CONTENTS

TUESDAY, 5 SEPTEMBER

Questions Without Notice—
Australian Competition and Consumer Commission: Bank Fees.............. 17297
Indigenous Affairs: Government Policy...................................................... 17298
Aged Care: Facilities................................................................................... 17299
Coastal Surveillance: Government Policy................................................... 17299
Aged Care: Facilities................................................................................... 17301
Parliamentary Library: Provision of Information........................................ 17301
Aged Care: Facilities................................................................................... 17303
Queensland: Water Allocation..................................................................... 17304
Aged Care: Facilities................................................................................... 17305
Goods and Services Tax: Economic Impact................................................ 17306
Aged Care: Facilities................................................................................... 17307
World Economic Forum: Human Rights..................................................... 17308
Aged Care: Facilities................................................................................... 17309

Answers to Questions Without Notice—
Department of Defence: Missing Computer Equipment............................. 17310
Aged Care: Facilities................................................................................... 17310
Queensland: Water Allocation..................................................................... 17315

Notices—
Presentation ................................................................................................. 17315
Withdrawal .................................................................................................. 17316
Presentation ................................................................................................. 17316
Postponement .............................................................................................. 17318

Committees—
Foreign Affairs, Defence and Trade References Committee—Reference... 17318
Freedom of Information Amendment (Open Government) Bill 2000—
First Reading ............................................................................................... 17318
Second Reading........................................................................................... 17318

Committees—
Economics References Committee—Meeting.............................................. 17321
Snedden, Mr Andrew.................................................................................... 17321

Committees—
Legal and Constitutional References Committee—Extension of Time...... 17321
Convention on the Elimination of All Forms of Discrimination Against
Women: Optional Protocol................................................................................ 17321
Committees—
Environment, Communications, Information Technology and the Arts
References Committee—Meeting................................................................. 17322
Television: Captioning.................................................................................. 17322

Documents—
Fiji and Solomon Islands: Political Crises................................................... 17322
Veterans’ Affairs Legislation Amendment Bill (No. 1) 2000
Trade Practices Amendment (International Liner Cargo Shipping) Bill 2000—
First Reading ............................................................................................... 17322
Second Reading........................................................................................... 17323

Committees—
Legislation Committees—Reports .............................................................. 17327
Defence Legislation Amendment (Aid to Civilian Authorities) Bill 2000—
In Committee............................................................................................... 17327
CONTENTS—continued

Documents—
  Co-regulatory Scheme for Internet Content Regulation.............................. 17355
  Consideration.................................................................................................. 17357

Adjournment—
  Irrigation......................................................................................................... 17357
  Aboriginal Youth: Petrol Sniffing................................................................ 17359
  United Nations Human Rights Committees: Australia’s Participation........ 17361

Documents—
  Tabling........................................................................................................... 17363
  Indexed Lists of Files .................................................................................... 17363

Questions on Notice—
  Aged Care: Beds for Planning Regions—(Question No. 2324) .................. 17365
  Country Areas Program: Estimates—(Question No. 2332) ......................... 17365
  Aged Care Providers: Appeals Lodged with the Administrative Appeals
  Tribunal—(Question No. 2395) ................................................................. 17369
  Department of Education, Training and Youth Affairs: Programs and
  Grants to the Bass Electorate—(Question No. 2411) ................................... 17369
  Department of Education, Training and Youth Affairs: Programs and
  Grants to the Kalgoorlie Electorate—(Question No. 2429) ......................... 17371
  Department of Education, Training and Youth Affairs: Programs and
  Grants to the Eden-Monaro Electorate—(Question No. 2447) ..................... 17373
  Department of Education, Training and Youth Affairs: Programs and
  Grants to the Gippsland Electorate—(Question No. 2466) ......................... 17375
  Nursing Homes: Permanent Residents—(Question No. 2547) .................... 17377
  Aged Care Facilities: Beds—(Question No. 2549) ........................................ 17378
Tuesday, 5 September 2000

The PRESIDENT (Senator the Hon. Margaret Reid) took the chair at 2.00 p.m., and read prayers.

QUESTIONS WITHOUT NOTICE
Australian Competition and Consumer Commission: Bank Fees

Senator CONROY (2.01 p.m.)—My question is addressed to Senator Kemp, the Assistant Treasurer. Has the minister seen reports that the ACCC is proceeding with court action against the National Australia Bank over the alleged price fixing of interchange fees on credit cards? Is the minister aware that the ACCC figures show that the banks earn $600 million alone from this practice—a de facto monopoly—and that they operate the EFTPOS and ATM payment systems in the same manner? Will the government then direct the ACCC to widen its inquiries into the payments system to include EFTPOS fees and ATM fees?

Senator KEMP—Thank you to Senator Conroy for that question. This is under the responsibility of Mr Joe Hockey, but I think I am able to shed some light on the matters that Senator Conroy has raised. The Australian Competition and Consumer Commission and the Reserve Bank of Australia are undertaking two separate inquiries into the interchange fees charged for credit and debt card transactions. In the first inquiry, the ACCC is investigating alleged price fixing by financial institutions and credit card organisations in relation to the joint setting of interchange fees for credit card transactions.

In March this year, the ACCC wrote to these organisations stating its belief that these joint arrangements are likely to contravene section 45 of the Trade Practices Act and has asked them to either cease the practice or seek authorisation under the act. On 4 September, the ACCC announced its intention to institute proceedings in the Federal Court against the National Australia Bank for alleged price fixing in breach of the Trade Practices Act 1974. A directions hearing for the matter, I understand, is listed for 11 October at the Federal Court in Sydney.

In September last year, the ACCC and the Reserve Bank of Australia also announced a joint study of interchange fees and access arrangements in debit and credit card schemes. That study has the following objectives: obtain information on interchange fees paid by financial institutions; clarify the basis on which these fees are currently set, looking particularly at the role of costs; obtain information on current restrictions on credit card scheme membership and assess whether current fees and membership arrangements are encouraging efficient provision of debit and credit card services.

A discussion paper on these issues is expected to be released by the RBA and the ACCC for public comment in October. Senator Conroy, I will bring your comments to the attention of the responsible minister, Mr Hockey, but I think you would receive a considerable amount of comfort from the brief that I have read to you.

Senator CONROY—Madam President, I ask a supplementary question. Aren’t the government’s repeated urgings to customers to ‘shop around for banking services’ a farce, given the banks’ control of the payment system?

Senator KEMP—Senator, I think you have gone from a particular issue which you have raised and which I think is a matter of concern.

Senator Conroy—You keep talking about shopping around. You keep telling the customers to shop around.

Senator KEMP—Madam President, I am trying to answer the question, and Senator Conroy keeps on butting in. Senator Conroy has gone from the particular issue to a more general statement. In relation to the general issue of banks and other financial institutions, it is quite clear that in a whole range of areas the banks compete. But, in this particular area, we have already expressed our concern. I have already highlighted to Senator Conroy the action which has been taken in relation to the ACCC and in relation to the study by the ACCC and the Reserve Bank.

Senator Conroy—What about EFTPOS?

Senator KEMP—I think, Senator Conroy, you would be better off waiting for the re-
results of that rather than calling out in an abusive way in this chamber.

**Indigenous Affairs: Government Policy**

**Senator KNOWLES** (2.05 p.m.)—My question is addressed to the Minister for Aboriginal and Torres Strait Islander Affairs, Senator Herron. The government is continuing to build on the progress it is making in indigenous affairs by focusing on the areas of health, education, housing, employment and economic empowerment. Will the minister please outline to the Senate how the government’s initiatives are creating a better future for indigenous Australians, and will he also advise the Senate if he is aware of any alternatives?

**Senator HERRON**—I thank Senator Knowles for her question and for her continued interest in indigenous affairs in this country. As the Minister for Aboriginal and Torres Strait Islander Affairs, I am very proud of the Howard government’s record in achieving practical and realistic outcomes for indigenous Australians. The $2.3 billion spent on indigenous specific initiatives this financial year is a record amount. It is the most spent by any federal government in a single year. The government was criticised, you will recall, Madam President, when I tasked the Army with building infrastructure, such as housing, roads, sewerage, airstrips and clean drinking water facilities in the most needy indigenous communities. Yet this $40 million ongoing program has been an outstanding success and has been hailed by indigenous people across the country.

The Howard government has demonstrated its strong support for reconciliation, and there is enormous goodwill among Australians to ensure all Australians are treated equally and receive equal opportunities. In the past four years, the Howard government has focused on the priority areas of health, housing, education, employment and economic empowerment. It was this government which recognised the problems of welfare dependency. In fact, I spoke on this in October 1996 in the Joe and Enid Lyons Memorial Lecture, and I would refer you to that. Since then, the government has been moving to empower indigenous Australians so they can control their own destinies and have money in their pockets, good jobs and education for their children. I am pleased to see that the newly appointed shadow minister, Mr McMullan, in his first press conference today said his priority would be the issues of ‘living standards, jobs, health, education and housing’. Doesn’t that sound familiar? I am absolutely delighted. It is the Labor Party adopting the government’s policy. It is like the GST—that is now their policy. The government is delighted.

**Senator Cook**—It is not our policy.

**Senator HERRON**—Think about what their previous policy was. It is Mr McMullan’s first day on the job and we have to give him a bit of time, but the previous Labor policy was—

**Senator Robert Ray**—We have given you four years and you have done nothing.

**Senator HERRON**—The previous shadow minister—and Senator Ray may be interested in this—said:

“... Laurie ... we will sit down in government with all the stakeholders ... and we’ll take advice ...”

I would like to take the opportunity to welcome Mr McMullan to the portfolio—one which his leader says he volunteered for. Of course, Mr Beazley told the media today that the job was so sought after that five of his shadow frontbenchers were eager to take on the responsibility for indigenous affairs. But, when questioned, he refused to name these eager beavers, apart from Carmen Lawrence, saying that he would prefer to keep them anonymous. I wonder whether one of those was the anonymous one who made that infamous, disgraceful and hurtful remark about the *Titanic*. I suppose we will never know, but Mr Beazley is a man of his word and I am sure he is conducting a witch-hunt to track that person down. What has he done? What is he doing to find this individual? Will he throw them out of parliament, as called for by his Labor colleague Gerry Hand? We will see. I think it will be a case of out of sight, out of mind. It will be glossed over.

The Leader of the Opposition was right at his press conference today when he accepted that Labor was blind to the problems of indigenous Australians during its 13 years of wasted opportunities. Mr Beazley said, ‘It
didn’t seem to need that attention in the same way a decade or so ago. Probably it did, but it didn’t seem to. I suppose that is an apology. That is as good as we can get. Now Mr Beazley has said that he will pay more attention to the needs of indigenous Australians, and we have seen the eagerness with which he has handled indigenous affairs over the past week. It has been one disaster after another by Captain Beazley. When the ship is sinking, the rats are the first ones into the lifeboats. It is every man and every woman for themselves in the Labor Party today.

(Time expired)

Aged Care: Facilities

Senator CHRIS EVANS (2.10 p.m.)—I have a question for Senator Herron, representing the Minister for Aged Care. Is the minister aware that a leaked report from the Melbourne health network, comprising the Royal Melbourne Hospital and other health care institutions, has identified a shortage of 700 residential aged care beds in inner Melbourne, which is placing enormous pressure on the public hospital system? Doesn’t this confirm data provided by the department which clearly shows that waiting times for a nursing home bed in Melbourne have increased over the last three years? Is the minister aware that, in 1999, 80 per cent of people looking for a nursing home bed in the western suburbs of Melbourne could not find a bed within two weeks? Is he aware that one in four people is still waiting for a bed three months after having sought one, many having no choice but to stay in hospital, which is putting pressure on the public health system?

Senator HERRON—I am not aware of that particular thing, but where has Senator Evans been for the last 20 years? That has been a problem in the hospital system for the 30 or 40 years that I have been around. There are always pressures on the public hospital system because of the transfers and the lack of numbers available outside the public hospital system. They have always been that way. That is nothing new. If that report is correct, it is nothing new. It has been there forever.

Senator Evans is probably aware that the population is ageing. There is a rapidly ageing population. There is an increasing demand on nursing homes. It is inevitable. It was there in the 13 years that the Labor Party was in power, and it is accelerating because the population is ageing. So I am not surprised, and that report may well be correct in saying that there is a shortage of nursing home beds. The shortage of nursing home beds is a legacy of Labor’s 13 years of wasted opportunity in government, a legacy that Labor left us when we came into government, and we are trying to clean up the mess now. We have made available more nursing home beds in the four years that we have been in government than were made available in the previous 10 that the Labor Party was in power. So we are cleaning up the mess. I have no doubt that there are waiting lists and that the waiting lists are getting longer. I will ask for a reply from the minister to see whether there is anything further she has to add in that regard.

Senator CHRIS EVANS—Madam President, I have a supplementary question. I thank the minister for acknowledging that there is an ageing population and that the problem is accelerating. Therefore, can the minister confirm that not one new high care bed was allocated to Melbourne in this year’s allocation round?

Senator HERRON—No, I cannot confirm that, but I will certainly ask the minister for a response to Senator Evans’s question and get back to him with a response from the minister when that is available.

Coastal Surveillance: Government Policy

Senator CRANE (2.13 p.m.)—My question is to Senator Vanstone, the Minister for Justice and Customs. Last year the Prime Minister announced a $124 million funding boost for coastal surveillance and for the fight against illegal immigration. I ask: will the minister inform the Senate of the progress to date in making Australia’s borders safer? In particular, what alternative policies in this area have been considered?

Senator VANSTONE—I thank Senator Crane for his question. All the Western Australian senators are particularly interested in coastal surveillance measures, of course, because potential illegal immigrants have been, over the last year, trying to come in over the
western border. People smuggling is one of the biggest problems faced not only by us but by other Western countries. It is a growing threat, and it has changed in nature. For example, in 1998-99, there were 926 suspected unlawful non-citizens arriving by boat but, in 1999-2000, there were 4,188. In June 1999, the Prime Minister announced a massive $124 million increase in funding to protect Australia's borders.

We have only recently taken delivery of two new Dash 8 aircraft. They are being fitted with state-of-the-art surveillance systems and, when they come online, they will dramatically increase our radar footprint. That will be a good thing. Senator Crane, as you would know, we also have the National Surveillance Centre up and running, with good links into the Department of Defence—links that were never created by Labor but should have been. We have introduced into service a twin engine night capable helicopter in the Torres Strait, and we have strengthened maritime law enforcement powers. As to alternative policies, the Labor shadow minister has been promoting a coastguard—a policy to create a whole new administration to do nothing more than what we do very well at the moment. Labor’s policy will not reduce the desire of people to come here, it will not reduce the flow and it certainly will not do any better than the Coastwatch arrangements do now. Mr Beazley rejected the idea of a coastguard in 1984 as being unnecessary and too expensive. Clearly, Mr Beazley disregarded Mr Kerr’s protestations on the radio this morning when Mr Kerr said of the chance of his losing responsibility for the arts in the shadow ministry: ‘I have made it very plain that I see that not as an option.’ It has happened anyway. Mr Beazley rejected that idea as well.

Labor are in complete disarray. We need to understand what is happening here: they are endorsing a policy that their own leader has already rejected. It is a cruel parody of the John West ad—the ad that says, ‘Others sell the salmon we reject.’ Labor says, ‘We sell the policies that we have rejected.’ They just do not get it. Not only are they in disarray because they are selling policies they have rejected; they have a leader that you can describe as a locked in loser. He is locked in to rolling back the GST and locked in to blocking the sale of Telstra—so every little shareholder knows Labor will keep the value of the shares down for them. They are going to give more power back to the unions, they are going to roll back the industrial relations changes and they have the health rebate, which gives low income and middle income earners a chance of health insurance, in their sights as well. So Mr Beazley is committed to rolling back, going back and falling back, whichever way you like to put it. Labor do not have a vision for the future of Australia.

Now, Mr Kerr has had his portfolio responsibilities changed because Carmen Lawrence is on the front bench. We know Labor are serial killers of women in politics. They used Carmen Lawrence to clean up the boys’ mess in Western Australia, they used Joan Kirner in Victoria and they planned to use Cheryl Kernot. Some bright spark had a plan to steal her from the Democrats—who were so happy that they nearly paid Labor to do it. That bright spark had a plan to steal her from the Democrats—who were so happy that they nearly paid Labor to do it. That bright plan of somebody opposite back-fired, so now they are going to use Dr Lawrence. And what have they done? They have given her the knowledge nation portfolio. But the tricky thing about knowledge is that you have to be able to recall it. It is absolutely critical. They have given her the industry portfolio. The next election will be tough. If these people win, we will have industry going to Dr Lawrence’s door saying, ‘Don’t you remember? You promised us this and that,’ and she will say, ‘Oh, I can’t recall.’ (Time expired)

Senator Jacinta Collins interjecting—

Senator Vanstone—Don’t laugh—they got Cheryl because they didn’t think any of you were good enough.

The PRESIDENT—Senator Vanstone, I call you to order.

Senator Jacinta Collins interjecting—

Senator Vanstone—Come and have a coffee with me!

The PRESIDENT—Order! Senators will come to order and stop shouting across the chamber.
Aged Care: Facilities

Senator JACINTA COLLINS (2.18 p.m.)—After that piece of envy politics, my question is to Senator Herron, the Minister representing the Minister for Aged Care.

Government senators interjecting—

Senator Vanstone—I know who’s envious! They’ve given Carmen a job and left you out.

The PRESIDENT—Order! Senators on my right will cease interjecting.

Senator JACINTA COLLINS—To another aspirant to cabinet, is the minister aware that the aged care sector in Victoria is predicting as many as 1,000 residential aged care beds being closed by the accreditation deadline of 31 December this year? Given the existing shortages of beds in Victoria, won’t these closures cause distress to residents, lengthen already long waiting lists and put even more pressure on the public hospital system? What contingency plans has the government put in place to ensure that the affected residents will not have the continuity of their aged care disrupted by these closures? How many bed closures is the government planning to provide for after the debacle of Riverside?

Senator HERRON—As I said previously, there is always the problem of access to residential aged care places, and we have a very proud record of fixing up the problems that we inherited after 13 years of Labor’s wasted opportunities. The accreditation assessment process has been completed for more than 1,850 facilities, and approximately 1,420 facilities have achieved a three-year rating. This illustrates the extent of the industry’s acceptance of the accreditation system and the enormous effort being put in by these facilities. There will be ongoing monitoring of facilities that have met accreditation and facilities, where their standards fall and where they provide substandard care, are at risk of having their accreditation revoked. That is the nub of it: we will revoke accreditation if they do not meet standards. Is Senator Collins suggesting that we should not and that we should just accept substandard beds? We will not.

Senator Chris Evans—What is going to happen to the residents?

Senator HERRON—I am asked: what will happen? There will be ongoing monitoring of facilities that have met accreditation. Facilities, where their standards fall and where they provide substandard care, are at risk of having their accreditation revoked. That is what it is all about. It is raising the standard of care in nursing homes in this country. Facilities that have their accreditation revoked or fail accreditation will then be case managed by the Department of Health and Aged Care. The department is monitoring the progress of facilities towards accreditation, and contingency plans are being developed to deal with any facilities that may be at risk of not meeting the accreditation deadline. So that is what will occur, that is the answer to Senator Collins’s question and I am happy to refer that question to the Minister for Health and Aged Care.

Senator JACINTA COLLINS—Madam President, I ask a supplementary question. Why has the government left residents and the sector in a state of uncertainty over the approaching deadline for accreditation and the possibility of widespread closures? Why won’t the government make clear and make public its contingency plans? Why has Minister Herron left it to this stage to say that he will refer such matters back to the Minister for Health and Aged Care?

Senator HERRON—There are a range of contingency plans in place. There are a number of options in both metropolitan and rural areas should any emergency relocations be necessary. Our primary concern is the wellbeing of residents and the peace of mind of family members. We are not into scare campaigns as conducted by the Labor Party previously over this. We are about the wellbeing and care of residents and the peace of mind of family members.

Parliamentary Library: Provision of Information

Senator LEES (2.22 p.m.)—My question is directed to you, Madam President. It refers to the statement by the Speaker that all requests for information from Centrelink by the Parliamentary Library must be directed
process of obtaining information, ministers are not able to direct the Parliamentary Library in any way under the Parliamentary Services Act? Have you, as joint head of the Parliamentary Library, had any discussions on this matter with the Speaker or with the minister concerned? Do you believe that, if we do not revert to previous proper processes, there will be a risk that other ministers could use this as a precedent and also require that material is directed through their offices?

The PRESIDENT—I do not agree with the interpretation you have put on the Speaker’s remarks. I do not believe that is what occurred. I have before me the answer which the Speaker gave in the other place on 17 August 2000, and I agree with the comments that were made in it relating to dealing with the Library. He said:

The first issue is the method by which the Parliamentary Library is able to obtain information from government departments and agencies. The second is the confidentiality of the identity of the questioner on whose behalf the Parliamentary Library is seeking the information.

In regard to the first issue, the Parliamentary Library has no statutory or other right to be provided on demand with information from government departments and agencies. The practice accepted across the Public Service—and endorsed by successive governments—is that factual information which either is publicly available or can readily be made publicly available is to be provided at officer level to the Parliamentary Library without reference to ministers or ministers’ offices. The key criterion is always that the information is publicly available or can readily be made publicly available if asked for. The Parliamentary Library deals only in publicly available information and data. It does not, nor should it, seek access to confidential information; nor does it seek to be a conduit for unauthorised information.

The Parliamentary Library then, as senators would be aware, analyses and interprets that publicly available information if requested by members or senators, but the raw material is always publicly available. This mode of access has been the practice for many decades. Then the Speaker went on to deal with the specific issue which had been raised:

While the minister’s decision to direct requests through his office adds an additional step to the process of obtaining information, ministers are responsible to the parliament for the administration of their departments and agencies and it is open to the minister to give the direction he has. I would, however, ask the minister to ensure that this additional step in the process does not delay the provision to members of information nor inhibit the ability of all members to seek factual material on such an important policy area, one which generates many constituents’ inquiries to electorate offices of all members.

On the second issue—the allegation that the Parliamentary Library had been asked by the minister’s office to identify the member for whom the information is sought—both the minister’s office and the Parliamentary Library advised the Speaker that that was not the case. The minister assured the Speaker in writing that at no time has the Parliamentary Library been asked to identify the names of members or senators who request information. The Parliamentary Library advised the Speaker that in response to a specific question from the member, namely, ’When you go through the minister’s office, are you asked the name of the member requesting the information?’ the answer was and remains no.

As all senators would be aware, the confidentiality of all requests made by members and senators to the Library is paramount. The Library would never agree to the provision of the identity of a member or senator being a condition of gaining information. Senators must be free to ask for information, analysis, commentary and research with absolute privacy, and the Parliamentary Library holds that confidentiality as one of the basic underpinnings of its operations. I would like to assure all senators that the privacy of their requests has always been respected and will continue to be respected.

Senator LEES—Madam President, I thank you for your answer. I had already seen what the Speaker had said in the other place. Our concern is that this is a new process; this is a new step. You are basically saying that you believe it is appropriate for the executive branch of government to place restrictions on the way in which information can move through the Parliamentary Library each way. As I said in my original question, is it not the case that, under the Parliamentary Services Act, this is not permissible? On the second issue you raised, of confidentiality, is it not
the case that it is just as important, if not more important, to know what the issue is, what the questions are and what the information is as to know who it is that is asking? Whichever party asks for information, it is going to be spread pretty quickly if it is a request relating to a particular piece of legislation or something that the party is working on. Surely the Public Service should be providing ready access to public information without this additional vetting process. I ask, finally: are you comfortable for this to spread across all departments?

The PRESIDENT—I shall have a further look into the issue that you raise. My position is that confidentiality must be maintained. Ministers are responsible for their departments and the processing by which the departments prioritise requests for information. As I understand this issue, part of it related to demands being made at extremely short notice, putting departments under pressure. It has to be evaluated. Another way of obtaining the same information is from questions on notice. The departments have to evaluate the time involved and the priority of the questions both from the Library and with questions on notice.

Aged Care: Facilities

Senator WEST (2.29 p.m.)—My question is to Senator Herron, representing the Minister for Aged Care. Does the minister recall the Standards and Accreditation Agency in Senate estimates predicting that two-thirds of facilities gaining accreditation in this first round would only receive a one-year accreditation, indicating that many had improvements to make? Does he also recall the agency indicating that this estimate was based on visits to over 600 facilities in the sector? How does the minister explain that more than 95 per cent of facilities are being accredited for three years—the longest period possible—and that just a handful of facilities have failed accreditation to date? Is the minister aware of concerns that the agency may be dropping its standards because of the rush to accredit all facilities by the deadline of 31 December this year?

Senator HERRON—I do recall some of the information that Senator West has mentioned in her question, but the reality is that the Aged Care Standards and Accreditation Agency has advised the minister that it will complete the accreditation of all aged care facilities by the legislated date of 1 January 2001, and the accreditation assessment process has been completed for more than 1,850 facilities, as I mentioned previously. Approximately 1,420 facilities have achieved a three-year rating. That illustrates the extent of the industry’s acceptance of the accreditation system and the enormous effort by those facilities.

We also must take account of how much the government is doing in this field since it has been in office. The government’s Staying at Home package has boosted growth in the provision of community aged care places. By the end of this financial year some 24,000 care packages will be in operation, an increase of over 443 per cent since 1996. An approach to quality of care and services is being developed for the community care package program that will complement quality activity in the residential system—so that is complementary.

We have significantly increased the amount of money that we are spending on respite care so that carers can have a break. Funding for respite care has increased by over 200 per cent since 1996-97 to some $58 million this year. And around $75 million a year is spent on respite care and residential aged care facilities. Residential respite allows carers living in the community a break from their usual caring responsibilities.

Senator West—Madam President, I raise a point of order on relevance. This question relates to the prediction by the Aged Care Standards and Accreditation Agency that two-thirds of facilities in the first round would gain accreditation for one year—95 per cent have gained accreditation for three years at this stage. Why and how has the difference occurred? Is the minister aware of concerns that this might be leading to a reduction in standards?

The PRESIDENT—I think the minister is aware of the question and he is speaking to it. He may care to be more specific.

Senator HERRON—There is a relationship. The Labor Party goes into this scare
campaign—I see Senator West is going to get the dump from the Labor Party at the next election; I can understand that she wants to make a name for herself in this regard—but the reality is we have to look at the total package. It is no good trying to raise a scare campaign in relation to events that may or may not occur. The minister has said that she is doing everything in her power to get the accreditation process through. You can analyse it and say, ‘Perhaps this may have an influence in this regard by making three-year, as opposed to one-year, accreditations’; at the end of the day, it is the quality of accreditation and the quality of care that is provided to the people concerned that counts.

Senator WEST—Madam President, I ask a supplementary question. I take it from the minister’s answer that this government has done nothing to ask the accreditation agency why the predictions that they made—that two-thirds of facilities would only get accreditation for one year—have in fact not been the case. I again ask the minister: doesn’t the high rate with which facilities are achieving three-year accreditation raise justifiable concerns that accreditation standards have been lowered to meet the government’s deadline?

Senator Herron—I do not believe that accreditation standards have been lowered at all, and they will not be. We have given a commitment that the accreditation standards will be followed and, where they are not, contingency plans have been put in place to bring them up to standard. So I do not accept that statement at all.

Queensland: Water Allocation

Senator Harris (2.34 p.m.)—My question is to the Minister for the Environment and Heritage, Senator Hill. Minister, I have not received any correspondence back from the Queensland Department of Natural Resources in regard to the St George irrigation area situated on the Balonne River and the inequity of present water allocation and the willful overallocation of the public water infrastructure by the DNR. Will the minister comment on the proposed expansion of Cubbie Station from its present 13,000 hectares to 30,000 hectares production as modelled in the WAMP and on the expansion’s impact on the environment and the Murray-Darling system? Will the minister facilitate the Murray-Darling Basin Ministerial Council to travel to the St George area in Queensland to consult with the local farming community?

Senator Hill—I am not surprised that Senator Harris is not getting cooperation from the Queensland government on issues of natural resource management, because the record of that Labor government is truly appalling. We believe land clearing, for example, in Queensland is now up to something like ½ million hectares a year—500,000 hectares—or somewhere between 80 and 90 per cent of all land clearing taking place in Australia. Of course, Queensland is the only state in Australia which does not have a regulatory bottom line in relation to land clearing. So in that instance of natural resource management there has been a total abdication of responsibility by Mr Beattie’s Labor government.

The position in relation to water management is similar, and that was the aspect asked specifically about by Senator Harris in his question. Senator Harris will recall that all states in the Murray-Darling Basin but Queensland agreed in 1997 to a cap based on diversions at the 1993-94 level. Queensland refused to indicate a cap level, and in the years subsequent to 1997 has continued to be responsible for excess diversions. Here we are in the year 2000, and Queensland has still not set a cap—still not joined the cap—on diversions of water as they ultimately flow through the Murray-Darling Basin. Therefore, Queensland particularly is contributing to the ongoing problems of degradation that we find within Australia’s premier agricultural catchment.

I can give you just a few figures to indicate what is in fact happening in Queensland in these circumstances, particularly in relation to the Condamine-Balonne WAMP referred to in Senator Harris’s question. I am advised that there has been a large and rapid increase in off-stream storage from 247,000 megalitres in 1993-94 to 827,000 megalitres by mid-1999. So what has happened in Queensland since other states accepted the cap—and this is particularly relevant to Senator Harris’s question—is that this huge
off-stream storage, this huge diversion of water that would ultimately flow through the system, has been diverted at the off-stream position, practically quadrupling in the last five years since 1994.

What has that meant in terms of annual diversions in the basin? My advice is that the total combined estimated mean annual diversions from regulated, unregulated and overland flows throughout the basin have grown from an estimated 385,000 megalitres in 1993-94 to 614,000 megalitres in 1999. So while other states have accepted a cap, diversions in Queensland during those intervening years have in fact doubled. This is the problem that Senator Harris is alluding to. What are the consequences of this? One consequence in relation to the Condamine-Balonne is the state of the Ramsar listed Narran Lakes, which the independent auditing group to the Murray Darling Basin Commission have stated to be in a poor state of health. I can tell you why that is. It is because in 1993-94, 60 per cent of the mean annual flow reached those lakes but by 1999, only 24 per cent reached them. (Time expired)

Senator HARRIS—Madam President, I ask a supplementary question. I thank the minister for his reply but go back to a portion of my original question which the minister has not covered, and that is: will the minister facilitate the Murray Darling Basin Commission Ministerial Council travelling to St George to talk with not only the peak bodies but the family farmers who are being devastated by this process? Will the minister comment on the Queensland government’s WAMP process that will allow further development of Cubbie Station from its present 13,000 hectares to up to 30,000 hectares while severely constraining the farms of the producers who have been there for the last 30 years?

