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Monday, 9 October 2000

The PRESIDENT (Senator the Hon. Margaret Reid) took the chair at 12.30 p.m., and read prayers.

INTERACTIVE GAMBLING (MORATORIUM) BILL 2000

Second Reading

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

That this bill be now read a second time.

upon which Senator Lundy had moved by way of an amendment:

At the end of the motion, add:

“but the Senate:

(a) condemns the Government for introducing a bill which:

(i) does not provide strong regulation of interactive gambling as the most practical and effective way of reducing social harm arising from gambling;

(ii) may exacerbate problem gambling in Australia by barring access to regulated on-line gambling services with in-built safeguards but allows access to unregulated offshore on-line gambling sites that do not offer consumer protection or probity;

(iii) does not extend current regulatory and consumer protection requirements applying to off-line and land-based casinos, clubs or wagering venues to on-line casinos and on-line wagering facilities;

(iv) damages Australia’s international reputation for effective consumer protection laws and strong, workable gambling regulations;

(v) singles out one form of gambling in an attempt to create the impression of placating community concern about the adverse social consequences of gambling but does not address more prevalent forms of gambling in Australian society;

(vi) is not technology neutral or technically feasible.

(vii) is contrary to the best interests of the Australian Internet industry and the development of e-commerce in Australia;

(b) calls on the Government to show national leadership on this issue by:

(i) addressing harm minimisation and consumer protection as well as criminal issues that may arise from on-line gambling;

(ii) ensuring a quality gambling product through financial probity checks on providers and their staff;

(iii) maintaining the integrity of games and the proper working of gaming equipment;

(iv) providing mechanisms to exclude those not eligible to gamble under Australian law;

(v) implementing problem gambling controls, such as exclusion from facilities, expenditure thresholds, no credit betting, and the regular provision of transaction records;

(vi) introducing measures to minimise any criminal activity linked to interactive gambling;

(vii) providing effective privacy protection for on-line gamblers;

(viii) containing social costs by ensuring that adequate ongoing funds are available to assist those with gambling problems;

(ix) addressing revenue issues that impact upon state government decisions relating to interactive gambling;

(x) establishing consistent standards for all interactive gambling operators;

(xi) examining international protocols with the aim of achieving multilateral agreements on sports betting and other forms of interactive gambling;

(xii) ensuring appropriate standards in advertising, in particular, to prevent advertising from targeting minors;

(xiii) investigating mechanisms to ensure that some of the benefits of on-line gambling accrue more directly to the local community;
(xiv) working with State and Territory governments to ensure that online and interactive gambling operators meet the highest standards of probity and auditing through licensing agreements;

(xv) seeking co-regulation of interactive gambling by establishing a national regulatory framework that provides consumer safeguards and industry Codes of Practice; and

(xvi) coordinating the development of a co-regulatory regime through the Ministerial Council comprising of relevant State and Federal Ministers”.

Senator SHERRY (Tasmania) (12.31 p.m.)—Last Thursday when speaking to the Interactive Gambling (Moratorium) Bill 2000 I was referring to the moral hypocrisy of the Liberal-National Party government in attempting to prohibit, I would argue unsuccessfully, one form of gambling. Senator Chapman had made the point that gambling is a zero sum game, and that is true. I made the further point that it is not just gambling that is a zero sum game—so is smoking and so is alcohol consumption. But often in these circumstances, with these commodities and social problems, the outcome from a prohibition and a ban is far worse than the outcome from attempting effectively to regulate and deal with the social problems that emerge from these forms of activities. I acknowledge that the social problems can be very severe, but we have to weigh up the advantages and disadvantages of prohibition.

In the legislation which we are considering, as I outlined in summary in my contribution last Thursday, there are four or five compelling reasons why this legislation should not be passed. Firstly, the moratorium, or ban, will not prevent access to online gambling. According to the explanatory memorandum to the bill, the moratorium:

... will not restrict Australian gamblers’ current ability to access offshore sites ... the moratorium will not prevent the expansion of the offshore industry or the availability of traditional gambling products ... That is from the government’s explanatory memorandum. In practice, access to online gambling will not be restricted and, provided the service is conducted offshore, Australians will not be prevented from accessing offshore interactive gambling sites. Often these offshore interactive gambling sites are far less effectively regulated than the proposals we have within the various Australian state jurisdictions. Australian online gambling operators have indicated that they will simply relocate offshore if this bill is enacted and continue operating and servicing local and international online gamblers outside Australian regulations, which apparently are amongst the toughest, if not the toughest, in the world.

The second issue the bill does not deal with is problem gambling—you have only to read the Productivity Commission’s report into gambling in this country—and I acknowledge that there are significant social problems associated with gambling. The community concerns about problem gambling are not addressed by the legislation. The main forms of problem gambling are poker machines and casinos. Currently, online operators derive most of their income from overseas, with up to 90 per cent of online gambling transactions emanating from offshore—principally the United States. Australian online gamblers make up approximately five per cent of the market. Whilst this market potential will grow, there is evidence that online gambling offers a range of consumers’ and problem gambling protections unavailable in traditional forms of gambling and wagering and, in practice, this bill could exacerbate problem gambling by removing a regulated service but allowing access to unregulated or unlicensed offshore sites. This was a point that even the Interchurch Gambling Task Force acknowledged in their expression of values. This is a severe practical problem with the legislation.

The online gambling industry is already subject to a high degree of regulation and oversight by state and territory governments. Australia has a reputation for providing good consumer protection legislation and this was acknowledged in the Productivity Commission report. In addition, the Australian Casino Association has updated a code of practice that prohibits credit gambling, allows...
members to preset betting limits, provides personal identification numbers to ensure family members cannot access gambling sites, ensures the privacy and security of participants, issues winnings via non-negotiable cheques, not credit cards, and works with AUSTRAC to counter money laundering. These are all protections that, I might point out to the Senate, are more effective than those that exist in respect of traditional forms of gambling such as persons walking into casinos or playing with poker machines.

Existing and prospective online gambling companies favour strict regulation and a federal legislative framework worked out cooperatively with the states, including codes of practice for sporting organisations to ensure that match fixing, point shaving and insider information are addressed. As to the issue of criminal sanctions, the bill will make it a criminal offence to intentionally supply an interactive gambling service. The retrospective application and specific nature of the ban permits existing services to be maintained and prohibits new services after 19 May 2000. I might point out that those existing services—and they are few in number—that were fortunate enough to obtain operational licences before 19 May will effectively gain a massive windfall if this legislation is passed. The maximum penalty that can be imposed on a corporation that breaches this legislation is $1.1 million.

For a Liberal-National Party government that occasionally boasts about states’ rights and consultation with the states, and in what is clearly an area where state and territory governments have the legal right to legislate and regulate, this bill is an appalling trampling on states’ rights and the publicly announced consultation process. A majority of the states and territories oppose a moratorium, although New South Wales and Western Australia are reported as supporting it. It is unclear whether this support extends to a full ban capturing the existing industry. The Northern Territory government indicated in June 2000 that a High Court challenge might be mounted. The ACT government issued two online gambling licences. After the coalition announced their proposed moratorium, Tasmania issued five. These companies have indicated that they will seek legal remedies if this bill is enacted.

The gambling industry has indicated opposition to the bill because a number of operators held off in good faith the commencement of their services only to face an outright ban. They are being penalised retrospectively. The ban on existing services will stifle innovation, rendering the companies uncompetitive. There was no industry consultation. It is creating a barrier for new entries, for new operators, which is going to have a severe distorting effect on the market, to the massive advantage of the very few existing operators that were able to obtain licences and become operational before 19 May. Just on the process, I might read out, in the context of Tasmania, the evidence that was given to the Senate committee, which is on page 53:

On 17 May this year the state government—the Tasmanian government—wrote to Senator Alston and Senator Newman offering to sit down with the federal government and the states and territories to develop a national code of conduct to apply to Internet gambling. On 19 May 2000 we—the Tasmanian state government—received a letter from the federal government inviting the Tasmanian government to have input into the development of moratorium legislation. So there was a consultative process taking place. It was taking place with a letter from Senator Alston on 19 May inviting input. Ten minutes later—I stress that—after receiving a letter from the federal minister inviting consultation into a proposed moratorium, the Tasmanian government received a press release, not a letter, from the federal government, from Senator Alston’s office, announcing a moratorium unilaterally. What has happened to federal-state consultations? What has happened to federal-state rights in respect of this issue? It is an appalling process that Senator Newman and the federal government have embarked on in respect of this legislation.

I turn to some specific issues in relation to my home state of Tasmania. I have already referred to the lack of consultation with the
Tasmanian state government on this matter. The Tasmanian government was not consulted. No sooner had a request come from the Commonwealth seeking input than 10 minutes later, via a press release, there was an announcement of a total prohibition. There was no real attempt to consult with Tasmania on the introduction of this moratorium. This is very disappointing, considering the extensive experience in Tasmania with the introduction of terrestrial gaming and the stringent regulatory regime that has been developed in relation to online gambling in expectation of a new industry and a new source of export income.

The Tasmanian government has a strategy for developing and encouraging e-commerce in Tasmania. Internet gambling is a development in the right direction. It is an opportunity for my state to take advantage of international trade in Internet gaming services. I make the point that if this legislation is passed, Tasmania misses out altogether. It is unilaterally excluded from the market. Those few licensees that were lucky enough to beat the 19 May deadline as well as all of those Internet gambling services located overseas, which offer far less protection, will have access to Internet gambling and the very strict regulatory regime that was developed in Tasmania. Those who wish to offer services based in Tasmania will be excluded altogether.

If you are going to have an effective Internet gambling prohibition, if you accept that moral premise, then you at least attempt to prohibit all Internet gambling, whether it is located in Australia or overseas. I would submit to the Senate that that is totally impractical; it simply cannot be done. But as was noted in the report of the Senate Environment, Communications, Information Technology and the Arts report into this bill, Australia’s online operators derive most of their income from overseas, not from within Australia. Up to 90 per cent of online gambling transactions emanate from offshore, principally the United States. In other words, online gambling will have minimal impact on the amount of money spent on gambling in Australia, when all this bill will do—I say as a Tasmanian senator, from a Tasmanian perspective—will deny the Tasmanian economy, in a competitive market, at least a valuable slice of that export income.

Tasmania has very stringent legislation and regulations in place for Internet gambling. The Tasmanian regulations are far more stringent than those for terrestrial casinos. I would urge senators to take the time to have a look at the regulatory regime that has been developed in Tasmania, the way it is proposed to put it into practice. It is world’s best practice. It is extraordinary. I was surprised myself. The regulations on Internet gambling are much more effective than on traditional forms of gambling. The Tasmanian legislation gives the Tasmanian Gaming Commission the power to impose certain conditions on licence holders without requiring new legislation. This means that the commission can react very quickly where there are social implications of concern and where new conditions need to be placed on licence holders.

