388)

Senator Faulkner

(1) Has the department or its agencies commissioned or conducted any quantitative and/or qualitative public opinion research, including tracking research, since 1 October 1998, related to the goods and services tax and the new tax system; if so: (a) who conducted the research; (b) was the research qualitative, quantitative or both; (c) what was the purpose of the research; and (d) what was the contracted cost of that research.

(2) Was there a full, open tender process conducted by the department or its agencies for the public opinion research; if not, what process was used and why.

(3) Was the Ministerial Council on Government Communications (MCGC) involved in the selection of the provider and in the development of the public opinion research.

(4) (a) What has been the nature of the involvement of the MCGC in each of these activities; and (b) who has been involved in the MCGC process.

(5) (a) Which firms were shortlisted; (b) which firm was chosen; (c) who was involved in this selection; and (d) what was the reason for this final choice.

(6) What was the final cost for the research, if finalised.

(7) On what dates were reports, written and oral, associated with the research provided to the department or its agencies.

(8) Were any of the reports, written and oral, provided to any government minister, ministerial staff, or to the MCGC; if so, to whom.

(9) Did anyone outside of the department, its agencies, or the Minister’s office have access to the results of the research; if so, who and why.

(10) (a) What reports remain outstanding; and (b) when are they expected to be completed.

(11) Is the department or its agencies considering undertaking any public opinion research into the goods and services tax and the new tax system in the future; if so, what is the nature of that intended research.

(12) Will the Government be releasing the full results of this taxpayer-funded research; if so, when; if not, why not.

Senator Ellison—The Minister for Finance and Administration has supplied the following answer to the honourable senator’s question:

(1) No
(2) to (10) N/A
(11) No
(12) N/A
Telstra: Call Centre Staff  
(Question No. 2391)

Senator Allison  
(1) How many Telstra call centres are there around Australia at present.  
(2) How many equivalent full-time employees are there in those call centres.  
(3) What is the percentage annual staff turnover in each call centre.  
(4) (a) How many call centres are there in regional areas; and (b) how many staff are currently employed in those call centres.  
(5) Which call centres will close in the next 12 months.  
(6) What will be the net job losses or gains from call centre closures.  
(7) How many job losses or gains will there be regional areas.  
(8) Can a copy be provided of the report of the Telstra call centre employee opinion survey conducted in 1999.  
(9) What measures has Telstra put in place as a result of the survey.  

Senator Alston—The answer to the honourable senator’s question is as follows:  
Based on advice from Telstra:  
(1) As at March 2000 Telstra has 290 call centres around Australia.  
(2) As at March 2000 there are 14,490 full-time equivalent staff in the 290 call centres.  
(3) Whilst Telstra does not have the annual staff turnover for each call centre, the average staff turnover for call centres is approximately 5% for Telstra employees and 29% for agency staff.  
(4) As at March 2000 there are 74 call centres with 2,808 FTE staff in regional areas.  
(5) There have been no decisions made on Telstra’s future call centre configuration.  
(6) See answer to Question 5.  
(7) See answer to Question 5.  
(8) Telstra’s call centres are distributed across its business units. As EOS surveys are based on business units, an opinion survey for all call centre staff is not available. However, a copy of the 1999 employee survey report for Telstra’s Information and Connection Services has been provided separately to the honourable senator.  
(9) See answer to Question (8). The following actions occurred within Telstra Information and Connection Service Centres as a result of the 1999 Employee Opinion Survey.  
. Communication of results to all staff.  
. Action Plans formulated within call centres to identify areas for improvement.  
. Working Party formed to focus attention on improving operating efficiency, leadership, quality, and customer focus.  
Examples of outcomes adopted across several call centres are as follows:  
. commitment to involve staff in decision making at a local level  
. input from staff in developing action plans for improvement  
. review call centre procedures and minimise double handling  
. explain / discuss all important decisions from senior management with staff  
. senior managers to become more visible  
. reinforcement of “every call counts” policy for improvement in customer service  
. reward and recognition awards launched in centres to encourage staff commitment.
Department of Communications, Information Technology and the Arts: Programs and Grants to the Bass Electorate

(Question No. 2406)

Senator O’Brien

(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 2000-01 financial year.

Senator Alston—The answer to the honourable senator’s question is as follows:

Federation Community Projects

(1) A total of $173,600 in Federation Community Projects program funding was provided in the electorate of Bass in the 1999/2000 financial year.

(2) A total of $25,955 in Federation Community Projects program grant funds remain to be paid in the electorate of Bass. All projects are scheduled to be completed by December 2001. Most of the remaining funds will be paid in 2000/2001, with a small proportion possibly carrying over into the following financial year.

Cultural Projects

Federation Cultural and Heritage Projects program – Launceston Railway Workshops Museum Redevelopment project.

(1) A grant for $1m to complete remediation and Interpretation of the heritage components of the Launceston Railway Workshops site. $0.3m funding in 1999/00.

(2) 2000/01 - $0.3m.

Cultural Development Program – Visitor Orientation and Service Facilities, Queen Victoria Museum and Art Gallery (QVMAG) project, Launceston.

(1) A grant for $1.5m to complete visitor orientation and service facilities for QVMAG at the Launceston Railway Workshops. $0.45m funding in 1999/00.

(2) 2000/01 - $1.050m.

Register of Cultural Organisations (ROCO)

This program allows qualifying cultural bodies involved in activities such as literature, music, design, film, performing and visual arts etc to be approved to seek tax deductible donations for these activities. The program operates under Subdivision 30-B of the Income Tax Assessment Act 1997 (the Act).