Senator HILL—I can say that the Queensland government under Mr Beattie has not yet completed one single WAMP—water allocation management plan. It said it could not enter into a cap until the WAMP process was completed. The WAMP process is now three years overdue. There is a draft WAMP out for the Condamine-Balonne. It includes within it three scenarios, of which the independent auditing group says none are environmentally satisfactory. So the whole process of water management in Queensland under Mr Beattie is a disaster. There are no signs that it is improving. This has detrimental consequences for the producers who are of concern to Senator Harris and equally detrimental consequences for the environment both within Queensland and, more particularly, further downstream in New South Wales where the Narran Lakes are located. It also has consequences further downstream as far as my home state of South Australia. I will ask the Murray Darling Basin Commission if they need to engage in further consultation with the farmers referred to in Senator Harris’s question. (Time expired)

Aged Care: Facilities

Senator McKIERNAN (2.41 p.m.)—My question is directed to Senator Herron, the Minister representing the Minister for Aged Care. Is the minister aware that the chief executive officer of the Royal Perth Hospital, Mr Gareth Goodier, conducted a review of nursing home bed numbers in Perth which showed a reduction of 230 beds since last year? Can the minister confirm figures provided by the Department of Health and Aged Care which showed that over the last three years people are waiting longer to get into a nursing home in Perth? Can the minister explain why, despite the reduction in the number of beds and the longer waiting lists, the government did not allocate one additional nursing home bed to Perth last year and why not one additional nursing home bed will be allocated to Perth this year?

Senator HERRON—I thank Senator McKiernan for the question. I would make the assumption that probably the report Senator McKiernan has given is correct in relation to the shortage of nursing home beds in Perth—as there is a shortage all across the country; I do not think this is peculiar to Western Australia. But there has been an overwhelming number of applications for nursing home beds. Numbers of applications for nursing home beds have increased by almost 40 per cent on the 1999 round, right throughout the country. Over 3,000 applications have been received, including some 2,300 new place applications, nearly 500 ap-
applications for restructuring and capital grants, and almost 300 applications for approved provider status. Approximately 2,200 applications were received in the 1999 round, including 400 applications for approved provider status.

Through this round the federal government is making available 14,000 new aged care places across every state and territory, together with $40.5 million in capital and related grants to support upgrading and expansion of aged care facilities. Applications were sought for 7,029 new residential care places and 6,063 new community care packages. Restructuring assistance included capital grants of $10.5 million, and an additional 750 new places to support services restructuring strategies were also available. I will have to seek advice from the minister because there is nothing in the brief in relation to Perth itself. I will get back to Senator McKiernan with the answer from the minister.

Senator McKIERNAN—Madam President, I ask a supplementary question. I thank the minister for his answer, where he obviously identified the growing need for aged care beds in Perth and in other parts of Australia. I ask you, Minister, in passing on my question to the Minister for Aged Care, to ask her to take particular note of the fact that not one new bed has been allocated in Perth in the last two years. People are waiting longer and longer for those positions. Why is it so? Why can such a case be allowed to continue and why were no allocations made this year? Why is it so? Why can such a case be allowed to continue and why were no allocations made this year? I hope that this is not just another attempt by the Commonwealth to shift costs onto the states because more and more people are spending time in hospital rather than in hostels.

Senator HERRON—As I have said previously, this is a problem that goes back probably 30 or 40 years when people were being caught in public hospitals because of the lack of beds. Since the Howard government came into office, we have released 32,000 new aged care places. That represents 45 per cent of all growth in the aged care program since the opposition first tried to fix aged care planning in the mid-1980s. So it is nothing new. We are doing an enormous amount: 32,000 new aged care places. As I mentioned previously, in relation to Perth I will get back to Senator McKiernan with an answer from the minister.

Goods and Services Tax: Economic Impact

Senator WATSON (2.45 p.m.)—My question is to Senator Kemp, the Assistant Treasurer. Will the minister inform the Senate of indications of community and business support for the new tax system introduced on 1 July? Is the minister aware of any alternative policies?

Senator KEMP—I thank my colleague Senator Watson for that important question. Today the ACCI Westpac survey of industrial trends for the September quarter was released. This is the first report of this survey since the introduction of the new tax system on 1 July. What does it show? It shows a number of things. First of all, it shows a rise in business confidence in the September quarter. It shows stronger profit expectations over the next 12 months. There is another matter it brings to our attention: it shows the highest levels of plant and equipment investment in 5½ years. Mark Patterson, the Chief Executive of ACCI, had this to say:

“This is good news. The economy is performing well. The smooth introduction of the GST has largely dispelled concerns associated with the early stages of tax changes, resulting in an increased level of business confidence.”

This comes on top of the Yellow Pages Small Business Index released last week, which showed again rising support for the GST amongst small business. Importantly, the Yellow Pages survey showed that small business were almost totally opposed—65 per cent to 25 per cent—to Labor’s roll-back policy. These sentiments were confirmed by the business council of the ACT, which said:

“The last thing they want is, after all the effort and hard work they have put into it, to have a roll-back and have more changes. We don’t want any more changes.”

So Labor’s roll-back policy has been comprehensively condemned by the small business community. Is it any wonder that we have heard nothing from the Labor Party recently on roll-back? An interesting statistic has come to my attention—and if I am wrong, I am sure Labor Party senators will correct me: no Labor senator has mentioned
roll-back in this chamber since 1 July. The Leader of the Opposition, Mr Beazley, could not even bring himself to mention the ‘r’ word at the Labor Party conference. In fact, I think history will show that the last ALP identity to mention roll-back was John Della Bosca. What has happened to the Labor Party’s policy on roll-back? We know the Labor Party has adopted the GST, but we have not heard one word from the Labor Party on roll-back. May I make this suggestion: that, after question time, we have a debate on this. Senator Knowles is very well prepared; she has a huge list on the roll-back issue. I think that it would be handy if the Labor Party could spell out clearly its roll-back policy, because small business—and, indeed, the wider community—are very concerned about this particular policy which will cost dollars and cause complexity to the tax system.

Aged Care: Facilities

Senator CHRIS EVANS (2.49 p.m.)—My question is directed to Senator Herron, representing the Minister for Health and Aged Care. Can the minister explain how the Undercliff Nursing Home in Perth, which was granted three-year accreditation in January this year, could so clearly fail those accreditation standards just five months later when inspected in June following a complaint? Doesn’t their failure to meet 23 of 45 care standards raise serious concerns about the thoroughness of the government’s accreditation system? Didn’t the standards agency also give Riverside the all clear in November last year, just two months prior to the kerosene bath incident? How can nursing home residents and their families have confidence in the government’s system when facilities which are rated satisfactory are then found to be so clearly failing to provide proper care?

Senator HERRON—I suppose when you are in opposition you have always got to put the opposite side of the interpretation on an event that occurs to bolster your own position. Surely Senator Evans should be saying, ‘Isn’t this accreditation system working? A nursing home has been accredited, and then an evaluation team has gone back in and said, “You haven’t lived up to the standards. Therefore, we’re revoking your accreditation.”’ That is a more positive interpretation—and that is the correct interpretation, because accreditation is awarded on the basis that a service continues to comply with the accreditation standards and undertakes a process of continuing improvement. The agency has the power to revoke accreditation if it is satisfied that the service is no longer compliant. The agency gave Undercliff three-year accreditation on 17 January this year, and a review audit conducted by the agency from 13 to 19 June this year found that Undercliff’s performance against 22 of the 44 expected outcomes was unacceptable. No serious risk was identified. The agency revoked Undercliff’s accreditation on 12 July this year with effect from 17 July. Surely that shows the system is working. Just because a nursing home is accredited does not mean that the accreditation cannot be revoked. That was the whole purpose of the legislation; that ongoing monitoring occurs so that if they do not apply the standards required the accreditation can be revoked.

The reality is that we set out to ensure that the standards of care in residential aged care facilities are met, and most aged care providers realise that there is no room for complacency. Under the Labor Party in 13 years it did not happen. That is the legacy that we were left. We decided to do something about the accreditation process. It is a very positive thing.

Senator Cook interjecting—

Senator HERRON—Even Senator Cook should recognise that it is a very positive thing that we are doing in the interests not only of the aged care providers but also, more importantly, of the people that are in aged care facilities.

Senator CHRIS EVANS—Madam President, I ask a supplementary question. I thank the minister for his answer. I think he has perhaps missed the point and does not realise the concern that exists in the industry over the Undercliff incident and the concern about what it means for the accreditation system. Can the minister confirm that the only reason that the agency visited Undercliff on that occasion in June was because of a serious complaint lodged with them? Can he advise the Senate when the agency would have gone
back into that nursing home if it had not been for that complaint, given that it had been given a three-year accreditation approval in January?

Senator HERRON—It was this government that established the office of the commissioner for complaints. The whole idea of the exercise was to have a commissioner for complaints that people could come and complain to. What happened under Labor? It did not exist. Labor did nothing. The commissioner of complaints will provide an effective vehicle for the oversight and operation of the Aged Care Complaints Resolution Scheme and promote public confidence in the scheme and its role in ensuring quality outcomes. Surely, the Labor Party is interested in the quality outcomes. It is fairly obvious they want a distraction, and here we go again trying to beat up concern when we are attacking the problem constructively. We are doing something about it. Because of the terrible legacy that we were left with after 13 years of Labor Party inaction, there has been a revolution in aged care facilities and the provision of aged care in this country since we came into government.

World Economic Forum: Human Rights

Senator STOTT DESPOJA (2.54 p.m.)—My question is addressed to the Minister representing the Minister for Trade. Is the minister aware that the last regional meeting of the World Economic Forum was held in Beijing in April and that its 73-page report, which waxes lyrical about business opportunities in China, mentions human rights only once and only then as an issue that needs to be addressed? Does the government’s strong support for the World Economic Forum in Melbourne—to the extent of being prepared to rush through defence legislation to deal with the protesters—show that this government places a higher priority on trade than on human rights? Is Australia to downgrade the already minimal importance that it gives to human rights and to a civil society in Asia as a consequence of its support for the World Economic Forum next week?

Senator HILL—I have rarely heard such nonsense, I have to say. Why is it impossible to support both trade and human rights? Certainly, the position of the Australian govern-
days but I am quite happy to repeat my answers. The Australian government does not believe that the United Nations committee system in relation to a series of treaties is now working effectively. The Australian government believes it can be reformed so that it might work more effectively. I would have thought that was something that the honourable senator would applaud. To endeavour to bring that reform around means you have to be prepared to apply a certain amount of pressure, and we are prepared to apply that pressure. We are prepared to suffer condemnation from Senator Stott Despoja for doing so. (Time expired)

Aged Care: Facilities

Senator FORSHAW (2.58 p.m.)—My question is directed to Senator Herron, representing the Minister for Aged Care. Is the minister aware that, in handing down a recent decision, the Australian Industrial Relations Commission criticised the government over its funding of nursing homes? Can the minister confirm that the AIRC noted in its decision:

It is not consistent with equity and good conscience for a society, or for that matter a government, to impose on those who staff [nursing homes] an undue degree of responsibility for the dilemmas of funding and services that appear chronic.

Is the minister aware that the commission noted that the current funding arrangements are ‘essentially unjust’? Will the Minister for Aged Care be responding to the Industrial Relations Commission’s invitation in that decision to either ‘justify or redress’ the problems identified?

Senator HERRON—I am sure the minister will take note of what the Australian industrial relations committee has said.

Senator Cook—Commission.

Senator HERRON—Commission, thank you, Senator Cook. The reality is that the government is tackling the problem overall in a constructive fashion. As I mentioned, 32,000 new aged care facilities have been made available since we came into government, which is a 45 per cent increase. Inevitably, there will be some hiccups along the way, which we are addressing. In response to a question asked by Senator Evans, I mentioned that an aged care facility lost its accreditation six months after it was accredited. It is inevitable that there will be problems in the implementation of this. The government is interested primarily in the provision of good quality aged care for the people who are in nursing homes and, if it is necessary to alter any processes to ensure that that outcome is achieved, then I am sure the minister will look at it constructively.

Senator FORSHAW—Madam President, I ask a supplementary question. I thank the minister for that answer and also for the acknowledgment that the government will take seriously and hopefully act upon the commission’s comments. In light of that, Minister, can you confirm that exactly the same concerns raised by the Industrial Relations Commission were in fact also raised by the Productivity Commission in its report in January last year—well over 18 months ago—which the government has continually ignored? Minister, doesn’t the Industrial Relations Commission’s recent decision provide yet more evidence that this government’s deregulated aged care system is failing to provide proper care to older Australians?

Senator HERRON—No, I do not accept the latter comment—I suppose it was a question in the second part of the supplementary—because the reality is that there has been a record number of applications from providers. The value and cost of beds is still maintained at a very high standard. There is no shortage of applicants in the industry. The difficulty, as I mentioned previously—and it has been a problem for many years—is the ageing population and the increasing demand for aged care facilities. One in seven of the population is now over the age of 65. Within 25 years I understand it will be one in five. So for the next 25 years we will have this problem. It is not something that is peculiar to this government. We are addressing it appropriately and we have increased the numbers by 45 per cent since we came into government four years ago. We have done an enormous amount in this regard and we will continue to do so. (Time expired).
Senator Hill—Madam President, I ask that further questions be placed on the Notice Paper.

ANSWERS TO QUESTIONS WITHOUT NOTICE

Department of Defence: Missing Computer Equipment

Senator Ellison (Western Australia—Special Minister of State) (3.03 p.m.)—Madam President, yesterday I had a question from Senator Faulkner on missing computers in the Department of Defence. The Minister for Defence made it clear yesterday that he has insisted that the department tighten its security in relation to computer equipment. The government takes the loss and theft of departmental equipment very seriously. I am advised that investigations indicate that the 14 missing computers contained only low level material and therefore do not have significant national security implications. I can assure the Senate that internal security procedures in Defence have been tightened and this issue will continue to be pursued.

Aged Care: Facilities

Senator Chris Evans (Western Australia) (3.03 p.m.)—I move:

That the Senate take note of the answers given by the Minister for Aboriginal and Torres Strait Islander Affairs (Senator Herron), to questions without notice asked today, relating to aged care.

I think the minister’s answers today reflect the confusion and the bungling of the administration of aged care in this country we have seen under the stewardship of this government, particularly under the Minister for Aged Care, Mrs Bishop. Today we had a series of questions raising the facts about aged care in this country. They particularly focused on some of the issues in Victoria and in my own state of Western Australia, but this is a national problem where we have an increasing shortage of nursing home beds to care for our elderly. The situation in Victoria is particularly acute, but all around the country waiting lists have been growing. They have grown consistently under this government’s administration. The length of time that people are having to wait to gain a nursing home bed is increasing; in many cases it is out to eight to 12 weeks. Families and the residents themselves are left in a very stressful situation while they wait to access beds that are just not there. One of the impacts of that is that people are often required to stay in public hospitals. They stay in a hospital when they do not need hospital care, at great expense to the taxpayer. This blocks the access of other members of the public to the beds and leaves the potential residents in a hospital which they do not need to be in. This creates more stress to them when they would be more comfortable in, and more suited to being cared for in, an aged care facility.

What is interesting is that the government have said, ‘But we’ve allocated more beds.’ The reality is there have been no new high care beds in a range of important areas. In Melbourne, which is at the heart of the aged care bed shortages, there are tremendous waiting lists, as evidenced by Riverside. It took the government three months to find places for all the residents transferred out of Riverside. It took three months to find them a bed with the full forces of the Commonwealth working towards that end, yet not one high care bed was allocated in the metropolitan area of Melbourne in this latest round. The government said they provided 14,000 places, but that will not even meet their own target of the number of beds needed to care for the existing population. No new high care beds were provided, so those people who are waiting to access high care beds in Melbourne know that the situation is only going to get worse. The waiting lists are going to get worse because, as the minister acknowledged today, the population is ageing, the demand is increasing but the supply has not been increased. Not only has it not been increased commensurate with the demand, but in Melbourne, Perth and a range of other places around the country it was not increased at all. There were no new high care beds. So what we have is the government adopting a policy that will see people waiting longer and longer, a backup in the public hospital system, more pressure on our public hospitals and people not getting the necessary or appropriate care for longer and longer periods. I think that is a disgrace. I cannot understand why the government have failed to act on this, but that is the factual situation. There is no dispute about that and the indus-
try are perplexed as to why they have failed to act on this situation.

What we have now, especially in Victoria but also all around the country, is a particularly difficult problem because, with the accreditation deadline coming, a range of nursing homes will not meet accreditation. As the minister said today, if they do not meet standards, they will be closed. The Labor Party support accreditation and support having high standards, but what we are asking—and what the industry and anyone interested in aged care in this country are asking—is: if 1,000 beds are shut down because they do not meet standards, what is going to happen to the 1,000 elderly people who are occupying those beds, not to mention the ones waiting to get in? What this country does not want to see is another Riverside, where those people are shunted out at the last minute.

The government has been promising a management plan to control this occurrence, but the minister cannot answer questions about that. He cannot give us any details. The industry does not know what is going to happen. All it knows is that when the deadline comes potentially thousands of beds will be closed because a number of nursing homes will have failed accreditation. What is going to happen to those elderly Australians? What plans has the government put in place? What reassurance can the community have that those people will be cared for properly? That is what I have asked the minister today. He cannot provide the answers. Minister Bishop has not provided the answers in any of the public forums at which she has dared to appear in recent months. We want to know what plans are in place, what reassurance we can have that we will not have a worsening crisis in aged care, particularly in Victoria but all around the country. What is going to happen when the deadline approaches? How will these people be cared for?

(Time expired)

Senator KNOWLES—Exactly. I am glad you recognise that I always say that. Senator Evans just stood here and said, ‘We agree with accreditation.’ The obvious question that I then have to ask is: why didn’t Labor have an accreditation system in 13 years of government? They did not even have one. They did not have a formal complaints mechanism. They did not have any anonymous complaints mechanism, and their concentration on process rather than achieving results was amazing. But they did not have an accreditation system, yet they come in here everyday carping: where is the accreditation system? If it is so flash, why didn’t you have one?

The Labor Party ran down residential care and withdrew $1.5 billion—not million but billion—and left the coalition government with 10,000 residential places short of their own benchmark. They took out $1.5 billion. The Australian National Audit Office report tabled in parliament on 8 December 1998 exposed a huge drop in the level of residential aged care service provision over the last 10 years of the ALP government—from 1986 to 1996. They are coming in here crying crocodile tears when this is what they did. When they were in government they put together the Gregory report. What happened to the Gregory report? The Gregory report clearly demonstrated that there were so many nursing homes that did not meet fire standards, did not meet health standards and did not meet safety standards that they shelved the Gregory report. It did not see light of day practically. Here they are coming in once again crying crocodile tears.

In 1986 the Labor government promised there would be 100 aged care places for every 1,000 people aged over 70 years. The number of places then was 98.3. But by 1996 the service ratio had dropped. In 10 years it had dropped to 93.4 places. This was a short-fall of 10,000 places, which meant a cut of around $1.5 billion, as I mentioned earlier. But it will be interesting to see whether Senator Collins, who might contribute in this debate, can justify the fact that they took out $1.5 billion, whether she can justify the scrapping of 10,000 places just before we came into office. But that is not where it all ends. In its 13 years in office, the Labor Party
did not have a strategy to support people who needed care at home. Look at how many aged people need care at home. They did not have a strategy. Respite under Labor was simply bureaucratic, inflexible and hardly existed. Home based care was limited, as Labor did not increase the number of community aged care places to anywhere near the extent that was needed. Of course it kept the outdated domiciliary nursing care benefit allowance. They did not care about that. They just kept that. That just hung there in the air.

Under Labor there were 16 multipurpose services. Now there are more than 42 multi-purpose services sites, with another 24 that were planned quite some time ago. But Labor did not bother to do that, no. I could go on with this enormously. They cut capital funding to nursing homes by 75 per cent in their last year. I hope you are proud of that little effort because that was where the problem started. I am pleased to say that we have provided more residential aged care places, more capital for residential aged care facilities, better quality aged care services, more care at home, more care for the carers—which is important, but Labor did not think was necessary—policies to help rural and remote areas and much more. If they think that that is not adequate, then let’s see their credentials.

I am two-thirds of the way through an inquiry into public hospital funding, and time and time again the evidence from state health ministers, from other witnesses around the place and from CEOs who run hospitals is that any number of beds in our large public hospitals are inappropriately occupied by people who are looking for aged care beds and cannot find them. People are admitted because of insufficient care in nursing homes and then lie in public hospitals for a considerable number of months before they can find other beds to be returned to with appropriate nursing home care. These high care need people are looking for appropriate nursing home beds, which are simply not available.

This is due to the current government. I ask the government through you, Madam Deputy President: how long do you have to be in office before you claim responsibility for what is going wrong? What is going wrong at the moment is absolutely down to this government and to its inappropriate allocation of beds, to the insufficient number of high need beds, which is what is wanted, and—as most of the questions today were concerned about—to this process for accreditation. Furthermore, the claim by Senator Knowles that there was not a complaints procedure under the previous Labor government is a blatant lie. There was, and it worked. There is also a need to improve, and one would hope there is some improvement, but there is not.

Senator Hill interjecting—
Senator CROWLEY—Senator Hill, I am not sure what you are muttering about, but you should be very concerned about the claim that there was not a complaints mechanism when there was one—that is called a lie. I do not think that anybody in this debate is assisted by blatant lies. Let us talk about insufficiency, but let us not tell lies.

The questions today dealt with the accreditation process. That accreditation process has not worked. Minister Herron said in this place in April this year that 98 per cent of the 3,000 aged care facilities had applied for accreditation, but the majority of them have not been able to get that accreditation or audit done. The question we are concerned about is: what is the status of those centres if they are not accredited within time? Indeed, the only solution we have is that about half of those centres are having some kind of accreditation process rushed through, which defeats the whole point of it. An accreditation process should assure patients, relatives and staff that their centre is ticked off on—

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that it is going to provide okay care. We are concerned that there will be many more River-sides and that the government’s process, already judged to be inadequate, will continue to be inadequate. One cannot take comfort from an accreditation process that is being belted through without being thoroughly examined and thoroughly done. At the moment, that is one of the major concerns of the opposition, of the community and of families who have a relative of whatever age in need in this area. (Time expired)

Senator EGGLESTON (Western Australia) (3.18 p.m.)—It is all very well for Senator Crowley to get up and tell us about how things were done so well under the previous Labor government, but the simple fact remains that, in the last years of the Labor government’s period in office, they cut funding to aged care by 75 per cent. They cut funding by 75 per cent, and they had no overall global approach to aged care. In other words, it was all ad hoc, and there was no real commitment to the aged population of Australia. The coalition government is introducing a national strategy for an ageing Australia. The coalition has recognised the significance of the fact that Australia is greying—we are seeing more and more people in the age groups of 60 and 65 and over. This will obviously have a serious significant impact on our country with the provision of social services and the need for facilities to look after the more elderly people in our population. The national strategy’s objectives are to promote and inform consideration by the Australian community of the likely impacts of, and potential policy responses to, population ageing, and to consider the impacts of, and potential policy responses to, ageing under four major themes—namely, healthy ageing and attitude, lifestyle and community support, independence and self-provision, and world-class aged care.

The strategy will also address key issues raised by the community in each of the major theme areas and advise the government on short-, medium- and long-term policy responses to population ageing as part of a coordinated national framework of policy. That means that Australia is examining this issue in detail under the Howard government. It will come up with a policy framework which covers all of those areas, provides a very high level of sophistication in the provision of aged care for the Australian population and meets the needs of our aged population in a very direct and considered way. That is a very important thing to have being done. It is certainly better than the ad hoc, meandering policies which the previous government followed. For the first time we are really going to have a broad national strategy for caring for the aged. On the issue of caring for the aged, the coalition has a much more successful and finer record than the ALP did in its 13 years in office. Apart from the fact that the ALP decreased funding for aged care by 75 per cent in the last years of its period of office, there were just no considered policies to provide for the aged people in our community.

Let us look at the achievements of the coalition. In the last four years some $20.4 million has been provided to assist rural aged care facilities with their day-to-day operating costs and upgrading their facilities to continue providing aged care in rural areas. The
federal government is strongly committed to ensuring that the aged care sector is able to deliver sustainable and quality aged care services for older Australians wherever they are located. Aged care facilities that offer good buildings and care are able to access an additional capital funding stream which is worth a total of $1.8 billion over 10 years from 1998-99 to 2007-08. That is a massive commitment to funding aged care, and it certainly stands in stark contrast to the fact that the Labor Party cut funding to aged care by 75 per cent in the last years of its period in office. Aged care is certainly a major policy focus of the coalition government and, under the Howard government, the aged people of Australia can have the security of knowing that their needs will be met in a very good way. (Time expired)

Senator JACINTA COLLINS (Victoria) (3.23 p.m.)—Senator Hill hit on the nub of the matter when he interjected on Senator Crowley and asked: did the complaints mechanism under Labor—and we have established that it did exist—actually work? The question before us here today, despite the issues raised about the national strategy by Senator Eggleston, is this: are the coalition’s policies in this area working? Senator Eggleston is referring, for instance, to the commitments of the coalition government, but he has not broached the outcomes. He has not broached the outcomes which I am going to address now with respect to Victoria. This, from a government that likes to measure everything by outcome rather than commitment—but, unfortunately, not in this area!

The Victorian aged care system is under immense strain. You can accept that there is a history to this matter but, ultimately, the question before us here today is: how will we meet the needs of the ageing population by measures that work? Let us look at what is happening in Victoria. Whilst the strain in Victoria is not new, it is getting worse—much worse—under this government’s policies. Waiting times for nursing homes and hostel beds are rising. In 1997-98, four per cent of persons assessed as needing a high care bed were still waiting after three months. But by late 1999 that number had grown to 27 per cent. In my home area around eastern metropolitan Melbourne, 40 per cent of people needing a nursing home bed were still waiting in the queue after three months. Despite this pressure, not one additional nursing home bed was allocated to Melbourne in the last round of bed allocations.

Senator Knowles referred to figures that relate to the Australian Institute of Health and Welfare, telling us that Melbourne has only 81 residential care packages and community aged care packages per 100 people aged 70 and over. Senator Knowles referred to the Labor objective of having 100 such care packages and that it had declined over a decade from 98.3 to 93—but compare that to the Melbourne figure of 81 per cent. That highlights, I think, how much worse this situation is getting. This is well below the government’s own target—not 100, as was the Labor target, but 90 places per 1,000 of the population is the target for the current government. From our perspective, that represents a shortfall of some 3,000 beds. It is in this environment that you look at the fact that there has not been one extra bed allocated to Melbourne, with these very stark figures applicable to Victoria, and at how the system is not working in Victoria.

The point has already been raised in the debate that aged care waiting lists are also putting pressure on Victoria’s public hospitals. This is of course false economy and cost shifting, and it is not resolving the problem. It is again one thing to highlight national strategies and good intentions but, when those policies are not working, the government needs to confront those facts. So the pressure in Victoria is on, but we are looking at reliable industry reports of 100,000 nursing home beds being at significant risk of closure when we come to the accreditation deadlines. We are not arguing that accreditation is not a good thing; we are supporting accreditation but we are saying to the government: ‘Where are your contingency plans? How are you going to deal with this situation? Yes, there is a particular history of problems associated with Victoria, but the fact before us now is that you are looking at 1,000 nursing home beds that may well close in Victoria; and so what is the plan?’
The minister representing the Minister for Health and Aged Care stands before us in question time today and says: ‘We have contingency plans; we will look at emergency beds,’ but he cannot identify either a plan or those beds, and we in Victoria know from experience with Riverside that those plans will be needed. It took the government three months to place 65 residents when the Riverside nursing home was closed. What will happen if 1,000 residents are without beds in a state where waiting lists are long, waiting lists are growing and there is a shortfall of beds for the population? We have no detail of contingency plans, and I can only hope that the minister has taken it on notice, as he indicated today, with some level of urgency.

Question resolved in the affirmative.

Queensland: Water Allocation

Senator HARRIS (Queensland) (3.28 p.m)—I move:

That the Senate take note of the answer by the Minister for the Environment and Heritage (Senator Hill), to a question without notice asked by Senator Harris today, relating to water rights. The issue that I am raising today is to express the concern of the original family growers who, at public auction, purchased land in the St George area to set up to grow crops. That initial allocation of land came with a right to water from the Beardmore dam. The process worked efficiently up to about 1989, at which time the government then decided to change the rules. But, prior to actually changing the rules, the government itself commissioned a water study by a consultant group by the name of MIRA. I would like to briefly quote from the start of that report:

This report was commissioned by the Queensland Water Resources Commission. It presents the results of an investigation on the feasibility of an optional scheme to ensure against non-delivery of water by the commission to its clients. The study itself was based on a figure of 66,562 megalitres, being the usable capacity from the Beardmore-Taylor weir, the town water supply and the Buckinhah weir. It is based on 6,000 hectares of irrigated area. A section of the report states:

This case is said to represent the current level of allocation and broadly the present operating rules. It is not clear where the discrepancy arises between the approximate 6,000 hectares of irrigated cotton, calculated from the total nominal demand of 66,562 megalitres, and the area planted of approximately 7,200 to 8,800 hectares in recent years.

So the study was looking at the 66,000 megalitres being available to irrigate 6,000 hectares—that is the basis the study was carried out on—but in actuality the dam was already supplying water for between 7,200 to 8,000 hectares. The study itself then goes on to say that, even with the discrepancy that it is irrigating a larger area than they were even calculating, ‘the present level of allocation at the St George is close to optimal’. So the study said that the Beardmore dam was being used basically at its capacity. So what did the government do? The government then effectively went out and doubled the demand on the dam.

There are two clear issues. Firstly, there is the allocation of water from the Beardmore dam; and, secondly, the out-of-stream water harvesters in flood periods—and this is what Senator Hill was referring to in his reply. What we have is a situation where there is another group of irrigators, downstream of the Beardmore dam but not within the original allocated area, who are drawing on the dam as well. We also have at this point in time the situation where property owners in the area are setting up out-of-stream storage dams for the sole purpose of profiteering from the farmers. (Time expired)

Question resolved in the affirmative.

NOTICES

Presentation

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

That the time for the presentation of the report of the Foreign Affairs, Defence and Trade References Committee on the economic, social and political conditions in East Timor be extended to 2 November 2000.

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

That the following bill be introduced: A Bill for an Act to amend the ACIS Administration Act
1999, and for related purposes. **ACIS Administration Amendment Bill 2000.**

Senator O’Brien to move, on the next day of sitting:

That the following matter be referred to the Rural and Regional Affairs and Transport References Committee for inquiry and report by 5 December 2000:

The process followed in the selection of the successful tenderer for the proposed Sydney to Canberra Very Fast Train Project, with particular reference to:

(a) the fairness and equity of the selection process;
(b) whether all bids were assessed against the same criteria, including the issue of no net cost to government; and
(c) whether changes to the scope of the project following the conclusion of the selection process would not have changed the outcome of the process if they had been made originally.

**Withdrawal**

Senator COONAN (New South Wales) (3.34 p.m.)—Pursuant to notice given on the last day of sitting, on behalf of the Regulations and Ordinances Committee I now withdraw business of the Senate notice of motion No. 2, standing in my name, for nine sitting days after today.

**Presentation**

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (3.35 p.m.)—I give notice that, on the next day of sitting, I shall move:

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

- Patents Amendment (Innovation Patents) Bill 2000
- Trade Practices Amendment (International Liner Cargo Shipping) Bill 2000
- Veterans’ Affairs Legislation Amendment Bill (No. 1) 2000.