I make the point that this legislation in Tasmania was initially developed by the previous state Liberal government led by the previous Premier, Mr Tony Rundle—not by a state Labor government but by a state Liberal government. I have already made the point that businesses that spend millions of dollars developing new services have effectively had their investment gutted, their services gutted, by this legislation. I know of one particular case, Federal Hotels, which is on the record in the evidence to the committee. Federal Hotels is a major Tasmanian company. It spent $14 million in developing its systems and its safeguards. I can see why it is very annoyed at this legislation: it has spent a considerable amount of money developing effective online gambling, along with protection, and it is effectively excluded from the market.

Tasmanian legislation also provides for strong penalties against the licence holder. For example, the legislation provides for a first offence penalty of $60,000 where a minor has been allowed access to a site and a $100,000 penalty for subsequent offences plus two years jail and the loss of the gaming licence. (Time expired)
I rise to speak on the Interactive Gambling (Moratorium) Bill 2000 because of a lifetime personal involvement and also professional involvement in dealing with the victims of gambling. I do not know how anyone can argue that an extension of gambling in this country, or an extension of outlets for gambling, can be beneficial. I cannot even accept the argument that it is better to extend gambling facilities in Australia to stop people going offshore and gambling overseas. For me, any extension of any gambling outlets in this country is a bad thing. In support of what I am saying, I want to read from *Alive Magazine*, in an article that is introduced with these words:

Lady Luck is not smiling down on Australia. Although the government is reaping the financial benefits of gambling, local businesses and families are bearing the consequences of our growing addiction to games of chance.

I want to read from this article, because it quotes a friend of mine who has been involved for most of his life in counselling victims of various forms of addiction, including, particularly on the Gold Coast, addiction to gambling. He is a Uniting Church colleague of mine, John Tully, who was a foundation member of both the Australian National Council on Compulsive Gambling and the National Association of Gambling Studies. I also was an early member, and the first treasurer, of the National Association of Gambling Studies, because I wanted not only to have a personal and professional involvement but also to have access to the academic research which has been going on in this industry, particularly for the last 10 or 20 years. The article says:

John Tully ... has been counselling people with addictions for the last forty years. He believes gambling creates a no-win situation for those participating.

This is what the article reports John Tully as saying:

When players become victims repeatedly and cannot learn from loss, and when they are encouraged to find enjoyment in being at risk even when they have little or no chance of winning, I do not see people engaged in legitimate play ... I see injustice and immorality. I see big business and government engaged in the unjust exploitation of little people ... Gambling results in pain and destruction for families ... It is not a form of play and healthy relaxation, but a psychological and emotional catalyst that lures people into a life of endless indebtedness and antisocial behaviour such as cheating on tax returns, fraud, armed robbery, theft, domestic violence, suicide and other criminal activities.

I hasten to add, of course, that we are not talking about all gamblers. Obviously not. For the majority of people who engage in gambling it does not result in any of those problems. The majority of gamblers are socially responsible and are able to control the problem. But there is a minority of people for whom gambling is a real problem, and any extension of gambling facilities simply means that that problem will increase. Tully says:

These families often suffer in silence and are treated like lepers because a pathological gambler usually has a criminal record. The gambler and his or her family need to know that help is available.

That certainly is where I want to put the emphasis. I am not sure that this legislation does that sufficiently, but it at least does something: it sends a signal to the gambling industry that there is a serious social problem with gambling in Australia and that it is growing more serious year by year.

The other issue that I want to raise in relation to gambling is that not only individual people are affected: all of the states in Australia are also addicted to gambling. Each of those governments increasingly depends on gambling to boost its revenue. That, I believe, is a serious issue—that gambling revenue within state governments creates a potential for corruption and for governments themselves to be so addicted that they are prepared to increase outlets for gambling without taking any account of the social consequences.

I listened carefully to what the previous speaker, Senator Sherry, said and he spoke glowingly about the regulation of gambling in the different states. I believe that regulation is ineffective. Individuals and families are not the only ones affected by gambling, though there are many tragic situations surrounding that abuse: the growing dependence of state governments on revenue from gam-
bling taxes is also cause for great concern. The taxes are an inequitable and indirect form of taxation that is derived from human misery and they have a tendency to corrupt any government that depends on them.

Let me quote you a classic example. Last year, the Netbets affair in Queensland occurred when the Treasurer, David Hamill, granted an Internet gambling licence to GOCORP, a company with three Labor mates as shareholders. A senior member of Mr Hamill’s staff, one Labor MP and another Labor councillor held shares in GOCORP, but Mr Hamill maintained he had no conflict of interest. I admit that he stood aside during an investigation which found that he was aware of the two MPs’ interest in GOCORP but that he had followed correct procedure. In other words, he had subjected himself to the regulation and was found to be not contravening the regulation which was in place. I say to that: so much for the state’s willingness to regulate in order to stamp out corruption, if that kind of thing can happen and the people involved are then absolved. This incident, I believe, came close to bringing down the Beattie government which, at the time, had a one-seat majority—and I say here, on the record, that I want that government to survive. But these people are saying, ‘Trust us to regulate Internet gambling.’ I remain acutely aware of the premature closure of the Senate inquiry into the Victorian Premier’s awarding of the Crown Casino licence to a colleague. This matter has never been resolved. I believe this inquiry was shut down because both of the older parties had skeletons in their closet regarding gambling licences. Should we be giving them a new bunch of gambling licences to hand out? It is obvious what my answer is.

The other issue which has been raised in debate is the technical feasibility of regulating Internet gambling. If, as some people have claimed, the proposed government moratorium is technically impossible, why then are the gambling industry, state governments and the IT industry so opposed and so vocal in opposition to the government’s bill? I suspect they understand the weight of political pressure and public opinion which would be applied if the moratorium succeeded.

In terms of offshore gambling, I have no commitment to protect the Australian gambling industry against any other industry, but I am concerned to do something about the abuse of gambling by those people for whom it is a problem. I urge the Senate to support the Democrat amendments, which actually seek to do something about problem gambling. If they do so, then I believe we can move forward on this issue. I conclude my remarks on this bill with the editorial from the Sydney Morning Herald of 30 May this year. It talks about state governments rushing headlong into the extension of gambling facilities in order to gain more revenue and says:

Even so, given the recent headlong rush by some States to issue licences, the case for a 12-month moratorium is overwhelmingly strong. Assuming it is approved by Parliament ... a pause will enable the two tiers of government to consider whether a ban on Internet gambling would be feasible or effective. If the answer is yes, that is certainly the way to go. If it is no, the best alternative would be a national regulatory framework with appropriate privacy, harm-minimisation, education and anti-corruption safeguards. Ideally, this would be achieved by agreement, not a Canberra dictate.

At this stage, the problem is that none of the states are in agreement at all about any halt in their dependence on and access to gambling revenue, so the editorial expresses a forlorn hope. I believe that some form of the current legislation must pass this parliament. I hope that the Democrat amended bill will be the one which is put into force. In any case, in at least sending this signal to the gambling industry we may do something about those people for whom gambling has become a personal and very serious family problem.

Senator CROSSIN (Northern Territory) (12.57 p.m.)—The Interactive Gambling (Moratorium) Bill 2000 that is before us proposes a 12-month ban on the development of the interactive gambling industry in Australia, by creating a new criminal offence which prohibits a person from providing an interactive gambling service unless they were already providing such a service before the
retrospective commencement date of 19 May. It is designed to halt the development of this industry while the government investigates, as it says, the feasibility and consequences of extending the ban to all interactive gambling. However, there has been much speculation about the intent of this government to declare its intention and certainly the Prime Minister’s intention to pursue extending the ban to a permanent ban.

The online gambling industry is an industry that is growing rapidly worldwide, as the Internet continues to expand. The reason I have chosen to speak in this debate today is because it has significant impact on two businesses in the Northern Territory. If, in fact, the Prime Minister’s declared intention in relation to extending the ban permanently comes into effect, this may have severe consequences for those industries in the Territory and the contribution to the economy that those businesses make. The latest estimates suggest there are over 700 online gambling sites operating in the Internet, including sports books, lotteries, horseracing, bingo, keno and casino sites. A quick look on the Internet will give you an idea of how many gambling sites there are.

This bill is significant in what it does not do, as opposed to what it does do. For example, as we have stated in the amendment that we intend to move, this bill does not provide strong regulation of interactive gambling— the most practical and effective way of reducing social harm arising from this activity. In an article in the Australian Financial Review on Thursday, 28 September entitled ‘No sure bets for online gambling’s future prospects’, David Crowe quoted Professor McMillan as saying:

‘The regulations at the moment are a dog’s breakfast, inconsistent and uneven,’ said Professor McMillan. ‘We can’t get our States to agree on anything, but this is one case where agreement is essential.’

This bill also does not extend current regulatory and consumer protection requirements applying to offline and land based casinos, clubs or wagering venues to online casinos and online wagering facilities. I believe it exacerbates the problem in Australia by barring access to regulated online gambling services with in-built safeguards while allowing access to unregulated offshore online gambling sites that do not offer consumer protection or probity. It singles out one form of gambling in an attempt to create the impression that somehow this government is doing something to alleviate the community’s concerns about the adverse social consequences of gambling, but it does not address more prevalent forms of gambling in Australian society such as poker machines and casinos like Crown Casino in Melbourne and the games that they offer. We also believe that it is contrary to the best interests of the Australian Internet industry and the development of e-commerce in Australia.

A number of distinctions need to be made in this bill, including a distinction between unregulated and regulated online gaming sites and a distinction between gambling and a wagering service. This bill defines an interactive gambling service as a service which involves gaming and wagering. However, wagering is betting with a third party and is skills based whereas gaming is betting on chance, for example the poker machines and the casinos. This bill also defines an interactive gambling service as a service that is provided in the course of carrying on a business, a service that is provided to customers using an Internet carriage service and any other listed carriage service, a broadcasting service or any other content service, a datacasting service provided under a datacasting licence, and a service which is linked in a specified way to Australia. If the government’s intent was to do something about the way that gambling pervades our society, this bill will not achieve it. The bill excludes telephone betting services, services relating to contracts that under Corporations Law are exempt from a law regulating gambling or wagering, services that the minister deems exempt services, and share trading.