Listed below are the organisations currently listed on ROCO in the electorate of Bass

<table>
<thead>
<tr>
<th>ORGANISATION</th>
<th>CULTURAL GROUP</th>
<th>LOCATION</th>
<th>1999/2000$*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stompin’ Youth Dance Co Inc</td>
<td>Dance</td>
<td>Launceston</td>
<td>NIL</td>
</tr>
<tr>
<td>Tasdance</td>
<td>Dance</td>
<td>Launceston</td>
<td>NIL</td>
</tr>
<tr>
<td>Tasmanian Wood Design Collection Ltd</td>
<td>Design</td>
<td>Launceston</td>
<td>14,700</td>
</tr>
<tr>
<td>Theatre North Inc (Tas)</td>
<td>Theatre</td>
<td>Launceston</td>
<td>NIL</td>
</tr>
</tbody>
</table>

* Complete data on donations for 1999/2000 is not available as statistical information is collected after the end of the financial year.

Cultural Gifts Program

The Cultural Gifts Program and its supplement the Cultural Bequests Program encourage donations of significant cultural items from private collections to public art galleries, museums and libraries by offering donors a tax deduction.

Presently there are no organisations listed in the electorate of Kalgoorlie that participate in the Cultural Gifts/Cultural Bequests Programs.
Listed below are the organisations in the electorate Bass that participate in the Cultural Gifts/Cultural Bequests Programs and the value of cultural property donated to these organisations.

<table>
<thead>
<tr>
<th>ORGANISATION</th>
<th>LOCATION</th>
<th>1999/2000$</th>
</tr>
</thead>
<tbody>
<tr>
<td>Entally House</td>
<td>Hadspton</td>
<td>NIL</td>
</tr>
<tr>
<td>National Trust of Australia (Tas)</td>
<td>Launceston</td>
<td>NIL</td>
</tr>
<tr>
<td>Queen Victoria Museum and Art Gallery</td>
<td>Launceston</td>
<td>16,975</td>
</tr>
<tr>
<td>Tasmanian State Institute of Technology Library</td>
<td>Launceston</td>
<td>NIL</td>
</tr>
</tbody>
</table>

**Cultural Grants Programs**

(1) Playing Australia (10 tours) * part of $2,150,991
(1) Contemporary Music (3 tours) * part of $50,000
(1) Visions of Australia * part of $108,000
(1) Festivals Australia (1 festival) $19,500

* Electorate included in itineraries

(2) The appropriations for the 2000-2001 financial year have not yet been approved.

**National Council for the Centenary of Federation’s History and Education Grant Program**

(1) $20,000
(2) $60,000

**Information and Communications Industries**

<table>
<thead>
<tr>
<th>PROJECT</th>
<th>FINANCIAL YEAR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Launceston Broadband Project</td>
<td>99/00 - $2.4m</td>
</tr>
<tr>
<td></td>
<td>00/01 - 2.94m</td>
</tr>
<tr>
<td>Intelligent Island Program</td>
<td>99/00 - $20m</td>
</tr>
<tr>
<td></td>
<td>00/01 - $ -</td>
</tr>
<tr>
<td></td>
<td>01/03 - $20m</td>
</tr>
</tbody>
</table>

Program to introduce the Launceston community to new online applications through limited market trials and early deployment of new products.

Program to further develop an internationally competitive IT&T sector in Tasmania by funding a range of new projects and building on existing Tasmanian Government initiatives and the research capacity of Tasmania’s tertiary education infrastructure. Program is Tasmania wide but will include initiatives in Bass.

**Information Technology Online (ITOL) Program**

(1) ITOL has paid money for three projects administered from Launceston in 1999-2000. The amount of money paid was $72,200.

(2) 2000-01 funding for these projects is $43,600.

**Networking the Nation**

(1) The information in the table below is provided in response to this question.

<table>
<thead>
<tr>
<th>PROJECT</th>
<th>FINANCIAL YEAR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tasmania’s Natural Experiences on-line E Commerce and</td>
<td>1999-2000</td>
</tr>
<tr>
<td>Marketing Solution *</td>
<td>$20,000</td>
</tr>
<tr>
<td>NATT Program – Network Access, Technology &amp; Training</td>
<td>$335,000</td>
</tr>
<tr>
<td>for Tasmanian Farmers</td>
<td></td>
</tr>
<tr>
<td>NET – TREK for people with disabilities</td>
<td>$1,000</td>
</tr>
<tr>
<td>CARE NET Tasmania *</td>
<td>$45,520</td>
</tr>
<tr>
<td>OPEN-IT (phase 3) – Online Course Material project *</td>
<td>$2,057,500</td>
</tr>
<tr>
<td>Tasmanian Community Network – Stage 3 *</td>
<td>$530,000</td>
</tr>
<tr>
<td>Tasmanian Communities Online – Phase 3 *</td>
<td>$1,640,798</td>
</tr>
</tbody>
</table>
FINANCIAL YEAR

PROJECT

1999-2000

LETYAS – Leading Edge Technology Advisory Services * $106,500
Information & Consultative Gateway * $70,000
Online Access for People with Disabilities * $1,583,734
Service Tasmania Project – Stage 3 * $852,000
FRAN Internet Access for ALL * $20,378,000
Nationalising E Momentum in Local Government * $70,000
CARE NET ONLINE * $241,856
Central Product Inventory Management System * $500,000
Local Government Online Service Delivery Strategy * $817,000
Launceston Online Access Centre $67,717
OACAT – Executive Support * $258,400
Tasmanian Broadband Network * $50,000
Tasmanian Communities Online * $105,541
Tasmanian Electronic Commerce Centre * $6,600,000
Tasmanian Government Online Procurement * $488,600
Telemedicine Service – Clarke & Cape Barren Islands * $249,200

NOTE: Projects marked with an asterisk (*) provide assistance to people in the Bass electorate and other electorates.