I also table statements of reasons justifying the need for these bills to be considered during these sittings and seek leave to have the statements incorporated.

Leave granted.

**The statements read as follows—**

**STATEMENT OF REASONS FOR INTRODUCTION AND PASSAGE IN THE 2000 SPRING SITTINGS**

**PATENTS AMENDMENT (INNOVATION PATENTS) BILL 2000**

**Purpose of the Bill**

The Bill amends the Patents Act 1990 by repealing the petty patent system and providing for the innovation patent system and other minor amendments.

**Reasons for Urgency**

The major objective of the Patents Amendment (Innovation Patents) Bill 2000 is to replace the petty patent system with the innovation patent system, as recommended by the then Advisory Council on Industrial Property (ACIP) in their 1995 report Review of the Petty Patent System.

The Government announced on 20 February, 1997 that it would implement the new innovation patent system.

The innovation patent system will replace the current petty patent system, which has been in operation since 1979. The petty patent system was designed to provide a quicker and cheaper form of patent right for inventions. Although the majority of users are small to medium business enterprises (SMEs), the petty patent system has had limited success in meeting its intended objectives and is not well used.

The extensive consultations that ACIP undertook identified a demand for intellectual property rights for those lower level or incremental inventions that are not sufficiently inventive to qualify for standard patent protection. ACIP also discovered that Australian SMEs were not able to obtain rights for their lower level inventions under the current patent systems because petty patents have an inventive threshold similar to standard patents. The innovation patent system will address this shortcoming by having a lower inventive threshold than the standard patent system. This lower inventiveness threshold is balanced by a maximum term of protection of 8 years.

The innovation patent system will share similarities with second-tier patent systems introduced in over forty-eight other industrialised countries. Experience in these countries suggests that second-tier patent systems are well used by local enterprises, particularly SMEs, and help foster local innovation.

The innovation patent should help stimulate innovation by Australian businesses, as it will enable inventors to better capture benefits from their
lower level inventions. Providing an exclusive right for lower level inventions should encourage Australian businesses, particularly SMEs, to develop their incremental inventions and market them in Australia. This will result in an increased use of the system, which will have another positive effect on business - it will add to the amount of technological information available to business because the invention covered by each publication is published. SMEs will also find innovation patents quick, simple and cheap to obtain and this will reduce their compliance burden with regard to maintenance of their intellectual property rights.

The introduction of the innovation patent system was identified as a priority at the recent National Innovation Summit. This Summit was an initiative convened by Government and business to examine the suitability of Australia’s current national innovation system against our emerging needs. One of the recommendations to come out of this Summit was that, as a matter of urgency, legislation be passed to implement the innovation patent system.

The implementation of the innovation patent system will improve Australia’s intellectual property system to better meet the needs of Australian business and ensure Australia’s intellectual property laws remain competitive internationally.

(Circulated by authority of the Parliamentary Secretary to the Minister for Industry, Science and Resources)

STATEMENT OF REASONS FOR INTRODUCTION AND PASSAGE IN THE 2000 SPRING SITTINGS
TRADE PRACTICES AMENDMENT (INTERNATIONAL LINER CARGO SHIPPING BILL) 2000

Purpose of the Bill
The Bill amends Part X of the Trade Practices Act 1974 (TPA), which regulates the market conduct of international liner cargo shipping companies that collaborate as conferences to coordinate joint services, share capacity and agree on freight rates. The Australian Government Solicitor has advised that in their present form, sections 10.17A and 10.18A of Part X that determine the conditions of exemptions from sections 45 and 47 of the TPA. The Australian Government Solicitor has advised that in their present form, sections 10.17A and 10.18A could be interpreted as allowing shipping conferences to collectively set freight rates without having a registered conference agreement. As the Minister’s enforcement powers under Part X depend on the system of registering agreements, it is very important that this deficiency be rectified as soon as possible. The Bill rectifies this problem.

Also, the Bill provides the Minister and ACCC with increased powers aimed at bringing the operation of Part X more into line with national competition policy. This is particularly important in the present climate where shipping lines are making concerted efforts to raise freight rates from the unsustainably low levels of recent years. The increased powers provided by the Bill will ensure that the Minister and users of liner shipping services have appropriate measures to ensure that freight rates are kept within reasonable levels, which can be justified by examination of relevant cost data that shipping lines are required to provide.

(Circulated by authority of the Minister for Transport and Regional Services)

STATEMENT OF REASONS FOR INTRODUCTION AND PASSAGE IN THE 2000 SPRING SITTINGS
VETERANS’ AFFAIRS LEGISLATION AMENDMENT BILL (NO. 1) 2000

Purpose of the Bill
This Bill contains diverse amendments to the Veterans’ Entitlements Act 1986 and the Defence Service Homes Act 1918. Some of the measures in this Bill directly benefit veterans and their families, other measures will enhance administration of the legislation.

Reasons for Urgency
The Bill will complete legislative amendments necessary to give effect to some of the compensations measures in connection with the implementation of A New Tax System. These amendments will commence from 1 July 2000, so the benefits will flow to the beneficiaries from that date. Delay in the passage of the Bill will add to the time that these beneficiaries have had to wait to access the compensation package.

Another provision is the amendment to the Defence Service Homes Act 1918 that will allow credit providers to tender for the provision of subsidised advances under the Home Support Advance Scheme. Provision for the Scheme was enacted last year. Early passage of this Bill will allow tenders to be invited. The sooner that process can commence, the sooner a decision can be made on the credit provider. Eligible veterans and dependants of veterans will then be able to access
the subsidised advances for home maintenance, modification and repair.
(Circulated by authority of the Minister for Veterans’ Affairs)

**Postponement**

Items of business were postponed as follows:

Business of the Senate notice of motion no. 1 standing in the name of the Leader of the Opposition in the Senate (Senator Faulkner) for today, relating to the reference of matters to the Finance and Public Administration References Committee, postponed till 10 October 2000.


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


General business notice of motion no. 675 standing in the name of Senator Sherry for today, relating to commitments made by the Chair of the Economics Legislation Committee (Senator Gibson) in respect of questions taken on notice, postponed till 6 September 2000.

General business notice of motion no. 663 standing in the name of Senator Cook for today, relating to commitments made by the Chair of the Economics Legislation Committee (Senator Gibson) in respect of questions taken on notice, postponed till 6 September 2000.

**COMMITTEES**

**Foreign Affairs, Defence and Trade References Committee**

**Reference**

Motion (by Senator Hogg) agreed to:

That the following matters be referred to the Foreign Affairs, Defence and Trade References Committee for inquiry and report by the last sitting day in March 2001:

(a) the importance and value of the Western Australian Army Museum and Fremantle Artillery Barracks;
(b) whether the Fremantle Artillery Barracks is the most appropriate and suitable location for the museum;
(c) the reason for the disposal of the Fremantle Artillery Barracks;
(d) the disposal of the Fremantle Artillery Barracks and the probity of the disposal process;
(e) how the Australian Defence Organisation (ADO) decides whether property is surplus to requirements and the management or disposal of surplus property;
(f) the sale and lease-back of ADO property;
and
(g) any other matter related to the above-mentioned issues.

**FREEDOM OF INFORMATION AMENDMENT (OPEN GOVERNMENT) BILL 2000**

**First Reading**

Motion (by Senator Murray) agreed to:

That the following bill be introduced: A Bill for an Act to amend the Freedom of Information Act 1982 to give effect to recommendations made by the Australian Law Reform Commission and the Administrative Review Council, and for related purposes.

Motion (by Senator Murray) agreed to:

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

Bill read a first time.

**Second Reading**

Senator MURRAY (Western Australia) (3.38 p.m.)—I move:

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

Bill read a first time.

I seek leave to table the explanatory memorandum and to have the second reading speech incorporated in *Hansard*.

Leave granted.

*The speech read as follows*—

In 1822, founding father and fourth President of the United States of America James Madison said that:

“A popular Government without popular information or the means of acquiring it, is but a Prologue to a Farce or a Tragedy or perhaps both. Knowl-
edge will forever govern ignorance, and a people who mean to be their own Governors must arm themselves with the power knowledge gives.”

The amendments to the Freedom of Information Act I have introduced today address the ability of the People to access information in the possession of government. FOI laws exist, firstly, to allow access to certain personal information held by government departments and, secondly, to provide a general right of access to government information. It was this general right that Madison rightly identified as a democratic imperative.

It is imperative because unless citizens have the power to access and independently scrutinise government information there is little prospect of having a genuinely deliberative and participatory democracy. FOI opens government up to the People. It allows people to participate in policy, accountability and decision making processes. It opens the government’s activities to scrutiny, discussion, comment and review.

Former Prime Minister Malcolm Fraser identified as a fundamental requirement that ‘people and Parliament have the knowledge required to pass judgement on the government’. He said that ‘too much secrecy inhibits people’s capacity to judge the government’s performance.’ In 1983, Bob Hawke put the case bluntly: “Information about Government operations is not, after all, some kind of ‘favour’ to be bestowed by a benevolent government or to be extorted from a reluctant bureaucracy. It is, quite simply, a public right.”

It is a public right because it is in the public interest. Consider the example of policy documents that outline the criteria applied by government agencies in making administrative decisions. Such documents are almost never forthcoming in response to FOI requests, irrespective of the merits of the particular case. How can it be in the public interest to shroud in secrecy the terms on which public administrative power is exercised? Popular sovereignty is surely just a myth if the People are denied access to the very information they require to participate effectively in decision making processes. Alan Rose, former President of the Australian Law Reform Commission, made the point succinctly:

“In a society in which citizens have little or very limited access to governmental information, the balance of power is heavily weighted in favour of the government. It is doubtful that an effective representative democracy can exist in such circumstances.”

Liberal democracies throughout the world have passed freedom of information legislation in recent decades. The United States embraced the idea in the 1960s, and this example has been followed worldwide. After a protracted debate, Australia belatedly enacted the Freedom of Information Act in 1982.

It was only a partial enactment of the recommendations put to the Government by the Senate Standing Committee on Constitutional and Legal Affairs. Over the years, the Act has been widely criticised as inadequate.

Australia has embraced freedom of information much less vigorously than other democracies. In 1996, for example, the United States Attorney General announced that the Department of Justice was making FOI performance part of the job description for every relevant employee and rating them on how well they do. The New Zealand Court of Appeal has described New Zealand’s FOI legislation as of “such permeating importance” that “it is entitled to be ranked as a constitutional measure.”

The 1996 Constitution of the Republic of South Africa provides for a constitutional right of access to information held by the State. British Columbia’s FOI regime requires the government to disclose, among other things, “information which is clearly in the public interest.” This is a mandatory duty to disclose which arises even where no particular individual has specifically requested the information. In contrast, Australia’s commitment to freedom of information has been disappointingly half-hearted.

In January 1996, the Australian Law Reform Commission and the Administrative Review Council released an extensive review of the Commonwealth FOI Act. There can be no doubt that an effective freedom of information regime is crucial to the health of our democracy, and the Government’s failure to act on the moderate and sensible recommendations contained in the report is disappointing. This Bill gives effect to many of those recommendations.

The review uncovered a disturbing culture of secrecy in some government agencies. The FOI Act establishes a rebuttable legal presumption in favour of the disclosure of requested documents. Unfortunately, this does not reflect the approach taken by some government agencies. The review found that some agencies decide immediately not to disclose information and quickly consult the list of exemptions to find some way to justify non-disclosure. As one submission stated:

“It is my sad conclusion... that with few exceptions the agencies of government have taken the Act as a guide to where they should dig their trenches and build their ramparts.”
This attitude is reflected in the Ombudsman’s recent observation that “few agencies have mechanisms in place which encourage or promote the disclosure of information without recourse to the FOI Act.” FOI should be the final resort for obtaining information. Many agencies simply refuse to provide information for no sound reason forcing recourse to the FOI Act. This obstructionist attitude is most pronounced in relation to requests for policy information. The Ombudsman’s recent review of FOI administration in Commonwealth agencies offered the following conclusion: “Collectively, the problems identified in this report are illustrative of a growing culture of passive resistance to the disclosure of information. These problems are unlikely to be overcome while ever there is no body or authority with oversight of administration of the FOI Act.”

The need for independent oversight of FOI administration was also highlighted by the Australian Law Reform Commission in its 1996 report. Indeed, Justice Kirby had stressed the need for a body to scrutinise FOI performance as early as 1983.

Such a body is precisely what this Bill proposes. It will create an independent FOI Commissioner. The Commissioner will audit agencies’ FOI performance to ensure that the Act is administered consistently with its purpose. He or she will provide FOI training to agencies. He or she will issue guidelines as to how the Act is to be administered and will be available to provide advice and assistance to agencies relating to FOI requests.

The Commissioner will be an important check on FOI administration. There is little point in having a statutory right of access to government information in circumstances where a culture supporting the denial of that right is allowed to flourish. The arrogant attitude of some government agencies that treat requests for information in a dismissive and contemptuous manner should not be tolerated. This Bill will make agencies accountable for their FOI performance.

One technique that has been employed by obstructionist public servants and their secretive executive masters, their ministers, has been to impose excessive charges for FOI services to discourage use of the Act. As well as making the setting of fees subject to the scrutiny of the FOI Commissioner, this Bill would establish a more reasonable fee system. Access to personal information would be free and the discretion to waive or reduce charges would be clarified. Various unnecessary charges would be abolished altogether.

The great challenge for our FOI laws is to give effect to the objects of FOI in circumstances where certain sectors will use any available excuse to conceal what need not and should not be concealed. This challenge will be overcome in part by establishing effective mechanisms for scrutiny and review of FOI administration, but also by clarifying the obligations of government agencies.

The Bill amends the object clause, clarifying the purpose of the Act and acknowledging that information in the possession of government is a national resource. The various administrative discretions are structured by the ethos of transparency and accountability set out in the object clause. The Bill entrenches the important principle that Government embarrassment is not a factor justifying non-disclosure. The FOI Commissioner is required to develop specific guidelines to outline how agencies should meet their FOI obligations.

When these obligations are clarified, what may pass now for a superficially plausible excuse for refusing FOI requests will be seen for the spurious obstructionism it often is. Government agencies must be brought to account for their actions. The maladministration of Australia’s FOI laws has a serious negative impact on the quality of Australian democracy. It improperly excludes from public scrutiny and debate information to which the People, the sovereign rulers of our democratic nation, are entitled.

This strong language should not be taken as an indication that this is an extreme bill - far from it. I speak passionately because of the importance of resolving the problem. I do not support extravagant remedies.

There are obviously circumstances in which information in the possession of government should not be made widely available. High level information dealing with such topics as national security and defence clearly must remain confidential. In accordance with the recommendations of the ALRC, the amended Act will leave the disclosure of such sensitive information at the discretion of the relevant minister.

The Bill will also protect private personal information in the possession of government from disclosure to members of the general public. The FOI Commissioner will be required to develop, in consultation with the Privacy Commissioner, guidelines to protect private personal information from being accessed under the Act.

It is not the objective of this Bill to create a raft of new rights to access governmental information. Much of it is devoted to giving effect to rights that currently exist in theory but are frequently denied in practice. The Bill makes FOI more accessible
to ordinary people. The FOI Commissioner will have a role in publicising the Act in the community and ensuring that people have the information and assistance that they need to exercise their legal rights. Unjustified and unduly prohibitive fees will be eliminated.

Most importantly, the Bill provides for a system of accountability in FOI administration. At present, oversight of FOI is palpably inadequate, resulting in the denial of important democratic rights. The proposed FOI Commissioner will provide, for the first time, an independent and effective check on the administration of the Act.

FOI reform is long overdue. The problems I have outlined are not new, nor are the solutions I offer. This is a moderate and sensible response to a serious problem the existence of which has been documented in detail by such bodies as the Australian Law Reform Commission, the Administrative Review Council and the Commonwealth Ombudsman. It now becomes a question of political will as to whether the solution will be implemented.

We know that governments are often reluctant to implement legislation that may lead to increased scrutiny and debate of their policies. Successive Australian Cabinets indulge an excessive capacity for secrecy. They know that citizens in an advanced democracy with all the rights that entails are harder to govern. Such citizens are armed with the knowledge and the power they need to assert themselves in the face of even the most recalcitrant government. Openness, accountability and transparency are essential principles and protections in a democracy. It is up to the Parliament to establish and safeguard the democratic rights of the People. This includes the ability to access the information they need to engage in informed political debate and to scrutinise the exercise of public power. This is precisely what the Freedom of Information Act promises, but it has failed to deliver. I commend this bill to the Senate.

Debate (on motion by Senator Calvert) adjourned.

COMMITTEES

Economics References Committee

Meeting

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

That the Economics References Committee be authorised to hold a public meeting during the sitting of the Senate on 5 September 2000, from 6 pm, to take evidence for the committee’s inquiry into the provisions of the Fair Prices and Better Access for All (Petroleum) Bill 1999 and the practice of multi-site franchising by oil companies.

SNEDDEN, MR ANDREW

Motion (by Senator Crane) agreed to:

That the Senate—

(a) recognises that on 4 September 2000, Mr Andrew Snedden, the current Secretary of the Rural and Regional Affairs and Transport Committees, had been employed by the Senate for 25 years;

(b) acknowledges the commitment that Mr Snedden has shown by remaining with the Senate for this length of time and the professionalism and dedication with which he has carried out his duties; and

(c) records its sincere appreciation for the high standard Mr Snedden has maintained since becoming Secretary of the Rural and Regional Affairs and Transport Committees in March 1996.

COMMITTEES

Legal and Constitutional References Committee

Extension of Time

Motion (by Senator McKiernan) agreed to:

That the time for the presentation of the report of the Legal and Constitutional References Committee on the Government’s response to the recommendations of the report, Bringing Them Home, be extended to 28 November 2000.

CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN: OPTIONAL PROTOCOL

Motion (by Senator Crossin) agreed to:

That the Senate—

(a) congratulates the countries of Argentina, Austria, Belgium, Benin, Bolivia, Bulgaria, Chile, Colombia, Costa Rica, Croatia, Cuba, the Czech Republic, Denmark, the Dominican Republic, Ecuador, Finland, France, Germany, Ghana, Greece, Iceland, Indonesia, Italy, Liechtenstein, Luxembourg, Mexico, Namibia, the Netherlands, Norway, Panama, Paraguay, the Philippines, Portugal, Senegal, Slovakia, Slovenia, Spain, Sweden, Thailand, the former Yugoslav Republic of Macedonia, Uruguay and Venezuela for being signatories to the Optional Protocol to
the United Nations (UN) Convention on
the Elimination of All Forms of
Discrimination Against Women
(CEDAW);

(b) recognises:
(i) the CEDAW as the only woman-
specific human rights mechanism at
the international level,
(ii) that the Optional Protocol is a major
step forward in realising governments’
commitments with regard to women’s
human rights,
(iii) that the Optional Protocol creates
procedures for the UN to promote the
enjoyment of human rights to all
women and the world-wide
elimination of discrimination against
women,
(iv) that signatories to the Optional
Protocol reject all forms of injustice
and systemic discrimination suffered
by women world-wide, and
(v) that the Optional Protocol provides a
significant opportunity for women
who have suffered from
discrimination to seek justice through
the UN;

(c) expresses its concern at the significantly
diminished role Australia is playing in
the negotiations of the Optional Protocol
and the low priority given to the protocol
by the Howard Government; and

(d) calls on the Howard Government to:
(i) take an active role in the negotiation
process and to promote a speedy
ratification of the Optional Protocol,
and
(ii) have Australia become a signatory to
the Optional Protocol.

COMMITTEES

Environment, Communications,
Information Technology and the Arts
References Committee

Meeting

Motion (by Senator Bartlett, on behalf of
Senator Allison) agreed to:

That the Environment, Communications,
Information Technology and the Arts References Committee be authorised to hold a public meeting
during the sitting of the Senate on 6 September
2000, from 6.30 pm to 8 pm, to take evidence for
the committee’s inquiry into global warming and

the Convention on Climate Change
(Implementation) Bill 1999.

TELEVISION: CAPTIONING

Motion (by Senator Stott Despoja)
agreed to:

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.

DOCUMENTS

Fiji and Solomon Islands: Political Crises

The DEPUTY PRESIDENT—Order! I
present a response from the Chief Justice of
the Solomon Islands, Sir John Muria, to a
resolution of the Senate of 6 June 2000 con-
cerning the Solomon Islands.

VETERANS’ AFFAIRS LEGISLATION
AMENDMENT BILL (No. 1) 2000

TRADE PRACTICES AMENDMENT
(International Liner Cargo
Shipping) Bill 2000

First Reading

Bills received from the House of Representa-
vatives.

Senator IAN CAMPBELL (Western
Australia—Parliamentary Secretary to the
Minister for Communications, Information
Technology and the Arts) (3.42 p.m.)—I indi-
cate to the Senate that these bills are being
introduced together. After debate on the mo-
tion for the second reading has been ad-
journed, I will be moving a motion to have
the bills listed separately on the Senate No-
tice Paper. I move:
That these bills may proceed without formalities, may be taken together and be now read a first time.

Question resolved in the affirmative.

Bills read a first time.

Second Reading

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (3.42 p.m.)—I table two revised explanatory memoranda relating to the bills and 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—

VETERANS’ AFFAIRS LEGISLATION AMENDMENT BILL (No. 1) 2000

This bill is a parcel of amendments that directly or indirectly assist veterans and their families. Amendments being made in this bill will assist Australian Defence Force members who have been severely injured as a result of their service, and the families of members who have been killed as a result of their service.

These amendments will ensure that any additional payments for the severe injury or the death, made by a determination under the Defence Act 1903, will not affect any compensation payments that may be payable under the Veterans’ Entitlements Act 1986. These additional payments were part of a package of assistance that this Government introduced after an Inquiry into Military Compensation Arrangements undertaken in 1997, in the aftermath of the Black Hawk accident.

A further element of this package of assistance, being introduced through this bill, is the provision for the children of these severely injured or deceased veterans to have access to counselling and guidance by the Veterans’ Children Education Boards.

This bill also will allow the Repatriation Commission to accept an application for reimbursement of travelling expenses incurred by a veteran travelling to obtain medical treatment more than three months after the travel, where there are exceptional circumstances for the delayed application.

There have been cases where the current three-month time limit has caused difficulties where a person has suffered a prolonged illness, limiting their ability to manage their affairs. By introducing flexibility into these processes, this Government is demonstrating once again it listens to the needs of the veteran community, and is responsive to those needs.

This bill will give effect to three recommendations made by Professor Dennis Pearce in his “Review of the Repatriation Medical Authority and the Specialist Medical Review Council”, which were endorsed by this Government as part of its commitment to identify improvements in the system of determining claims for compensation. These recommendations clarify the powers of the Authority in respect of requests it receives to review Statements of Principles.

The bill will also complete compensation adjustments associated with A New Tax System. These adjustments will ensure the value of the pension supplement will flow through to the amount of a bonus calculated under the Pension Bonus Scheme and to the farmers’ income test, which is part of the criteria for eligibility under the Retirement Assistance for Farmers Scheme. Amendments will also enable the maximum amount payable for certain medical reports, obtained and used in support of a claim for pension, to be increased in line with the expected GST impact.

This bill also introduces various changes that will improve administrative arrangements associated with the delivery of services and assistance to veterans and their families.

The operation of the Veterans’ Review Board will benefit from increased flexibility. This will be obtained by:

- providing an additional configuration of the Board,
- the introduction of a “slip rule” to correct an obvious error in the text of a decision or in a written statement of reasons for decision, and
- a power to delegate certain action within the Board’s registry.

The Repatriation Commission facilitates access to a wide range of health care services for eligible veterans and dependants. The Commission has progressively reviewed the circumstances in which it needs to approve treatment before it is provided to the eligible person as the Department of Veterans’ Affairs has shifted its focus from a health service provider to a purchaser of services. This bill reflects these changes by removing references to the former repatriation hospitals from the Act, and by reducing the need for prior approval of treatment from a general to an exceptional requirement.

The bill will provide a link between any special assistance and benefit the Repatriation Commis-
The present restriction on the Repatriation Commission to delegate its powers to a person employed under the Public Service Act 1999, is a barrier to effective use of contracted and outsourced services. This bill will enable the Commission to delegate its powers to certain contractors where the person, or the agency or firm for which the person works, is contracted to perform services on behalf of the Commission. The desired standards of service and codes of conduct of persons to whom the Commission would delegate its powers would be set out in the terms of the contract.

The recent introduction of the Home Support Advance Scheme has provided an opportunity to invite tenders for provision of advances under this Scheme. The changes to the Defence Service Homes Act 1918 will enable these business arrangements to be made, and separates this new Scheme from the Defence Service Homes Scheme that continues to be administered by the Westpac Banking Corporation.

In conclusion, this is a bill that offers reform to the conduct of business and further demonstrates this Government’s commitment to cut red tape. It also offers timely and appropriate assistance to veterans and their dependants.

TRADE PRACTICES AMENDMENT (INTERNATIONAL LINER CARGO SHIPPING) BILL 2000

This bill amends Part X (X means ten in this context) of the Trade Practices Act 1974, which regulates the market conduct of international liner cargo shipping companies that collaborate as conferences to coordinate joint services, share capacity and agree on freight rates.

Liner shipping comprises scheduled services for non-bulk cargo, most of which is carried in containers. The annual value of Australia’s international trade carried by this sector of the shipping industry is around $85 billion.

The legislation has its origins in the late 1920s and resulted from concerns that Australian exporters should have access to adequate and efficient liner shipping services at reasonable freight rates.

The Government’s objectives in respect of liner shipping are to ensure that Australian shippers – that is exporters and importers – have ongoing stable access to services of adequate capacity, frequency and reliability, at freight rates which are internationally competitive.

These objectives are given effect through Part X of the Trade Practices Act 1974, which permits conference operations while aiming to enhance the competitive environment for liner shipping services through the provision of adequate and appropriate safeguards against abuse of market power. This includes allowing shippers to form negotiating groups with countervailing powers to bargain with shipping conferences.

The means by which these objectives are achieved reflect the Australian Government’s commitment to effective and efficient regulation.

The legislation sets out conditions for granting limited, but assured exemptions from Section 45 and some parts of section 47 of the Trade Practices Act to allow liner shipping companies to collaborate as conferences. The current conditions include requirements to negotiate with exporters on standards of service and freight rates to be provided under registered agreements.

If exporters are dissatisfied with the negotiations, the Minister can refer the matter to the Australian Competition and Consumer Commission for investigation. This can lead to the Minister removing the exemptions.

It should be noted that Part X does not exempt shipping conferences from section 46 of the Trade Practices Act that prohibits misuse of market power.

Part X provides a legislative framework within which shipping conferences and their customers can resolve problems through commercial negotiations, with only minimal government involvement.

Australia’s major trading partners including the USA, Japan, Korea, European Union and New Zealand, have arrangements broadly similar to Part X for regulating international liner shipping.

Productivity Commission’s Review

Due to its relevance to competition policy, Part X was included in the Commonwealth Legislation Review Schedule for review in 1998/99.

On 12 March 1999 the Government, through the Assistant Treasurer – Senator the Hon Rod Kemp, referred Part X to the Productivity Commission for inquiry and report. The Commission submitted its final report on 15 September 1999, recommending the retention of Part X with a number of amendments.

On 23 December 1999 the Government announced its decision to retain Part X and implement the amendments recommended by the Commission, plus a number of additional changes.
to strengthen Part X so as to bring it more into line with national competition policy. The amendments in the bill can be divided into six broad categories.

1. Exemptions relating to rate setting
The exemptions relating to rate setting will be limited to ‘terminal to terminal’ type shipping arrangements; that is, ones that include the ocean transport as well as cargo handling at a terminal carrying out operations on behalf of a shipping line.

The definition of terminal is to be widened to include terminals located away from ports. The relevant operations may take place at terminals on the waterfront or some inland terminal facility used for assembling export cargo for delivery to a port, or for delivering cargo to importers.

In some port approaches such as Sydney and Melbourne where there can be considerable traffic congestion, shipping lines are developing a practice of placing containers on rail wagons and sending them to some inland facility before delivery to an importer takes place. A reverse operation in respect of exports can also occur.

Individual shipping lines will still be able to quote door-to-door rates, but they would not have an exemption to collude in respect of arranging the inland haulage tasks.

2. Shipping Conference negotiations with stevedores
At present there is some uncertainty as to whether Part X provides exemptions for conference lines to negotiate collectively with stevedores for the provision of stevedoring services to member lines of conferences. However, this has been a common practice for many years and no objections have been raised to it on competition policy grounds.

The Government has decided that Part X should be clarified to confirm that shipping conferences may negotiate collectively with stevedores. The reason for this is that where a group of shipping lines act collectively through a conference agreement when negotiating with stevedores, the conference lines are able to offer a much larger volume of cargo. This can give the conference lines considerable leverage in negotiating a more favourable stevedoring rate than would be the case if shipping lines were to negotiate individually with stevedores.

3. Countervailing powers for importers
As far as practicable, importers will be provided with similar countervailing powers to those provided to exporters under Part X. This means extending to inward conferences the appropriate conditions in Part X that apply to outward liner shipping conferences.

Given the direct effect of inward liner shipping on Australia there is, in principle, no reason why Australia should not assert jurisdiction over such shipping in a manner consistent with international legal principles.

In this regard measures will be taken to avoid conflicts of jurisdiction where conferences are operating under exemptions granted in the country of export. The OECD has established a set of principles concerning the regulation of international liner shipping, which include ones aimed at avoiding problems from overlapping jurisdictions. The Government will be guided by these principles.

In addition, the amendments covering inwards liner shipping will contain provisions for the Minister to issue exemption orders covering those sections in Part X that could lead to conflicts of jurisdiction. The advice of the Attorney General’s Department will be sought when considering the need for an exemption order.

The exemption orders will be disallowable instruments so that they will be subject to scrutiny by Parliament.

4. Increased powers for Minister and Australian Competition and Consumer Commission
The Minister and the Australian Competition and Consumer Commission will be granted increased powers to deal with concerns about conduct which has resulted in, or is likely to result in, a substantial lessening of competition and which is likely not to result in a public benefit. Such a situation could arise with the operation of discussion agreements that cover parties to traditional shipping conference agreements as well as independent operators.

The increased powers will only be used in ‘exceptional circumstances’, such as where the operation of an agreement results in an unreasonable reduction in shipping services and/or an unreasonable increase in liner shipping freight rates, and where the public benefit from the conference agreement may be lost. In these circumstances the Minister will have the power to suspend, in whole or in part, such an agreement.

As a guideline for exercising the additional powers, exceptional circumstances will be taken to apply where:

- an agreement has the effect of giving its parties a substantial degree of market power;
- the conduct of the parties to the agreement has led to, or is likely to lead to, an unreason-
liable increase in freight rates or an unreasonable reduction in services; and

- the anti-competitive detriment of the agreement outweighs the benefit to shippers flowing from the agreement.

Exceptional circumstances will also be taken to apply where the agreement in question is substantially similar to one that has previously been deregistered pursuant to section 10.44 of Part X.