Australia is getting left behind as other countries develop regulations to control the growth of online gambling in their jurisdictions. In addition, the proliferation of unregulated sites will ultimately leave Australian operators behind. Many gamblers will go offshore, often into unregulated gambling environments. This will mean lost revenue
for Australia and lost jobs for Australians. There are currently 14 online operators in Australia, employing about 400 people. The information technology people and the companies employed to service these companies also benefit. Banning Internet gambling would send the message that it is not all right to bet online in Australia—and then all you have to do is simply go offshore to place a bet. Last week another senator in this chamber gave us many examples of this. I also saw it myself when I had the chance to visit Lasseters in Alice Springs. I saw many examples of Internet sites overseas based in the Americas, particularly in South America, using Australian acronyms to try to con people, to lead people to believe that they are Australian regulated sites, and yet we do not see this government trying to come to grips with some of the problems that are confronting this industry.

The moratorium may lead to the banning of online gambling, but this is not technically feasible or necessary. I want to spend quite a deal of time this morning talking about—as I mentioned in my introduction—the impact this will have on Centrebet racing and Lasseters, both based in Alice Springs. In the Northern Territory, it is estimated that, if a ban on online gambling were introduced, Alice Springs would lose an industry worth more than $27 million a year—that is, if the federal government moves to ban Internet gambling permanently post their one-year trial. The amount of money involved in online gambling at Lasseters Casino in Alice Springs surpasses the amount of money gambled in on-site casino betting. If the moratorium ended in a total ban of Internet gambling, Lasseters have said that they will simply move their Internet operations offshore. They will not close down; they will move offshore, taking at least 25 jobs out of the Northern Territory.

I received a letter from Lasseters Casino, and I have no doubt that other senators in this chamber have also received a similar letter. The letter goes into some detail about the way in which they regulate their operations now. They say in their letter to me:

During Lasseters’ 12 months of operation—because I think they formally gained their licence around April 1999—Lasseters Online has demonstrated that online gambling can be effectively regulated to introduce an even greater degree of control than is possible with physical casinos and to protect players’ interests.

If you go into the Lasseters Casino homepage, you will see a program that you can download to provide children in your household with protection. There is also information about counselling services, and Lasseters provides regulation as to how much you can bet. They say that they fulfil the demand in the global community for new forms of home based entertainment services in line with the growing acceptance of the Internet, particularly in those countries where accessibility to land based gambling opportunities is low.

They also make the point that it is a natural business extension for traditional casino operators to access greater markets and improve company performance and has the potential to be a successful and strong export industry for Australia, capitalising on the strong reputation this country holds for operating a trusted gaming industry. Their letter also points out the way in which they regulate their operations and the way in which, for example, they have security controls over what they do. Some of those examples are: the player account is opened by credit card and authorised by credit limit; no wager is placed directly through credit card transactions; there is an initial monthly maximum deposit limit of $500; winnings are paid by account payee only cheque addressed to a nominated personal account of the registered player; there is 120-byte key encryption security for financial transactions; players only wager with their deposit funds and any winnings accumulated; and the list goes on and on.

I know, for example, that those members of the Senate Environment, Communications, Information Technology and the Arts Legislation Committee who participated in the Interactive Gambling (Moratorium) Bill inquiry did go to Lasseters, and I am surprised at the report of the government members, given the probably more thorough
briefing they were given at Lasseters than I had the opportunity to attend. But you certainly come away from Lasseters with no doubt in your mind whatsoever that they are taking the lead in trying to regulate this industry, attempting to make sure that those people who access their online gambling services are doing so with as much protection as they possibly can have. They say there is evidence they can produce that people are in fact accessing Internet and online gambling services that are provided overseas, and those overseas services have nowhere near the amount of framework regulation and control that somewhere like Lasseters have. So it is hard to understand why this government would not want to be in there actually supporting places like Lasseters, listening to the Australian Casino Association and trying to work with these people to provide for what we know is a market out there, what we know is an interest amongst the public. This ban on online gambling will not prevent and will not diminish the gambling activities of people in this country simply by placing a ban on the activities. So it is disappointing that this government is not prepared to work with these people and look at providing some national framework regulation and guidance.

Centrebet is another business in Alice Springs. Its sports betting manager said:

internet gambling represented 80 per cent of his firm's $7 million-a-year business. If it was forced offshore it would mean more than 70 Alice Springs people would be out of work.

And, as we know, Lasseters is the only online casino site and is said to be probably the most regulated one in the world.

The issue that needs to be resolved is how states recover taxes from gamblers logging on to online gambling in other states. When I was at Lasseters I spoke with Peter Bridge, and it is an issue that needs to be sorted out. It is an issue whereby state and territory ministers responsible for racing and gaming and people in the industry, like Centrebet and Lasseters, need to get around the table and have a look at that. If in fact Lasseters is regulated under Northern Territory legislation and if someone from New South Wales or Victoria uses that online gambling facility, how can it be organised so that the due proceeds and taxes from that access go to the Northern Territory, for example, as opposed to the Victorian or New South Wales governments? This is an issue that needs to be addressed and resolved, not ignored.

Let us have a look at the issue of the social problems of gambling. These also need to be addressed in regulating the online gambling industry. We consider the effective regulation of gambling online to be the most practical way of substantially restricting the harm of gambling, including criminal harm. In other words, the way in which you could start to look at the social problems of gambling is not in fact to place a 12-month moratorium on what is happening, with a possible future permanent ban, but to actually regulate the gambling online activities. It appears that more regulation will assist problem gamblers online rather than nothing being done and their going offshore for their activities.

State and territory governments are trying to ensure a regulated online gambling environment, but it needs to be done with the assistance and help of the federal government. The regulatory framework needs to address consumer protection issues characteristic of online gambling, such as a mechanism to exclude those not eligible to gamble under Australian law; problem gambling control, for example exclusion facilities; expenditure thresholds; the availability of transaction records; privacy protection; regulation of propriety in advertising; and software and accounting procedures. Some of the other important issues that I think this bill brings to light are that the federal government must develop anti-money laundering and anti-taxation evasion measures. It must arm enforcement agencies with the funding and expertise to detect and pursue criminal activities relating to emerging online technologies. The online gambling industry needs to be brought within the purview of the Financial Transaction Reports Act 1988, requiring large or suspicious transactions to be reported to AUSTRAC. The Australian Federal Police must be empowered to direct ISPs to take down foreign or offshore gambling sites engaging in illegal...
or grossly improper activities. The federal government has a responsibility to ensure that the AFP is adequately resourced to effectively deal with these issues.

In closing, I would like to draw the Senate’s attention to an article that appeared in the *Centralian Advocate* on 25 August this year. It is headed ‘Alice to lose $20m if ‘net bets are banned’. As I said earlier, Alice Springs will lose business worth more than $20 million a year if the federal government moves next May from this moratorium to a permanent ban. The article states:

Lasseters Casino chief executive Peter Bridge said internet gaming would match on-site casino betting this financial year and make more than $20 million. And next fiscal year it would become more profitable than the casino proper.

If the one year moratorium on internet gambling ended in a ban in May 2001, Lasseters will move its operation offshore.

We know that the Northern Territory government threatened some months ago that, if this legislation is endorsed, it may seek to challenge its legality in the High Court. We also have Centrebet based in Alice Springs and its betting manager, Gerard Daffy, said:

...internet gambling represented 80 per cent of his firm’s $7 million-a-year business. If it was forced offshore it would mean more than 70 Alice Springs people would be out of work.

The Territory and the ACA have the most to lose out of this bill. There are 14 online operators in Australia employing about 400 people and there are all the staff who support them. Centrebet is the biggest online sports betting company in Australia and is at the top five of the 170 operators around the world. Mr Daffy goes on to say, and I think he is correct:

What John Howard is saying is it’s not okay to bet with us, but it’s okay to bet with any of the other 169 places—around the world. I draw the Senate’s attention to the Labor Party’s recommendations in the minority report that was tabled last month and the motion we have moved in relation to the *Interactive Gambling (Moratorium) Bill 2000*. Our motion highlights a number of those areas which we believe the government needs to address. A number of those areas need to be looked at and worked on. It will be hard work to try to get all states, territories and businesses online and agreeing with regulations and providing the framework which this industry needs. What it does not need is a moratorium with a possible threat of a permanent ban.

Amendment agreed to.

Question put:

That the motion, as amended, be agreed to.

The Senate divided. [1.22 p.m.]

(The President—Senator the Hon. Margaret Reid)

Ayes............. 42
Noes............. 24
Majority.......... 18

AYES

Abetz, E. Alston, R.K.R. Allison, L.F.
Alderton, K.D. Bourne, V-W.
Brandis, G.H. Brown, B.J.
Calvert, P.H. Campbell, I.G.
Chapman, H.G.P. Coonan, H.L *
Egeleston, A. Ellison, C.M.
Ferris, J.M. Gibson, B.F.
Greig, B. Harradine, B.
Harris, L. Herron, J.J.
Hill, R.M. Kemp, C.R.
Knowles, S.C. Lees, M.H.
Lightfoot, P.R. Macdonald, I.
Macdonald, J.A.L. Mason, B.J.
Minchin, N.H. Murray, A.J.M.
Newman, J.M. Patterson, K.C.
Payne, M.A. Reid, M.E.
Stott Despoja, N. Tamblyn, G.E.
Tchen, T. Tierney, J.W.
Troeth, J.M. Vanstone, A.E.
Watson, J.O.W. Woodley, J.

NOES

Bishop, T.M. Buckland, G.
Carr, K.J. Collins, J.M.A.
Conroy, S.M. Cook, P.F.S.
Cooney, B.C. Crossin, P.M.
Crowley, R.A. Demman, K.J *
Evans, C.V. Faulkner, J.P.
Forshaw, M.G. Gibbs, B.
Hogg, J.J. Ludwig, J.W.
Lundy, K.A. Mackay, S.M.
McKeran, J.P. McLucas, J.E.
Murphy, S.M. O’Brien, K.W.K.
Schacht, C.C. West, S.M.

PAIRS

Crane, A.W. Hutchins, S.P.
Ferguson, A.B. Bolkus, N.
Heffernan, W. Sherry, N.J.
McGauran, J.J. Campbell, G.
Ridgeway, A.D. Ray, R.F.

* denotes teller

Question so resolved in the affirmative.
Bill read a second time.

In Committee

The bill.

Senator HARRADINE (Tasmania) (1.26 p.m.)—I want to have a few words about the title, the commencement date and the simplified outline contained on page 2 of the Interactive Gambling (Moratorium) Bill 2000. In so doing, I indicate to the chamber what a number of other people have indicated: that gambling imposes enormous problems on individuals and on society in general. The Productivity Commission has indicated that problem gamblers make up 2.1 per cent of the population. That means that 290,000 people are problem gamblers. The commission also refers to reports which state that problem gambling negatively affects 10 to 15 people for each problem gambler. That is an enormous problem which Australia needs to address.