(3) Funding is allocated at meetings of the Networking the Nation Board. Funding allocations for the 2000-2001 financial year will be decided at the Board’s meetings in November 2000 and June 2001.

Broadcasting Programs

(1) Programs and/or grants administered by the Department

The Television Fund is a $120 million program funded from the second partial sale of Telstra.

Eligible community organisations can apply for funding under two component of the Television Fund:

Television Black Spots Program

Under the $35 million Television Black Spots Program community groups or local government authorities can apply for funding to retransmit ABC, SBS and commercial television services in black spot areas of poor or non-existent television reception or to replace obsolete transmission equipment. Up to $25000 is available for retransmitting each new service.

Regional Communications Partnership (RCP)

The Government will provide $5 million from the Television Fund to subsidise the transmission costs of community-based self-help television and radio broadcast groups in regional and remote Australia through a new Regional Communications Partnership (RCP). The Government’s contribution will be matched by ntl Australia Pty Ltd - the owner of the National Transmission Network. ntl will administer the RCP. The Partnership will assist self-help groups by subsidising, for a 10 year period, the commercial fees payable by the groups for access to ntl sites. ie: $250 per annum (fixed) for ABC and SBS services; $1598 per annum (indexed) for the first commercial service at the site; and $667 per annum (indexed) for additional commercial services. Subsidies to self-help groups are available to new groups, groups providing services under contracts signed with ntl after 30 April 1999 and groups providing services under existing agreements with ntl that are due to expire.

(4) Level of funding:

<table>
<thead>
<tr>
<th>Program</th>
<th>99/00</th>
<th>2000/01</th>
</tr>
</thead>
<tbody>
<tr>
<td>Television Black Spots Program</td>
<td></td>
<td></td>
</tr>
<tr>
<td>The Program was announced on 23/6/00, there is no specific state/territory allocation and the closing date for applications is the 25/8/00.</td>
<td></td>
<td>It is anticipated that all funds will be allocated by 30 June 2001.</td>
</tr>
</tbody>
</table>
Television Black Spots Program

The Program was announced on 23/6/00, there is no specific state/territory allocation and the closing date for applications is 25/8/00.

It is anticipated that all funds will be allocated by 30 June 2001.

Regional Communications Partnership

The Partnership was announced on 9 May 2000. Applications for funding will be treated on a first come-first served basis.

It is anticipated that the majority of applications will be received from communities in regional Queensland and Western Australia.

Communities seeking to provide greater access to national and commercial broadcasting services, on a self-help basis, can apply for subsidised access to NTL sites (where available).

Department of Foreign Affairs and Trade: Programs and Grants to the Kalgoorlie Electorate

(Question No. 2422)

Senator O’Brien

(1) What programs and/or grants administered by the department to provide assistance to people living in the federal electorate of Kalgoorlie.

(2) What was the level of funding provided through these programs and/or grants for the 1996-97, 1997-98, 1998-99 and 1999-00 financial years.

(3) What level of funding provided through these programs and/or grants has been appropriated for the 2000-2001 financial year.

Senator Hill—The Minister for Trade has provided the following answer to the honourable senator’s question:

Austrade

(1) Programs and grants administered by Austrade to provide assistance to people living in the federal electorate of Kalgoorlie:

Export Market Development Grants - Export Market Development Grants are available to small to medium sized businesses in the Kalgoorlie electorate which meet the eligibility criteria specified in the Export Market Development Grant Act 1997. The grants are designed to assist export marketing efforts through a rebate of up to 50% of eligible export promotional expenditure incurred. More details of the scheme are available on the Austrade web site at www.austrade.gov.au

Export Access Program - The Export Access program is available to businesses in the federal electorate of Kalgoorlie. Under this program, service providers contracted to Austrade provide one-on-one professional marketing advice and guidance to assist eligible businesses to commence exporting on a sustainable basis.

(2) Level of funding provided through these programs and grants:

Export Market Development Grants:
1996-97 - 6 grants were provided totalling $643,460.00
1997-98 - 9 grants were provided totalling $699,791.00
1998-99 - 8 grants were provided totalling $586,848.00
1999-00 - 3 grants were provided totalling $230,850.00

(Please note that these figures cover all postcodes in the federal electorate of Kalgoorlie and may overlap slightly with adjoining electorates.)

Export Access Program - Expenditure in support of businesses in the federal electorate of Kalgoorlie:
1996-97 - $6,000
1997-98 - $6,000
1998-99 - $6,000
1999-00 - no businesses applied for assistance under the Export Access program.
(3) Level of funding provided through these programs and grants that has been appropriated for the 2000-2001 financial year:

Export Market Development Grants - Funding is available to all businesses which meet the Export Market Development Grants eligibility criteria and is not appropriated by electorate. Up to $142.5m is available for all applicants in 1999-2000. Details by electorate for the 2000-2001 financial year will not be available until July 2001.

Export Access Program - The appropriation under the program for the 2000-2001 financial year is $3,576,000.

Export Finance and Insurance Corporation (EFIC)
(1) None
(2) None
(3) None

Department of Communications, Information Technology and the Arts: Programs and Grants to the Kalgoorlie Electorate
(Question No. 2424)

Senator O’Brien
(1) What programs and/or grants administered by the department provide assistance to people living in the federal electorate of Kalgoorlie.

(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 2000-01 financial year.

Senator Alston—The answer to the honourable senator’s question is as follows:

Register of Cultural Organisations (ROCO)
This program allows qualifying cultural bodies involved in activities such as literature, music, design, film, performing and visual arts etc to be approved to seek tax deductible donations for these activities. The program operates under Subdivision 30-B of the Income Tax Assessment Act 1997 (the Act).

Listed below are the organisations currently listed on ROCO in the electorate of Kalgoorlie and the value of donations to these organisations.