5. Open/Closed conferences

Liner shipping companies are to be allowed to continue to form ‘closed conferences’ – that is those that require agreement by existing members before new members are admitted.

However, where refusal to admit a new member to a conference is considered to be contrary to the interests of Australian shippers, the Minister would be able to refer the matter to the Australian Competition and Consumer Commission for investigation and report. If such an investigation reveals that refusal to admit the new member is unreasonable, the Minister will be empowered to either suspend the operation of the agreement in question, or accept undertakings from parties to the agreement that would make suspension unnecessary.

6. Other matters

Repeal of section 10.05

Section 10.05 which prohibits price discrimination in certain circumstances is to be repealed. The Government agrees with the Commission’s view that the price discrimination provisions of Part X serve no useful purpose, and indeed are potentially harmful if they discourage efficient price discrimination. In addition they would be extremely difficult to implement.

Section 49 in Part IV of the Trade Practices Act contained similar provisions to section 10.05 and was repealed in 1995 as not being cost effective.

Exemptions relating to freight rate charges

The bill will clarify the requirement that liner shipping companies must have a conference agreement registered under Part X, before the Part X exemptions relating to agreements on freight rate charges come into effect.

The Australian Government Solicitor has advised that there is a possibility that a court could take the view that sections 10.17A and 10.18A of Part X allow parties to a shipping conference to agree on freight rates without having a registered conference agreement. This was never the intention of these sections, which were added to Part X in 1991. Accordingly, the bill provides for redrafted sections 10.17A and 10.18A to remove any ambiguity that may exist.

The provisions of the 1991 amendments to Part X, which removed the requirement for shipping conferences to include freight rate details, or variations to those rates, in their registered conference agreements are being retained. Such a requirement would impose a significant reporting burden on the shipping industry, be very costly to administer and serve no useful purpose. Part X already provides exporters with a legislated right to require shipping conferences to provide them with details of freight rate charges, when reasonably requested to do so.

Australian flag shipping

While the existing provisions which prohibit parties to a conference agreement from hindering Australian flag shipping are being retained, the Government has accepted the Productivity Commission’s recommendation to add a national interest test to apply to any determination by the Minister as to whether Australian flag shipping is being adversely affected by the conduct of conference lines.

This amendment will ensure that shippers’ interests are taken into account explicitly in a Ministerial determination as to whether a conference, or non-conference carrier with substantial market power, is misusing that power in order to hinder an efficient Australian carrier.

Enforcement of undertakings

The bill provides for more effective and flexible enforcement of undertakings along the lines of section 87C of the Trade Practices Act.

While enforcement provisions have been resorted to only very infrequently, a greater range of sanctions would be useful, and will further encourage conference members to abide by the rules, and facilitate the commercial resolution of disputes between conferences and shippers.

Mechanism for reviewing decisions

Decisions taken by the Minister or the Australian Competition and Consumer Commission under Part X, and which affect the interests of shippers and/or shipping lines, are to be reviewable by the Australian Competition Tribunal.

Future reviews of Part X

The amendments to Part X represent a continuation of the process of regularly reviewing the mechanisms for controlling the conduct of liner shipping conferences with the aim of ensuring that the arrangements result in overall benefits to the users of liner shipping services in Australia.

In line with the Productivity Commission’s recommendations, the Government has decided that Part X should be re-examined in 2005.
Ordered that further consideration of these bills be adjourned to the first day of the 2000 summer sittings, in accordance with standing order 111.

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

COMMITTEES
Legislation Committees
Reports

Senator CALVERT (Tasmania) (3.43 p.m.)—On behalf of the chairs of the relevant legislation committees, I present the following reports on the examination of annual reports tabled by 30 April 2000:

- Community Affairs
- Economics; Employment, Workplace Relations, Small Business and Education
- Environment, Communications, Information Technology and the Arts
- Foreign Affairs, Defence and Trade
- Legal and Constitutional
- Rural and Regional Affairs and Transport

Ordered that the reports be printed.

DEFENCE LEGISLATION AMENDMENT (AID TO CIVILIAN AUTHORITIES) BILL 2000
In Committee
Consideration resumed from 4 September.

The CHAIRMAN—Order! The committee is considering the Defence Legislation Amendment (Aid to Civilian Authorities) Bill 2000 and Senator Ellison’s amendment to Senator Faulkner’s amendment (R3), which deals with paragraph 51G(a) of the bill. The question is that Senator Ellison’s amendment be agreed to.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (3.44 p.m.)—We are dealing with an opposition amendment, to which the government has also proposed an amendment. The opposition amendment is proposed to ensure that troops will never be deployed against a peaceful protest. To achieve this objective, we are placing the tightest possible restrictions on the Commonwealth in using its constitutional powers to call out troops in domestic security situations. While the Defence Legislation Amendment (Aid to Civilian Authorities) Bill 2000 currently also provides that the Chief of the Defence Force must not deploy troops to ‘stop or restrict any lawful protest or dissent’, the opposition are concerned that the bill does not go far enough to ensure that the Defence Force can never be used in circumstances of peaceful protest. This is because the bill leaves open the possibility, even if it is only a hypothetical one, that troops could be used in response to a protest which is peaceful but unlawful—for reasons which may be wholly technical in nature.

We believe our amendment will effectively ensure that the defence forces will never be used against any peaceful protest, dissent, assembly or industrial action. While our goals are similar to those of the Australian Greens on this issue, we do have problems with the formulation of the amendment proposed by Senator Brown, which would prevent the defence forces being deployed to restrict peaceful protest or civil disobedience. We believe this formulation is too imprecise and open-ended. Our amendment makes it clear that protest ceases to be peaceful where there is a reasonable likelihood of death or serious injury to persons. To this opposition amendment, the government seeks to add the words ‘or serious damage to property’. We have thought long and hard about the government’s amendment. We have sought detailed elaboration of this proposal from the government in the course of the Senate debate and have pressed the government for numerous assurances in relation to the significance and intent of and the need for the amendment. We have discussed the amendment widely within the opposition, and we have considered it in caucus.

In determining whether this amendment is acceptable to us, we have considered the expression ‘serious damage to property’ in the context of the bill as a whole. To have a call-out at all, certain conditions need to be present: not only domestic violence but violence of a kind that poses a threat to the capacity of the relevant state or territory to protect either itself or the Commonwealth; either a request for a call-out by the relevant state or territory or consultation between the Commonwealth and that state or territory; and the fact that the
Governor-General must be satisfied — on the unanimous advice of the Prime Minister, the Attorney-General and the Minister for Defence — that these conditions have been met. Given these preconditions for a call-out, it is clear that serious damage to property must be occurring in the context of a situation which the police forces of the state or territory are already unable to control. This would clearly not be the case with, for example, a protest march or an industrial dispute where a window might be broken or a car tyre might be slashed. State and territory police are quite capable of handling matters such as those. Even during the most protracted industrial dispute in recent history, the waterfront dispute, at no stage could it have been said that any violence was beyond the capacity of the relevant police force to control.

In response to opposition requests in the course of this debate, the government has stated that it considers that serious damage to property, in the context of the bill, contemplates damage such as damage to infrastructure, such as power stations, dams and telecommunication facilities; damage to hospitals; and damage to transport infrastructure, such as airports and railways. The government has also undertaken to set out these examples in the revised Manual of Land Warfare, and it has agreed to table the manual in the Senate. The manual has the status of general orders binding the defence forces. All of the government statements can be drawn on by the courts in any subsequent legal interpretation of this legislation.

The bill contains other restrictions which further constrain the way in which the defence forces may be utilised in the context of serious damage to property occurring. Once a call-out has occurred, the Chief of the Defence Force must utilise the Defence Force in a manner that is reasonable and necessary. The Chief of the Defence Force must ensure that, as far as is reasonably practicable, the Defence Force cooperates with the relevant state or territory police force and is not used for any particular task, unless a member of the police force requests in writing that the Defence Force be so used. In exercising powers relevant to serious damage to property, the authorising ministers must declare a general security area and publicise the fact.

Again and again in this debate, we have pointed out that no restrictions currently apply to the defence forces if they are called out under the executive power or under section 119 of the Constitution. It was because the bill does put in place those safeguards for the first time that we indicated we would support the passage of the bill. So, for the reasons that I have outlined, the opposition have determined that we are satisfied with the government’s explanation of the need for its amendment and with the assurances it has given about circumstances in which the defence forces might conceivably be called upon to control violence involving a reasonable likelihood of serious damage to property. On that basis, the opposition will be supporting the government amendment, and I have indicated previously our strong commitment to the amendment that stands in my name on behalf of the opposition.

Senator ELLISON (Western Australia—Special Minister of State) (3.52 p.m.) — Following on from Senator Faulkner’s comments, the government position, as I stated last night, is in relation to serious damage to property. What is contemplated by that term is damage to infrastructure such as power stations, dams, telecommunications facilities and hospitals; damage to transport infrastructure such as airports and train stations; wanton damage; and looting of property. It would also include damage such as the destruction of a moored oil tanker or drilling facility. These are some examples, and I undertake to include them in a supplementary explanatory memorandum in the other place, which I think will take it even further than I said last night. That will be done in the other place.

Senator BOURNE (New South Wales) (3.53 p.m.) — There are a couple of things I should mention. First of all, no matter what you think of Senator Brown — and I think many things of Senator Brown — it should be noted that he is not here at the moment and that this is a subject about which he feels very strongly. This opposition amendment and the government’s amendment to the opposition’s amendment are things he feels
particularly strongly about. I am sure we will hear from him when he returns from the funeral he has gone to—he should be back in about half an hour—but it is a pity that we are going to finish up with this amendment before he gets here. Business is often rearranged in this place because people cannot be here, and it is a pity, particularly on this amendment, that we have not rearranged this business a bit.

Senator Faulkner (New South Wales—Leader of the Opposition in the Senate) (3.54 p.m.)—I am aware that we are in a committee stage debate, but let me say I think the point Senator Bourne makes is a perfectly reasonable one. I was going to indicate to the committee at a later stage in the debate that Senator Brown told me he would be back in the Senate at around 4 o’clock this afternoon. He probably gave similar advice to Senator Bourne. I was going to inform the committee of that if there was the necessity; I was going to see whether Senator Brown was in attendance before the question was resolved. I accept Senator Bourne’s point and would certainly have made the same point myself if it had been required. It is appropriate in this circumstance, given that Senator Brown extended the courtesy at least to me and to Senator Bourne of noting his unavoidable unavailability for that period of time. I am assuming, from the timetable he has indicated, that he may well be joining us. I have given up making predictions now about how long Senate committees might debate matters like this, but it is a proper point that Senator Bourne makes in the context of Senator Brown wanting to make a further contribution. He certainly indicated to us that he intended to do so.

Senator Bourne (New South Wales) (3.55 p.m.)—Thank you, Senator Faulkner, for making that clear. I think it is very sad that the opposition is agreeing with the government’s amendment. The government’s amendment is something that can be used far beyond what the government has indicated, if anybody wanted to. The fact that the opposition has now agreed to that amendment obviously means that there is now absolutely no hope whatsoever that this bill will not go through—it may go through tomorrow, but it will probably go through today. That is a very sad thing. I would certainly not agree with the government’s amendment. I have even been looking at the opposition’s amendment, and I wonder whether that amendment, even unamended, actually goes as far as the opposition says it does. I wonder whether it achieves what the opposition thinks it achieves. There are no strong definitions and it could be used, as far as I can see, pretty well under any circumstances. Who can tell whether circumstances will be such that anybody could be called out for anything. That is the question. It will not just be those three ministers who call out the troops in the first place; it will keep going down the line once they are called out. Where they are used will not be a matter for the Prime Minister, the defence minister and the Attorney-General. Where they are used will be a matter for somebody much closer to what is happening on the ground. I seriously question whether the opposition’s amendment would achieve very much at all. I certainly do not think the government’s amendment achieves very much at all.

It is as if we are debating a bill where troops have never been used in a civilian situation in Australia. Of course they have. We all know they have, and we all know they can be used again under exactly the same rules we are acting under now. The problem in the past has been to define exactly what those rules are. The question in relation to that definition comes down to how far those troops can be used against Australian citizens and how far they can be used where a situation may turn out to be violent against Australian citizens. That is the question we are defining. I do not think that is going to come up in the Olympics, I do not think it is going to come up at CHOGM and I do not think it is going to come up anywhere else in the very near future. I do not think Australia is about to become that dangerous a place; I would be astounded if it did. I think we can wait a couple of months and get this right. I do not think this is getting it right. This means that the opposition will now have the government’s support for their amendment and therefore the opposition will vote for the bill. That is very sad. It is something that we
should all regret, but I can see that it has happened. I will not be voting for it.

Senator HARRIS (Queensland) (3.59 p.m.)—I believe that there is the possibility that the source of the government’s amendment to Labor’s R3—which effectively speaks to the use of troops to stop or restrict any protest, dissent, assembly or industrial action—goes back quite some time, and I will be hoping to draw some comments from the minister in relation to some articles that appeared in the *Australian* in February and March of last year. In the *Australian* on Tuesday, 16 February 1999, Robert Garran, a defence writer, quoted the Chief of the Defence Force, Chris Barrie, as saying:

The Australian Defence Force must take a broader role that includes ‘constabulary’ activities to deal with terrorists and other non-State threats to Australia’s security.

The article goes on to say:

Future, military forces would have to provide the ‘widest range of military options to governments,’ which would have to structure their forces against a broader range of threats than solely wars against other States.

It continues:

The challenge will be to design a force that is centred around the primary role of defending or deferring attacks against Australia or its interests, but which possesses strategic reach so it can be deployed quickly to operate at other levels of conflict.

There is a clear inference there that the Australian defence forces are being prepared ‘to operate at other levels of conflict’. Is the purpose behind the government’s amendment to be able to deploy those troops against the citizens of Australia in such a way as was described in this article as ‘constabulary’? My understanding of the word ‘constabulary’ is that it means ‘the role of the police force’. Is the government now intending to turn the Australian defence forces into a third level of police force? We have our state police. We have the Australian Federal Police. Is it the minister’s intention to actually turn the ADF into a third police force?

Senator ELLISON (Western Australia—Special Minister of State) (4.03 p.m.)—Just briefly, I think Admiral Barrie was referring then to the role of the ADF overseas. In fact, what he was not saying was that there was a greater role for the ADF in becoming a third police force. That certainly was not the case. I can assure the Senate and Senator Harris that there certainly was no intention there that the ADF become another police force. What Admiral Barrie was talking about was an overseas role, in peacekeeping in particular, which we have just seen in East Timor in a very effective way.

Senator HARRIS (Queensland) (4.03 p.m.)—The government’s amendment is actually structured around section 51G(a) of the bill; and the Labor Party’s amendment is to delete that amendment and replace it with their preferred amendment. In the debate on this amendment the minister has continually referred to the level or the seriousness of damage to property. But I put to the minister that the call-out provisions in 51A(1)(b) state:

(b) if the domestic violence is occurring or is likely to occur ...

We have got two options for calling out the Australian defence forces: either by the government through the three ministers or through the Governor-General of his own volition or at the request of a state. What I am looking for from the minister is an unequivocal assurance that that in relation to industrial relations the government will not countenance in any way, shape or form the mobilisation of the Australian defence forces under section 51A, which says ‘or is likely to occur’. I am seeking a clear commitment from the government, because I believe the bill in its present form under that section would allow the government to call out the defence forces against an industrial action, irrespective of whether there is serious damage to property.

Senator ELLISON (Western Australia—Special Minister of State) (4.06 p.m.)—What this bill does is provide safeguards and constraints which do not exist at the moment. You must remember that. There are no constraints or restrictions like those you see in this current bill, and that is why this bill is good law: it is going to provide a transparent piece of legislation which will provide those constraints and checks and balances. What the opposition has moved—and on the basis
of the opposition accepting the government's amendment, we can support the opposition's amendment—says at 51G that you cannot have a situation where the Defence Force can be used to 'stop or restrict any lawful protest or dissent'. What the opposition amendment is saying is that the Defence Force cannot 'stop or restrict any protest, dissent, assembly or action, except where there is a reasonable likelihood of the death of, or serious injury to, persons'—and we have added that provision in relation to property.

You have that safeguard that, if any action is to be taken, there is that qualification contained in the opposition amendment. As well as that, there also has to be the satisfaction that domestic violence is occurring or that it is likely to occur. That, too, is a substantial qualification, because you cannot go in without that happening. In relation to the various call-outs, there is a Commonwealth call-out in section 51A, a state one in section 51B and a territory one in section 51C. Senator Harris has referred specifically to section 51A, and you have to look at the whole section there in order to appreciate the hurdles that have to be negotiated before action can be taken. In the first part of subsection 1 of section 51A authorising ministers have to be satisfied that:

(a) domestic violence is occurring or is likely to occur in Australia; and

(b) if the domestic violence is occurring or is likely to occur in a State or self-governing Territory—the State or Territory is not, or is unlikely to be, able to protect Commonwealth interests against the domestic violence; and

(c) the Defence Force should be called out and the Chief of the Defence Force should be directed to utilise the Defence Force to protect the Commonwealth interests against the domestic violence.

No more, no less. Finally, the various other aspects of the bill apply. The call-out order should specify what that Commonwealth interest is. Those hurdles have to be negotiated but, having done that, you still have section 51G to deal with. Section 51G, if it is passed, will contain the amendment proposed by the opposition with the addition proposed by the government, which places a further qualification on the activities of the ADF. I fail to see how those senators opposing this bill can believe that that is not a preferable situation to the current situation, which does not have that. That is why the Senate committee preferred the legislation that we have before us rather than the vacuum which exists at the moment.

Senator GREIG (Western Australia) (4.10 p.m.)—I would like to ask a question of Senator Ellison. Minister, I recall that in late 1997 there was a significant union protest here about the building, mostly out at the front of Parliament House. It was a protest, I believe, against Minister Reith's industrial relations program at that time. A small breakaway group from that largely peaceful protest ended up damaging the front doors to the building, spilling into the foyer and trashing the gift shop. It seems to me, under the amendments that have been passed thus far to this bill, it might be argued from the opposition benches that that was a general and generic industrial relations dispute not warranting the intervention of the defence forces.

However, there is no question to my mind that, under the definitions of those things that constitute damage to property, it could be reasonably argued that that scenario—that damage to Parliament House, one of the nation's significant icons and certainly a Commonwealth building—would warrant the calling out of troops. Can you confirm for me that, if this legislation, as it has been proposed and as it has evolved over the last few days, had been in place in late 1997 and if it had been enforced, that particular, largely peaceful, protest—which nonetheless resulted in damage to Commonwealth property and which was ultimately quelled properly and rightfully by a combination of Parliament House security officers and the Federal Police—would in fact be one of those circumstances where the intervention of the military, the calling out the troops, would have been possible and/or probable?

Senator ELLISON (Western Australia—Special Minister of State) (4.12 p.m.)—Can I unequivocally say that the incident Senator Greig refers to that happened in 1997 would not have come within the criteria of a call-out under this proposed legislation. Where that incident would fail entirely to qualify in rela-
tion to this proposed legislation is that the violence or potential violence which was occurring was totally within the control of the territory authority. There is no way in the world that that incident could be the subject of a call-out in the view of this government.

Senator GREIG (Western Australia) (4.13 p.m.)—As a follow-up question, I ask: under what parameters is that line crossed? When would a scenario of that nature be deemed to warrant the intervention of the military? It seems to me that that was a scenario where there were—or it was my perception that there were—points of aggression. Certainly some of the television imagery presented that, although that can be misleading sometimes. It concerns me that, if Minister Reith, for example, were to be one of those people in charge of calling for the intervention of the military, that may well have happened. I guess my general question is: in dealing with the difficulties and vagaries of definitions, when is that line crossed? You argue, Minister, that you are unequivocal—you say that that particular circumstance was not one which would have warranted a call-out; how can we be so certain about this as we evolve and as it appears the Senate will implement this legislation? How do we cement this in concrete? What is that point at which we say yes or no to the military? How can you be so certain that the circumstances we had then did not warrant a call-out but that they may not warrant it in the future? My concern when we are dealing with words and concepts is how we cement this in legislation to the point that the community can feel there is an essential safeguard?

Senator ELLISON (Western Australia—Special Minister of State) (4.14 p.m.)—I do not think I can put it any clearer than I have. Perhaps I could put it this way: through the Temporary Chairman, I ask Senator Greig where he thinks that incident even got close to being beyond the capability of the territory authorities. Where did it even get close to being a situation where the territory was unlikely to be able to protect Commonwealth interests? That incident was handled appropriately by the authorities. It was within the capability of the authorities. There was no question of the authorities concerned not being able to address that situation. I think Senator Faulkner quite correctly pointed to some demonstrations which were well within the capability of the authorities concerned—the state or territory police. In fact, Senator Brown said, “What about these demonstrations in the last century in Australia, which could well have involved the military?” There were none. I would be so bold as to say there are no demonstrations that I am aware of which would come to a point where a call-out would be warranted. In all those situations, the state or territory authorities are well capable of dealing with them. That is a crucial aspect of this bill.

The TEMPORARY CHAIRMAN (Senator McKiernan)—The question is that the government amendment to the opposition amendment be agreed to.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (4.16 p.m.)—If I can address this matter before you put the question, please, Mr Temporary Chairman. This is the issue that both Senator Bourne and I tried to raise a little earlier in the committee, in that Senator Brown is not here. He has indicated the significance to him of this question before the chair. This is not an easy matter to deal with, given that, obviously, we want to move this committee stage along. I wonder if we could put this question a little later. I accept that the debate has concluded on it, although I have no doubt that, in future contributions, Senator Brown may care to address it, unless there is more creativity elsewhere. This is sensitive to that fact that, in the circumstances, we ought to be a little bit flexible. Perhaps advice from the Clerk would be a useful way of proceeding.

The TEMPORARY CHAIRMAN—The advice that is suggested is that you move that the consideration of this amendment be postponed to a later time.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (4.18 p.m.)—I think in the circumstances that will not hold up the committee’s deliberations. I certainly want to move on; I think other senators want to. But I think we are also saying that there are special circumstances here with a senator who has indicated
a genuine interest. I think it may in fact save
time in the long run to be a little generous at
this time.

Senator ELLISON (Western Australia—
Special Minister of State) (4.18 p.m.)—I will
go along with that, although I would ask
senators to bear in mind that we have had a
lengthy committee stage. The government
has taken all concerns and questions seri-
ously, as can be seen by the length of time we
have spent on some issues—especially last
Thursday. But I take on board the points
made by Senators Bourne and Faulkner, and
would agree that we could perhaps deal with
this later. But I would ask other senators to
bear in mind that we do have a time aspect to
consider. Senator Brown is here now, so we
can hear from him before we put the question
about the amendment.

The TEMPORARY CHAIRMAN—To
bring Senator Brown up to date, I was about
to put the question that the government
amendment to the opposition amendment be
agreed to. It was suggested that there might
be a need for a delay in the consideration of
that vote until you arrived, Senator Brown.

Senator BROWN (Tasmania) (4.19
p.m.)—I thank the committee for waiting. I
am very grateful for that, because this is a
very important matter. It grieves me greatly
that we are about to see this amendment
passed, given the numbers. Following the
debate last night, I need to say that the ca-
pitulation on this legislation has gone from
bad to worse. I know there have been contri-
butions this afternoon, but I reiterate that we
are now in a situation where, under this leg-
islation, the politicians in Canberra can call
out the Army to front up to citizen dissi-
dents—this means people who oppose the
government, including peaceful demonstra-
tors—and, with this very amendment, the
commander of the armed forces so sent in
can use all force necessary, including the
right to kill, to defray what he or she in their
mind thinks might be a situation which
threatens serious injury or death or, now,
even presents a serious injury to property.
What that is is left unspecified and undefined
in this legislation.

If you have a group of citizens protesting
on the verge of Parliament House they are
threatening property, because they are tram-
pling the lawns. If you have a group of citi-
zens protesting in a city they are a threat to
property, because the crowd can be forced
back against windows and break those win-
dows. So protesters in the country can indeed
be a threat to life and limb. As I said last
night, if there is a protest against Australia
being turned into a nuclear waste dump—
because this government is, remember, essen-
tially in favour of that proposal by Pangea—
with British nuclear fuels, or if the situation
is that the site is in Western Australia but the
state government does not want it and has
held the police at bay from a crowd of 10,000
or 50,000 people surrounding that site, the
troops can be sent in. I put it to both Labor
and Liberal that, in those circumstances,
there need be no violence. If you have a
crowd of that size in the desert, you can
guarantee that inherent in that is a threat of
serious injury or death, and certainly there is
a threat to property. Whose property? It does
not specify whether it is the crowd’s property,
the Crown’s property or Pangea’s property,
but somebody is going to lose their backpack.
To legitimise the deployment of Australian
troops for the first time on Australian soil
against Australian citizens, it has to be in the
mind of the military commander that this
threat exists.

I remind Labor that in the Manual of Land
Warfare, which is to be replaced after the
passage of this legislation through the par-
liament—which the government has now but
will not show to us and which we have had to
capitulate to the government on because it
does not want the new manual used in evi-
dence—the troops are repeatedly lined up
against dissidents and agitators. Let me re-
mind the committee again what a ‘dissident’
is in the Oxford English Dictionary: it is
somebody who dissents. Effectively what we
have here is a provision for the armed serv-
ces of Australia to be used as a de facto po-
lice force for some future government which
does not have the scruples of governments
that we are used to and which wants to insist
on its political way.

Earlier this afternoon I spoke at the memo-
rial service for Claudio Alcorso, a great Aus-
tralian and a great Tasmanian who died last
week. Claudio came to Australia from the depredations of fascist Italy in the 1930s and, unfortunately for him, he was in New South Wales, not in Victoria, when war broke out. He was deeply antifascist, and I remember him telling me the story of the 13 professors in Italy who refused to sign an oath of allegiance to Mussolini and lost their jobs. Out of the thousands in Italy, the 13 good ones were the ones who were punished. Claudio was interned in the prison camp at Hay in Western New South Wales simply because he was Italian—no test of allegiance, no test of dissidence, just a presumption of guilt. When the court which did give him his day during the war to put his case said that he should be released, that decision was overturned by the Army intelligence officers. So he spent 2½ years locked up because the rules were thrown aside in that contingency. He wrote of:

... the need to safeguard the supremacy of our courts. We have good reasons for believing that our judiciary is competent and honest and that it can be trusted. The Aliens’ Tribunal—which in the context of war emergency acted with special caution—unanimously recommended my release, yet its verdict was overturned by the Army intelligence officers. So he spent 2½ years locked up because the rules were thrown aside in that contingency. He wrote of:

Another reason for writing about my internment, a somewhat rancorous one, was to highlight the ignorance, incompetence and prejudice of our Intelligence Service. Forty-five years later I found that the mentality of the Service has not changed.

It took me almost two years to obtain my files from various archives. I would not have obtained them but for the Freedom of Information Act 1982, and then I had to appeal to the Administrative Tribunal to obtain papers marked by Intelligence ‘not to be released’. The hearing was scheduled for May 1987.

The Intelligence Service, with the same monolithic mentality I met during the war, opposed my appeal under all the grounds allowed by the Act, including the one that ‘release of certain documents might endanger the life or physical safety of persons’. From the first of three preliminary meetings of the Tribunal I protested that this objection was absurd and offensive. Six months later, at the very last moment before the formal hearing, they withdrew it. True to their credo of being above normal social and legal mores, they gave no reason for the withdrawal nor a word of apology to a 74-year-old citizen with a record of lawful and peaceful life, whom they had wantonly claimed might commit or instigate murder.

Wise men throughout history have pleaded to forgive and forget. But autocratic, dogmatic individuals and institutions are enemies of free communities. My love for freedom means that I am capable of feeling hatred for those who would destroy it.

What we are talking about here is, in postwar Australia, a 74-year-old citizen being denied records for a false internment in a wartime situation, because it was claimed he might wantonly commit or instigate murder.

We have here a set of rules which says that in peacetime—that is what the committee is dealing with—given certain conditions, it will be up to the Army to determine whether there might be an outbreak of murder or danger to life and limb. Can we not learn from the past? Do the experience and the wisdom of Claudio Alcorso not tell us something? How can Labor be supporting this amendment which says that under certain conditions the troops may fire on Australian citizens not only if they think there is a threat to life and limb but also if they think there is a threat to property.

We are moving into an age where property rules all. It is an age of materialism where those who have the money have the power. Parliament is the instrument for standing for the rights of everybody equally, not for enhancing, endorsing and putting backstops behind those people, their power and their property, but that is what this bill does. As Senator Ellison said last night, this bill is to cover all contingencies—that is, this bill is there to cover the fertility of political imagination in future circumstances which we cannot gauge here and to allow that imagination to deploy Australians against Australians in a way we have never seen in the past. What we should be doing is putting in safeguards here, but what the government and, very sadly, the opposition are doing together is opening the door wider.

You have heard me say that if this bill were about the threat of terrorists, it would be a very different matter. We need to be able to deal with that problem swiftly for the defence
of Australians, but that is not what this is about. The door has opened much wider. This is about putting down civil disobedience and civil dissent, and that means political differences in circumstances we do not know about yet. Was there violence or the potential for violence during the Vietnam moratoria? Yes, there was. Was there a threat to property during the Franklin River blockade, which by the way was illegal? Yes, there was. Is there a threat to property in current protests by young Australians standing up for the great forests of this country? Yes, there is. Time and again, that is what is complained of by the job-shedding woodchip corporations, and I could go on.

This is a very, very grave mistake that the government and the opposition are making here. This is an antidemocratic move, a failure to defend democracy, by the government and the alternative government, and it has been left to the crossbenches and the different array of political beliefs in this corner of the chamber to say, ‘No, you should not be doing this.’ No doubt behind the presidium there are those who would at this moment use the power correctly, arguing, ‘We need this power because our imagination can put us across to a position where it would be good to have it and have it defined.’

If this legislation were simply about defining how the military might behave in a grave emergency which threatened Australia on our own soil, again I would have no trouble with it. But Labor and Liberal have both turned down amendments in the course of this debate which would have simply and clearly said, ‘Politicians cannot ever use the armed services against Australians who dissent, whether they be workers on strike or whether they be peaceful protesters.’ But the arguments have fallen on deaf ears. I ask the Labor Party: have you met with Admiral Barrie? Have you met with other representatives of the armed services? If so, what was the outcome of those talks? I ask the government the same questions. Neither of you, whoever your advice has come from, has thought of the civil dimension and your responsibility to uphold a century of tradition in this country which has kept the Army well and truly out of such civil affairs.

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

The committee divided. [4.39 p.m.]

(The Chairman—Senator S.M. West)

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**AYES**


**NOES**

Allison, L.F.  Bourne, V.W *  Greig, B.  Lees, M.H.  Ridezeway, A.D. *

* denotes teller

Question so resolved in the affirmative.

The **CHAIRMAN**—The question now is that opposition amendment R3 on sheet 1895, revised 2, as amended, be agreed to.

**Senator HARRIS** (Queensland) (4.42 p.m.)—I move:

Omit all words after “action”.

This amendment will have the effect of removing the government’s amendment that has just been passed. My reason for moving this amendment is that I have enormous concerns regarding the use of defence forces in Australia relating to industrial action.