I heard what Senator Woodley said. Senator Woodley indicated that the extension of opportunities for gambling would add to the number of problem gamblers. I suppose that is axiomatic. In the simplified outline, the bill does say that this proposed act:

... prohibits a person from providing an interactive gambling service unless the person was already providing the service when the moratorium commenced on 19 May 2000.

We have heard in the debate thus far a couple of things about that. One is that those persons who were providing the service before 19 May would be able to continue providing that service to people within Australia. I do not know whether people have had the chance to or did in fact read Senator Tierney’s and my comments in the report entitled Netbets: a review of online gambling in Australia about the matter of providing gambling services to Australians. We said:

That at the end of the moratorium referred to in Recommendation One, online gaming licences will be issued for trading outside Australia only. This measure states that the clientele of those already providing the service not only overseas but also in Australia as at 19 May will be limited to overseas. The second thing of considerable concern about this date is that there are providers of this service—if you would call this interactive gaming service that—who were actually issued with a licence before that date. If they were not up and running by that date, even though they were issued with a licence, they will be affected by this cut-off.

I heard somebody from the opposition—I am not sure who it was—indirectly criticise Senator Alston in their speech. They said that Senator Alston had written to the Tasmanian government on 19 May seeking co-operation for the development of a regulatory program for online gambling and that some little time afterwards, on the same day, the Tasmanian government received a letter from Senator Alston announcing the moratorium. On the face of it, I suppose that looks a bit rough. But what was the government to do? If it was going to initiate a moratorium it had to do so in such a way as to prevent persons getting around that, if there were some sort of notice given. I think it is reasonable that the federal government made an announcement but it is unfortunate that it did not exempt those who already had licences. As has been discussed here in the chamber, one such group is the Federal Hotels group. They had been discussing the issue with the state government over a period of time, had been issued with a licence and had spent considerable amounts of money on developing the site, and this will now affect them. So I would like the government to consider those two matters. I do not know whether or not this will be a close vote but, at the end of the day, the situation of the operators who were issued with licences as at 19 May ought to be recognised and, secondly, the restriction of the gambling service to persons overseas ought to be considered.

The other thing that is probably appropriate and relevant for me to deal with now is that, time after time, speakers opposing this bill have been saying, ‘It’s going to be useless because persons can access overseas sites.’ I think Senator Crossin indicated that, if this moratorium comes in, Lasseters has suggested it will set up its site overseas. I would like to see an amendment to this legislation that prevents access to overseas sites. It is quite difficult but the federal parliament does have financial powers. It is not beyond
the wit of those erudite senators around the place to devise amendments that would effectively, using various fiscal powers, prevent access to overseas gambling sites.

The final matter that I think it is appropriate to deal with is the difference between wagering and gambling. I am personally inclined to support an amendment that would exempt gaming on registered horseracing, harness racing and dog coursing, but I would not extend it to betting on whether the next ball is going to be a googly or not—in other words, sports betting. Those are the three industries you can ring up the TAB number and put a bet on. I would obviously listen to the arguments, but I am inclined to the view that there should be exemptions for registered horseracing events, coursing events and harness racing.

Senator STOTT DESPOJA (South Australia—Deputy Leader of the Australian Democrats) (1.37 p.m.)—I wish to speak on a similar matter and to respond to some of the comments made by Senator Harradine about the simplified outline. It will be no surprise that the Australian Democrats—along with a majority of, if not all, senators in this place—have a concern about the adverse social and other impacts of gambling in our community. Senator Woodley, in his second reading contribution, pointed out the long history of the Australian Democrats, specifically in Queensland and in Victoria, in opposing the extension of gambling and gambling facilities; and our attempts to ameliorate some of the harsh or adverse consequences associated with gambling.

We have documented our views on interactive gambling on a number of occasions, and we have put on record our views about the Internet and the difficulty in regulating or prohibiting information online. Throughout the Netbets inquiry and subsequently, we have maintained that a prohibition or a ban on interactive gambling services is technologically questionable or unfeasible. We offer, instead of what we have before us, a solution in an intermediate moratorium for the express purpose of establishing a national regulatory system for Internet gambling; that is, a national standard and an easily recognisable guarantee for domestic and international users. We have before us a piece of legislation that is quite flawed, that has been questioned constitutionally, and that obviously has raised a number of issues about possible compensation claims by states, territories or members of the industry. It is undoubtedly governance by press release. The bill before us seeks simply to implement what has been, to date, governance by press release, and that is a retrospective moratorium on the provision of interactive gambling services. The moratorium is deemed to have been effective on 19 May.

The Democrats traditionally are not fans of retrospectivity when it comes to legislation, unless there is a very strong justification for it. Certainly in this case we question retrospectivity. I acknowledge Senator Harradine’s comments about the need to not give too much notice, because you might be concerned about the consequences of letting people know that a moratorium was about to happen. But I do not think that argument stacks up when you look at the way this debate came about, and the announcement by the minister, by press release, actually defeated a great deal of goodwill among not only people in the industry but also the states and territories, many of whom have worked very hard to come up with guidelines or regulations that meet a reasonably high standard.

Senator Woodley mentioned that it is a very brave government that tackles gambling and the gambling industry, and I think that he and others would be the first to point out that this is not an attempt by the government to tackle the gambling industry per se. This is a very small section of that particular industry. I look forward to the day when this government really takes on regulation of land based gambling enterprises, because I would be a little more assured that the government’s efforts were motivated by a concern about individuals, as opposed to, as I suspect in this case, the polls. I sense that a majority of the community are concerned about the effects of gambling and would react positively to the announcement of a moratorium. However, as I mentioned, this moratorium is technologically questionable, it is constitutionally questionable, it has compensation
implications, it is legislation by press release, it is retrospective, and it does not actually achieve anything. Hence, the Democrat amendments seek to ensure that there is a moratorium over a set period of time—three months from the date of assent—and that it is not retrospective. This would give the key players an opportunity to sit down and constructively and cooperatively come up with some minimum national standards to address issues like harm minimisation.

I am disappointed that the government has not looked at issues such as education, information, counselling, support services and other harm minimisation strategies. There is not any point in just having a moratorium so that the government can say, through various press releases, that it has done so. It should actually achieve something, and we would like to think it would achieve at least an amelioration of the adverse impacts of gambling.

In relation to the simplified outline, I will be moving amendment No. 1 on sheet 1935 on behalf of the party. I acknowledge that I feel very strongly in favour of amendments to be moved by Senator Len Harris, which pretty much mirror the Democrat amendments, although I do not believe we can support Senator Harris’s first amendment, because I think that our amendments have encompassed what he is seeking to achieve. I think that we would prefer to persevere with the amendments that we have that take into account the proposed three-month moratorium. I also acknowledge the amendments to be moved by Senator Brown and Senator Harris in relation to the proposed exemption in clause 5. That is certainly something the Democrats will consider during the committee stage of this debate, but I can say that we feel very favourable towards that particular amendment.

For the record, again, the Democrats are concerned about gambling, its consequences and its effect. Until we saw this legislation we thought that the government might genuinely be trying to tackle this issue. As I say, in all conscience, we cannot as legislators support bad law. For that reason, a majority of my colleagues will be opposing this legislation if it is unamended. If it is amended along the lines that the Democrats have proposed, we think that is an effective, workable solution to an issue which not only the community feel strongly about but also, I think you will find, the states and territories have strong views about. I think they are entitled to some level of certainty and some guidelines under which they can continue their operations. I look forward to this debate resulting in a real, workable solution, taking into account the technical issues in relation to the Internet but also recognising that the law should not be retrospective in this instance and certainly should not open the Commonwealth up to a potentially broad range of compensation claims.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (1.46 p.m.)—As we seem to be having second reading debates in the course of the committee stage, I seek leave to incorporate my second reading speech.

Leave granted.

The speech read as follows—

I thank the Senators who spoke for their contributions.

The Interactive Gambling (Moratorium) Bill 2000 effectively halts the further expansion of the interactive gambling industry in Australia, while the Commonwealth Government considers the feasibility and consequences of banning this new form of gambling.

The Government is concerned new interactive gambling provides a ‘quantum leap’ in accessibility and that this has the potential to expand problem gambling in Australia. That is why we have introduced this legislation to impose a moratorium so that we can halt the further expansion of this industry while we investigate the feasibility and consequences of banning it.

The Bill is not, in itself, intended to improve the regulation of interactive gambling nor is it intended to impose a permanent ban on the industry. The legislation, if passed, will impose a 12-month moratorium on the introduction of new interactive gambling services.

Much of the debate has focussed on what the Bill does not do rather than what it actually does. A number of the speakers stressed the need for this Bill to address the interactive gambling regulatory environment as well as the likely effectiveness of a permanent ban.
However, it is sensible for the Government to thoroughly assess the option of banning interactive gambling before it considers other options such as regulating the industry. This is particularly important for an industry which has the potential to increase dramatically consumers’ access to gambling. The Government is also mindful that legalising new forms of gambling has generally resulted in their subsequent growth.

There is nothing novel or new about this process. Most Governments will initially consider the option of banning a new and potentially harmful product before considering other approaches - particularly if those other approaches are likely to expand the uptake of the activity.

Some Senators appear to believe that this legislation will inevitably push large numbers of problem gamblers to seek out and use inferior offshore sites. However, given the Bill allows services operating prior to 19 May 2000 to continue to and given offline gambling is still widely available in this country, I think this is unlikely. While some Australian consumers may choose to continue to gamble on offshore sites - as they have since interactive gambling became a reality - I doubt this legislation will change the situation much. Considering widely-held privacy and security concerns, we do not think it likely that Australians who are not already betting online will rush to bet on dubious overseas casino sites over the next 7 months.

A number of Senators spoke about the inclusion of wagering in the moratorium and the potential impact this might have on local racing industries. I remind those speakers that the moratorium will apply for 12 months from 19 May 2000, which leaves about 7 months after Royal Assent, the Australian Federal Police can only prosecute unlawful interactive gambling providers from commencement.

Having new operators starting up during the course of the moratorium defeats its purpose of holding the further expansion of this industry. It is obviously more difficult for the Government or this Parliament to deal with a larger, well established industry than it is to act now while it is relatively small and new.