<table>
<thead>
<tr>
<th></th>
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<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Esperence Sonshine</td>
<td>Public Radio Services</td>
<td>Esperance</td>
<td>13,290</td>
<td>16,750</td>
<td>NIL</td>
<td></td>
</tr>
<tr>
<td>Broadcasters (Inc)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Friends of the</td>
<td>Theatre</td>
<td>Karratha</td>
<td>NIL</td>
<td>1,700</td>
<td>NIL</td>
<td></td>
</tr>
<tr>
<td>Walkington Theatre Inc</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Goldfields Good News</td>
<td>Public Radio Services</td>
<td>Kalgoorlie</td>
<td>NIL</td>
<td>NIL</td>
<td>NIL</td>
<td>NIL</td>
</tr>
<tr>
<td>Broadcasters Inc</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Magabala Books</td>
<td>Book Publishing</td>
<td>Broome</td>
<td>NIL</td>
<td>NIL</td>
<td>259</td>
<td>NIL</td>
</tr>
<tr>
<td>Aboriginal Corporation</td>
<td>Theatre</td>
<td>Broome</td>
<td>NIL</td>
<td>NIL</td>
<td>NIL</td>
<td>NIL</td>
</tr>
</tbody>
</table>

* Complete data on donations for 1999/2000 is not available as statistical information is collected after the end of the financial year.

Cultural Gifts Program
The Cultural Gifts Program and its supplement the Cultural Bequests Program encourage donations of significant cultural items from private collections to public art galleries, museums and libraries by offering donors a tax deduction.
Presently there are no organisations listed in the electorate of Kalgoorlie that participate in the Cultural Gifts/Cultural Bequests Programs.

**Federation Community Projects**

(1) The $29.81 million Federation Community Projects program provides small grants to assist over 1,000 community organisations to commemorate the Centenary of Federation. A total of $200,000 was available for grants in each electorate. Applications were called in 1998 and assessed by respective Electorate Selection Committees comprising representatives from the local/regional area. The Minister for the Arts and the Centenary of Federation announced the grants on 6 July 1999 and some 90% of the projects are now underway.

(2) Federation Community Projects program funding for the electorate of Kalgoorlie by financial year

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>$0</td>
<td>$0</td>
<td>$1,121.85</td>
<td>$84,365.00</td>
<td>$84,365.00</td>
</tr>
</tbody>
</table>

(3) A total of $114,512 in Federation Community Projects program grant funds remain to be paid in the electorate of Kalgoorlie. All projects are scheduled to be completed by December 2001. Most of the remaining funds will be paid in 2000/2001, with a small proportion possibly carrying over into the following financial year.

**Cultural Projects: Federation Cultural and Heritage Projects program**

**Wirrimanu Arts and Cultural Centre, Balgo Hills**

(1) A grant for $0.5m to develop the Wirrimanu Cultural Centre.

(2) 1996/97 – Nil; 1997/98 – Nil; 1998/99 – Nil; 1999/00 - $0.057m.

(3) 2000/01 - $0.44m.

**Conservation of the Dalgety House Museum, Port Hedland.**

(1) A grant for $0.295m for the conservation and adaptation of Dalgety House for use as a museum.

(2) 1996/97 – Nil; 1997/98 – Nil; 1998/99 – Nil; 1999/00 - $0.245m.

(3) 2000/01 - $0.05m.

**Cultural Grants Programs**

(1) *Playing Australia*, the national performing arts touring program; the Contemporary Music Touring Program, which funds musicians to undertake national tours (this program commenced in 1999-2000); *Visions of Australia*, the national exhibitions touring program; and *Festivals Australia*, which funds cultural activities at regional and community festivals.

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Playing Australia</td>
<td>$0</td>
<td>* part of $210,095 (2 tours)</td>
<td>* part of $128,813 (1 tour)</td>
<td>* part of $71,192 (4 tours)</td>
</tr>
</tbody>
</table>

Contemporary Music

<table>
<thead>
<tr>
<th></th>
<th>部分$18,760</th>
<th>部分$44,180</th>
<th>部分$20,822</th>
<th>部分$175,049</th>
</tr>
</thead>
<tbody>
<tr>
<td>Visions of Australia</td>
<td>$33,800 (3 festivals)</td>
<td>$51,378 (3 festivals)</td>
<td>$38,000 (3 festivals)</td>
<td>$44,850 (2 festivals)</td>
</tr>
<tr>
<td>Festivals Australia</td>
<td>$33,800 (3 festivals)</td>
<td>$51,378 (3 festivals)</td>
<td>$38,000 (3 festivals)</td>
<td>$44,850 (2 festivals)</td>
</tr>
</tbody>
</table>

* Electorate included in itineraries

(3) The appropriations for the 2000-2001 financial year have not yet been approved.

**National Council for the Centenary of Federation’s History and Education Grant Program**

(1) Centenary of Federation’s History and Education Grant Program
(2) 1996-97, $0  
1997-98, $0  
1998-99, $8,688  
1999-00, $7,500

(3) $0

**Networking the Nation**

(1)-(2) The information in the table below is provided in response to these questions. Note that the program commenced in 1997 and no funding was provided in the 1996-1997 financial year.