The **CHAIRMAN**—Before you continue, Senator Harris, do you have that amendment in writing, please?

**Senator HARRIS**—I do not.
The CHAIRMAN—I am going to require it in writing at some stage, because nobody has seen it.

Senator HARRIS—if the Chairman will bear with me, I will do that now. I would like to look at the history of where troops have been used against civilians. We do not have to look too far to find some examples. The example of Mexico is very pertinent to the situation that we are in now. During the summer and autumn of 1968, approximately 150,000 Mexican university and high school students staged a four-month strike. The strike included a number of clashes between students, riot police and armed forces. On the night of 2 October 1968—only 10 days before the Olympic Games were due to open in Mexico City—fighting broke out between the students and the riot police in the city. The police were reinforced with about 1,000 troops, who opened fire on the students.

Senator McGauran—This is Mexico, is it?

Senator HARRIS—Yes. This is Mexico, but it is an example of troops firing on unarmed civilians in the country in which they live. This is not make-believe; this is reality. It is the reality that we also face here in Australia if Labor’s amendment is allowed to continue as amended by the government. The troops opened fire on those peaceful university and high school students, and it is estimated that 28 or 29 were killed and between 200 and 500 were wounded. Amongst those university and high school students there were also civilians, including women and children.

It is absolutely and totally unacceptable that in Australia we should have a situation where troops would be allowed to fire on Australian people. Another example is Northern Ireland in January 1972. During a civil rights protest the crowd, who had just been standing by, were first of all sprayed with dye from water cannon and then chased by the demonstrators. On that occasion it was again the troops who opened fire, insisting that they were firing on snipers, but they were actually firing upon people who were in the area and who were just standing by. These people were not demonstrators and were not going to inflict substantial damage to buildings; these people were lawfully on the streets and were running away to get out of the area. They were opened fire on by the troops. On that occasion, 16 people were wounded. This is exactly the scenario that possibly we are going to end up with here in Australia.

Another example is China in 1989 and Tiananmen Square—the world was appalled at what happened there. Again the army, which crushed pro-democracy students in Tiananmen Square, was used.

Senator McGauran—that is a communist country, you goose! It happens all the time.

Senator HARRIS—I had the opportunity to actually travel to China 11 months later, and the citizens in Beijing were still not allowed to go anywhere near Tiananmen Square. These are some of the examples that have happened around the world. I hear Senator McGauran saying that these examples happened overseas. Let us have a look then at when troops in Australia have fired on Australian citizens, and the obvious example of that is the Eureka Stockade. That was not in another country; that was here in Australia.

Senator McGauran—Was there a democracy then?

Senator Stott Despoja—that was over taxes, too—you had better watch it, Senator McGauran!

Senator HARRIS—at that time there was a dispute between the miners and the government. As Senator Stott Despoja so aptly pointed out, that was over government taxes. In that instance, there was a total of 22 people killed and a number of people were wounded as well. I am going to quote from a report on the battle—it was defined as a battle:

The order of attack was given, and the detachment of the 40th Regiment led by Captain Thomas, the chief officer in command, made a quick advance upon the double breastwork which formed the stronghold of the insurgents. After several volleys had been fired on both sides, the barrier of ropes, slabs and overturned carts was crossed, and the defenders driven out or driven into the shallow holes which the place was spotted with, and in which many were put to death in the final heat of the conflict either by bullet or by bayonet thrust.
Here we have a very graphic report of what can happen when the armed forces in a country are put against the civilians of that country, irrespective of the circumstances. There is no justification under any circumstances relating to industrial action whatsoever for the armed forces to be used against the people of this nation. The purpose of my amendment is to bring Labor’s amendment back to its original intent that would stop that completely.

Senator BROWN (Tasmania) (4.52 p.m.)—First, let me comment on Senator McGauran’s interjection on Senator Harris’s speech, when he said in reference to China and Tiananmen Square, ‘That’s a communist country, you goose!’ Let me point out to the chamber that it is a communist country that Senator McGauran’s government sees with great favour—in fact, with such favour that it gives it special treatment in terms of trade and commerce and turns its back on the gross abuse of civil liberties throughout China. Because big Australian companies want to trade, the government has token talks on the side once a year, to prevent the embarrassment of Prime Minister Howard, when he meets his opposite number, having to raise concerns about the way that communist country abuses human rights—not least, the rights of some 1,000 monks and nuns who are currently imprisoned in Tibet, their rights taken away simply because they want to free Tibet and have protested peacefully.

So, while it is unimaginable and unthinkable—and certainly beyond the imagination of Senator McGauran—that any government in Australia could abuse these new powers to send the troops in against Australian citizens, we have governments right now in Australia who have prepared to turn their back on governments elsewhere who do just that—and are prepared, in fact, to sit with them at dinner, because it is in the interests of trading and prosperity.

During the Franklin blockade, I was in jail at Christmas 1982 and was brought before the courts there for taking part in an unlawful protest—which, by the way, has ended up saving Tasmania hundreds of millions of dollars as well as leading the way to prosperity on the west coast through Strahan in the world heritage area, which attracts more than 100,000 visitors a year now. During that blockade, along with hundreds of others, I was arrested and put in jail, held on bail because I would not agree to the bail condition not to go back to the Franklin River. The charges were later dropped, and everybody who was charged and jailed at that time had no charges proven against them when they pleaded guilty.

Some days after being in jail, I was brought by the police to a cement block cell with a single electric bulb above a table with two chairs—the sort of thing that you read about overseas—and the then chief superintendent of police in Tasmania said to me across the table, ‘There is going to be violence in the Franklin blockade; we have intelligence that there is going to be violence. You have to get out of this jail and go and call the blockade off.’ That moment is seared into my memory. But, standing on the principle that I must not be coerced and that I must rely on my friends who were totally committed to non-violence and must do whatever was best for the river wilderness under those circumstances, I demurred. In the event, the proposition put to me by the superintendent of police in Tasmania was patently false. Whether it was concocted or otherwise, to his mind, as a leader of the police force under those circumstances, there was going to be violence—and that authorised, in his mind, extraordinary actions.

We have in this bill the authorisation by the government and the Labor opposition of extraordinary actions by a future field commander if, in his mind, he sees the potential for violence to persons or property—violence real or imagined, real or false. That is not the point. The field commander has only to think that way and then he can act upon those thoughts. This is very dangerous legislation. It is ill defined and poorly written; it does not get down to the specifics which safeguard against impulsive, muddle-headed or downright malicious action at some future time in circumstances which are different from those which prevail at the moment.

I support this amendment because, if the words that Senator Harris has suggested are removed, we then end up with a clause like...
this. Remember that we are referring here not to the call-out; the politicians in Canberra have already called out the army in a situation that they see as civil crisis. We would now have this section reading that, in utilising the Defence Force in accordance with section 51D the Chief of the Defence Force—that is, the chief of the armed units called out—must not:

(a) stop or restrict any protest, dissent, assembly or industrial action.

Senator Harris—Full stop!

Senator BROWN—Full stop. You can put in brackets there, because this is obviously what it means, ‘by Australian citizens’. What we will have here is the Labor Party, however, joining with the government and the Nationals in saying that the Defence Force chief must not stop or restrict any protest, dissent, assembly or industrial action, except where there is a reasonable likelihood of the death of persons or serious injury to persons or property. These are weasel words; an exception which is a complete out—because in almost everything we do it can be imagined that there is a risk, if not to life and limb then certainly to property.

This is a final opportunity for the Labor Party to uphold its traditions, its beliefs: citizens have a right to protest, and workers have a right to strike. As Senator Faulkner said two days ago in this place, the Labor Party believes that never, ever, ever should the Australian Defence Force be brought out against the citizens of Australia—never, ever, ever.

The Labor Party amendment means something quite different. The ‘never, ever’ has gone. We now have ‘except in circumstances where there is a risk ... a serious threat to property’. Quite extraordinary, isn’t it? In other words, the Defence Force can be called out against Australian citizens under certain circumstances—but, when called out, the leader of that Defence Force is much less restricted in when to use force than are the politicians in making the initial call. So I support this amendment.

Senator BOURNE (New South Wales) (5.01 p.m.)—The Democrats will also be supporting this amendment. As I said earlier in this committee stage debate, we have had another look at the opposition’s amendment. We think both the term ‘except where there is a reasonable likelihood of the death of, or serious injury to, persons’ and the amendment about the risk to property, which now has been passed, widen the possibilities on the ground so far that there has been a very sad diminution of what we thought was a restriction.

The amendment would make it a much stronger restriction in that it would cut back the words of the opposition amendment: ‘to stop or restrict any protest, dissent, assembly or industrial action’. We believe that the stronger this is and the more restricted it is for the use of the troops who have already—as Senator Brown said—been called out, the better it is for Australia in the future. Let me just say one more time: we do not need this bill; we just do not need it. It is not that scary a place here, and I would rather that we were waiting and getting this right. This is one step towards getting it right, and we will be voting for it.

Senator STOTT DESPOJA (South Australia—Deputy Leader of the Australian Democrats) (5.03 p.m.)—I rise briefly to support the comments of my colleague Senator Bourne and also to congratulate my colleagues who have contributed to this debate, including Senators Woodley, Murray and, I believe, Greig. I would also acknowledge that this is a good amendment—through you, Chair, to Senator Harris. While others in the chamber—specifically, Senator McGauran—may not have appreciated what I thought was a valuable lesson of history in relation to examples where countries have seen armoury turned against their own citizens, certainly I think some of us are conscious of the points you were trying to make. We commend your amendment, which would at least curtail some of the appalling aspects of this bill.

I rise also because, like Senator Brown, I could not resist the irony in Senator McGauran’s interjection in relation to China. Even in question time today, Senator Hill, representing the Minister for trade, boasted about our human rights record and said that it was second to none. He could not understand why some people—including my colleagues and
I—have concerns about the meeting in Melbourne next week of the World Economic Forum. The fact is that the last regional meeting of the World Economic Forum was in April in Beijing. It produced a report, and 73 pages of that report talk constantly about business opportunities in China and about trading opportunities in the area. Yet there is only one reference to human rights, and only then as an issue that requires address—‘an issue to be addressed’ I believe is the terminology in the report.

Clearly, among other things, that is where our concern for a forum such as the one next week stems from—the fact that we believe trading opportunities are being more highly prized or highly valued than human rights. I have to say that it is a little hard to stomach when Senator Hill suggests that our record is second to none when, if our record was so good, we would not be so scared of UN committees examining and scrutinising our record and policies in those areas. So worried is this government about the impact or the effect of the conference that will be held in Melbourne next week—and not only the World Economic Forum but also the Olympics and no doubt other events—that this government is rushing through legislation that is shameful and that is an attack on its citizens. The Democrats have made that clear, as have Senators Brown and Harris.

I join Senator Brown in making an appeal—a last-minute appeal—to members of the Labor Party. I thought, judging from Senator Cooney’s comments in the debate, that there were members of the Labor Party with concerns—not concerns that are going to be addressed by the upcoming Labor amendment but much broader concerns that will still remain if this bill is passed by the chamber today. So my colleagues issue one last plea to the Labor Party—through you, Chair—to not pass this legislation. I have seen no evidence in the community of support for this legislation, and I would be very surprised if members in this place had received any correspondence, any emails, any lobbying from any organisation or any individual calling for this legislation to be passed at all, let alone passed even in amended form.

Having said that, Senator Harris, I recognise that your amendment might curtail some of the aspects of this legislation. But, as Senator Bourne has said, this is legislation that we should not even be debating in this country, let alone passing. I think the debate and the passing of this legislation, if that is to be the case, marks a pretty shameful day for this country—and I am most stunned by the opposition.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (5.07 p.m.)—Let me again put the opposition’s view on the record about this legislation. I think it is important that I say this. I have said it before in the committee stage, but let me say it again so there is no lack of clarity about it. What do the Labor Party believe in relation to this matter? What do we want? We want the tightest possible restrictions on the Commonwealth using its constitutional powers to call out troops in domestic security situations. That is what we want and that is what has governed our approach in this parliament and during the committee stage debate. We do not support Australia’s defence forces being used against protest, against dissent, against assembly or against industrial action. I have made that clear. The amendment that we have here deletes the words ‘where that action does not pose a threat of death or serious injury to a person’.

I think senators need to examine the amendment that is before the chair. I have heard a number of speeches on this amendment in the committee stage where senators have indicated their opposition to the bill. I hear that. I have understood for some time that certain senators in this chamber are voting against this bill. But the opposition’s approach has been quite different. We have said that we will support this bill under certain conditions. We have considered supporting the bill because the current situation is unsatisfactory. There are no constraints on the Commonwealth at the moment, and this seems to be hard to get across to certain senators. I appreciate that people have different views, but there are no constraints at the moment. As far as the opposition are concerned, we do not believe that that is a satisfactory situation. We are not satisfied, nor do
we accept the status quo. That is why we have approached this legislation in the way we have.

The Labor Party amendment before the chair at the moment, which Senator Harris from Pauline Hanson’s One Nation party is attempting to amend, is the most important of Labor’s amendments to this bill. I do not want any misunderstandings. I do not mind being criticised or having my party criticised if the criticism is on a reasonable basis and I am being criticised for the matter that is before the chair. But there is a misunderstanding here. We do not want—and we will not accept under any circumstances—troops being used against Australians who are exercising their democratic rights. That is utterly unacceptable, but that is quite possible with the current constitutional arrangements. That is why we have supported a legislative framework: to try to improve this unacceptable situation.

Arguments have been mounted by the Australian Democrats and the Australian Greens that this legislation has been brought forward in haste. Those comments are fair. There has not been adequate discussion or consultation, but it does not alter the fact that the current situation is unacceptable. We will not embrace the status quo when there are no constraints on government. Equally, we are not going to embrace a bill that is unsatisfactory in itself. That is why we have moved this amendment.

In relation to this legislation, we have attempted to define where the Commonwealth might and where the Commonwealth might not be permitted to use its constitutional powers. That is what we have tried to do. Be clear: we do not support this power being used against protest, dissent, assembly or industrial action. We believe that the limits of this power should be clearly and carefully defined. That is the position of the Labor Party. We do not believe this power should be extended in any way to prevent or restrict the sort of protest and action that a number of senators in this chamber have canvassed. We want to ensure that Australia’s defence forces, if they are used in this way, are used to protect Australians. That is what our motivation is here. That is what our intention is here. We do not want to see a situation where Australians are prevented from exercising their democratic rights. That is the position that we come to this debate with.

We are now dealing with an amendment that stands in the name of the opposition and that will have application if, and only if, the troops have already been called out. That is when this amendment applies. The troops are already on the street. That is the situation, and I am sure most senators—perhaps all senators—involved in this debate understand that the amendment before the chair applies when the troops are called out. In other words, they are already obligated in other parts of this legislation to use only reasonable and necessary force. But they are already on the ground, they are already called out and that is when this amendment has application. It is in that context that senators need to consider the appropriateness or otherwise of Labor’s amendment to the bill and the impact of the amendment before the chair from Pauline Hanson’s One Nation senator, Senator Harris, on this issue.

We are talking about a situation where the troops are out and where Australian citizens are being killed. The opposition have tried very hard to get the wording of the amendment right. We have worked very hard on the drafting. I hope we have done well. If it can be done better at a later stage through the review process, all the better. But we have done the best we can here to try and deal with a situation where the troops are on the street and where there is the likelihood of people being killed or seriously injured. The option for us is to pass the amendment in the form that Labor proposes or to accept the Pauline Hanson’s One Nation senator’s amendment and have a situation where, in those circumstances, the troops stand by. That is what we are debating, and that is why we will not accept the amendment.

I do not accept the questioning of the credentials or motivation of Labor on this issue. We have come to this with an open mind, and we have come to it with clean hands. That has been our approach, and we have considered supporting this legislation, if appropriate amendments are passed, because in our view—and I know it is not the view of oth-
ers, but it is our view—the fact that there are no constraints on the government at the moment and no restrictions on the Commonwealth using its constitutional powers is not acceptable to us. It may be acceptable to you, but it is not acceptable to us. We are going to protect those individuals who want to protest, to take industrial action or to dissent in other ways. We want to do that, and we are going to do our best to ensure that we achieve it.

That is Labor’s approach. I have tried to outline it on a number of occasions as lucidly as I can. I do not want to waste the time of the committee again, and I will try and limit my contributions in the committee stage debate—as I have done in the past. But I want to be clear, and I want the committee to be clear, about the approach we are taking and why we are taking that approach. I commend the responsible approach of the opposition to this bill, and I seriously ask all senators in the chamber to consider the impact of passing the amendment to Labor’s amendment that stands in the name of the Pauline Hanson’s One Nation senator, Senator Harris.

Senator BROWN (Tasmania) (5.19 p.m.)—What an extraordinary performance, and what a failure of a performance that was. Why are the troops going to be on the street in the circumstances which Senator Faulkner just outlined? I will tell you why: Labor’s amendment will allow them to be. Labor’s amendment will allow them to be there against workers in Australia who are on strike. Labor’s amendment will allow them to be there against workers in Australia who are on strike. Labor’s amendment will allow them to be there against workers in Australia who are on strike. Labor’s amendment will allow them to be there against workers in Australia who are on strike. Labor’s amendment will allow them to be there against workers in Australia who are on strike. Labor’s amendment will allow them to be there against workers in Australia who are on strike. Labor’s amendment will allow them to be there against workers in Australia who are on strike. Labor’s amendment will allow them to be there against workers in Australia who are on strike. Labor’s amendment will allow them to be there against workers in Australia who are on strike.

So Senator Faulkner’s submission did not impress me. It did not have a cogent argument. It did not defend his core submission that, under Labor, troops could never, ever be used against Australian workers or Australian citizens who are protesting. That is exactly what Labor is permitting here. As Senator Faulkner said, we are dealing here with a Defence Force chief making a decision, having been called out by the government of the day, about whether or not to use the force at his or her disposal against Australians who are protesting. And the Labor amendment
Senator BOURNE (New South Wales) (5.26 p.m.)—I would like to comment on what Senator Faulkner was talking about. First of all, in the time it would take to properly draft this bill, to have proper public discussion of it, to look at its constitutionality and to go through it properly—over a few weeks or months—I cannot see that we will come to the point where the question would arise, as Senator Faulkner said, of what you do if the troops are out and you have a situation where Australian citizens are being killed. It is not going to happen in the next couple of months. I hope it never happens. I cannot imagine a situation in Australia in which combined police forces and combined tactical response groups cannot control that situation.

Senator Faulkner says there are no constraints at the moment and that he does not accept the status quo. Of course there are constraints. The constraints are that the government does not know, and the defence department does not know, where the limits are. They do not know, if they do call out the troops, where the constitutionality of it lies and, because they may be punished, they are very careful about what they do when they call out the troops. Look at the times they have been called out in the past. What happened? Has there been the possibility of those troops using violence against Australians? No. Why has that been the case? Is it because we have a lovely, gentle Defence Force that does not like using violence against anybody? No, I do not think so. That is not what they are trained for. They are trained to be able to do that and to do it properly. So why have they not been asked to do that by the government or by their Defence Force commanders? There is a good reason. It is because this bill is necessary. We accept that this bill is necessary. A bill is necessary to codify how far defence forces can go when there is a possibility of using violence against Australians or anybody else. That is necessary. It is not necessary right now. It is not necessary in the next couple of months. It is not necessary before we work out how to do it properly, and we have not done that.

There are an awful lot more amendments to consider, and I imagine that almost all of them will go down. I would be absolutely astounded if any amendments, other than those of the government and the opposition, succeed here. They are not going to. It is as if we had a chamber with two halves. There is the half way up there near the chair, and there is the half way down here near us. All the amendments of that half will go through, and they will have no problem because they will vote with each other—a lot of their amendments I agree with. Then there is this half down here, and down here it is: ‘Nope. Sorry. Don’t care what you say; I am not going to listen. Not only am I not going to listen but I’m definitely not going to vote for it. I don’t care what’s in it.’ That is not a really good way to run a country. It is not a really good way to consider a bill—which we have been told is so vital to the future of Australia that we have to do it immediately. It is a very bad way to do it.

So there are constraints. There are constraints on the defence forces. And those constraints are there because this bill does not exist as legislation yet. It is not an act. It only exists as a bill. Once it becomes an act, that is when the constraints come off—that is, if
somebody thinks, ‘Oh, yes, there is a reasonable likelihood of death or serious injury to persons.’ As Senator Brown keeps telling us, this is way down the line. This is not the Prime Minister saying this; this is not the Minister for Defence saying this: this is not the Attorney-General saying this—it is way down the line when we decide whether this is possible. This also applies to property. That one has gone through now. Gee, guess who voted for that? That is when those constraints come off. I would disagree very strongly with Senator Faulkner on that.

Senator Faulkner said that he wants to ensure that the Australian defence forces are used to protect Australians. Guess what? We all want to do that. At this end of the chamber, we think that the way to do that is to get this legislation right, and we have not done that, and we do not look like we are going to do that on this occasion.

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When we have that bill right, when we have in that bill what people outside this chamber, outside this parliament, want to see in that bill, that is when we should be voting on the bill. We should not be doing it now. What Senator Faulkner said demonstrated to us why we should not be doing it now. We will certainly be voting for Senator Harris’s amendment, because it makes this bill a little bit better. But, goodness me, there is an awfully long way to go yet. Really, the easy way to get over that is to not vote for this bill, to get the bill right, to do it later.

Senator GREIG (Western Australia) (5.33 p.m.)—My support for Senator Harris’s amendment and my abhorrence of this bill stem largely from personal experience. I think it is quite unusual, although increasingly less so, to actually protest and march and make your point in the streets. Unlike most Australians, I am one of those who has done so on many occasions. I was thinking recently that I have been involved in student protests, agitating against the introduction of tertiary fees and university amalgamations. I have marched in opposition to black deaths in custody when to do so was a very unpopular thing. I have marched in several gay and lesbian rights marches with small groups of people and hostile onlookers, and I have been involved in industrial relations protests and marched against the introduction of regressive legislation in my home state. I have also marched in order to preserve and protect our ancient forests. I am not alone in that, but when thinking through those particular issues I am struck by the fact that it is so often ‘the usual suspects’ who are involved in such movements.

I am also struck by the fact that I have experienced over time a considerable shift in attitude from the men and women of the police force—or the ‘police service’, as they now like to be called—in terms of how they treat and deal with those people who are involved in such marches and protests. I recall very clearly the contempt and hostility I experienced from members of the police force in my home state in the early days of being involved in such protests. But I acknowledge that there has been a considerable shift in attitudes because of the very deliberate attempt within the forces to bring police service personnel up to community attitudes in the way they are trained to deal with the public and to be empathetic with public issues. There are a range of programs in my home state—and, I suspect, nationally—to make the police ‘citizens’. As I think my colleague Senator Murray pointed out recently, the
Army are trained to deal with the enemy, whereas the police force are trained to deal with the public, and that is a key point here.

Additionally, my experience of members of the defence forces is somewhat different. By that I mean this: I wonder, Mr Temporary Chairman George Campbell, if you saw recently—on, I think, Four Corners—a program focusing on Townsville, a city in Australia which has a very high concentration of ADF personnel within it, and the level of violence against gay men that was being experienced in that community. There is no question, and the program made this point, that the kind of strongly macho high-testosterone attitude that prevailed in that town—partly because of the presence and existence of the ADF, a very macho institution—was in part responsible for the culture of violence that resulted.

It has been my experience that members of the defence forces—and I do not mean to tar them all with the same brush—are not the most tolerant people when it comes to those sorts of organisations, institutions and philosophies to which I subscribe. If you were looking for a bunch of people who felt passionately about the environment, strongly about industrial democracy, tolerantly towards sexual equality and sensitively towards feminist issues, you would not, for example, go searching for them in the defence forces. Frankly, it scares the hell out of me that in the future Australian citizens protesting in favour of those kinds of things may be confronted particularly by young members of the ADF holding a gun and wondering whether or not they can fire at a bunch of people who they have been led to believe, socially and philosophically, are in fact the enemy. It worries me that many members of the defence forces are bred and enculturated in an environment where simplicity is the essence of their very being—where they are trained to understand or to believe that there is black and white, good and bad, friend and foe, for the simple purpose of being able to act quickly and to fire and to kill when necessary. It is a situation that we as citizens do not generally experience.

My abhorrence of this bill comes from the belief that it should never be the case that members of the defence forces are placed in that position. It must always be the case that such scenarios are dealt with by the police force. I again express my abhorrence of the entire nature of this bill and again make the point—to reiterate what Senator Bourne has said, in particular—that there would be no need for any of this to occur if Labor were to oppose the bill outright. It is not enough simply for Senator Faulkner and his colleagues to wring their hands and say they have done the best they could, because they have not. The best they can do is to oppose this bill outright. I join with Senator Stott Despoja in a final plea, particularly to those members of the Labor Party who I am sure would have a long history of being involved with protest movements and who would know exactly what it is like to be confronted with the authorities when in such a situation. There is considerable hostility and contempt for many of the causes that people, particularly on the Left, feel very passionately about. For that reason this bill should be utterly opposed and, equally, Senator Harris’s amendment should be embraced.

Senator COONEY (Victoria) (5.39 p.m.)—I would like to respond to what Senator Greig has said. I am sure he did not intend to make this inference, but just in case it came across to the people listening that the Labor Party somehow has not taken part in demonstrations, marches and movements that uplift the human condition, I would like to go through a few of them. You yourself, Mr Temporary Chairman George Campbell, would remember that monument at the corner of Victoria Street and Lygon Street—when you had the good sense to live in Melbourne—to the eight-hour day, a cause led by stonemasons and other good Labor men, at least in sentiment, in Victoria. This brought the eight-hour day to Victoria and later to Australia. You would remember the demonstrations during the 1890s when people from the Labor Party were foremost in what was achieved. You will remember the great disputes about conscription and the monuments to those causes in the Trades Hall in Melbourne. You would remember the demonstrations during the great strikes of the 1890s when people from the Labor Party were foremost in what was achieved. You will remember the great disputes about conscription and the monuments to those causes in the Trades Hall in Melbourne. You will remember the efforts during the 1920s, during the Depression, and during and after the war—and on into Vietnam days, when, for example, the great Gough Whitlam led
the great Gough Whitlam led marches and you yourself, Mr Temporary Chairman, filled a great role in marching through the streets under the guidance of Dr Cairns. We even demonstrated after 1975 when that terrible tragedy in Australian history occurred and when democracy was trampled on in such a frightful manner. So the efforts have continued on to the present day to the demonstrations during the Springbok tour. And I could go on.

I think Senator Brown would be generous enough to say that many a Labor person was present at the Franklin Dam protest. Among your many great achievements, Senator Brown, I think that is perhaps the greatest. But right throughout the history of Australia, both before Federation and since, the Australian Labor Party has had a very proud history, a very proud record, and it can hold its head up high in terms of its dissent, its marching and its demonstrations. At the same time, it has had occasions when it has ruled this country with such wisdom and at such times of crisis that that needs to be honoured. John Curtin, during the Second World War, was a towering figure. He saved Australia from invasion from the Japanese. All I want to say is this: if there is an inference that the Australian Labor Party has not done the high and noble thing over the years, that is just wrong. Senator Faulkner has put our case in this debate and put it with great force and great merit. I think tribute ought to be paid to him for that. But even apart from the present debate, it is wrong to suggest that throughout the history of this nation the Labor Party has not done great things in terms of the sorts of issues we are talking about now—that it has not dissented when it should have dissented and that it has not protested when it should have protested.

One of the great Labor figures, Lionel Murphy, was the person who handed down the decision in the Neal case. He said in his decision that protest and dissent are the right of everybody—and so they are. I just want to make it clear that, although Senator Greig has told us about his part in protests—Senator Brown does not have to tell us about his part in protests, because he is noted for the high purposes that he has pursued—we should keep in mind that the Labor Party, throughout the history of this country and before when we were a colony, has a very proud history and certainly nothing to be ashamed of.

Senator BROWN (Tasmania) (5.45 p.m.)—I thank Senator Cooney for that. I agree with what he has said: that the Labor Party and the labour movement have been involved in many great protests and movements in this country which have improved the lot of every citizen—workers’ rights, democracy and, indeed, the environment. That is why this legislation and Labor’s handling of this legislation sit so ill with our expectations: it seems to fly in the face of that history. I wonder how many of those people who have taken part in those protests would believe that, on this day in the year 2000, the Labor Party is supporting the government getting legislation through this place which will enable the troops, under certain circumstances, to be brought out against Australian citizens in many of the situations that Senator Cooney has just listed.

This is real legislation. This is legislation that is open to abuse by people in the future, and we ought not enable that. I am perplexed. I do not understand why Labor is supporting this legislation. Senator Bourne cogently argued that there is no rush for this legislation; that we should get it right. Senator Faulkner said that the government should not be rushing the legislation, but that Labor had done the best it could and he hopes it goes all right. That does not stand scrutiny. Firstly, Labor knows as well as everybody else in this place that this legislation has been on the books, has been mooted, for more than a year now. We all know that, if the government wants to get unpopular legislation of this nature through this place, the time to do it is on the eve of the Olympics. I guess the government cannot believe its luck that it now has Labor on side in the central thrust of this legislation, because that discounts the interest as far as the press gallery is concerned as well.

If Senator Faulkner and the Labor Party believe that this is rushed and that there is room in here for mistakes, why didn’t they support the sunset clause which would have made this bill inoperative straight after the
Olympics? I do not think we are being told the whole truth here, and that is why I have asked Senator Faulkner to explain to the committee who has consulted the Labor Party in these turbulent last couple of weeks, in particular the last couple of days, and led it to change ground and slide more and more towards the government position? Who from the defence forces has Labor spoken to? Who from the government has Labor spoken to? Who from the community who is informed on these matters has Labor consulted? Who from the unions? Which are the unions that are saying, ‘Go ahead. This is good legislation’? Can we hear that from Senator Faulkner? I put the same questions to the government opposite, because I cannot see a coherent reason for Labor taking this point of view.

I hear what Senator Cooney says: that Labor has a proud record of protest, not least against the trammelling of democracy and the infringement of rights of the ordinary citizen. But here we have Labor supporting just that, far from protesting against it. It has got the numbers in here to stop it, and it is not going to use those numbers. It supports the Howard government’s prescription to, with a few changes, put this legislation through with no sunset clause, no assured review—in fact, Labor has voted that down—no clear statement that the defence forces cannot be used against citizens who are protesting or striking—Labor has voted that down—and no requirement that we see the new manual that will be used by the defence forces if and when they are called out. We ought to see that manual to inform us in this debate. Senator Faulkner has himself asked the government for definitions as a means of helping enlighten this debate, not least a definition of the very amendment we are dealing with. What is ‘serious threat of injury or death’? What is the likelihood of serious threat? What are the circumstances? I have asked the government to give us one circumstance—just one—that would apply where the troops in the field would get the order from the Chief of the Defence Force to go into action against Australian citizens. Do you know what? The government refuses, because this bill allows for every circumstance that Senator Cooney has just listed in this country’s history.