A number of speakers commented on the duration of the moratorium and recommended 3-months rather than 12-months. However, given this moratorium is aimed at halting the industry’s growth in order to provide time for the Government to investigate and implement options for dealing with interactive gambling, 3 months is simply not an adequate amount of time particularly over the Christmas period. I also note that the Government’s moratorium will apply for 12 months from 19 May 2000, which leaves about 7 months until the 18 May 2001 expiry date.

A number of Senators were concerned about the perceived retrospectivity of this Bill. Let me be quite clear: The Interactive Gambling (Moratorium) Bill 2000 is not retrospective legislation. The legislation and the offence commence prospectively from the day after Royal Assent. However, the Government believes that it is sensible to provide the industry with certainty about when the moratorium takes effect. That is why the Government fixed the date at a point in time. Now all industry players know when the moratorium coverage started and, more importantly, that it will finish at midnight on 18 May 2001. Using other non-fixed alternatives such as “from commencement” would have provided the industry with no certainty about when the moratorium would take effect.

Because the Bill and its offence commence the day after Royal Assent, the Australian Federal Police can only prosecute unlawful interactive gambling providers from commencement.

I do not accept the comments that the Government failed to provide the gambling industry with adequate notice of its concerns about interactive gambling. When the Government released the Productivity Commission’s report on gambling found wagering was second only to Electronic Gaming Machines (i.e. poker machines) as a contributor to problem gambling in Australia. I should emphasise that the Government has not made any decision on the inclusion of wagering in any potential future ban.

A number of Senators talked about allowing all current licensees to introduce new services during the period of the moratorium. If the Government were to agree to this then a large proportion of the twenty or so current licensees could go online.
industry to claim that this legislation has come as a complete surprise. During the debate the Government was criticised for lacking leadership on the broader problem gambling issue. A number of speakers challenged us for not addressing other forms of gambling such as poker machines. However, this ignores the Government’s work in establishing a Ministerial Council on Gambling as a forum for developing a national approach on all forms of problem gambling. Dealing with interactive gambling is not the only Commonwealth initiative to deal with problem gambling—it is simply one of the first “cabs off the rank”. The Government will continue to work to address the broader issue of problem gambling with our State and Territory colleagues through the Ministerial Council on Gambling.

I want to respond to comments that this Bill represents an “old economy” initiative and that the Government “does not understand the Internet”. This Government understands the Internet very well and we will continue to ensure that Australia is at the leading edge of the information economy. Most indices show that Australia is, in fact, one of world’s leading nations in terms of the uptake and use of the Internet and of e-commerce.

It is ironic that a number of the speakers who said that the Government did not understand the Internet also stated boldly that there was no technological way of supporting a ban on gambling. Those statements in themselves reveal a lack of understanding about the Internet. There are clearly a number of measures that could be used to block content on the Internet. The real debate is not whether the technology exists to block content - because it does - the argument should be about the effectiveness and potential impacts of implementing these options. That is why the Government is conducting a detailed investigation into the both feasibility and consequences of enforcing a ban.

What this Bill’s about...
The purpose of Bill is to halt growth of interactive gambling in Australia while the Government considers the feasibility and consequences of a ban. The Government is concerned about the potential expansion of problem gambling in Australia.

That is why we need to halt the further expansion of this industry while we investigate the feasibility and consequences of banning.

General misunderstanding about the Bill: This Bill is not intended to regulate interactive gambling or impose a permanent ban. The Bill seeks to impose a 12-month moratorium on the introduction of new interactive gambling services.

Given the potential for harm, it is only reasonable to examine whether it possible to ban this industry before considering other alternatives that increases access.

Legalising new forms of gambling generally result in their expansion. States and Territories went through this same process five years ago. They concluded then that it was not possible to ban interactive gambling.

However, five years is a long time. Technology and the Internet have developed significantly since then.

The Bill will push problem gamblers to use offshore sites...

It is unlikely this legislation will push problem gamblers to use offshore sites given Australian gamblers will still have access to the Australian interactive gambling sites that operated prior to 19 May 2000 and to offline gambling.

Excluding Wagering

It is unlikely that the inclusion of wagering in a 12-month moratorium will dramatically impact on the racing industry. Interactive gambling is currently only a small percentage of the overall wagering business.

Interactive wagering could actually harm racing industry funding because of cross border betting.

The Productivity Commission’s Report found that wagering was also a significant contributor to problem gambling in Australia - second only to poker machines.

The Government has not made any decision about including wagering in any subsequent ban.

Letting all current licensees go online during moratorium

Permitting all current licensees to go online would undermine the moratorium. It could result in dozens of new services being launched over the next few months.

It is easier to deal with an industry when it is small and new than it is to deal with a large, well-established industry. Look at the difficulties of trying to rein in the Poker Machine industry.

A three month moratorium is simply too short to adequately develop and implement any option for dealing with this industry.

Retrospectivity

This Bill is not retrospective. It commences on the day after Royal Assent. The idea of fixing the
coverage of the moratorium to 19 May 2000 was to give certainty to the industry. Variable options such as “from commencement” do not provide any certainty.

It is not possible to retrospectively prosecute under the proposed moratorium. 

Advance warning to the industry

The Government put this industry on notice late last year when the PM launched the Productivity Commission report on Gambling.

The idea of a moratorium has been the subject of several media releases since April 2000.

Lack of leadership on problem gambling

The Government is providing leadership on the issue of problem gambling. We have established a Ministerial Council on Gambling as a forum to develop a national approach.

Government does not understand the Internet

This is not an “old economy measure” and the Government understands the Internet.

Those who criticise that a ban is not technically possible are the ones who don’t understand the Internet. There are many ways of blocking content. It is a question of effectiveness and the impact of implementing these measures. That is why we are investigating which of these are feasible and their consequences.

By most measures, Australia is at the leading edge of the developing information economy.

Senator ALSTON—For the sake of dealing with the contributions from Senator Harradine and Senator Stott Despoja can I simply say that it is very disappointing that Senator Stott Despoja starts by saying that the Democrats and, indeed, everyone are very concerned about the social implications of gambling—which is the ritual hand-wringing exercise—and then goes on to basically say that because they are not satisfied about the government’s bona fides they are not prepared to take this legislation seriously.

I think that is a very shallow and, indeed, opportunistic approach. It is not addressing the merits of the legislation. To say, ‘We would need to be satisfied that the government wasn’t motivated by concerns for the polls,’ or words to that effect, is another way of saying, ‘We’re just not going to address this legislation on its merits.’

I suppose what concerns me most of all is the constant attempt to suggest that somehow this bill is much more than it purports to be.

Senator Stott Despoja says that they are very disappointed that the government has not seriously looked at harm minimisation. This is not about long-term solutions; this is about a short-term moratorium. This is in order to give us breathing space to look at the social and technical implications—in other words, to look at all of those issues down the track but not to prejudge them before we have conducted a series of inquiries.

I hear this mantra that it is not technically feasible to ban gambling on the Internet, and it is usually accompanied by ‘Well, of course, this lot don’t get it or else they wouldn’t even think of proposing such a thing.’ I have seen at least three experts who explained to me in very cogent detail precisely how you would do it, and it sounds very simple to me. I have also had people who have been lobbying against this bill conceding up-front that it is perfectly possible in a technical sense to do so. So if you are going to mouth what I think is a spurious objection to this legislation, then you have an obligation to spell out in detail why you say it is not technically possible. I am sure Senator Lundy would welcome that opportunity. But it is not good enough to get up and mouth the words, ‘It can’t be done,’ because it can be done. From discussions I have had with experts—these are not people you might run across in the pub; these are people who work in this space for a living and know all of the alternatives and we have discussed in quite some detail how it would occur—it is my view that it is quite technically feasible. But, once again, without wanting to pre-empt it, the purpose of the moratorium is to further explore those possibilities, and we are getting some work done on each of those fronts.

I very much hope that the rest of the debate will centre around the fact that this is a short-term proposal for a moratorium. I noted that Senator Stott Despoja said that a majority of her colleagues would support her. I take it from that that a minority will not, and I can well understand why that might be. No doubt they are as concerned as I am about the utter uncertainty of a proposal that turns on a starting point dependent on when the legislation is proclaimed—meanwhile, of
course, every horse in creation can have bolted long ago. You would only have to get the legislation through and everyone who wanted to avoid it would then be able to commence offering services and it would be an absolutely meaningless proposition. I do not for a moment think this is anything more than window-dressing, and I am very disappointed that Senator Stott Despoja thinks that somehow she can fool the public by going through these particular antics. This is not in any shape or form a serious response; this is a way of saying that the they are not supporting the moratorium. They are not interested in looking at the technical feasibility or the social and economic implications. They are simply not focusing on what this bill is about.

As far as Senator Harradine is concerned, can I say that my general comment about not wanting to prejudge outcomes is apposite because we do not want to pick and choose at this stage. It may be that a whole range of exceptions could be demonstrated to make sense. But the government does not see why in the course of taking time out you would want to carve out an exemption for wagering when the Productivity Commission report on gambling found that wagering is as harmful as, if not more harmful than, most forms of gaming. Wagering is basically second only to electronic gaming machines in terms of problem gambling. Specific examples in the Productivity Commission report include that the percentage of problem gamblers who prefer wagering as their favourite mode of gambling is far higher than any other single mode of gambling except poker machine gamblers; that the percentage of problem gamblers seeking counselling for wagering related problems is second only to gaming machine players; that about a third of the money lost on wagering is derived from problem gambling and this level of problem gambling loss is second only to gaming machines; that problem gamblers currently lose $½ billion on wagering—more than the combined loss of all other modes of gambling except gaming machines; and that the estimated social cost of problem gambling associated with wagering is somewhere between $267 million and $830 million, which is, again, second only to the multibillion dollar social costs associated with poker machines.

Again, the government takes the view that we should not be trying to exempt certain sections of this bill or activities within this overall area of interactive gaming and gambling services. We ought to put a halt to the whole operation before it gets under way. It is only in an incipient phase, but the time to examine these things is before it builds up to a point where, for all sorts of political and other reasons, it becomes almost impossible to stop. As we know, poker machines and various other forms of gambling simply develop their own strong vested interests. It is very difficult to come along some years down the track and do anything other than offer a bit of counselling or a bit of after sales service. As I have said many times, one of the fundamental weaknesses in the whole harm minimisation strategy is that the tougher you are here, the more you encourage people to go offshore. Again, we think it is entirely premature to somehow discriminate between domestic and offshore. We think that, in the context of a moratorium, it makes sense to put the freeze on across the board. As I understood Senator Harradine, he would want to penalise consumers having access to offshore sites, presumably because we do not have the jurisdictional capability to deal with the suppliers. It seems to me that is probably not a very effective way of doing it. That depends on who you catch and how you would catch them and whether you have police forces charged with the responsibility of knocking on doors.