<table>
<thead>
<tr>
<th>PROJECT</th>
<th>FINANCIAL YEARS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Outback Digital Network *</td>
<td>$2,900,000</td>
</tr>
<tr>
<td>Promotion and Briefing for Remote Indigenous Communities *</td>
<td></td>
</tr>
<tr>
<td>Design and Provision of Best-Practice E-Commerce Facilities for Desart and Members *</td>
<td></td>
</tr>
<tr>
<td>Telecommunications for North East Goldfields Minelope Province Region</td>
<td>$10,000</td>
</tr>
<tr>
<td>Networking the Ngamayatjarra Lands</td>
<td></td>
</tr>
<tr>
<td>Virtual Learning Environment *</td>
<td></td>
</tr>
<tr>
<td>WA Telecentre Network Extension: Westlink Extension: Portable Communication Units: Internet Assistance Fund *</td>
<td>$1,800,000</td>
</tr>
<tr>
<td>From needs to solutions – a Regional Telecommunications Project</td>
<td>$50,000</td>
</tr>
<tr>
<td>Esperance Community College Project *</td>
<td></td>
</tr>
<tr>
<td>Provision of Internet access to local call cost for rural communities in Southern WA *</td>
<td>$340,000</td>
</tr>
<tr>
<td>Telecommunication network infrastructure for multipurpose community and telehealth needs *</td>
<td>$8,000,000</td>
</tr>
<tr>
<td>TeleSENIOR *</td>
<td>$20,000</td>
</tr>
<tr>
<td>Mobile Telephones in Kimberley Region</td>
<td>$345,000</td>
</tr>
<tr>
<td>Linking legal access to remote towns in the Wheatbelt region and beyond *</td>
<td></td>
</tr>
<tr>
<td>Communications Solutions: Gascoyne Region WA</td>
<td></td>
</tr>
<tr>
<td>Handheld Satellite Phone Trial</td>
<td></td>
</tr>
<tr>
<td>Provision of Internet services to regional centres in the Pilbara in conjunction with the provision of Telecentres to the same centres</td>
<td></td>
</tr>
<tr>
<td>Construction of IMAGO MITES *</td>
<td></td>
</tr>
<tr>
<td>Telecentre Access Points *</td>
<td>$1,000,000</td>
</tr>
<tr>
<td>NMVROC – Mobile Telephone Extension Project *</td>
<td></td>
</tr>
<tr>
<td>Videoconferencing Access and Support Fund – WAVOL: Western Australia Visually Online *</td>
<td></td>
</tr>
<tr>
<td>Filling in the “Black Holes” Provision of internet access at local call cost in isolated exchange areas in southern WA *</td>
<td></td>
</tr>
<tr>
<td>AICN Pilot Project: research and development *</td>
<td></td>
</tr>
</tbody>
</table>
FINANCIAL YEARS

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>FRAN Internet Access for ALL *</td>
<td>$20,378,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nationalising E Momentum in Local Government *</td>
<td>$70,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Development of a Business Plan and Network Design for Improved</td>
<td></td>
<td></td>
<td>$100,000</td>
</tr>
<tr>
<td>Telecommunications Delivery to the Ngaanyatjarra Lands Communities</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Enhance Communications at Abrolhos Islands</td>
<td>$209,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Linking Councils and the Community *</td>
<td>$100,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wired Wide West Project</td>
<td>$377,000</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

NOTE: Projects marked with an asterisk (*) provide assistance to people in the Kalgoorlie electorate and other electorates.

(3) Funding is allocated at meetings of the Networking the Nation Board. Funding allocations for the 2000-2001 financial year will be decided at the Board's meetings in November 2000 and June 2001.

Broadcasting Programs

(1) Programs and/or grants administered by the Department

The Television Fund is a $120 million program funded from the second partial sale of Telstra.

Eligible community organisations can apply for funding under three components of the Television Fund:

Television Black Spots Program

Under the $35 million Television Black Spots Program community groups or local government authorities can apply for funding to retransmit ABC, SBS and commercial television services in black spot areas of poor or non-existent television reception or to replace obsolete transmission equipment.

Up to $25,000 is available for retransmitting each new service.

Second Remote Commercial Subsidy Program

The Second Remote Commercial Subsidy Program is also open to existing self-help retransmission groups in remote broadcast areas seeking to rebroadcast a second remote commercial television service. The subsidy provides two-thirds of the cost of the equipment required to transmit a second commercial television service. (Kalgoorlie is a remote broadcast area.)

Regional Communications Partnership (RCP)

The Government will provide $5 million from the Television Fund to subsidise the transmission costs of community-based self-help television and radio broadcast groups in regional and remote Australia through a new Regional Communications Partnership (RCP). The Government’s contribution will be matched by ntl Australia Pty Ltd - the owner of the National Transmission Network. ntl will administer the RCP. The Partnership will assist self-help groups by subsidising, for a 10 year period, the commercial fees payable by the groups for access to ntl sites. i.e: $250 per annum (fixed) for ABC and SBS services; $1598 per annum (indexed) for the first commercial service at the site; and $667 per annum (indexed) for additional commercial services. Subsidies to self-help groups are available to new groups, groups providing services under contracts signed with ntl after 30 April 1999 and groups providing services under existing agreements with ntl that are due to expire.

Special Broadcasting Service (SBS) Analogue Extension

Under the Television Fund, the Government has funded SBS to extend television services to 78 sites located in regional transmission areas with a minimum population of 10,000 people. On 11 July 2000, the Government announced that these extensions would be completed by June 2001.

Declared Remote Broadcaster Subsidy

Eligible commercial broadcasters are provided with funds to supplement the increase in their transmission costs following the sale of the National Transmission Network to ensure broadcasting services to remote areas are maintained at their current levels.