Put into the hands of the wrong government, this legislation is extremely dangerous to democracy, to civil rights and to that thing which Australians—not just the larrikin element—revere in history: the refusal to be ordered around and dictated to by bigwigs, hobnobbers and people in authority who are dictating what is good for you and your family and those who come after you, because they know what is right for you. That goes against the Australian ethic. But I am afraid we are now in the realm of saying, ‘Well, some future government will be able to bring out the troops to enforce the idea that dissent should not be allowed if they do not want it.’

I am not going to go back through the manual to the use of tanks and the ready-order-fire process that would be used against Australians if this situation arose; I am looking now at a page on intelligence tasks for the armed services in this situation. I read out earlier Claudio Alcorso’s terrible experience. The intelligence tasks that would be given to the Army to aid the civil power include the raising and maintenance of intelligence records on dissident personalities and organisations. That means everybody who is speaking against this bill. We are dissidents. That means everybody listening to this debate who disagrees with the government on the matter.

The manual says, ‘You can get records on those people. They are a matter for surveillance,’ and on and on it goes. But, far from tightening and codifying the matter, the legislation opens the door and lifts restrictions. Senator Bourne is quite right: if it were codifying the use of the armed forces in certain circumstances, then we would have a debate. But it is not doing that. It is saying the Defence Force can be used for a political purpose by an Australian government in the future—in fact, by three ministers of an Australian government—when they believe dissent is getting out of hand, and dissent simply means opposition. It is as loose as that. That is why this legislation is appalling. It is undemocratic. I know this word gets used too much but I do not use it very often: this legislation is un-Australian.

Senator STOTT DESPOJA (South Australia—Deputy Leader of the Australian Democrats) (5.55 p.m.)—I would like to ac—
knowledge Senator Cooney’s contribution to this debate and how apt it is that he mentions former Prime Minister John Curtin, a good man who had to deal with a number of crises of conscience. I have a lot of respect for his efforts as Prime Minister and, indeed, for many things for which he stood. But when we are talking of a crisis of conscience or a man of unintentional contradictions, John Curtin is it—a man who went to jail to oppose conscription, yet implemented it; a man who was a pacifist but was a wartime Prime Minister.

It is appropriate that the Labor Party should recognise, as Senator Cooney has done, their proud tradition of dissident and protest. It is one that most of us acknowledge. The Democrats share a contemporary history of protest with others down the end of this chamber. Senator Greig has listed some of the protests in which he has been involved. I think you would be hard pressed to find a Democrat senator, former or current, who has not been engaged in similar protest.

When Senator Faulkner invokes the phrase ‘Pauline Hanson’s One Nation’, a lot of us are struck by the irony. We recognise perhaps one certain thing: that is, when you have the Greens, One Nation and the Australian Democrats agreeing on an amendment, that is probably an indication of widespread and broad ranging support for an amendment. But, as Senator Brown has pointed out, it is because it is a serious amendment. It is a good amendment that deserves support and respect, and it deserves to be passed.

But there is another irony in this debate in that some of the liveliest protests that we have seen in the last couple of years in Australian political life have been directed at Pauline Hanson’s One Nation. I am not denying, just as Senators Greig and Brown have stated on the record, that I have vastly different views from One Nation on a number of policies, although I have to say to Senator Harris that it strikes me as odd that we get perhaps more support down this end of the chamber for issues in relation to biotechnology or GM foods than we do from the old parties these days.

Nonetheless, Senator Harris is supporting an amendment that would curtail some of the worst aspects of this bill that people have rightly identified might involve Australian troops in breaking up the very protest to which Senator Harris and his party might be subjected. I ask Senator Harris through the chair: have there been protests against his party that have involved significant property damage or injury?

I know that the government has responded on this matter beforehand by suggesting, ‘You would not see the troops being called out under those circumstances unless it was a situation that the police could not handle.’ I ask the government: at what point is it determined that the police could not handle it? Who determines that the police cannot handle this situation?

I believe Senator Greig was given an assurance by the government that incidents such as breaking into Parliament House or the gift shop or breaking down the doors to Parliament House, as we saw a number of years ago, would not necessitate a call-out of troops. But I do not know if the legislation and the constraints to which the opposition and the government refer are really that unambiguous. I acknowledge Senator Harris’s constructive and positive role in this debate as well as the irony in this debate through his concern, along with that of the Democrats and the Greens, that this legislation is being implemented. Certainly, no-one denies the Labor Party’s history of protest. I just wish it were a little more forthright on this occasion.

I express again for the record my concern that the haste that is being applied to this legislation suggests that this government wants it through in time for the S11 protests next week. There will be people from all sectors of politics who support S11. I support the right of those demonstrators to be out there next week, and I might even join them. That does not mean I support protest that is violent, it does not mean I want to see injury—serious or otherwise—and it does not mean I want to see significant property damage, but I do not want to see legislation passed that allows troops potentially to be out breaking up those types of protests.

Senators in this place can talk about clean hands, but we are dealing today with the issue of blood on hands. We are talking about
grievous legislation being passed today. Senator Bourne eloquently pointed out the constitutional issues, the precedent that this legislation sets, the fact that we have constraints and the fact that we need to legislate for better constraints but that we should be doing so in a very different fashion from the debate that we have entered into. But we are talking about blood on hands here. Let us get in perspective what our Army is trained to do, what it is supposed to do, and let us be very unambiguous about the fact that we are giving it powers to do that in a way that has never been seen before in this country and should not be allowed in this country.

I have no doubt that Labor Party senators will invoke greats like John Curtin—and I have no dispute with the fact that he was a great wartime Prime Minister, a revered Prime Minister, and deservedly so in many circumstances. They will bring out the heroes. That is fine by me. They will talk about their legitimate history of protest. They will say that they have done the best they can and they will talk about their clean hands, but I think they protest a little too much when it comes to defending their position on this bill. If they really wanted to talk about their great history of opposition, dissent and protest, then they would be protesting where it counts in this place and they would be voting with the Democrats, the Greens and, indeed, One Nation to defeat the bill before us. Once again, we acknowledge the Labor contribution to this debate, but we hope they will reconsider their position.

Senator HARRIS (Queensland) (6.02 p.m.)—The debate regarding the One Nation amendment has covered a lot of aspects, but I would like to centre on one mentioned by Senator Bourne when she was speaking of the three alternatives that we could have in the progression of this legislation. I believe there is a fourth and it is a very simple process—that is, that One Nation, the Democrats and Senator Brown at his own decision clearly indicate to the Labor Party that, on the passing of the One Nation amendment, we would all support opposition amendment (R3) as amended. Senator Faulkner implied that, if the amendment I have proposed gets up, we go back to the status quo where there is no control on the Commonwealth. First of all, I do not believe that is correct; I believe there are constraints on the Commonwealth at the moment. I also believe that the commitment to support Labor’s amendment would then put in place the controls that Labor desires.

As this debate has progressed, it has become very clear that the bill will pass. So rather than detracting from the bill, I believe we are actually adding to the strength of the bill. The argument about whether the bill is going to pass or not is largely lost. I accept that fact with great sadness, but I will move amendments subsequent to this one which, if passed, would make the bill more acceptable. What I am clearly saying to the Labor Party—and it is up to my fellow senators on my right to also make the commitment—is that if they support this One Nation amendment to their amendment, we would support Labor’s original amendment that says that the chief officer could not ‘stop or restrict any protest, dissent, assembly or industrial action’. Given that Labor have indicated they are going to support the bill, I believe that is the proper process for the use of the Australian defence forces in relation to industrial actions.

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

The committee divided. [6.10 p.m.]

(The Chairman—Senator S.M. West)

Ayes

Bartlett, A.J.J.
Brown, B.J.
Harris, L.
Murray, A.J.M.
Stott Despoja, N.

NOES

Boswell, R.L.D.
Calvert, P.H.
Cooney, B.C.
Crossin, P.M.
Denman, K.J.
Ellison, C.M.
Forshaw, M.G.
Hogg, J.J.
The bill, to remind senators, sets in place a regime for call-outs—51A being the Commonwealth initiated call-out, 51B being a state initiated call-out, and 51C being a territory initiated call-out. In state or territory call-outs you do not need that notice provision because an application would be made by the state or territory. So the committee turned its mind only to 51A, which deals with the Commonwealth taking action to protect its own interests, which the committee recognised it is duty bound to do so.

The amendment proposed by the government needs to be considered with the subsequent amendment proposed by the opposition which deals with consultations with states or territories. This government amendment takes on board the constructive suggestions of the Senate Foreign Affairs, Defence and Trade Legislation Committee in its consideration of this legislation. As has been stated previously by the government and the opposition, this legislation sets in place a framework for a call-out. This amendment is an important part of the framework, which I think adds protection to all Australians in the exercise of this power. I commend the amendment to the chamber.

Senator BROWN (Tasmania) (6.17 p.m.)—Why then does the amendment have the final words ‘if this is not done’—that is, if the state or self-governing territory is not notified, the validity of the order to call-out the troops is not affected? Why have that provision, and then say that it does not matter if you do not do it?

Senator ELLISON (Western Australia—Special Minister of State) (6.17 p.m.)—Even the committee recognised that, where there is a Commonwealth call-out to protect its own interests, there may be a degree of urgency which does not afford that extent of consultation which people were seeking. This was even recognised in my own state of Western Australia where Dr James Thomson, a senior legal officer from the Western Australian Crown Solicitors Office—a man I know well and who is a very experienced legal officer—accepted that there may be occasions where the order has to be made as a matter of urgency and consultation cannot take place. Similarly, in relation to the notification of the
order, events may happen so quickly in a Commonwealth initiated call-out that there is not an ability to do this. One would not want the Australian Defence Force to be placed in an invidious position because of circumstances and because of the speed at which those circumstances were occurring.

Senator BROWN (Tasmania) (6.18 p.m.)—What are those circumstances?

Senator ELLISON (Western Australia—Special Minister of State) (6.18 p.m.)—The circumstances, as I have outlined, are where there are emergencies. Most emergencies in life do not really come along with notice attached. In the history of human affairs—no doubt in the past and probably in the future—things happen on the sudden and a crisis develops extremely quickly. This is not always the case, but it does happen—we all know that from our lives as average human beings. We cater for these events as best we can with protections and checks and balances in place for the Australian community, but we have to bear in mind that there may be occasions when things happen quickly and, if this provision cannot be met, that it does not invalidate the necessary actions which are required of the ADF.

Senator BROWN (Tasmania) (6.19 p.m.)—Let us look at the amendment a little more closely. It says:

As soon as is reasonably practicable after the order is made or revoked—

that is to call-out the troops by the three ministers—

an authorising Minister—

one of them—

must arrange for the Government of the State or the self-governing Territory specified in the order to be notified of the making or revocation of the order.

It then says:

However, if this is not done, the validity of the making or revocation of the order is not affected.

The intent that the government has put here is to consult with the state. There is no word ‘consult’ in this amendment. It is a notification process. It does not call for consultation; it calls for notification. Why can’t the state where the troops are being sent be notified?

Let me go back a step. One of the things that I have asserted all the way down the line is that a very important constitutional halter here to the misuse of this power by federal politicians is that the state or territory involved should request the troops. In other words, if their police forces are unable to cope, the first thing that the states and territories do—and this has been in practice—is call for assistance from adjacent states and territories, as far as police and tactical response groups are concerned. I agree with Senator Bourne: it is very difficult to see a situation in which that would not handle whatever the crisis was. During the last century, we did not have to go beyond that.

The government is foreseeing some situation in which we now will have to go beyond that. The minister says that it would be ‘an emergency situation’. An emergency situation and a call-out would take some time. This does not even say that a state should be consulted in the process of deciding whether or not to make that call-out. This simply says that a state might be notified after the call-out has occurred. But, if it is not notified, it does not matter. This is not coherent. Either there is an intention in this legislation to consult with states and territories before troops are called out on their patch of Australia, or there is not. The government is really saying here that there is not. If it notifies the state after the call-out has been made, well and good; if it does not, it does not matter. Modern communications are such that the state is going to know about it immediately, courtesy of the media in this country. I ask the minister again: what are the circumstances in which this provision would be used? And what are the circumstances of emergency in which it would not be possible to use this provision?

Senator ELLISON (Western Australia—Special Minister of State) (6.23 p.m.)—I reiterate that, if you are talking about consultation, the opposition has an amendment that I understand is to be dealt with next by the committee and deals with consultation with a state or territory. As I said at the outset, you need to look at this amendment in conjunction with the opposition’s amendment, which we will deal with next. That forms, if you like, a package of notification and consulta-
tion. So I make that point at the outset. The second part is that, in any notification, consultation is implied in that. But, if you are not happy with that, we still have the amendment that will be posed by the opposition and will square that off neatly.

In relation to the circumstances that Senator Brown deals with, I can say quickly that you could have a range of instances where there might be some very quick action required. Say that you had a terrorist attack of significant proportion on an installation and the police were unable to respond and it was a Commonwealth interest—and remember that the order would have to specify the Commonwealth interest. If there were a substantial attack on, let us say, a domestic airport which had been destroyed with great loss of life and numerous hostages being held, immediate action might be required to deal with that. To rely on any bureaucratic process of notification might be totally inappropriate in those circumstances.

What we are saying here is that, as soon as it is reasonably practicable after an order is made—or revoked—you would notify the state. You would do that; and we are providing those checks and balances. But there may be an extreme situation where you cannot do that and it requires urgent and necessary action. If you had a terrorist attack of significant scale whereby the state or territory could not act to protect the Commonwealth interest, then action would be required. The Commonwealth government would be expected to act. If that procedure were not followed, we say that, because of necessity, we do not want the government to take. We are not saying that you would just have scant regard for it; it is something which came about as a result of the recommendation by the Senate legislation committee, and it has to be looked at in conjunction with the opposition amendment that is being proposed that has that consultative element.

Senator Brown (Tasmania) (6.26 p.m.)—But we are looking at this amendment. The minister might tell me if he has had consultations with the opposition and has come to an agreement on a package here.

Senator Ellison (Western Australia—Special Minister of State) (6.27 p.m.)—I can certainly say that the government will be supporting the opposition amendment which comes next after this; and we would be asking the opposition to support this amendment. But I think it is best for the opposition to speak for itself there.

Senator Brown (Tasmania) (6.27 p.m.)—Through you, Mr Temporary Chairman: has the government had consultation with the opposition about this amendment?

Senator Ellison (Western Australia—Special Minister of State) (6.27 p.m.)—I am not going into the detail of the discussion that the government and the opposition have had. The opposition can talk to its view of the bill, as it has been doing. But there has naturally been some discussion between the opposition and the government on this—of course there has—as there would be with any other party or senator in this chamber who wanted to discuss the government legislation.

Senator Brown (Tasmania) (6.27 p.m.)—The Greens amendment is next down the line, which says that you cannot call the troops out without the agreement of the state and territory; and nobody has come to discuss that with me.

Senator Ellison (Western Australia—Special Minister of State) (6.28 p.m.)—The door was open for you to talk to us as well, Senator Brown; it is always open.

Senator Brown (Tasmania) (6.28 p.m.)—Let us clear the air on this. The government and the opposition have been together, lining up these amendments: that so far is established. Well, so be it.

Senator Faulkner—That is not right. You’ve been told a lie.

Senator Ellison—I did not say that at all.

Senator Brown—I did not say that at all.

Senator Faulkner—That is what the government has just indicated to the committee, Chair—through you, to Senator Faulkner. You can disabuse us of that; but that is the information we have on the record. The reason the Greens will be moving that you need the agreement of the state and territory is this: it is a very important halter on the abuse of this power by the Commonwealth. Chair, Senator Ellison just pointed out the position
where there is some sort of disaster at an airport. He has left an important factor out here: the first people on the scene at that disaster will be the state police force involved and the tactical response group, in huge numbers. They are going to be there much faster than the Australian Defence Force. In a disaster like that, it will then be a matter of containing it and trying to give civil aid, as the term is.

I cannot see that that situation—where there will obviously be consideration about whether the Australian Defence Force is used by the three ministers that this legislation requires—cannot involve the necessity for the state to be informed if the troops are sent in. Otherwise, you arrive at the situation that the New South Wales cabinet office expressed some concern about to the committee, whereby you could have a police force on the scene and have the Australian Defence Force brought onto the scene, with neither informed about the actions of the other.

It is plain commonsense that, before the Defence Force is brought out in that situation, the state should not only be notified and consulted with but also be in agreement with that action taking place. We believe that section 119 of the Constitution comes into play in such a situation and that there should be a request from the state—and obviously there would be.

Again, the worry that we have about this sort of amendment does not apply to the terrorist situation that Senator Ellison has brought up and which we are quite happy to deal with—because it has to be dealt with; it is compellingly serious. We are concerned that this government-Labor Party bill, or act that is emerging, allows for the troops to be brought out against Australian civilians. I want the minister to explain this: in circumstances where the troops are being sent in to look after a Commonwealth interest in a non-terrorist situation, why shouldn't the state or territory involved be consulted first; why shouldn't its agreement be sought and obtained first; and why shouldn't it, by law, have the right to be informed?

Senator ELLISON (Western Australia—Special Minister of State) (6.32 p.m.)—In the latter circumstance, the government would envisage that there would be notice given to the state or territory. The situation is quite clear—as Senator Brown makes out—that, in that sort of instance where there was not the urgency of, say, a terrorist attack, there would be time and it would be reasonable for notification to be given to the state or territory. The government would envisage that that would be done—and I place that on the record.

Senator BROWN (Tasmania) (6.32 p.m.)—That is what is wrong with this. The government 'would envisage that that would be done', but it is not prepared to legislate that as a requirement. That is the government's and the opposition's whole problem here: two totally different situations are being dealt with. Civilians are being dealt with in one; terrorists are being dealt with in the other. The government and the opposition have mixed them all in together and they treat both groups of people in the same way under this law. That is what is wrong with this legislation.

That is why the Democrats are absolutely right: we should be reviewing this and treating it on its merits. There should be two pieces of legislation: one for terrorists, and one for civil emergencies that involve Australians protesting or striking about something or other. But they are all mixed in together. So here we have the situation where the troops can be called out against a civilian protest—an insurrection, if you like—and you do not have to notify the state.

I put to the minister again the Pangea situation of the future where you do not have a state in consonance with a federal authority; you have a political dispute. The state does not want it, but the federal government says, 'We're going to have it.' The police force is held off and the federal government sends in the troops. This provision allows it to do so without even notifying the state that is involved. It should not be. It is bad legislation. It opens the door to people who have wrong motivations. Senator Ellison, of course, indicates that it would be used in a correct and proper way. Chair, you cannot leave this to chance; you have to legislate very carefully on matters like this—but it appears that neither the government nor the opposition is prepared to.
Senator HARRIS (Queensland) (6.34 p.m.)—Senator Ellison, in raising the example of an airport, possibly is beginning to bring out one of the reasons why the Commonwealth is in the predicament it is in at the moment and maintains that it requires this bill. There has been an enormous amount of debate about the constitutional validity of the bill. In referring to airports, Senator Ellison has highlighted one of the problems that the government’s own policies have brought about—and that is that airports, having been sold off to private enterprise, are no longer Commonwealth property. If the government had not been following this policy of selling off its airports, then there would be no uncertainty as to the constitutional validity in relation to either a domestic or terrorist attack on an airport. Airports would have been Commonwealth property. The Commonwealth in such instances would have had the right to protect its airports. So, in relation to airports, the government itself has brought itself into this predicament where it may well find its legislation invalid.

The other interesting thing is: what other influences have been brought to bear in relation to this bill? At the moment, the minister’s amendment is about a report that has to be produced under proposed section 51A(8). Proposed section 51A, which we were dealing with earlier, is about calling on the Commonwealth to protect Commonwealth interests. I would like to go to another media statement that was made in the Australian. It is in a section that was written by the Australian’s correspondent in Jakarta, and it goes to the role of the ADF and the Indonesian military. The article states:

The highest-ranking military exchanges ever between Indonesia and Australia opened in Jakarta yesterday with the politically sensitive task: to debate the armed forces role in civil and political affairs.

The 70 military officials will navigate their way through what has become a highly contentious subject in Indonesia, especially since the demise of former president Suharto last year.

It goes on to say:
Opposition politicians and student groups have maintained a vigorous campaign to end the armed forces so-called socio-political role under which it has a guaranteed representation in the parliament of 38 seats.

So we have the ADF over in Indonesia in discussions with the Indonesian military on how they control their dissidents, industrial unrest and student protests. I believe it is totally inappropriate for our government to be even considering adopting any of the methods concerning the way the defence forces in Indonesia carry out their roles. In speaking to this amendment, I believe an amendment that I will propose on another date will actually remove any uncertainty in relation to the Commonwealth calling out the ADF to protect Commonwealth property in a state. As Senator Brown clearly indicated earlier, that should not be allowed to occur without consultation and the agreement of the state itself.

We are again walking into constitutional uncertainty where the government continues to insist that the Commonwealth will have the right to override the rights of the states.

Amendment agreed to.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (6.41 p.m.)—by leave—I move opposition amendments Nos 1 and 2 on sheet 1895:

(1) Schedule 1, item 3, page 5 (lines 26 to 29), omit subsection (3), substitute:

Involvement of State or Territory

(3) If paragraph (1)(b) applies:

(a) the Governor-General may make the order whether or not the Government of the State or the self-governing Territory requests the making of the order; and

(b) if the Government of the State or the self-governing Territory does not request the making of the order, an authorising Minister must, subject to subsection (3A), consult the Government about the making of the order before the Governor-General makes it.

Exception to paragraph (3)(b)

(3A) However, paragraph (3)(b) does not apply if the Governor-Governor is satisfied that, for reasons of urgency, it is impracticable to comply with the requirements of that paragraph.
Let me briefly speak to the amendments, because they are important. They go to the question of consultation, which has been an issue of concern raised in this chamber, in the Senate committee and more broadly in other interested bodies outside the parliament, particularly state governments. In the view of the opposition, it is essential that the Commonwealth be obliged to consult with the relevant state government before it undertakes any action under this legislation. We believe that, if that does not occur, there will obviously be the distinct possibility of confrontation between the Commonwealth and state governments. In the view of the opposition, that is not acceptable. We would not tolerate such a situation. That is the motivation for my moving the amendments that are currently before the committee.

The Commonwealth should consult with the relevant state government. At the very least, of course, this would have the benefit of clearly ascertaining what a state might be contemplating. I think it is very important from the point of view that consultation could reveal that action by the Commonwealth might not be necessary at all. We heard a lot in the committee earlier about the national antiterrorist plan. I am sure senators will be making the point to the committee that it is important that the Commonwealth does not override the national antiterrorist plan in any way. The government has indicated that this bill will not change the operation of the plan. I do think it is important that that assurance be repeated in this debate. Obviously, that is an area of concern to state governments. In terms of debate on this amendment, which I commend to the Senate, I would ask Senator Ellison to put that assurance on the record for the benefit of those who are concerned about this important issue.

Senator ELLISON (Western Australia—Special Minister of State) (6.44 p.m.)—I can assure the committee that the operation of the bill will not impinge on the operation of the national antiterrorist plan—and, more particularly, nor will any of the amendments proposed by the government; nor will any of those that have been passed that have been put forward by the opposition. So that assurance is pretty clear.

Senator BROWN (Tasmania) (6.45 p.m.)—I would like to follow up on that. I ask the minister: what is it about the national antiterrorist plan that is unsatisfactory and that requires this legislation to be put through right now?

Senator ELLISON (Western Australia—Special Minister of State) (6.45 p.m.)—For a start, the national antiterrorist plan is not legislation. This bill reflects the national antiterrorist plan in the form of legislation. That is the very point that we in the government have been making—through you, Chair, to Senator Brown—and I believe the opposition has too. We do have in place a situation which needs a legislative framework. This reflects the national antiterrorist plan, which does not have a legislative framework without the passage of this legislation.

Senator HARRIS (Queensland) (6.46 p.m.)—I would like to go to the essence of the Labor amendments we are debating. I will be opposing the amendments. The bill, as printed, states:

If paragraph (1)(b) applies, the Governor-General may make the order whether or not the Government of the State or the self-governing Territory requests the making of the order.

As Senator Faulkner has pointed out, Labor’s amendments attempt to oblige the Governor-General to consult with the state. Labor amendment No. (1) states:

(3) If paragraph (1)(b) applies:

(a) the Governor-General may make the order whether or not the Government of the State or the self-governing Territory requests the making of the order—

which is a repeat of the bill. The Labor amendments add a paragraph, and this is where I have a problem with them:

(b) if the Government of the State or the self-governing Territory does not request the making of the order, an authorising Minister must, subject to subsection (3A), consult that Government about the making of the or-
Exception to paragraph (3)(b)

(3A) However, paragraph (3)(b) does not apply if the Governor-Governor is satisfied that, for reasons of urgency, it is impracticable to comply with the requirements of that paragraph.

I believe that part of the Labor amendments is, in essence, exactly the same as what the government has printed in the bill. As well as being obliged to consult with the state, the Commonwealth should not be able to call out the Australian defence forces against the will of the state. At a later date, I will be moving subsequent amendments that will give that effect. The Foreign Affairs, Defence and Trade Legislation Committee’s report on the bill speaks very clearly about the unwarranted interference in state affairs.

Progress reported.

DOCUMENTS
Co-regulatory Scheme for Internet Content Regulation

Senator MARK BISHOP (Western Australia) (6.50 p.m.)—I move:

That the Senate take note of the document.

Tonight I wish to speak briefly to the six-monthly report on the co-regulatory scheme for Internet content regulation tabled today by the Minister for Communications, Information Technology and the Arts, Senator Alston. This report dates from a resolution of the Senate on 30 September last year arising out of a motion moved by me on behalf of the opposition and on behalf of Senator Stott Despoja of the Australian Democrats. That motion had a number of aspects. For tonight’s purposes, we should note that the third aspect of that motion sought that the government revisit aspects of the act and table a report on the effectiveness and consequences of that act in the Senate at six-monthly intervals. The report under discussion tonight gives effect to that resolution.

At the outset, I should say the report is a useful addendum to material currently available in this area of Internet content regulation. The report addresses the following aspects: the background to the co-regulatory scheme for online content, the scope of the scheme, the utility of industry codes of practice, progress to date on community education, complaint investigation, liaison with law enforcement agencies, research and international liaison. In the debate in the Senate last September, the opposition argued that the effectiveness of the act should be analysed having regard to the objects of the act; the minister’s second reading speech; relevant Hansard comments from the committee process, both in the chamber and in public hearings; and, finally, the relevant aspects of the second reading speech of the opposition. This suggestion does not appear to have been adopted by the authors of the report.

Whilst the report certainly addresses the matters outlined above and provides a chronological description of the activities of the Australian Broadcasting Authority and various local and international agencies, the report is deficient in that it offers little, if any, analysis of the effectiveness of the act. The report certainly addresses a range of activities and, in some respects, the outcomes of those activities, but its critical failure, if that is not too harsh a phrase, is its lack of analysis. I will give some examples. Firstly, chart 1 at page 15 of the report identifies the number of complaints per month concerning offensive material. In January there were 46; February, 30; March, 47; April, 34; May, 31; and June, 13. The striking feature of such a chart is the trend line which shows, from January to June—with one minor exception—a significant decline in the number of complaints, which started out from a relatively low base. Elsewhere, the report identifies a significant degree of awareness of the act amongst community and family groups. Accordingly, one would have assumed a higher degree of complaint from the outset, possibly growing over time. Chart 1 shows the reverse and, whilst it is too early to draw final conclusions, one would have expected a degree of comment from the report authors on the apparent lack of complaints about offensive material by members of the community across Australia.

Secondly, table 2 on page 18 shows that 81 of the 91 complaints concerning prohibited content posted outside Australia derive from North America—either Canada or the United...
States. Indeed, the US have 75 complaints and Canada, six. Accordingly, one questions much of the focus of the government’s activity in this area and the worth of the apparently ongoing range of multilateral negotiations and the establishment of protocols involving many countries when it is patently clear that the overwhelming source of content is derived from North America. Again, one would expect some comment or analysis from the government as to the utility, perhaps, of direct negotiations with the United States concerning the sourcing of such content from the US. The report, again, fails to deliver on that score. Otherwise, the material contained in the report is useful and shows that the government is intending to focus a large amount of resources and activity in the fields of education, community awareness, community education and complaint referral to relevant police agencies. The opposition has no particular complaint about these aspects. Indeed, during these debates the opposition argued for a strong focus on end-user education and community awareness raising. The opposition will continue to review the effectiveness of this particular act. But one should say, at this early stage—the first six-monthly review—that the lack of analysis of the effectiveness of the act is a shortcoming. (Time expired)

Senator STOTT DESPOJA (South Australia—Deputy Leader of the Australian Democrats) (6.56 p.m.)—First of all, a commendation to Senator Bishop, who has summed up quite expertly the deficiencies in the report before us. He has also outlined the history in relation to the amendment that produced this six-monthly—‘analysis’—report. The Democrats are similarly concerned about the operation and effectiveness of the act. We voted against the legislation last year because of our concerns about the nature of the government’s proposal. Firstly, we thought that that legislation was unworkable in a technological sense and exposed a lack of understanding by the minister and the government of the Internet in particular and, secondly, we found the wide-ranging scope of the legislation undesirable. I reiterate, for the record, that the Internet, by its very nature and design, should overcome barriers. It is designed to be a democratic medium. Therefore, circumventing or prohibiting anything online is extremely difficult. That is why, in that debate, both the opposition and the Democrats—and Senator Bishop has pointed it out—indicated the need to emphasise awareness campaigns, public education and the end-users’ responsibility, especially when it came to monitoring offensive or questionable sites and especially in relation to minors accessing those sites. No one in that debate—including the people who opposed the legislation—supported offensive, illicit or illegal material being provided online for children. But we also recognised that we cannot remove from the equation the need for parental guidance and education at all levels. I was very curious and would have liked to have seen more of an examination or an analysis, as Senator Bishop has said, of those complaints before the ABA and what they meant in relation to understanding the act and education about the Internet.

I understand and acknowledge that the report points out that there will be more research and that the ABA has commissioned the development of a community education strategy, and I certainly commend that. It is worth acknowledging that, in the first six months of the scheme’s operation, the ABA received 201 complaints. Thirty-seven of the investigations were terminated, apparently due to a lack of information. Of the other 160 investigations, 93 resulted in a finding that the content in question was either prohibited or potentially prohibited. The report goes on to explain that much of the material found by the ABA to be prohibited was of a highly offensive and illegal nature. It says that some 80 per cent of the prohibited content found to be hosted in Australia involved a child or minor being depicted in an offensive way or in a paedophile activity. All of us in this chamber would condemn that kind of material and its availability online. My question to the government is one that we asked during that debate: why would not that material have been covered under the Crimes Act or other legislation that was currently operating—that is, before this legislation was brought into being?

Essentially, the laws were already equipped to deal with illegal information,
whether it was online or in any other environment. That means if it was illegal offline it should be illegal online. So paedophile activity, et cetera, online—as we all agreed in that debate—should not be available; it should not be online; it should not be accessible to minors, et cetera. We agreed that point. But this legislation, we believe, does little to improve the way we are perceived in the international community, especially when it comes to developing e-commerce and looking at how we can become a nation that accepts technological advances and exploits those advances in a positive way. I ask how our laws were not already equipped to deal with information that was illegal.