It is much better to try to get to the root cause wherever possible. If the content is generated in Australia, then clearly there is an obvious point of reference. If there are suppliers, then, again, if they are within the jurisdiction, something can be done about it. If you want to stop people accessing international sites, then my information is that that can be done technically but, again, at the supplier or provider level—not by putting the weights on individual consumers that you might come across but by simply ensuring that they cannot get access. That is the technical solution that would commend itself, and I think it is by far the tidiest. Once again,
I would simply say to Senator Harradine: the time for a debate about who is in and who is out and to what extent should be the moratorium period. The purpose of that exercise is to enable us to debate all of these issues, to make submissions and to generally canvass whatever reports might be tabled in due course that deal with those aspects. But we believe it is premature at this point in time to try to carve up the issue in advance.

Senator LUNDY (Australian Capital Territory) (1.55 p.m.)—I would like to take the minister to task on a couple of critical points. First of all, we talk about the technical feasibility of banning something on the Internet. Senator Alston was quite careful with his words today when he talked about the possibility of banning something on the Internet. Only later did he use the word ‘feasible’. I would like to point out to senators that in fact there is a great difference between what is ‘possible’ to do on the Internet and what is ‘feasible’. I know Minister Alston has found that out the hard way with respect to the government’s erstwhile efforts with the online services bill.

The other issue I would like to point out revisits some of my earlier arguments, which is what this bill is all about. We have just heard over 10 minutes from the minister talking about problem gambling, and yet the bill itself does not seek to address people’s access to interactive gambling sites. It attempts to place a moratorium that affects the operation of new gambling service operators but does not in fact impact upon those who are already operational in the market before the proposed introduction date of this bill of 19 May.

In relation to an issue of compensation raised by other colleagues, I have some specific questions for the minister. We have heard today and previously in the interactive gambling bill inquiry conducted by the IT select committee that a number of the states and territories and indeed private providers have placed on the public record their intention to either seek compensation or to pursue litigation if this bill is in fact passed. Whilst the explanatory memorandum of this bill says that there are no cost implications, I would like to ask the minister if he has specifically explored those. The other issue is what the government is doing behind the scenes. We heard from Senator Chapman in the second reading debate:

The purpose of this legislation is to establish a moratorium against the establishment of any further sites in Australia for the next 12 months while the government examines the feasibility of a ban on Internet gambling—period.

I am still quoting Senator Chapman:

If that ban is feasible and then implemented, at that time access to sites both onshore and offshore, I am sure, would be denied. But this is not the purpose of that legislation.

Let us not live in a dream world here. I am very interested, Minister, if you are in fact contradicting both Senate colleagues, the Prime Minister and indeed officers of the National Office of Information Economy who have said that you are preparing legislation to ban interactive gambling—full stop—and that this moratorium is a pitiful attempt to buy time for that period.

I would just like to close on the basis that we are concerned that the Democrats’ amendments provide no mandate for the government to explore regulation during that three-month period—there is no obligation on the government to do so—and that to introduce any moratorium at this point in time serves absolutely no purpose with regard to problem gamblers in this country and, indeed, persists as being a furphy on the legislative landscape with regard to the Internet. My final point relates to the Internet and its place in Australia at this point in time. It is becoming a very disappointing pattern that the coalition persist in presenting legislation that closes our electronic frontiers to the wider world and makes Australia look to be the global village idiot and are only capable of preparing legislation that rejects the pace of change.

Progress reported.

QUESTIONS WITHOUT NOTICE

Disability Action Plans: Commonwealth Authorities

Senator CHRIS EVANS (2.00 p.m.)—My question is directed to Senator Newman, the Minister for Family and Community Services. Can the minister confirm that the re-
vised Commonwealth disability strategy, released last Friday, was primarily revised because of the Commonwealth’s complete failure to meet the original objectives? Is it true that just 30 out of a possible 202 Commonwealth organisations lodged a disability action plan with the Human Rights and Equal Opportunity Commission as required under the strategy? Can the minister confirm that the revised strategy no longer requires Commonwealth organisations to lodge a disability action plan unless they wish to publicly announce their intention to do so?

Senator NEWMAN—I thank Senator Evans for his question. While the previous strategy may have had some benefits, it did not have as many benefits as we would have liked. Of course, that was a system that we inherited. The government have looked very carefully at trying to improve the opportunities for people with disabilities insofar as they go to accessing employment or facilities or goods and services funded by the Commonwealth. We believe that the Commonwealth needs to lead by example. While we are obviously doing our best to encourage the private sector to take account of the capacities of people with disabilities and give them better access to jobs, facilities, goods and services, et cetera, we must also be taking the lead.

Consequently, when an evaluation was done of the previous strategy, it was clear that, although quite a lot had been achieved, more could be done. In announcing the strategy last week, I was very pleased and impressed by the fact that not only did the secretary to my department—the Department of Family and Community Services—speak at the launch, which one would have expected, of course, but also the Secretary to the Department of Finance and Administration, Dr Peter Boxall, gave a speech. Dr Boxall, for me, put it in a nutshell. He said, ‘We want to see that government agencies are accountable to Australians, and especially to people with disabilities.’

Senator Chris Evans—Well, why didn’t they lodge the plans?

Senator NEWMAN—You are so hung up on structures that you are not listening to what I am trying to tell you. Dr Boxall made it very clear that the important thing about the new strategy is that agencies and the heads of agencies will now, for the first time, be clearly accountable for the actions or inactions of their agency, because in their agency reports they will be required to set goals to be achieved in the ongoing year and to account for how they have met the goals that they have set. Some portfolios, some agencies, are purely policy related, some are providers of goods and services and some are financing activities of government. Here was the Department of Finance and Administration, which is usually regarded by people in Canberra as being the body that keeps an eye on how taxpayers’ money is spent, saying, ‘This gives real accountability.’ In my view, people with disabilities are going to get value for the dollar that is spent. Taxpayers who want to see people with disabilities looked after better in this country will be confident that they can go to the annual reports of each of the agencies, see what goals each agency has set for itself and how it marks the results at the end of the year.

The Merit Protection Commissioner and the Public Service Commissioner will be constantly monitoring how the various agencies perform according to the goals they have set themselves but, most importantly, so will the Australian people and the Australian parliament—estimates committees and the parliament in question time. They will all have a better opportunity to see what has been achieved. Senator Evans is very keen to talk about plans. It is still appropriate for agencies to do action plans if they wish, in addition to the new directions. (Time expired)

Senator CHRIS EVANS—Madam President, I ask a supplementary question. I note the minister confirms that those requirements have been abandoned, but she said in her answer that she was more interested in improving employment opportunities and ensuring that the Commonwealth led by example. Can the minister therefore confirm that the proportion of people with disabilities employed by the Commonwealth has fallen significantly since she has been the minister?

Senator NEWMAN—No, I cannot confirm that and I will not have the senator put-
ting words into my mouth that I did not utter. Regarding the action plans that he is so hung up on, it was made very clear in the launch of the strategy that agencies were still able to launch action plans if that suited them, but they were not obliged to do so. The reason for that is that it had not been as effective a way when people who have the mentality of Senator Evans get hung up on process instead of outcomes. We are concerned to see that the outcomes are greater.

Senator Chris Evans—The outcome is that there are less disabled people working for the Commonwealth.

Senator Newman—For all that Senator Evans will shout about this, the reality is that this government has been working very hard to improve the lot for Australians living with a disability. I am glad that at that strategy launch Mr Innes, the deputy discrimination commissioner, spoke long and effectively about what value this will mean for people with a disability. (Time expired)

Telstra Sale: Natural Heritage Trust

Senator Calvert (2.07 p.m.)—My question is to the Minister for the Environment and Heritage and Leader of the Government in the Senate, Senator Hill. Can the minister inform the Senate of the environmental achievements of the Howard government’s Natural Heritage Trust, and how has the government’s consistent policy approach to Telstra contributed to this success story? Is the minister aware of any alternative policy approaches?

Senator Hill—Yes, the Natural Heritage Trust has been a remarkable success story. Through the trust we have been able to invest $1 billion so far in more than 9,700 projects across Australia, projects to achieve more sustainable agriculture, projects to achieve better conservation. This would not have been possible except that the government kept its promises in relation to the part sale of Telstra. Unlike the Labor Party, the coalition has always been honest and upfront with the Australian people in relation to our plans for Telstra. Before the 1996 election we said we would sell one-third of Telstra and invest $1 billion from the proceeds into a fund for the environment. That is exactly what we did. I remind you in passing, Madam President, of what Senator Faulkner said at the time. He said: ‘It’s now clear to anyone with the most rudimentary understanding of Australian politics that the trust fund will never see the light of day.’ Of course, it did see the light of day. It has been a remarkable success. That is because the government was transparent and honest in its intention to part sell Telstra to provide the capital fund, the basis of the Natural Heritage Trust.

The contrast is with Labor. What are Labor’s intentions in relation to Telstra? They will not come clean. They will not be transparent. They will not tell the truth. Last week we learned that Labor plan to chop up Telstra and flog off parts of it to the highest bidder.

Opposition senators interjecting—

The President—Order! There are far too many people shouting.

Senator Hill—I am comparing political honesty. It is an important issue. What did Labor say in relation to the sale of Qantas? It said it would not sell Qantas. What did it do? It sold Qantas. What did it say in relation to the Commonwealth Bank? ‘Never will Labor sell the Commonwealth Bank.’ What did it do? It sold the Commonwealth Bank. Labor has form. It will sell Telstra. But, to avoid its pledge, it intends to cut it up into pieces and sell off the pieces. Look at the circumstantial evidence. What did Mrs Cheryl Kernot say before she joined the Labor Party? She said: ‘I think Labor in opposition won’t sell Telstra but I am more worried about Labor in government.’ I assume that Mrs Cheryl Kernot, now a frontbencher of the Labor Party, still holds the same view. I assume she believes, ‘Be wary of Labor in government.’ Remember the Bulletin article earlier this year, which said of Mr Beazley: He is against the sale of Telstra but didn’t really used to be and many of his inner circle are convinced he would sell it in office.