(1) and (3) Level of funding:
### Second Remote Commercial Subsidy

<table>
<thead>
<tr>
<th>Program</th>
<th>96/97</th>
<th>97/98</th>
<th>98/99</th>
<th>99/00</th>
<th>2000/01</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nil</td>
<td>nil</td>
<td>nil</td>
<td>Nil</td>
<td>The Program commenced this year with $201,951.53 allocated to 19 communities in the electorate. These communities are: Shire of Broome ($2314); Shire of Ashburton ($9146); Shire of Denham ($9527); Shire of Wiluna ($9999); Shire of Laverton ($6734); Shire of Esperance ($32689); Shire of Jerramungup ($24298.88); Shire of Carnamah ($11575); Shire of Gascoyne Junction ($5758.65); Shire of Yalgoo ($4214); Shire of Coorow ($18593); Shire of Kulin ($6600); Shire of Nyabing ($12261); Shire of Mingenew ($4643); Shire of Mukinbudin ($3722); Shire of Dandaragan ($22173); Shire of Trayning ($7437); Shire of Westonia ($2941); and Shire of Narembeen ($7337). As of 12 July 2000 one payment of $6275 has been made to the Orleans Bay Caravan Park. Payments are processed as organisations apply for assistance. There is no state/territory allocation under this program.</td>
<td></td>
</tr>
<tr>
<td>Nil</td>
<td>nil</td>
<td>nil</td>
<td>Nil</td>
<td>It is anticipated that all funds will be allocated by 30 June 2001.</td>
<td></td>
</tr>
</tbody>
</table>

### Regional Communications Partnership

<table>
<thead>
<tr>
<th>Program</th>
<th>96/97</th>
<th>97/98</th>
<th>98/99</th>
<th>99/00</th>
<th>2000/01</th>
</tr>
</thead>
<tbody>
<tr>
<td>nil</td>
<td>nil</td>
<td>nil</td>
<td>Nil</td>
<td>The Partnership was announced on 9 May 2000. Applications for funding will be treated on a first come-first served basis. It is anticipated that the majority of applications will be received from communities in regional Queensland and Western Australia. ntl anticipates that self-help groups in Karratha, Esperance, Marble Bar, Kew and Mt Magnet will be amongst the first to receive subsidised access for 1-2 television or radio services under the RCP.</td>
<td></td>
</tr>
</tbody>
</table>

### SBS Analogue Television Extensions

<table>
<thead>
<tr>
<th>Program</th>
<th>96/97</th>
<th>97/98</th>
<th>98/99</th>
<th>99/00</th>
<th>2000/01</th>
</tr>
</thead>
<tbody>
<tr>
<td>nil</td>
<td>nil</td>
<td>nil</td>
<td>nil</td>
<td>Under the announced rollout schedule, SBS will be extended to Central Agricultural by the end of June 2001. In addition, SBS will formally take over responsibility for the local transmission of its TV service in Broome and Port Hedland by the end of November 2000. Karratha by the end of December 2000, Esperance by the end of January 2001, and Kalgoorlie by the</td>
<td></td>
</tr>
</tbody>
</table>
Costs per extension are not available, however, the physical extension and provision of services for 10 years at the 78 sites will cost a total of $70.31 million.

The funding is ongoing

Department of Communications, Information Technology and the Arts: Programs and Grants to the Eden-Monaro Electorate
(Question No. 2442)

Senator O’Brien

(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 2000-01 financial year.

Senator Alston—The answer to the honourable senator’s question is as follows:

Register of Cultural Organisations (ROCO)

This program allows qualifying cultural bodies involved in activities such as literature, music, design, film, performing and visual arts etc to be approved to seek tax deductible donations for these activities. The program operates under Subdivision 30-B of the Income Tax Assessment Act 1997 (the Act).

Listed below are the organisations currently listed on ROCO in the electorate Eden-Monaro and the value of donations to these organisations.

<table>
<thead>
<tr>
<th></th>
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<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Bay Theatre Players Inc</td>
<td>Theatre</td>
<td>Batemans Bay</td>
<td>2,717</td>
<td>2,700</td>
<td>1,880</td>
<td>125</td>
</tr>
<tr>
<td>Four Winds Concerts Incorporated</td>
<td>Festivals</td>
<td>Narooma</td>
<td>25,020</td>
<td>20</td>
<td>20</td>
<td>NIL</td>
</tr>
<tr>
<td>HAPI Heritage-cultural Arts Promotions Inc</td>
<td>Services to Art &amp; Literature</td>
<td>Queanbeyan</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>NIL</td>
</tr>
</tbody>
</table>

* Complete data on donations for 1999/2000 is not available as statistical information is collected after the end of the financial year.

Cultural Gifts Program

The Cultural Gifts Program and its supplement the Cultural Bequests Program encourage donations of significant cultural items from private collections to public art galleries, museums and libraries by offering donors a tax deduction.

Listed below are the organisations in the electorate of Eden-Monaro that participate in the Cultural Gifts/Cultural Bequests Programs and the value of cultural property donated to these organisations.
(1) The $29.81 million Federation Community Projects program provides small grants to assist over 1,000 community organisations to commemorate the Centenary of Federation. A total of $200,000 was available for grants in each electorate. Applications were called in 1998 and assessed by respective Electorate Selection Committees comprising representatives from the local/regional area. The Minister for the Arts and the Centenary of Federation announced the grants on 6 July 1999 and some 90% of the projects are now underway.

(2) Federation Community Projects program funding for the electorate of Eden-Monaro by financial year

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Eden Killer Whale Museum</td>
<td>Eden</td>
<td>$1,010</td>
<td>NIL</td>
<td>NIL</td>
<td>NIL</td>
</tr>
<tr>
<td>Lanyon Homestead</td>
<td>Tharwa</td>
<td>NIL</td>
<td>NIL</td>
<td>NIL</td>
<td>NIL</td>
</tr>
<tr>
<td>Nolan Gallery</td>
<td>Tharwa</td>
<td>NIL</td>
<td>NIL</td>
<td>NIL</td>
<td>NIL</td>
</tr>
</tbody>
</table>

(3) A total of $33,850 in Federation Community Projects program grant funds remain to be paid in the electorate of Eden-Monaro. All projects are scheduled to be completed by December 2001. Most of the remaining funds will be paid in 2000/2001, with a small proportion possibly carrying over into the following financial year.