I share Senator Bishop’s concern at the lack of analysis in this report and, once again, ask the government—plead with the government—to not replicate the situation where we are an international laughing-stock in relation to our legislation on regulation of information online. Let us not do it again. Let us not revisit similar aspects of that debate when we get to the debate about gambling online, for example, where we also recognise—and certainly the Senate Select Committee on Information Technology recognises—that prohibition will not work online.

Question resolved in the affirmative.

Consideration

The following government document was considered:


ADJOURNMENT

The DEPUTY PRESIDENT—Order! There being no further consideration of government documents, I propose the question:

That the Senate do now adjourn.

Irrigation

Senator TIERNEY (New South Wales) (7.01 p.m.)—Senator Stott Despoja has invited me to respond to her last remarks. I would really love to do that, but that is not my intention tonight. I am sure there will be plenty of other opportunity to do so in that ongoing debate.

Senator Mark Bishop—You can read that article in the paper.

Senator TIERNEY—Have you read that article? I suggest, Senator Bishop, you read it very thoroughly. You will find it incredibly informative. I am not speaking about that tonight. I rise tonight to speak about concerns of irrigators in the Macquarie Valley in north-west New South Wales and the representations they have made to me about the very vexed issue of water rights. Last week I did speak about what was happening in the Macquarie Valley with their Macquarie 2100 plan, where they had worked out, for that region of Australia, their way forward: how small communities could survive in this new millennium and how, if they planned properly in terms of agriculture and a wide range of services, they could deliver to the people in their region a lifestyle that has a very long tradition and also a very great future, particularly if we can develop partnerships between the local region and state and federal governments to support what they are doing.

But it is not helpful when particularly the state government comes in and undermines their livelihood by not keeping to agreements that they have made nationwide through the COAG process, and that is what I want to draw the attention of the Senate to tonight. There are enormous concerns about the way in which the Carr government in New South Wales is delivering—or not delivering—the reform of water rights across this state. There are enormous problems in a number of rural areas. In areas of limited water we are actually trying to balance the needs of agriculture with the needs of the environment. This has got to be done in a very sensitive and planned way and not in the very ham-fisted way the New South Wales government is going about it at the moment.

The irrigators are looking for financial security and, of course, they are also looking for the protection of the vital asset of water. This is particularly the case in the Macquarie Valley, because their main crop is cotton, which is a major user of the resource of water. In the last drought, in 1994, there was a draining of all the water out of the nearby rivers, all the water under the aquifers of north-west New South Wales, as they tried to
keep the cotton crop alive during the water shortages that occurred. We have to set up systems in such a way that we do not run into that problem again. The intention of the Carr government to deliver water security is a most admirable one, but the way they are going about it is likely to ruin some vital industries in these areas.

There is a limit to how much water can be used in agriculture if you want to balance the environmental and agricultural needs, and we have got to consider a range of problems associated with water use, such as loss of wetland, blue-green algae blooms, decline in native fish populations, and increased salinity and bacterial levels. All of these things have got to be managed in a reasonable way. That is why all state and federal governments came together in 1994, through the COAG agreement, and set out a comprehensive package of reform to encourage a situation where water is properly valued and used in the most sustainable manner. Unfortunately, the irrigators in the Macquarie Valley feel that they have been very unfairly treated and that they are unreasonably bearing a large proportion of the cost of this reform process.

During the winter recess I travelled to the Macquarie region in north-west New South Wales and met with representatives from Macquarie River Food and Fibre, which represents about 600 irrigators in the area. The representatives expressed the view that they are facing a crisis in water usage in their area. They have deep concerns about the NSW government failing to implement national competition policy in water reform in the balanced way intended by the COAG agreement of 1994. Irrigators were told in 1995 that there would be pain during the reform process as the water industry moved to full cost recovery in pricing, mobilisation of the resource and the reduction of irrigator allocations. But irrigators were told that this pain would be balanced by a gain: structural adjustment assistance during the reform process, followed by security of water property rights. I would like to emphasise that point of the promise of security of water property rights. I was told by the Macquarie River Food and Fibre group that the gains just have not happened. Irrigators in Macquarie and across the state are paying more for their water, they are competing for it and they have had their entitlement cut, yet they have no ownership, no certainty, over this crucial asset of water.

The New South Wales government have received $450 million from the federal government to date in competition payments. This must be one of the greatest sleights of hand of finance between federal and state governments that has ever occurred. The Carr government have taken the $450 million and they have not allocated one cent of it to water reform in the state. They have an obligation to use competition payments to ease the pain of individuals, regions and the whole industry from this reform process. Yet I was told no irrigator in the state has been paid for water taken from them in the last five years.

The water management bill now before the NSW state parliament sets a similar tone for the future. The bill allows for the further erosion of irrigators' water entitlements every five years. In the bill there is no requirement for irrigators to be paid for reductions in this asset which they have purchased, borrowed against and depend on for income. I was given the following interesting analogy to describe the problem: ‘It’s like buying a taxi cab, borrowing the money to set up the business and then having your taxi licence taken away from you, but you still have to pay off the loan.’ That is the exact position these people suffering this desperate plight in the Macquarie Valley of New South Wales are in.

If the state government is committed to its obligations to ensure security for the environment in the water reform process, it will not attempt to implement legislation which shifts onto the industry the responsibility for paying for the cost of providing water. Aside from being contrary to COAG, this is an inequitable outcome, where one portion of the community bears the cost of maintaining and improving our environment. It is also unsustainable as the irrigation industry cannot afford to lose its income-earning potential and have its assets eroded still further and expect to survive into the future.

What can be done to steer this reform process back on track? First, I am told there is another competition payment of around $150
million due to the state governments any day now from the federal government in return for the successful enactment of water legislation in line with COAG. Surely this money cannot be released until fundamental tenets of COAG, such as property rights, are addressed in the new New South Wales legislation. We need time to allow COAG to be revisited and for the industry to be included in the development of a national standard in terms of a sustainable property right. If they do not get this right and ensure the costs of the environment rest with the whole community, the only certain outcome of this reform will be a decline in regional economies, like the Macquarie Valley in north-west New South Wales. As the irrigation industry struggles to foot the bill, this will be followed very closely by a decline in the health of our environmental resources.

On 22 June this year the New South Wales Minister for Land and Water Conservation, Richard Amery, presented the Water Management Bill 2000 to the state parliament. The bill is expected to be debated during the spring session. The final date for submissions commenting on the bill closed last Thursday. I urge the responsible minister, Richard Amery, and the state government to take a serious look at the plight they are creating for the irrigators in their state, particularly those in the Macquarie Valley. Many are struggling to survive this water reform process. The state government has received money from the federal government under the COAG agreement and it is not paying for this restructuring. This is money that has been taken by the Carr Labor government under false pretences and it is money that must be passed on to the irrigators immediately.

Aboriginal Youth: Petrol Sniffing

Senator LEES (South Australia—Leader of the Australian Democrats) (7.11 p.m.)—I have been asked by some members of the Yuendumu community to bring to the attention of the federal government the serious impact of petrol sniffing among their young people. Last month, during the parliamentary recess, I was able to visit this remote Aboriginal community in the Northern Territory to meet with members of the community and discuss a range of issues. There are a number of very positive stories to be told, particularly relating to the new aged care facility, but the overwhelming issue that kept coming up and that we kept coming back into discussions related to petrol sniffing, largely because of the horrific injuries suffered by a teenager, in the few days before I was there, while he and friends were sniffing.

During my visit I met a number of people who are making a very serious attempt to stamp out petrol sniffing in this community, and they have had some success. From time to time they really do make some inroads and make a real difference. But they are now losing the battle, with more and more young people sniffing. The Aboriginal community here and elsewhere in the desert is desperate. It is crying out to the rest of Australia for help. Over the past few years petrol sniffing has become endemic in many Aboriginal communities. There are some conservative estimates that Central Australia alone has some 500 full-time sniffers. We are not just talking about teenagers here; we are talking about kids as young as seven or eight who are already recognised as full-time petrol sniffers.

Petrol sniffing is, without doubt, one of the worst possible forms of substance abuse. The short-term effects of petrol sniffing on a young person’s behaviour include violence, visions, hallucinations and an inability to control thought or speech. If they continue, in the longer term it causes brain damage, lung disease and systemic neuropathy. Even in the early stages, petrol sniffing can induce serious mental illness. It certainly precipitates the breakdown of families and communities. Aboriginal leader Noel Pearson has also spoken of this problem in the Cape York Peninsula. In his recent Ben Chifley Memorial Lecture he said:

... petrol sniffing is in some places now so endemic that crying infants are silenced with petrol drenched rags on their faces.

That is a very horrific thought indeed. I recall the outrage when a mother left her child to suffocate in a car while betting in a casino and also the outrage you see in papers across the nation from time to time when syringes are found on people’s lawns or on beaches. That outrage leads to some action—it has led
to a range of measures to prevent children being left in cars while parents are at the pokies and to reduce the impact of syringes on our beaches and streets. But where is the outrage here, when kids of eight and nine are regularly holding cans of petrol up to their noses, literally melting their brains? There have been a number of very prominent articles in our major dailies, but still I have to ask: where is the outrage? Something is drastically wrong if the rest of Australia can sit back and watch what is happening to Aboriginal communities and to these children.

Some Aboriginal parents are literally at their wit’s end. They know that if they take the petrol away, if they stop their kids sniffing, they will simply leave the home; they will end up on the streets and, no doubt, in even more trouble. We would not tolerate this in any of our capital cities. Indeed, measures are taken to support young people who have a variety of problems in our capital cities—in Perth, in Adelaide and in Brisbane. But why is it that, with such a major problem facing these Aboriginal communities in remote areas, nothing is done? Perhaps it is just because what we do not see we prefer to ignore. This excuse simply is not good enough.

Something is drastically wrong when the incidence of petrol sniffing changes from being a rare occurrence to being an epidemic in some communities within a three-year period.

While visiting the Northern Territory I had the opportunity to meet with Mr Michael Morgan, Manager of the Yuendumu Substance Abuse Program, who works with Mr Otto Sims, Chairman of the Mount Theo Yuendumu Substance Misuse Aboriginal Corporation. Mr Morgan outlined for me the organisation’s petrol sniffing respite program that is out at Mount Theo, about 160 kilometres further on from Yuendumu. This program is the only federally funded petrol sniffing program in the Northern Territory and, as I learned from Michael Morgan, it is making some headway against very difficult odds. It does receive some funding; some $210,000 funding for petrol sniffing programs has been passed to this community over the last three years. However, there are major problems, one of which is staff shortages. There is also the fact that Mount Theo actually belongs to one of the traditional owners who allows his home to be used by up to 40 young people at a time. The facilities at Mount Theo are poor, and the current lack of staff means a lack of real rehabilitation. There is a very urgent need to support this Aboriginal community and assist them to get more qualified staff. There is also the problem of getting the kids out there, because the program has no vehicle. And, as staff have to be taken out of Yuendumu, it leaves no-one working with Aboriginal youth back at the Yuendumu Youth Centre. When the young people come back from Mount Theo they unfortunately often end up going straight back to petrol sniffing. One of the problems is that Yuendumu is known to have a program, so parents from surrounding communities encourage their kids to go in, in the hope that they will get some support. Also, other young people visit at times of carnivals and sporting events. Again, kids with petrol sniffing problems are encouraged to stay, in the hope that they will get some support and some treatment, but unfortunately that frequently simply leads to more kids in Yuendumu itself taking up petrol sniffing.

One of the ways Yuendumu itself is trying to combat this problem is through the youth centre that is there. But it is a dilapidated old building—it was the mission’s kitchen in the early 1960s. It has been renovated by local volunteers, but unfortunately there is no money for things like airconditioning. In summer it is over 50 degrees, and in winter it is freezing. It is obvious from looking at it that it is full of dust all year round. The roof leaks when it rains, and so the money that has been spent on getting some pool tables and games in there is wasted because the equipment does not survive some of the very wet periods. While I was there, unfortunately some young people who were on petrol at the time and whose behaviour was violent got in and did quite a lot of damage—a very saddening episode for those people in the community trying to keep this facility going.

I would like to quote some passages from Mr Otto Sims’s letter. He is one of those dealing first hand with this appalling prob-
lem, and I think his words are more powerful than mine. He writes:

When the Ash Wednesday bushfires went through Victoria and South Australia all of Australia came to the rescue, government and volunteers. Petrol sniffing is like a bushfire slowly destroying Aboriginal youth and it needs to be stopped now.

We at this corporation are slowing down the spread of petrol sniffing but we need help to put it out. That is where we need government and private assistance so we can solve this problem in an Aboriginal way with Aboriginal control and with the help of the government to oversee the program. We have the confidence to tackle this problem if we have sufficient funding.

Mr Sims goes on to outline some of what is being done:

We as the indigenous community of Yuendumu want to put dignity back into our younger generation through educating them so they can have respect for themselves and others plus positive attitudes, skills and higher self esteem. Then in that way we can empower them to have more control over their lives when they get off the habit of sniffing petrol.

If we can do good things then our youth can forget about the bad things and get motivated to change their lives and their attitudes so they can have a future.

I know that there is no quick fix, but I am also aware that this is an urgent problem. We simply cannot let day after day go by without some attempt to find some solutions; without some realistic response to these communities which are crying out for support.

My colleague Senator Aden Ridgeway has raised the idea of allowing Aboriginal elders to practise traditional law as a way of dealing with petrol sniffing youth. But this problem is, as I said, not just confined to Yuendumu. If we really are serious about reconciliation, what better way to make a start, to make a real difference, than to look at the lives of vulnerable Aboriginal young people and put some funding and resources into those communities which are dealing with these desperate problems day by day? Friday is World Reconciliation Day. Surely one of the ways in which this government can mark that day is to make some real contribution to Aboriginal youth.

United Nations Human Rights Committees: Australia’s Participation

Senator MASON (Queensland) (7.21 p.m.)—I am delighted to have an opportunity tonight to speak briefly about Australia’s participation in the United Nations human rights system, and in particular the UN committees that assess human rights compliance. I know that all honourable senators would acknowledge that this issue is very important, because the effective protection of human rights is a primary concern for any civilised community. It is of interest to me not only as a member of the Joint Standing Committee on Treaties but also, much more importantly, as something that is close to my heart as someone with a lifelong personal and professional interest in human rights.

Last Tuesday the Minister for Foreign Affairs, Mr Downer, announced that Australia would wind back its involvement with United Nations committees and refuse visits and information requests unless provided with compelling reasons to do so. This announcement was prompted by continuing attention focused on Australia by various UN human rights bodies critical of a broad range of alleged human rights violations throughout our country.

At the outset, I want to say that I support the stated aims of the United Nations. I think that, in its 55-year history, this body has achieved a lot for the people of all continents, whether through peacekeeping or through raising the standards of public health throughout the world. The UN has an enormous task, and it is plagued with great difficulties. Its goals are noble, and we should all support these aims. I also believe that the international treaty system has not only benefited Australia and other participants but is vitally necessary to our national interest.

But this is perhaps the crux of the matter: concerns with Australia’s engagement with the international treaty system emerge when conclusions are reached which are so strongly contrary to commonsense and basic decency. When that happens, unfortunately the veracity and credibility of the whole process is called into question. When a UN human rights committee spends more time criticising human rights conditions here in Aus-
australia than looking at genocide, mass imprisonment and the total denial of human rights in other parts of the world, then the average person in the street says, ‘Why? How can this happen?’

The difficulty lies in the fact that the various human rights committees are forced to rely on evidence provided by non-government organisations and private individuals. The countries enjoying freedom of expression, free and independent press, and freedom from state interference make it easy for the human rights activists to collect evidence of any wrongdoing. Closed, autocratic societies do not, and that is the crucial difference.

Amnesty International is a great organisation with noble aims. It has been a beacon of light to prisoners of conscience for nearly 40 years. It recently released its 1999 annual report. In this report, Australia received 165 lines of text critical of our country; North Korea received 83. In a similar tally of critical press releases put out by Amnesty International between 1995 and 1998, the United States tallied 49 negative press releases versus only 12 for Cuba. Israel was criticised 43 times; Hamas terrorists, three times; Australia, 20 times; and Saddam Hussein’s Iraq, only twice. These statistics are indicative of the general approach of human rights bodies, however noble their aims.

Open societies like Australia make easy targets because of the ease with which the evidence of alleged abuse of human rights is gathered, the ease with which public indignation is created, and last, and perhaps most importantly, the knowledge human rights activists have of the ease with which the internal democratic processes can eventually remedy the problem that they have highlighted. On the other hand, closed societies that are too far away, too undemocratic, too illiberal and hence too unresponsive to criticism get largely overlooked. Thus the international human rights activists sometimes turn the biblical parable on its head: they cannot see the plank of wood in the stranger’s eye but can definitely see a speck of sawdust in their own.

The problem then with the UN human rights system is this: by concentrating on a few real or imagined instances where liberal democracies fail to live up to the highest human rights standards, the UN human rights bodies create a distorted, sideshow alley mirror image to the world and thus do a disservice to everyone concerned. Their own international image suffers as their credibility plummets. Citizens of liberal democracies like Australia become cynical and disenchanted. But, perhaps most importantly, the millions of victims of gross and blatant human rights violations and abuses around the world are diminished in their suffering and remain largely silent and forgotten in the rush of our own domestic guilt industry to beat their own breasts.

All of us in this chamber know from the past the danger of allowing the politics of fashion to be mixed with the politics of human rights. As much as I am criticised by the opposition, they will agree I have spoken on this many times. Recent history suggests that, where the trendiness of a cause determines its worthiness, the really gross abuses are often submerged and forgotten in the fray. It was trendy and fashionable in some circles to march against the Vietnam War and to talk about imperialism, self-determination and land reform. Strangely, however, I do not recall many people marching when Mao Zedong starved 50 million Chinese peasants to death while trying to build his socialist agrarian paradise. I have made this point before and I will no doubt make it again.

Today, every time a wave of indignation sweeps the Australian media and our intelligentsia over the next fashionable cause, there is deafening silence about two million Sudanese murdered by their own government and hundreds of thousands more persecuted, forced to flee or sold into slavery. And then Rwanda and now, seemingly, Sierra Leone. As Senator Lees said tonight, where is the outrage? Even though the Cold War ended 10 years ago, the world is still a very dangerous and unsafe place for hundreds of millions of people. Indeed, because of a fracturing of power blocs, the world is perhaps less uncertain.

There is a clear need for the UN and for the international human rights system, and I support it. However, not all countries are the
same and not all countries deserve the same condemnation. When the UN human rights committees spend much more time and resources castigating Australia than they do on the People’s Republic of China, then there is clearly something out of kilter to the average person in the street. As such, the government’s call for reform cannot have come a day too soon.

Recent Australian history is very clear: while democracy demands that minorities are protected—and they should be and must be—an indignant and elitist attitude to the will of the majority often does much more harm than good for the very minorities we are seeking to protect. When majorities feel spurned or ignored, their backlash can be severe. Great care must be taken in any political adventure to lead but also to listen. And haven’t we seen that manifest in Australian domestic politics all too often in the last few years?

Australia is not perfect—no country is. But, as one of the oldest continuing democracies in the world, we have come as close as anyone ever has to achieving a tolerant society where the majority rules but the interests of minorities remain protected. We have learned that human rights will not be best protected by pulling down countries like Australia but by pulling up the gross violators of international human rights.

Only by returning trust and confidence to the United Nations human rights system will the effective protection of human rights be truly possible. All of us recognise, as well as the governments of several other great democracies, that there are inadequacies in the current system. The question is no longer whether the UN committees need reform but how they should be reformed. It is now time this chamber and this parliament got on with that debate.

Senate adjourned at 7.31 p.m.

DOCUMENTS

Tabling

The following government documents were tabled:

- Australian Broadcasting Authority—Co-regulatory scheme for Internet content regulation—Report for the period 1 January to 30 June 2000.

Tabling

The following documents were tabled by the Clerk:

- ACIS Administration Act—


Indexed Lists of Files

The following documents were tabled pursuant to the order of the Senate of 30 May 1996 as amended 3 December 1998:
Indexed lists of departmental and agency files for the period 1 January to 30 June 2000—Statements of compliance—

Australian Electoral Commission
Department of Employment, Workplace Relations and Small Business.
Department of Finance and Administration, Commonwealth Grants Commission and the Office of Asset Sales and IT Outsourcing.
Department of Foreign Affairs and Trade.
Department of the Prime Minister and Cabinet.
Environment and Heritage portfolio.
Public Service and Merit Protection Commission.
Treasury portfolio.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Aged Care: Beds for Planning Regions
(Question No. 2324)

Senator Chris Evans asked the Minister representing the Minister for Aged Care, upon notice, on 8 June 2000:

With reference to a written question asked at the 7 February 2000 estimates hearing of the Community Affairs Legislation Committee, to which the department provided information on the shortage of aged care beds in absolute numbers in each rural planning region:

1. Can the same information be provided for each of the remaining planning regions, for example, metropolitan regions, indicating the current shortage of operational high and low care residential places when compared to the respective targets of 40 and 50 places per 1,000 people aged 70 and over.

2. For each of the regions: (a) what is the population of people aged 70 and over for the purposes of calculating the targets; and (b) what is the current ratio of residential places for every 1,000 people aged 70 and over.

Senator Herron—The Minister for Aged Care has provided the following answer to the honourable senator’s question, in accordance with advice provided to her:

1. For the Department of Health and Aged Care to provide the level of detail that is needed to answer this question would require considerable time and resources. I am not prepared to ask the Department to divert them from health and aged care priorities at this time.

2. (a) 1,000 requiring 100 places
   (b) The Auditor-General found that the previous Labor Government had failed to meet the ratio as above which they established in 1986 and had left a shortfall of 10,000 places. In 1999 and 2000 the Minister has allocated over 22,000 places to make up for the 10,000 places Labor failed to provide and to provide for growth and dependency.

Country Areas Program: Estimates
(Question No. 2332)

Senator Allison asked the Minister representing the Minister for Education, Training and Youth Affairs, upon notice, on 9 June 2000:

1. What are the forward estimates for the Country Areas Programme (CAP) from the present to 2003-04.

2. Can a state and territory breakdown of dollar amounts be provided.

3. Can a breakdown be provided, by region, of government schools identified by name, that receive CAP funding.

4. What percentage of government and non-government schools receiving CAP funding have: (a) less than 100 full-time equivalent enrolments; and (b) less than 300 full-time equivalent enrolments.

5. What is the percentage of students in each State and Territory receiving their education through a CAP school.

6. What is the average length of time that new teachers spend in CAP schools.

7. (a) What is the average age of teachers in CAP schools; and (b) how does this compare with other schools.

8. What is the ratio of male to female teachers in CAP schools.

9. What information does the department compile: (a) on teaching staff turnover trends in CAP Schools; and (b) on shortage of teachers qualified in special subject areas, particularly mathematics and science.

10. What are the total numbers and percentages of primary and secondary enrolments in CAP schools.
(11) What is the percentage of indigenous students in each state and territory receiving their education through a CAP school.

(12) (a) What information does the Department have, via State CAP Reports, the Australian Bureau of Statistics, or other sources, on the socio-economic backgrounds of students receiving education through CAP Schools; and (b) can percentages/tables be provided, if available.

(13) (a) What are the Year 12 retention rates for indigenous and non-indigenous males and females at CAP secondary Schools in each state and territory; and (b) does the department require state ministers to submit data on this issue.

(14) How do attendance rates at CAP schools in each state and territory at primary and secondary level compare with non-CAP Schools; and (b) does the Department require states to submit data on this issue.

(15) Does the Department require state ministers to submit data on Year 12 performance in CAP schools; if so, how do the scores compare with non-CAP schools.

(16) (a) What are the forward estimates for expenditure via the Commonwealth’s Capital Grants Programme on student hostels; (b) how many indigenous and non-indigenous students avail themselves of these facilities; and (c) where are these facilities.

(17) (a) How many indigenous and non-indigenous families have, to date, accessed the Second Home Allowance under the Assistance for Isolated Children Programme; and (b) how much money is going, or has gone, to how many families in each state and territory.

Senator Ellison—The Minister for Education, Training and Youth Affairs has provided the following answer to the honourable senator’s question:

(1) The Commonwealth provides supplementary assistance for schools that are located in geographically isolated areas under the Country Areas Programme (CAP). In 2000, the Commonwealth will provide $18.7 million through CAP to help State and Territory government and non-government education authorities help schools and students in rural and geographically isolated areas of Australia.

<table>
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(2) Allocations for Government, Catholic and Independent Schools, 2000

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<tr>
<th>STATE</th>
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<th>CATHOLIC SCHOOLS</th>
<th>INDEPENDENT SCHOOLS</th>
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<td>4,762,400</td>
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<td>1,785,100</td>
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<td>QLD</td>
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<td>475,200</td>
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<td>232,200</td>
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<td>814,100</td>
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<tr>
<td>TOTAL</td>
<td>15,753,000</td>
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<td>785,000</td>
<td>18,707,000</td>
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</table>

(3) State and NT education authorities have the flexibility to allocate CAP funds to schools according the priorities identified by them, utilising their knowledge of local need. The Commonwealth provides program guidelines that States are required to operate within (copy attached). The Commonwealth does not have a breakdown of individual government schools receiving CAP funding.

(4) CAP funding is provided to and administered by the States and Northern Territory education authorities. The Commonwealth does not have information on the number of enrolments in CAP schools.
(5) CAP funding is provided to and administered by the States and Northern Territory education authorities. The Commonwealth does not have information on the number of enrolments in CAP schools.

(6) CAP funding is provided to and administered by the States and Northern Territory education authorities. The Commonwealth does not have information on the average length of time that new teachers spend in CAP schools.

(7) CAP funding is provided to and administered by the States and Northern Territory education authorities. The Commonwealth does not have information on the average age of teachers in CAP schools and how this compares with other schools.

(8) CAP funding is provided to and administered by the States and Northern Territory education authorities. The Commonwealth does not have information on the ratio of male to female teachers in CAP schools.

(9) CAP funding is provided to and administered by the States and Northern Territory education authorities. The Commonwealth does not compile information on teaching staff at CAP schools.

(10) CAP funding is provided to and administered by the States and Northern Territory education authorities. The Commonwealth does not have information on the total numbers and percentages of primary and secondary enrolments in CAP schools.

(11) CAP funding is provided to and administered by the States and Northern Territory education authorities. The Commonwealth does not have information on the percentage of indigenous students in each state and territory receiving their education through a CAP school.

(12) CAP funding is provided to and administered by the States and Northern Territory education authorities. The Commonwealth does not have details of the socio-economic backgrounds of students receiving education through CAP schools.

(13) CAP funding is provided to and administered by the States and Northern Territory education authorities. The Commonwealth does not have details of the Year 12 retention rates for indigenous and non-indigenous males and females at CAP secondary Schools in each state and territory and does not require state ministers to submit data on this issue.

(14) CAP funding is provided to and administered by the States and Northern Territory education authorities. The Commonwealth does not have details of attendance rates at CAP schools in each state and territory at primary and secondary level compared with non-CAP Schools and does not require state ministers to submit data on this issue.

(15) CAP funding is provided to and administered by the States and Northern Territory education authorities. The Commonwealth does not require state ministers to submit data on Year 12 performance in CAP schools.

(16) (a) There are no funds separately identified in the Capital Grants program for particular purposes. The funds are provided through State Governments and Block Grant Authorities that assess applications and provide recommendations to the Commonwealth for the allocation of Commonwealth funds. Hostels, both government and non-government, are eligible to apply to State Governments and Block Grant Authorities funding for building projects from the funds available through the program.

(b), (c) DETYA does not collect information about individual student hostels or details about the students who stay at these facilities.

(17) Information on whether a family who is in receipt of an Assistance for Isolated Children (AIC) Scheme allowance, including the Second Home Allowance, is indigenous or non-indigenous is not available as this information is not required in determining a family’s eligibility for an AIC allowance.

<table>
<thead>
<tr>
<th>Country Areas</th>
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<tbody>
<tr>
<td><strong>Objective</strong></td>
<td>To improve the educational opportunities, participation, learning outcomes and personal development of rural and isolated primary and secondary school students in both government and non-government schools.</td>
</tr>
<tr>
<td><strong>Target group</strong></td>
<td>Students in primary and secondary schools who are educationally disadvantaged by geographic isolation.</td>
</tr>
<tr>
<td><strong>Eligibility</strong></td>
<td>Funding supports activities to promote the program objective in government and non-government primary and secondary schools which are located in geographically isolated areas, or are distance education facilities servicing these areas.</td>
</tr>
</tbody>
</table>
Activities in special schools or schools with special units which meet the above criteria are eligible for support. Boarding schools which are not located in geographically isolated areas are not eligible for support.

Funding

Funding is detailed in the Summary Funding Table, Appendix D, Part 3.

Funding Arrangements

Commonwealth funding allocations are paid directly to the education authorities in the States and the Northern Territory.

Use of funds

Funds may be used for strategies which:

- assist parents, administrators, teachers and other people to work co-operatively to improve the delivery of primary and secondary school educational services in geographically isolated areas, by building on existing practice and developing innovative approaches; and
- are designed to achieve outcomes for the target group.

Activities may include projects which:

- focus on pooling and sharing activities involving communities and clusters of schools;
- support educational participation, including through integrated assistance to individuals and links with other agencies and groups;
- foster curriculum appropriate for the experiences and interests of isolated students;
- support secondary students in making the transition to work;
- focus on using technology to overcome distance barriers to education; and
- support the documentation, evaluation and dissemination of program activities.

Forward commitment of funds

Education authorities may forward commit Country Areas funding to 2000 to a maximum of fifty per cent of their relevant grant levels of the previous program year.

Administration

Government and non-government education authorities in each State and the Northern Territory are responsible for detailed administration of the program.

Government and non-government education authorities must allocate the funds according to the programme objectives, on a transparent basis and with appropriate targeting, including arrangements for consulting with and ensuring the participation of interested parties in the planning and delivery of the programme. Government and non-government education authorities are encouraged to consult and cooperate with each other in the administration of the programme.

Additional to the financial and educational reporting requirements set out in Accountability Requirements, Appendix E, Part 3, and to enable better programme monitoring, the Commonwealth will ask government and non-government education authorities to advise in writing of the:

- principles for allocating funding within systems and to schools, including details of the schools involved in the programme; and
- arrangements for consulting with the relevant educational and community groups on programme priorities and targeting.

As administration arrangements within authorities may vary, progress advice on these two issues should be provided by the end of March each year and any subsequent changes to the arrangements provided throughout the year.

Applications

For information about applying for Country Areas funding, government schools should contact their State or the Northern Territory education authority, Catholic schools should contact the Catholic Education Commission in their State or Northern Territory and independent schools should contact the Association of
Independent Schools (Independent Schools Board in South Australia) in their State or Northern Territory. Applications will be assessed by the relevant education authority in each State or the Northern Territory.

Government systems receive twelve payments over the period January-December (being made each month) of which each payment is one twelfth of entitlement. Non-government systems receive four payments over the period January-December (being made in January, April, July and October) of which each payment is one quarter of entitlement. This is outlined in the Funding Table and Payment Procedures at Appendix C, Part 3.