Of course he would sell it in office. Remember the Financial Review article in August, with Mr Beazley’s deputy, Simon Crean, which reported—

The President—’Mr Crean’.
Senator HILL—Mr Simon Crean. It reported:
At the same time he is also grappling with contradictory elements of Labor policy such as those relating to the sale of Telstra and the GST. He—
Mr Crean—
goed off the record quite often to express a personal view.
So it is not surprising that, when this latest story broke last week, one of the same journalists from the interview wrote:
Despite this, senior ALP figures have privately admitted Telstra’s ownership structure, with the government owning 15.1 per cent, is untenable.
There is no doubt that that was the off-the-record statement given by Mr Crean earlier.
The issue is important to Mr Crean because he has promised to deliver even bigger surpluses. But where is the money coming from? How can the money be achieved without the sale of Telstra? More honesty from the ALP! (Time expired)

Disability Support Pensioners: Employment

Senator DENMAN (2.11 p.m.)—My question is to Senator Newman, the Minister for Family and Community Services. Can the minister confirm that, of the 655,319 people in receipt of the disability support pension in 1998-99, just 49,285 were assisted into a support or employment program through Commonwealth funded specialist employment programs? Is it true that this represents just 6.5 per cent of the people the government has targeted? In view of the statement of the Minister for Family and Community Services that we focus on places for people with disabilities, not waiting lists, can the minister outline for the Senate when the remaining 93.5 per cent of the people with disabilities will have an opportunity to access the program?

Senator NEWMAN—I think Senator Denman must have left a bit of out of the question. I am not sure exactly what she is referring to. The percentage of people in which program is she talking about?

Senator Denman—I was referring to the disability support pension.

Senator NEWMAN—The bulk of the responsibility over many years for people with disabilities has been to give them a disability support pension and do little or nothing else for them unless it was to put them into sheltered workshops, which the Labor Party tried to close down. Is she talking about disability employment services, which followed up from the sheltered workshops? Is she talking about a number of other pilot programs that this government has introduced to try to improve the opportunities for people with disabilities to get assisted employment? There are several of those. I cannot quite work out what she is asking about. Disability support pensioners are many hundreds of thousands of people. But what is the point of talking about a percentage? Is she talking about a program? Because she did not mention one.

Senator DENMAN—Madam President, I ask a supplementary question. Maybe the supplementary will be more explicit. I did mention a program, Minister. Can the minister confirm that many people with disabilities who have found employment have done so through the subsidised wage scheme, which is currently under review? Can the minister explain why, despite the success of the program, funding has been cut back to such an extent that in my home state of Tasmania just six clients had access to this program in the six months to July this year?

Senator NEWMAN—I am glad to know what exactly it is that Senator Denman is asking about. Funding under that scheme is announced annually. It is allocated annually. The amount that an organisation actually receives depends partly on the number of services that bid for the funds. In consultation with peak industry groups, the method of allocating funds was revised for 2000-01. All open employment services were invited to apply for funds. The revised allocation method distributes funds equitably across services. All new workers are funded, as well as 25 per cent of current workers in the service who may fall out of employment. Under the revised arrangements for this financial year, a wage subsidy unit is $547. Services can negotiate a higher or lower amount with the employer, depending on the circumstances. No service received less than $1,094 under the revised allocation model. In
the time available, I hope you found that useful. *(Time expired)*

**Telstra: Privatisation**

**Senator WATSON** (2.16 p.m.)—My question is directed to the Minister for Communications, Information Technology and the Arts, Senator Alston. What is the government’s position on the further privatisation of Telstra and has the government been consistent in its approach? Is the minister aware of any alternative telecommunications policy positions which impact on the future of Telstra?

**Senator ALSTON**—Thank you, Senator Watson. I think everyone in the country knows where the government stands on this issue. We have been saying it now for probably close to 10 years, and we have been saying it because we know it makes sense. We have studied what has happened around the world. We have talked to Telstra. We have talked to analysts in the marketplace. We know what is going on in the telecommunications industry and there is only one way to go, and the Labor Party knows it. What has happened over the last few days is yet another massive dint in the credibility of the opposition leader. This is weak and gutless leadership at its very best. Here is someone who knows in his heart of hearts what ought to be done, but he does not have the courage to put the national interest first. Instead, he is pandering to his trade union mates. What did he say on *Meet the Press* on Sunday? I have never heard such gobbledygook. He said:

The fact of the matter is we in the Labor Party are opposed to privatisation of Telstra by stealth, and any further privatisation in the mode in which the government has chosen to adopt it.

It is not our mode we are talking about here, it is his mode. What mode was Mr Tanner talking about when he went to see Macquarie Research Equities a few weeks ago? Why is it that Mr Tanner will not come out and say what occurred? Mr Tanner allowed the *Australian* to write an article on the weekend headed ‘Tanner defies Beazley on Telstra privatisation’, because Mr Beazley and Mr Smith both put out releases but Mr Tanner yesterday declined to comment. He was the one at the meeting and he was the one in the best position to say what really occurred, yet he declined to comment. You cannot get anything much more significant than that.

In addition to the shadow minister for finance, who of course would have responsibility for privatisation if Labor ever got into government, who is the single most important person, apart from the putative Prime Minister? It has to be the shadow minister for communications, doesn’t it? What did he do? His spokesman told the *Canberra Times* on Friday that nothing Mr Smith said to the bank would have suggested that he wanted to split up Telstra or change Labor’s existing policy. In other words, the spokesman confirmed that Mr Smith has been separately talking to the bank. Why on earth are these people out there talking to Macquarie equities? They are talking to them because they are desperately exploring ways of getting their hands on large sums of money which they can use to fund election promises. This is the same Mr Smith who has made it clear on a number of occasions that he is certainly not committed to opposition to privatisation. What he said only a matter of 12 months ago was, ‘Before you would contemplate a privatisation of Telstra you might want to ensure that we have a fully competitive telecommunications market.’ No wonder the *Bulletin* magazine said that he could not even persuade his own colleagues that he would not sell Telstra in government.

What we are having here is a game of words. Mr Beazley is saying, ‘We won’t do anything that might conflict with our current policy,’ but of course that does not rule out spin-offs or sell-downs or break-ups—

**Senator Cook**—Oh, come off it!

**Senator ALSTON**—Does it? If Senator Cook is here ruling out any changes at all to the current structure, why on earth are these people visiting investment banks? Why are they doing the rounds? Why did the *Financial Review* report last week that senior Labor Party figures concede privately that Telstra’s structure is untenable? Mr Beazley knows this is costing people real money. He knows that Telstra had to go and borrow in the marketplace instead of being able to issue shares, and that is what is helping to drive
down the price of Telstra. You have analysts all over the country saying that full privatisation of Telstra would benefit Telstra’s share price—(Time expired)

Women With Disabilities Australia: Funding

Senator CROWLEY (2.20 p.m.)—My question is to Senator Newman, Minister for Family and Community Services. Can the minister confirm that in 1999 the Australian Violence Prevention Award, signed by the Prime Minister, was presented to Women With Disabilities Australia for their internationally recognised work in reducing and preventing violence against women with disabilities? Can the minister then explain why her proposed funding model for national peak bodies will make this outstanding organisation ineligible for funding as a peak disability organisation, silencing yet another voice for women?

Senator NEWMAN—As for the final claim by Senator Crowley, let me address that immediately. This government has not silenced the voices of women. In fact, it has for the first time ever funded three national women’s secretariats at the rate of $100,000 a year for three years, each. Never has any women’s organisation by any government been given that certainty and financial stability to make the voices of women heard by government, by the opposition, and by the bureaucracy. So let us not have that nonsense.

As for Women With Disabilities, I agree with Senator Crowley: it is an excellent organisation. In fact, it is so excellent that its former president is now an adviser in my office and gives me very good advice on issues to do with disabilities and with women, as you can imagine. I would say to you also that a discussion paper has been released by my department to look at better ways of funding peak bodies or NGOs, whichever you like to say. This discussion paper was put together by the department after a consultation process was undertaken with the organisations concerned. It is by no means set in concrete; that is why it is a discussion paper. If Senator Crowley wants to make a submission on behalf of Women With Disabilities, I am sure she would be welcome. I do not know whether she can spare the time, but I am sure she might have something useful to say.

Senator CROWLEY—Madam President, I ask a supplementary question. Despite that curious answer, if the government is sincere in its professed aim of enhancing opportunities for economic and social participation for people with disabilities, why is it cutting off funding for an organisation which the government itself has recognised as being pre-eminent in its work for women with disabilities?

Senator NEWMAN—I am afraid Senator Crowley did not listen. I am not saying ‘cutting off Women With Disabilities’. That is Senator Crowley. In fact, there is a discussion paper out which is making suggestions as to how better—

Senator Chris Evans—Whose paper is it? Your paper.

Senator NEWMAN—Can we silence the cocky down the back?

The PRESIDENT—Order!

Senator NEWMAN—Anybody who has held this portfolio before me would recognise the reality that there are a very, very large number of disability groups representing consumers, representing advocates, representing the people with disabilities themselves and their carers, and it is often very difficult for government to hear the mainstream’s voices because so many of these organisations won’t talk to each other, won’t work together, and any government needs to have some sort of balanced and thorough ability to hear non-government organisations. That is exactly what I want to do. I do not want to silence people. (Time expired)

Research and Development: Funding

Senator STOTT DESPOJA (2.24 p.m.)—My question is addressed to the Minister representing the Minister for Education, Training and Youth Affairs. Is the minister aware that since his government came to office, the level of public funding for universities has dropped to just 0.8 per cent of GDP, the lowest level ever? Is he also aware that, between 1991 and 1997, Australia experienced the second largest decline in public investment in tertiary education rela-
tive to GDP in the OECD and that the worst performer in these terms, Canada, still spends 20 per cent more than Australia? Will the minister match the statement made by his colleague the Minister for Industry, Science and Resources last week to spend more on research and innovation to redress this dangerously low level of investment in public education, research and infrastructure?

Senator ELLISON—Firstly, in relation to research and development, I think that the Senate and Senator Stott Despoja need to know that this government, since coming to office, has announced decisions which will increase funding for higher education research through the Department of Education, Training and Youth Affairs by almost $390 million and that will be done by 2004. Australia's higher education expenditure on research in 1998 was $2.6 billion, an increase of 13 per cent since 1996 when this government came to office. So as a proportion of GDP Australia's expenditure on higher education research and development is the fourth highest in the OECD. That is very good news indeed. Those figures state the commitment of this government to research and development, especially in the higher education sector. That is very important and this government believes it to be very important, and that is why we are spending more money in relation to research and development.

Let us look at the facts in relation to higher education. Firstly, undergraduate targets have been exceeded by 6.4 per cent, or over 23,000 places. As well as that, for the year 2000 there are 365,920 fully funded undergraduate places. This is over 14,000 more than in 1996, or an increase, in other words, of four per cent. Those figures speak for themselves. There has been an increase in fully funded undergraduate positions, and that is good news for those Australians who want to embark on a higher education. When you couple that with the figures I have mentioned on research and development, you have a government which is totally committed to developing the higher education sector, providing more opportunity and more expenditure on research and development.