Cultural Grants Programs

(1) Playing Australia, the national performing arts touring program; the Contemporary Music Touring Program, which funds musicians to undertake national tours (this program commenced in 1999-2000); Visions of Australia, the national exhibitions touring program; and Festivals Australia, which funds cultural activities at regional and community festivals.

(2) Funding for Cultural Grants Programs by financial year

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Playing Australia</td>
<td>* part of $158,676 (1 tour)</td>
<td>* part of $138,182 (1 tour), $10,368 (to organisation based in electorate)</td>
<td>* part of $308,594 (4 tours)</td>
<td>* part of $230,000 (1 tour)</td>
</tr>
<tr>
<td>Contemporary Music</td>
<td>* part of $70,000 (3 tours)</td>
<td>* part of $38,801</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>Visions of Australia</td>
<td>$0</td>
<td>* part of $38,801</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>Festivals Australia</td>
<td>$36,800 (3 festivals)</td>
<td>$0</td>
<td>$15,400 (2 festivals)</td>
<td>$5,130 (1 festival)</td>
</tr>
</tbody>
</table>

* Electorate included in itineraries

(3) The appropriations for the 2000-2001 financial year have not yet been approved.

National Council for the Centenary of Federation’s History and Education Grant Program

(1) Centenary of Federation’s History and Education Grant Program

(2) Funding for the National Council for the Centenary of Federation’s History and Education Grant Program by financial year

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1996-97</td>
<td>$0</td>
</tr>
<tr>
<td>1997-98</td>
<td>$0</td>
</tr>
<tr>
<td>1998-99</td>
<td>$8,688</td>
</tr>
<tr>
<td>1999-00</td>
<td>$7,500</td>
</tr>
</tbody>
</table>

(3) $0

Networking the Nation

(1) and (2) The information in the table below is provided in response to these questions. Note that the program commenced in 1997 and no funding was provided in the 1996-1997 financial year.

- **Promotion and Briefing for Remote Indigenous Communities** * $75,000
- **Australian Capital Region – Telecommunications Strategy** * $45,000
- **ACROSS** * $300,000
- **Healthy Communities@ NSW** * $840,966
- **South Coast Telecommunications Network Study** * $110,000 $55,000
- **Eden Community Access Centre** $161,599
- **Batlow Mobile Telephony** $82,500
- **FRAN Internet Access for ALL** * $20,378,000
- **Nationalising E Momentum in Local Government** * $70,000
- **Get IT…Got IT…Good (IT&T Roadshow)** * $32,500
- **Teleworking to the Fore** * $175,000
- **Internet Tools for NSW Local Government** * $585,215
- **Joint Commonwealth/NSW Community Technology Centre Program** * $8,250,000
- **NSW Local Government IT Strategic Framework** * $25,000

### NOTE:
- Projects marked with an asterisk (*) provide assistance to people in the Eden-Monaro electorate and other electorates.
- Funding is allocated at meetings of the Networking the Nation Board. Funding allocations for the 2000-2001 financial year will be decided at the Board’s meetings in November 2000 and June 2001.

### Broadcasting Programs

1. Programs and/or grants administered by the Department

   - The **Television Fund** is a $120 million program funded from the second partial sale of Telstra.

   Eligible community organisations can apply for funding under two component of the Television Fund:

   - **Television Black Spots Program**
     - Under the $35 million Television Black Spots Program community groups or local government authorities can apply for funding to retransmit ABC, SBS and commercial television services in black spot areas of poor or non-existent television reception or to replace obsolete transmission equipment. Up to $25000 is available for retransmitting each new service.

   - **Regional Communications Partnership (RCP)**
     - The Government will provide $5 million from the Television Fund to subsidise the transmission costs of community-based self-help television and radio broadcast groups in regional and remote Australia through a new Regional Communications Partnership (RCP). The Government’s contribution will be matched by ntl Australia Pty Ltd - the owner of the National Transmission Network. ntl will administer the RCP. The Partnership will assist self-help groups by subsidising, for a 10 year period, the commercial fees payable by the groups for access to ntl sites. ie: $250 per annum (fixed) for ABC and SBS services; $1598 per annum (indexed) for the first commercial service at the site; and $667 per annum (indexed) for additional commercial services. Subsidies to self-help groups are available to new groups, groups providing services under contracts signed with ntl after 30 April 1999 and groups providing services under existing agreements with ntl that are due to expire.

2. **Special Broadcasting Service (SBS) Analogue Extension**

   Under the Television Fund, the Government has funded SBS to extend television services to 78 sites located in regional transmission areas with a minimum population of 10,000 people. On 11 July 2000, the Government announced that these extensions would be completed by June 2001.
Department of Industry, Science and Resources: Programs and Grants to the Gippsland Electorate

(Question No. 2467)

Senator O’Brien

(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 2000-01 financial year.

Senator Minchin—The answer to the honourable senator’s question is as follows:

(1)

<table>
<thead>
<tr>
<th>Program</th>
<th>1999-2000 - $</th>
</tr>
</thead>
<tbody>
<tr>
<td>Textile Clothing and Footwear Import Credits Scheme</td>
<td>Duty forgone 93,774</td>
</tr>
<tr>
<td>Wood and Paper Industry Strategy</td>
<td>179,000</td>
</tr>
</tbody>
</table>
(2) Nil in the electorate of Gippsland appropriated in 2000-01.

**Department of Employment, Workplace Relations and Small Business: Missing Laptop Computers**

**(Question No. 2502)**

**Senator Faulkner**

(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 computers referred to in (1) or in relation to the documents etc. referred to in (3) or (4).