Additional to the financial and educational accountability requirements set out in Accountability Requirements, Appendix E, Part 3, and to enable better programme monitoring, any additional reporting and acquittal requirements are detailed in an agreement between the Commonwealth and the education authority.

For any additional information about this programme, you are referred to the following:
- Divisional Contact Details, Appendix A, Part 3;
- Calendar of Events, Appendix B, Part 3.

The relevant sections of the States Grants (Primary and Secondary Education Assistance) Act 1996 are 67, 75 and 76.

**Aged Care Providers: Appeals Lodged with the Administrative Appeals Tribunal**

(Question No. 2395)

**Senator Chris Evans** asked the Minister representing the Minister for Aged Care, upon notice, on 26 June 2000:

(1) Have any residential aged care providers lodged appeals with the Administrative Appeals Tribunal concerning the downgrading of residents’ classifications.

(2) (a) Which providers have lodged appeals; (b) what is the number of validations contested; and (c) what is the value of amounts recovered by the Government from each provider as a result of validations.

(3) for each appeal: (a) what was the result of the action; and (b) was the department’s initial validation overturned or upheld.

(4) Where a validation was overturned, was the provider fully compensated for any funding lost as a result of the initial downgrading.

**Senator Herron**—The Minister for Aged Care has provided the following answer to the honourable senator’s question:

(1) Yes.

(2) (a) This information is protected information under the Aged Care Act 1997.

(b) 10 applications have been lodged to 27th June 2000 – one has been unilaterally withdrawn

(c) Dependant on the outcome of the AAT appeals

(3) The AAT has not handed down any results.

(4) Not applicable.

**Department of Education, Training and Youth Affairs: Programs and Grants to the Bass Electorate**

(Question No. 2411)

**Senator O’Brien** asked the Minister representing the Minister for Education, Training and Youth Affairs, upon notice, on 27 June 2000:

(1) What was the level of funding provided through programs and/or grants administered by the department to provide assistance to people living in the federal electorate of Bass in the 1999-2000 financial year.
What level of funding provided through programs and/or grants has been appropriated for the 2000-01 financial year.

Senator Ellison—The Minister for Education, Training and Youth Affairs has provided the following answer to the honourable senator’s question:

Funding provided by the Department of Education, Training and Youth Affairs is not allocated or reported on the basis of electoral boundaries. The information provided below has therefore been compiled on the basis of data available at the postcode or regional level and in some cases on a State basis.

In many cases funding for the 2000-01 year is not appropriated or allocated on an electorate, region, or even State basis but is dependent on successful application, tender, or other process during the course of the year. In addition, some information is only readily available on a calendar year, rather than a financial year basis.

Programmes with a nil return for the electorate or state are not listed. This includes programmes that are considered to have a higher level national, research or policy development focus, and those for which data is not readily available.

Individuals or organisations benefiting from the programmes listed below may reside or carry out business at a location other than that used to identify funding against an electorate. Similarly there may be individuals or organisations that receive funding that benefits this electorate but is not included in the information provided because the identifying postcode is outside the electorate.

This table provides information for the electorate on a financial year basis:

<table>
<thead>
<tr>
<th>PROGRAMME/GRA nt</th>
<th>1999-00 $’000</th>
<th>2000-01 $’000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vocational Education and Training</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Structured Workplace Learning</td>
<td>116</td>
<td>183</td>
</tr>
<tr>
<td>Career Counselling for Targeted Unemployed Young People</td>
<td>7 (a)</td>
<td></td>
</tr>
<tr>
<td>Job Placement, Employment and Training Programme</td>
<td>125</td>
<td>139</td>
</tr>
<tr>
<td>Australian National Training Authority</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Group Training Expansion Programme</td>
<td>40</td>
<td>35</td>
</tr>
<tr>
<td>Workplace English Language And Literacy (WELL)</td>
<td>38 (a)</td>
<td></td>
</tr>
<tr>
<td>New Apprenticeships Incentives Programme (b)</td>
<td>4,550</td>
<td>(a)</td>
</tr>
<tr>
<td>Higher Education</td>
<td></td>
<td></td>
</tr>
<tr>
<td>University of Tasmania (c)</td>
<td>121,574</td>
<td>119,863</td>
</tr>
<tr>
<td>Australian Maritime College (c)</td>
<td>11,034</td>
<td>11,214</td>
</tr>
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</table>

This table provides information for the electorate on a calendar year basis:

<table>
<thead>
<tr>
<th>PROGRAMME/GRA nt</th>
<th>1999 $’000</th>
<th>2000 $’000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Schools</td>
<td></td>
<td></td>
</tr>
<tr>
<td>General Recurrent Grants</td>
<td>10,136</td>
<td>10,288</td>
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<td>Capital Grants</td>
<td>572</td>
<td>1,134</td>
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<tr>
<td>Other</td>
<td></td>
<td></td>
</tr>
<tr>
<td>International awards and grants (c)</td>
<td>5</td>
<td>(a)</td>
</tr>
</tbody>
</table>
This table provides information at a State level on a financial year basis:

<table>
<thead>
<tr>
<th>PROGRAMME/GRAINT</th>
<th>1999-00 $’000</th>
<th>2000-01 $’000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Schools</td>
<td></td>
<td></td>
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<tr>
<td>Indigenous Education Direct Assistance</td>
<td>1,777</td>
<td>1,700</td>
</tr>
<tr>
<td>School to Work</td>
<td>118</td>
<td>0</td>
</tr>
<tr>
<td>ABSTUDY</td>
<td>(d)</td>
<td>(a)</td>
</tr>
<tr>
<td>Australian National Training Authority</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Advanced English for Migrants (AEMP)</td>
<td>58</td>
<td>61</td>
</tr>
<tr>
<td>Literacy and Numeracy Programme</td>
<td>590</td>
<td>800</td>
</tr>
<tr>
<td>Other</td>
<td></td>
<td></td>
</tr>
<tr>
<td>National Office of Overseas Skills Recognition Bridging Programme--Assessment Fee Subsidy</td>
<td>7</td>
<td>(a)</td>
</tr>
</tbody>
</table>

This table provides information at a State level on a calendar year basis:

<table>
<thead>
<tr>
<th>PROGRAMME/GRAINT</th>
<th>1999 $’000</th>
<th>2000 $’000</th>
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</thead>
<tbody>
<tr>
<td>Schools</td>
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<tr>
<td>Full Service Schools</td>
<td>708</td>
<td>504</td>
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<tr>
<td>English as a Second Language/New Arrival Programme</td>
<td>369</td>
<td>(a)</td>
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<tr>
<td>Country Areas Programmes</td>
<td>566</td>
<td>566</td>
</tr>
<tr>
<td>Assistance for Isolated Children</td>
<td>1,308</td>
<td>1,347</td>
</tr>
<tr>
<td>Indigenous Education Strategic Initiatives Programme</td>
<td>2,730</td>
<td>(a)</td>
</tr>
</tbody>
</table>

Notes:
(a) Allocations for the year have not been finalised or expenditure is dependent on application/tender or other process not completed.
(b) New Apprenticeships Support Services comprises funding for payments to apprentices and funding for incentive payments to employers.
(c) Grants provided to an institution with a campus in the electorate. Funding may not necessarily be directed to that campus.
(d) Data for the 1999-2000 financial year is not yet available.

Department of Education, Training and Youth Affairs: Programs and Grants to the Kalgoorlie Electorate
(Question No. 2429)

Senator O’Brien asked the Minister representing the Minister for Education, Training and Youth Affairs, upon notice, on 27 June 2000:
(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, 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 Ellison—The Minister for Education, Training and Youth Affairs has provided the following answer to the honourable senator’s question:

Funding provided by the Department of Education, Training and Youth Affairs is not allocated or reported on the basis of electoral boundaries. The information provided below has therefore been compiled on the basis of data available at the postcode or regional level and in some cases a state basis.
In many cases funding for the 2000-01 year is not allocated on an electorate, region, or even State
basis but is dependent on successful application, tender, or other process during the course of the year.
In addition, some information is only readily available on a calendar year, rather than a financial year
basis.

Programmes with a nil return for the electorate or state are not listed. This includes programmes that
are considered to have a higher level national, research or policy development focus, and those for
which data is not readily available.

Individuals or organisations benefiting from the programmes listed below may reside or carry out
business at a location other than that used to identify funding against an electorate. Similarly there may
be individuals or organisations that receive funding that benefits this electorate but is not included in
the information provided because the identifying postcode is outside the electorate.

This table provides information for the Electorate of Kalgoorlie on a financial year basis:

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<tr>
<th></th>
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<tbody>
<tr>
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<td>$’000</td>
<td>$’000</td>
<td>$’000</td>
<td>$’000</td>
<td>$’000</td>
</tr>
<tr>
<td>Vocational Education and Training</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Structured Workplace Learning</td>
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<td>-</td>
<td>5</td>
<td>275</td>
<td>282</td>
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<tr>
<td>Rural Youth Information Service</td>
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<td>25</td>
<td>31</td>
<td>30</td>
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<tr>
<td>Career Counselling for Targeted Un-</td>
<td>-</td>
<td>-</td>
<td>13</td>
<td>41</td>
<td></td>
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<tr>
<td>employed Young People</td>
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<td></td>
<td></td>
<td></td>
<td>(a)</td>
</tr>
<tr>
<td>Job Placement, Employment and Training</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>567</td>
<td>450(a)</td>
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<td>Programme</td>
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<tr>
<td>Workplace English Language and Liter-</td>
<td>35</td>
<td>33</td>
<td>-</td>
<td>505</td>
<td>(a)</td>
</tr>
<tr>
<td>acy (WELL)</td>
<td></td>
<td></td>
<td></td>
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<td></td>
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<tr>
<td>Australian National Training Authority</td>
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<td>Infrastructure Programme</td>
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<td>Infrastructure Programme (Skill Centre</td>
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<tr>
<td>Component)</td>
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<td></td>
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<td>New Apprenticeships Incentives Pro-</td>
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<td>-</td>
<td>2,063</td>
<td>1,978</td>
<td>(a)</td>
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<tr>
<td>gramme (b)</td>
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<td></td>
<td></td>
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<tr>
<td>Schools</td>
<td></td>
<td></td>
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<tr>
<td>School to Work Programme</td>
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<td>410</td>
<td>200</td>
<td>190</td>
<td>-</td>
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<td>Higher Education</td>
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<td></td>
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<tr>
<td>Curtin University of Technology (c)</td>
<td>164,889</td>
<td>160,387</td>
<td>160,953</td>
<td>158,481</td>
<td>154,512</td>
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<td>University of Notre Dame Australia (c)</td>
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<td>248</td>
<td>691</td>
<td>1,791</td>
<td>2,484</td>
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<tr>
<td>Other</td>
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<td></td>
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<tr>
<td>National Office of Overseas Skills</td>
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<td>5</td>
<td>6</td>
<td>-</td>
<td>(a)</td>
</tr>
<tr>
<td>Recognition Bridging Programme –</td>
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<td></td>
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<tr>
<td>Bridging Courses</td>
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<td></td>
</tr>
<tr>
<td>International awards and grants</td>
<td>-</td>
<td>9</td>
<td>44</td>
<td>-</td>
<td>(a)</td>
</tr>
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</table>

This table provides information for the electorate on a calendar year basis:

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<tr>
<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$’000</td>
<td>$’000</td>
<td>$’000</td>
<td>$’000</td>
<td>$’000</td>
</tr>
<tr>
<td>Schools</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>General Recurrent Grants</td>
<td>14,236</td>
<td>16,949</td>
<td>18,858</td>
<td>13,386</td>
<td>13,613</td>
</tr>
<tr>
<td>Capital Grants</td>
<td>3,376</td>
<td>2,054</td>
<td>4,160</td>
<td>2,451</td>
<td>723</td>
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</table>
This table provides information at a State level for the financial year:

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<tbody>
<tr>
<td></td>
<td>$’000</td>
<td>$’000</td>
<td>$’000</td>
<td>$’000</td>
<td>$’000</td>
</tr>
<tr>
<td>Schools</td>
<td></td>
<td></td>
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<tr>
<td>Indigenous Education Direct Assistance</td>
<td>6,843</td>
<td>9,499</td>
<td>9,003</td>
<td>9,490</td>
<td>9,800</td>
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<tr>
<td>ABSTUDY</td>
<td>18,871</td>
<td>18,723</td>
<td>18,538</td>
<td>(d)</td>
<td>(a)</td>
</tr>
<tr>
<td>School to Work</td>
<td>211</td>
<td>535</td>
<td>521</td>
<td>313</td>
<td>0</td>
</tr>
<tr>
<td>Australian National Training Authority</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Advanced English for Migrants (AEMP)</td>
<td>430</td>
<td>440</td>
<td>460</td>
<td>380</td>
<td>530</td>
</tr>
<tr>
<td>Literacy and Numeracy Programme</td>
<td>-</td>
<td>-</td>
<td>400</td>
<td>1,000</td>
<td>2,400</td>
</tr>
<tr>
<td>Young Offender Pilot Programme</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>202</td>
<td>130</td>
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<tr>
<td>Other</td>
<td></td>
<td></td>
<td></td>
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<td></td>
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<tr>
<td>National Office of Overseas Skills Recogni-</td>
<td>33</td>
<td>27</td>
<td>38</td>
<td>20</td>
<td>4</td>
</tr>
<tr>
<td>tion Bridging Programme – Assessment Fee Subsidy</td>
<td></td>
<td></td>
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</tbody>
</table>

This table provides information at a State level on a calendar year basis:

<table>
<thead>
<tr>
<th></th>
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<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Schools</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Fulls Service Schools</td>
<td>-</td>
<td>-</td>
<td>50</td>
<td>1,061</td>
<td>682</td>
</tr>
<tr>
<td>English as a Second Language/ New Arrival Programme</td>
<td>3,109</td>
<td>2,806</td>
<td>3,113</td>
<td>2,887</td>
<td>(c)</td>
</tr>
<tr>
<td>Country Areas Programme</td>
<td>2,813</td>
<td>2,478</td>
<td>2,592</td>
<td>2,817</td>
<td>2,817</td>
</tr>
<tr>
<td>Indigenous Education Strategic Initiatives Programme</td>
<td>15,319</td>
<td>18,271</td>
<td>25,468</td>
<td>22,026</td>
<td>(a)</td>
</tr>
<tr>
<td>Assistance for Isolated Children</td>
<td>7,489</td>
<td>8,639</td>
<td>8,696</td>
<td>9,524</td>
<td>9,813</td>
</tr>
</tbody>
</table>

Notes:

(a) Allocations for the year have not been finalised or expenditure is dependant on application/tender or other process not completed.

(b) New Apprenticeships Support Services comprises funding for payments to apprentices and funding incentive payments for employers.

(c) Grants provided to an institution with a campus in the electorate. Funding may not necessarily be directed to that campus.

(d) Data for the 1999-2000 financial year is not yet available.

**Department of Education, Training and Youth Affairs: Programs and Grants to the Eden-Monaro Electorate**

(Visited No. 2447)

**Senator O’Brien** asked the Minister representing the Minister for Education, Training and Youth Affairs, upon notice, on 27 June 2000:

1. What programs and/or grants administered by the department provide assistance to people living in the federal electorate of Eden-Monaro.
2. What was the level of funding provided through these programs and/or grants for the 1996-97, 1997-98, 1998-99 and 1999-2000 financial years.
3. What level of funding provided through these programs and/or grants has been appropriated for the 2000-2001 financial year.
Senator Ellison—The Minister for Education, Training and Youth Affairs has provided the following answer to the honourable senator’s question:

Funding provided by the Department of Education, Training and Youth Affairs is not allocated or reported on the basis of electoral boundaries. The information provided below has therefore been compiled on the basis of data available at the postcode or regional level and in some cases a state basis.

In many cases funding for the 2000-01 year is not allocated on an electorate, region, or even State basis but is dependent on successful application, tender, or other process during the course of the year. In addition, some information is only readily available on a calendar year, rather than a financial year basis.

Programmes with a nil return for the electorate or state are not listed. This includes programmes that are considered to have a higher level national, research or policy development focus, and those for which data is not readily available.

Individuals or organisations benefiting from the programmes listed below may reside or carry out business at a location other than that used to identify funding against an electorate. Similarly there may be individuals or organisations that receive funding that benefits this electorate but is not included in the information provided because the identifying postcode is outside the electorate.

This table provides information for the electorate of Eden-Monaro on a financial year basis:

<table>
<thead>
<tr>
<th></th>
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<tbody>
<tr>
<td></td>
<td>$’000</td>
<td>$’000</td>
<td>$’000</td>
<td>$’000</td>
<td>$’000</td>
</tr>
<tr>
<td>Vocational Education and Training</td>
<td></td>
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<tr>
<td>Structured Workplace Learning</td>
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<td></td>
</tr>
<tr>
<td>Career counselling for Targeted Unemployed Young People</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Job Placement, Employment and Training Programme</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Workplace English Language and Literacy (WELL)</td>
<td>73</td>
<td>56</td>
<td>-</td>
<td>540</td>
<td>599</td>
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<tr>
<td>New Apprenticeships Incentives Programme (b)</td>
<td>-</td>
<td>-</td>
<td>1,215</td>
<td>1,376</td>
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</tr>
<tr>
<td>Australian National Training Authority</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Infrastructure Programme (Skill Centre Component)</td>
<td>545</td>
<td>-</td>
<td>-</td>
<td>250</td>
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<tr>
<td>Schools</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>School to Work</td>
<td>-</td>
<td>240</td>
<td>100</td>
<td>60</td>
<td>0</td>
</tr>
<tr>
<td>Other</td>
<td></td>
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<td></td>
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</tr>
<tr>
<td>National Office of Overseas Skills Recognition Bridging Programme – Bridging Courses</td>
<td>91</td>
<td>39</td>
<td>68</td>
<td>20</td>
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</tr>
</tbody>
</table>

This table provides information for the electorate on a calendar year basis:

<table>
<thead>
<tr>
<th></th>
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<tbody>
<tr>
<td></td>
<td>$’000</td>
<td>$’000</td>
<td>$’000</td>
<td>$’000</td>
<td>$’000</td>
</tr>
<tr>
<td>Schools</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>General Recurrent Grants</td>
<td>4,823</td>
<td>5,943</td>
<td>7,361</td>
<td>9,207</td>
<td>9,388</td>
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<td>Capital Grants</td>
<td>1,708</td>
<td>874</td>
<td>4,995</td>
<td>3,590</td>
<td>1,227</td>
</tr>
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</table>
This table provides information at a state level for the financial year:

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<tr>
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</thead>
<tbody>
<tr>
<td></td>
<td>$'000</td>
<td>$'000</td>
<td>$'000</td>
<td>$'000</td>
<td>$'000</td>
</tr>
<tr>
<td>Schools</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Indigenous Education Direct Assistance</td>
<td>10,575</td>
<td>14,261</td>
<td>14,444</td>
<td>13,582</td>
<td>14,000</td>
</tr>
<tr>
<td>ABSTUDY</td>
<td>24,488</td>
<td>29,262</td>
<td>24,317</td>
<td>(d)</td>
<td>(a)</td>
</tr>
<tr>
<td>School to Work Programme (State Component)</td>
<td>596</td>
<td>1,515</td>
<td>1,476</td>
<td>886</td>
<td>0</td>
</tr>
<tr>
<td>Australian National Training Authority</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Advanced English for Migrants (AEMP)</td>
<td>2,000</td>
<td>2,000</td>
<td>2,100</td>
<td>1,800</td>
<td>2,100</td>
</tr>
<tr>
<td>Literacy and Numeracy Programme</td>
<td>-</td>
<td>-</td>
<td>2,400</td>
<td>4,100</td>
<td>9,800</td>
</tr>
<tr>
<td>Other</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>National Office of Overseas Skills</td>
<td>257</td>
<td>238</td>
<td>196</td>
<td>159</td>
<td>4</td>
</tr>
<tr>
<td>Recognition Bridging Programme – Assessment Fee Subsidy</td>
<td></td>
<td></td>
<td></td>
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<td></td>
</tr>
</tbody>
</table>

This table provides information at a State level on a calendar year basis:

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<thead>
<tr>
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</thead>
<tbody>
<tr>
<td></td>
<td>$'000</td>
<td>$'000</td>
<td>$'000</td>
<td>$'000</td>
<td>$'000</td>
</tr>
<tr>
<td>Schools</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Full Service Schools</td>
<td>-</td>
<td>-</td>
<td>50</td>
<td>4,033</td>
<td>2,260</td>
</tr>
<tr>
<td>English as a Second Language/New Arrival Programme</td>
<td>18,799</td>
<td>15,125</td>
<td>15,311</td>
<td>14,933</td>
<td>(a)</td>
</tr>
<tr>
<td>Country Areas Programme</td>
<td>3,983</td>
<td>4,613</td>
<td>4,826</td>
<td>5,834</td>
<td>5,834</td>
</tr>
<tr>
<td>Indigenous Education Strategic Initiatives Programme</td>
<td>15,711</td>
<td>23,380</td>
<td>29,793</td>
<td>28,025</td>
<td>(a)</td>
</tr>
<tr>
<td>Assistance for Isolated Children</td>
<td>7,091</td>
<td>7,942</td>
<td>7,127</td>
<td>7,217</td>
<td>7,432</td>
</tr>
</tbody>
</table>

Notes:
(a) Allocations for the year have not been finalised or expenditure is dependant on application/tender or other process not completed.
(b) New Apprenticeships Support Services comprises funding for payments to apprentices and funding incentive payments for employers.
(c) Grants provided to an institution with a campus in the electorate. Funding may not necessarily be directed to that campus.
(d) Data for the 1999-2000 financial year is not yet available.

Department of Education, Training and Youth Affairs: Programs and Grants to the Gippsland Electorate
(Question No. 2466)

Senator O’Brien asked the Minister representing the Minister for Education, Training and Youth Affairs, upon notice, on 27 June 2000:

(1) What was the level of funding provided through programs and/or grants administered by the department to provide assistance to people living in the federal electorate of Gippsland in the 1999-2000 financial year.
(2) What level of funding provided through these programs and/or grants has been appropriated for the 2000-01 financial year.

Senator Ellison—The Minister for Education, Training and Youth Affairs has provided the following answer to the honourable senator’s question:

Funding provided by the Department of Education, Training and Youth Affairs is not allocated or reported on the basis of electoral boundaries. The information provided below has therefore been compiled on the basis of data available at the postcode or regional level and in some cases a state basis.

In many cases funding for the 2000-01 year is not allocated on an electorate, region, or even State basis but is dependent on successful application, tender, or other process during the course of the year. In addition, some information is only readily available on a calendar year, rather than a financial year basis.

Programmes with a nil return for the electorate or state are not listed. This includes programmes that are considered to have a higher level national, research or policy development focus, and those for which data is not readily available.

Individuals or organisations benefiting from the programmes listed below may reside or carry out business at a location other than that used to identify funding against an electorate. Similarly there may be individuals or organisations that receive funding that benefits this electorate but is not included in the information provided because the identifying postcode is outside the electorate.

This table provides information for the electorate of Gippsland on a financial year basis:

<table>
<thead>
<tr>
<th>PROGRAMME/GRANT</th>
<th>1999-00</th>
<th>2000-01</th>
</tr>
</thead>
<tbody>
<tr>
<td>Structured Workplace Learning</td>
<td>189</td>
<td>169</td>
</tr>
<tr>
<td>Career Counselling for Targeted Unemployed Young People</td>
<td>12 (a)</td>
<td></td>
</tr>
<tr>
<td>Job Placement, Employment and Training Programme</td>
<td>84</td>
<td>93</td>
</tr>
<tr>
<td>Australian National Training Authority</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Infrastructure Programme</td>
<td>3,285</td>
<td>(a)</td>
</tr>
<tr>
<td>Infrastructure Programme (Skill Centre Component)</td>
<td>180</td>
<td>600</td>
</tr>
<tr>
<td>New Apprenticeships Incentives Programme (b)</td>
<td>2,473</td>
<td>(a)</td>
</tr>
<tr>
<td>Schools</td>
<td></td>
<td></td>
</tr>
<tr>
<td>School to Work Programme</td>
<td>8</td>
<td>0</td>
</tr>
</tbody>
</table>

**Higher Education**

RMIT University (c)                              | 179,909 | 181,398 |

This table provides information for the electorate on a calendar year basis:

<table>
<thead>
<tr>
<th>PROGRAMME/GRANT</th>
<th>1999</th>
<th>2000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Schools</td>
<td></td>
<td></td>
</tr>
<tr>
<td>General Recurrent Grants</td>
<td>15,838</td>
<td>16,164</td>
</tr>
<tr>
<td>Capital Grants</td>
<td>3,372</td>
<td>572</td>
</tr>
</tbody>
</table>
This table provides information at a State level for the financial year:

<table>
<thead>
<tr>
<th>PROGRAMME/GRANT</th>
<th>1999-00</th>
<th>2000-01</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$'000</td>
<td>$'000</td>
</tr>
<tr>
<td>Australian National Training Authority</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Advanced English for Migrants (AEMP)</td>
<td>1,200</td>
<td>1,700</td>
</tr>
<tr>
<td>Literacy and Numeracy Programme</td>
<td>3,600</td>
<td>5,600</td>
</tr>
<tr>
<td>Schools</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Indigenous Education Direct Assistance</td>
<td>3,701</td>
<td>3,350</td>
</tr>
<tr>
<td>ABSTUDY</td>
<td>(d)</td>
<td>(a)</td>
</tr>
<tr>
<td>School to Work (State Component)</td>
<td>688</td>
<td>0</td>
</tr>
<tr>
<td>Other</td>
<td></td>
<td></td>
</tr>
<tr>
<td>National Office of Overseas Skills Recognition Bridging Programme – Assessment Fee Subsidy</td>
<td>166</td>
<td>(a)</td>
</tr>
</tbody>
</table>

This table provides information at a State level on a calendar basis:

<table>
<thead>
<tr>
<th>PROGRAMME/GRANT</th>
<th>1999</th>
<th>2000</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$'000</td>
<td>$'000</td>
</tr>
<tr>
<td>Schools</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Full Service Schools</td>
<td>2,335</td>
<td>1,410</td>
</tr>
<tr>
<td>English as a Second Language/New Arrival Programme</td>
<td>9,414</td>
<td>(a)</td>
</tr>
<tr>
<td>Country Areas Programme</td>
<td>2,280</td>
<td>2,280</td>
</tr>
<tr>
<td>Indigenous Education Strategic Initiatives Programme</td>
<td>5,892</td>
<td>(a)</td>
</tr>
<tr>
<td>Assistance for Isolated Children</td>
<td>875</td>
<td>900</td>
</tr>
</tbody>
</table>

Notes:
(a) Allocations for the year have not been finalised or expenditure is dependant on application/tender or other process not completed.
(b) New Apprenticeships Support Services comprises funding for payments to apprentices and funding incentive payments for employers.
(c) Grants provided to an institution with a campus in the electorate. Funding may not necessarily be directed to that campus.
(d) Data for the 1999-2000 financial year is not yet available.

**Nursing Homes: Permanent Residents**

*(Question No. 2547)*

**Senator Chris Evans** asked the Minister representing the Minister for Aged Care, upon notice, on 30 June 2000:

Can the following information be provided on pre-October 1997 residents in nursing homes (if it is impossible to distinguish between nursing homes and hostels, can the information be provided on residents in all forms of residential care):

(1) How many people, who were permanent residents in a nursing home on 30 September 1997, currently remain in care.

(2) Given the transitional arrangements that apply to these residents, what is the difference in funding provided on a daily basis between a pre-October 1997 resident and a resident who was admitted after that date (including all categories of resident, for example, financially disadvantaged and part-pensioner).

(3) (a) Which nursing homes currently accommodate pre-October 1997 residents; and
(b) what is the number of pre-October 1997 residents in each facility.

(4) Can the Minister confirm that, where a pre-October 1997 resident transfers to another facility the Commonwealth will pay the equivalent of the concessional resident supplement to the provider for that resident.

(5) What is the effective daily subsidy paid to each resident through the special funding pool supplement for small facilities.

(6) What ongoing supplements are paid to small facilities in metropolitan regions to ensure that they remain viable.

Senator Herron—The Minister for Aged Care has provided the following answer to the honourable senator’s question, in accordance with advice provided to her:

(1) Around 26,000 permanent residents of nursing homes on 30 September 1997 were still residents on 1 July 2000.

(2) It is not possible to make this comparison on an individual resident basis as it is dependent upon the circumstances of individual residents and the service in which they live.

(3) Less than half of residential aged care facilities have pre-October, 1997 residents.

(4) Where a pre-October 1997 nursing home resident transfers as a high care resident to another facility, where they would otherwise be eligible to pay the accommodation charge, the second facility receives the Charge Exempt Resident Supplement for that resident who does not pay the accommodation charge.

The Charge Exempt Supplement rate is linked to the maximum rate of the Concessional Resident Supplement.

(5) Viability Supplement is paid to eligible residential care services to help them operate in circumstances that might otherwise be financially non-viable for a provider. Eligibility for the Supplement is set out in the Residential Care Subsidy Principles.

(6) The Government in the 2000/2001 budget doubled the money to be available for the viability supplement which is paid to small residential facilities, mostly in rural and remote areas on a case by case basis in the course of an allocation round.

In addition to the Viability Supplement, the Government has provided, $6.4 million in the 2000-2001 Budget is subsidising the Accreditation fees of small facilities. For facilities with less than 19 places, the Government will pay the full Accreditation fee and for facilities with between 20 and 25 places, a tapered subsidy will apply.

Aged Care Facilities: Beds

(Question No. 2549)

Senator Chris Evans asked the Minister representing the Minister for Aged Care, upon notice, on 30 June 2000:

(1) How many residential aged care facilities in each state and territory have (a) 1 to 10 beds; (b) 11 to 20 beds; (c) 21 to 25 beds; (d) 26 to 35 beds; and (e) 36 to 45 beds, indicating for each category whether the facilities are in metropolitan or rural regions.

(2) Is the department aware of any analysis on the viability of small residential aged care facilities; if so, can a copy of the analysis be provided.

(3) What proportion of facilities had 20 beds or less and what proportion had 21 to 40 beds in 1996.

(4) What proportion of facilities currently have 20 beds or less and what proportion have 21 to 40 beds.

Senator Herron—The Minister for Aged Care has provided the following answer to the honourable senator’s question in accordance with the information provided to her:

(a) and (b) 1-20 103
(c) 21-25 61
(d) 26-35 407
(e) 36-45 417
(2) The Government in the 2000/2001 budget doubled the money to be available for the viability supplement which is paid to small residential facilities, mostly in rural and remote areas on a case by case basis in the course of an allocation round. Applications in the round are confidential.

(3) Of the approximately 3,000 approved aged care facilities operating on 30 June 1996, 13.36% had 20 beds or less, while 38.92% had 21 to 40 beds.

(4) Of the approximately 3,000 approved aged care facilities operating on 01 June 2000, 12.07% had 20 beds or less, while 38.84% had 21 to 40 beds.