**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 (DEWRSB)**

(1) Since 1 January 1999, the department has had twelve instances where laptop computers have been reported as lost or stolen from the possession of officers of the department:

(a) two have been lost;
(b) ten have been stolen;
(c) the total written down value of these computers is approximately $28,000;
(d) $5,500 is the average replacement value per computer; and
(e) six of these laptop computers have been replaced.

(2) In regard to the stolen laptops:

(a) ten incidents of theft were reported to the police;
(b) four were subject to an initial investigation and forensic investigation;
(c) legal action has commenced for one of these cases; and
(d) in the one case of legal action, an offender was arrested and charged.

(3) Only two of the stolen laptop 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) None of the documents etc. referred to in (3) were classified for security.

(5) (a) None of the documents etc. referred to in (3) have been recovered; and
(b) None of the documents etc. referred to in (4) have been recovered.

(6) Building and office security has been tightened in regard to the laptop computers referred to in (1b).

**Australian Industrial Registry (AIR)**

(1) (a) Nil
Since 1 January 1999 the following laptop computers have been lost or stolen from the National Occupational Health and Safety Commission:

(a) two laptop computers have been lost;
(b) four laptop computers have been stolen; (c) the total value of these computers is $25,907; (d) the average replacement value per computer is $5,000; and (e) two of the computers have been replaced—none has been recovered.

(a) The four stolen laptops were the subject of two separate police investigations;
(b) preliminary police investigations were undertaken—a report in one instance and a report and a visit by police to the premises in the second incident—but no further investigations were undertaken;
(c) no legal action has commenced in either case; and (d) no legal action has concluded in either case.

(3) One laptop had on it a copy of the NOHSC website; another had some minor NOHSC documents on it.

(4) None of the documents referred to in (3) above were classified for security or any other purpose.

(5) (a) None of the documents referred to in (3) above have been recovered; and
(b) None of the documents referred to in (4) above have been recovered.
No departmental discipline has been undertaken in regard to the laptops referred to in (1) or in relation to the documents referred to in (3) above. Internal storage security has been enhanced to prevent future hardware losses.

**Defence Force Remuneration Tribunal**

1. (a) None;
   (b) one laptop has been stolen from a home break–in;
   (c) approximately $2000;
   (d) approximately $4500; and
   (e) no.
2. Yes
   (a) One
   (b) One
   (c) None
3. (a) Not applicable
   (b) Nil
   (c) None
   (d) Nil
   (e) None

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**Equal Employment Opportunity for Women in the Workplace Agency**

1. (a) None
   (b) None
   (c) Not applicable
   (d) Not applicable
   (e) Not applicable
2. (a) Not applicable
   (b) Not applicable
   (c) Not applicable
   (d) Not applicable
3. Not applicable.
4. Not applicable.
5. (a) Not applicable
   (b) Not applicable
   (c) Not applicable
6. Not applicable.

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**Department of Education, Training and Youth Affairs: Missing Laptop Computers**

(Question No. 2508)

**Senator Faulkner**

(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 computers referred to in (1) or in relation to the documents etc. referred to in (3) or (4).

Senator Ellison—The Minister for Education, Training and Youth Affairs has provided the following answer to the honourable senator’s question:

(1) Since 1 January 1999
(a) a national stocktake of equipment shows that no laptops are unaccounted for because of loss;
(b) 10 laptop computers have been stolen; 8 of them in an office burglary on Easter Sunday this year;
(c) total value is $23,977;
(d) the average replacement value is $4,200.00;
(e) no computers have been recovered; 4 have been replaced.
(2) (a) Police were requested to investigate two incidents involving the 10 stolen laptops;
(b) no investigations have been completed;
(c) not applicable;
(d) not applicable.
(3) Two laptops had documents containing back up information for Y2K contingency planning. We are unaware of any other documents being stored in the stolen laptops.
(4) The known information was not classified.
(5) No documents have been recovered.
(6) Liability assessment will be conducted when the investigation has been completed.

Department of Employment, Workplace Relations and Small Business: Missing Computer Equipment

(1) Since 1 January 1999, have there been any desktop computers, or any other item of computer hardware, other than laptop computers, lost or stolen from the possession of any officer of the department and/or any agencies within the portfolio; if so: (a) what and how many have been lost; (b) what and how many have been stolen; (c) what is the total value of these items; (d) what is the normal replacement value per item; 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 items 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) and (4).

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) Since 1 January 1999:

(a) nil;

(b) one desktop computer has been stolen and over the period in question an assortment of other hardware was stolen: two boxed monitor speakers, printer; RAM; speaker power packs, mouse, keyboards, PC cables, memory chips, hard drives; mini tower; video camera; 128mb stick;

(c) $10 000 is the approximate total value of the goods stolen;

(d) $2000 is the average replacement value per computer; and

(e) the desktop computer has not been recovered or replaced.

(2) The police have not been asked to investigate.

(3) The stolen computer had no departmental documents, content or information other than operating software on its hard disc drives, or in the form of floppy disc, CD-ROM or any other storage device.

(4) None of the documents etc. referred to in (3) were classified for security.

(5) None of the documents etc. referred to in (4) have been recovered.

(6) Building and office security has been tightened in regard to the computers referred to in (1b).

Australian Industrial Registry (AIR)

(1) (a) Nil

(b) 1 Memory chip

(c) $380

(d) $380

(e) no

(2) No.

(3) None.

(4) Not applicable.

(5) Not applicable.

(6) No action taken.

Comcare

(1) (a) None

(b) one Palm Top

(c) $855

(d) $855

(e) no

(2) (a) Yes

(b) one

(c) none
(d) none
(3) None.
(4) Not applicable.
(5) (a) Not applicable
(b) Not Applicable
(6) Not applicable.