Senator STOTT DESPOJA—Madam President, I ask a supplementary question. I ask the minister to table the figures he was reading or explain the source of those figures. I ask the minister: does he dispute the figures that suggest that based on Australia's gross expenditure on research and development we rank 12th out of 17 reported OECD nations, with only 1.49 per cent of GDP being spent on research and development? Given the minister's claim that higher education places have increased, does he acknowledge that more than 37,000 of those places to which he referred are considered overenrolments and therefore are not fully funded by this government? With the markets marking down the Australian dollar, partly as a consequence of the perception that Australia has not embraced the new knowledge economy, does the minister agree that the government's education funding—or de-funding—strategy has not served Australia's long-term economic future and is in urgent need of a change of tack?

Senator ELLISON—Firstly, in relation to the statistics and figures I have mentioned, they come from the Department of Education, Training and Youth Affairs. They are Commonwealth figures and they are well known. But what Senator Stott Despoja needs to know is that, as a percentage of GDP, expenditure grew by an annual average of 3.4 per cent between 1990 and 1998 in relation to higher education. So there is your percentage increase of GDP. You cannot get away from the figures that I put to the Senate earlier—that there has been an increase in the number of fully funded undergraduate positions available for Australians and that there has been a significant increase in expenditure on research and development in the higher education sector.

Trade: Free Trade Arrangement

Senator COOK (2.29 p.m.)—My question is to Senator Hill, the Minister representing the Minister for Trade. Can the minister confirm that the government's much boasted objective for the ASEAN economic ministers' talks at Chiang Mai last Friday was to get the go-ahead for negotiations on a free trade agreement between the ASEAN bloc and Australia and New Zealand worth $90
billion in economic growth for the region? Didn't the government fail in this objective? Is the Australian Financial Review right in saying:

Mark Vaile came ... looking for a trade trophy. But instead of getting an elephant, he's bagged a mouse, and professes not to see the difference.

Why was the government unable to get support for its proposal?

Senator HILL—I think it is recognised that it is not easy to get free trade agreements with ASEAN countries, particularly at a time of considerable economic flux coming out of the recession of recent times. The Australian position is that a more open market will lead to greater trade and therefore mutual benefits, but to persuade our interlocutors to go all the way has proven to be particularly difficult. Mr Vaile, as I understand it, believed he made significant progress but certainly did not achieve all that was desired. Therefore, in the interests of wanting to maintain a growing economy, of wanting to expand trade with all the benefits that flow from that, we will continue to negotiate and pursue the issue.

Senator COOK—In light of the minister's answer, can he tell me why the government talked up, ahead of the talks, the prospects of getting an agreement? Since you are going to pursue the agreement, what do you propose to do about achieving the agreement, in light of the Chiang Mai debacle? What are you doing that will assure Australians that your neglect of APEC will not result in our vital trade interests in the wider region suffering a similar fate?

Senator HILL—The difference between this government and the previous government is that this government is prepared to give it a go. Labor talked up Asia a lot but did very little in seeking to negotiate agreements that enable the expansion of trade. This government believes that the further opening of trade within our region would be, as I said, of mutual benefit and that therefore it is worth negotiating with the ASEAN states towards that goal. Nobody ever suggested that it was going to be easy. Nobody ever 'talked up' the outcomes, as was suggested by Senator Cook. What is happening is the pursuit by this government of goals that are going to be economically beneficial to Australia, and we will continue along that path. We are proud of the strength of the Australian economy. We are proud of the way that we were able to ride out the Asian economic crisis. We have demonstrated to our Asian partners that we are good for business, that we are a good country to do business with, and we will continue looking for trade opportunities. (Time expired)

Unpaid Work: Statistics

Senator HARRADINE (2.32 p.m.)—My question is to the Assistant Treasurer. Is it a fact that the value of unpaid work in Australia is worth the equivalent of 58 per cent of GDP, and that includes the raising of children in the home? In view of the importance of those statistics, why has the ABS decided not to provide measurements of that activity every five years—as it has done up to now—but to measure that every 12 years?

Senator KEMP—Thank you to Senator Harradine for that question. This is a matter for the Minister for Financial Services and Regulation, Mr Hockey, but I do have a brief here that I think will assist in responding to the question that you have raised with me. The last ABS time use survey was conducted in 1997, and I understand that the next is planned for 2005-06. The ABS appreciates the importance of time use surveys in providing data on a range of population characteristics and, in particular, in providing information to estimate the value of unpaid work. The ABS will continue to include time use surveys in its household survey program. However, the planned frequency reflects the fact that most time use survey patterns change slowly over time. Therefore, the ABS assessment is that the data is used more for descriptive and research purposes than to support policy analysis and development.

Senator Harradine, I am pleased to indicate to you that the ABS is prepared to reconsider the timing and frequency of future time use surveys, based on specific advice as to the key issues and policy questions that the survey would address as well as the particular decisions that the data needs to inform. The ABS has written to the Office of the Status of Women seeking advice on these issues. The ABS has a number of collections
from which data on unpaid family work is available. The 1997 time use survey provides data on domestic child care, voluntary work and care activities. The child-care survey conducted in 1999 collected data on care provided to children under 12 by relatives—either in the same household—for example, siblings—or in another household—for example, grandparents. A survey of voluntary work will be conducted during 2000 and the results will be released in 2001 in conjunction with the International Year of the Volunteer. The ABS produces occasional estimates of the value of unpaid work based on results from the ABS time use surveys, the last of which was conducted in respect of 1997.

Your question, Senator Harradine, is a very timely question indeed: I understand that at 11.30 a.m. tomorrow the ABS will release the most recent estimates in regard to unpaid work and the Australian economy. The publication will contain estimates of the value of unpaid work during 1997, analysed by gender, employment status and marital status. Comparisons will also be provided with the results from a 1992 study of the value of unpaid work. As there is no agreed standard on how unpaid work should be valued, I am advised that the estimates have been produced using a number of different methods. I do not know whether you knew this information was due out tomorrow, Senator, but in view of your particular interest—a very valid interest—I suspect that I may have brought you some good news.

**Rural and Regional Australia: Transport**

Senator MACKEY (2.37 p.m.)—My question is to Senator Macdonald, the Minister representing the Minister for Transport and Regional Services. Does the minister recall his statement on 12 April that ‘the coalition government promised in its package that we would make costs cheaper for those transporting goods in rural and regional Australia’? Can he inform the Senate how much the government claims total transport costs have fallen since the introduction of the GST, and, given that fuel is a large part of rural and regional transport costs, how much has the price of fuel in particular fallen? If the Howard government continues to make these claims, why are people like the truckies and the farmers lobbying the government to provide relief from the tax inspired fuel price rises which are severely eroding their competitiveness?

Senator IAN MACDONALD—I do indeed thank Senator Mackay for that question. It is a rare occurrence, and I do thank her for it. It also allows me to highlight the differences in approach between the coalition and the Labor Party. For transport into rural and regional areas, Senator Mackay, the price of diesel for transport operators, for truck drivers, is some 25c a litre cheaper than it would be under your government. You will remember that Mr Crean went to Rockhampton and we all heard him say on radio in Rockhampton that the Labor Party thought the excise regime as it used to be was just about right. So that means no change from the Labor Party. What this government has done for rural and regional Australians is reduce the price—

Senator Crowley interjecting—

Senator IAN MACDONALD—Senator Crowley, who obviously has absolutely no idea of anything outside Adelaide, does not understand. She yells out about the GST. Sure, Senator Crowley, the GST is imposed on truck drivers, on their fuel, but they get it rebated; they get it back in full. So the actual effect on transport operators working in rural and regional Australia is that their fuel is 25c a litre cheaper than it would be if the Labor Party was in power. I might say that it is a considerable amount cheaper than it used to be before 1 July.

In addition to that, under Labor’s tax scheme, the way Labor approached taxation was that tyres and spare parts had an impost of around 20 per cent wholesale sales tax on the cost. That went on 1 July. It was replaced with the GST. But, because GST is rebatable, because those truckies are in business, they
get that back. So their tyres and spare parts have to be much cheaper.

Opposition senators interjecting—

The PRESIDENT—Order! There are too many interjections.

Senator IAN MACDONALD—I have often heard the Labor Party and Senator Mackay talk about the Blair Labour government, New Labour in Britain. They want to do what the Blair Labour government did. I was in Britain recently, and the price of fuel there is the equivalent of about $2.70 a litre. I assume that is what the Labor Party wants for Australia. I might say that under New Labour in Britain—petrol goes up every regular period by the CPI plus six per cent. That is what the Labour government are doing in Britain. This lot always say that they want to follow the Blair Labour government, so I can warn the people of Australia that the policy of Labor in Australia is CPI plus six per cent, which is what the Blair Labour government is doing.

Senator Mackay asked me how these fuel prices can be better, and I have explained that in detail. Fuel, diesel, for long-distance operators is 25c a litre cheaper. I think Senator Mackay mentioned farmers. For on-road vehicles, Senator Mackay, farmers do not pay excise or the GST. (Time expired)

Senator MACKAY—I was cut off before talking about farmers. Of course they do not pay the excise or the GST on off-road vehicles, their tractors, and certainly on their transport vehicles between 4.5 and 20 tonnes they get that 25c a litre reduction as well. I do not know how simply I can explain this, but prior to 1 July diesel fuel was a certain price. With the new tax system there are rebates in one way or another or refunds of the GST of some 25c a litre. So the fuel, diesel, has to be 25c a litre cheaper on these transport trucks than it was on 30 June and 25c a litre cheaper than it would be if the Labor Party, heaven forbid, were ever in government again. How much simpler can you make it? Senator Mackay, if you were in power, the price of fuel would go up immediately 25c a litre. (Time expired)

Snowy River: Environmental Flow

Senator TCHEN (2.44 p.m.)—My question is to the Minister for Industry, Science and Resources, Senator Minchin. Will the minister advise the Senate what action the federal government is taking to assist in reviving the Snowy River?

Senator MINCHIN—I thank Senator Tchen for his question. Most senators—even those opposite—would be aware that last week there was an historic agreement between New South Wales and Victoria to provide $300 million towards ensuring an environmental flow down the Snowy River. The Commonwealth warmly welcomes this agreement which has finally been reached between New South Wales and Victoria. This is a great outcome for the Snowy River, which was the river system that paid the price for the building of the Snowy Mountains scheme. This is a win-win situation for every interest involved in this issue. It ensures an environmental flow down the Snowy. It allows—from my perspective, most importantly—the corporatisation of the Snowy hydro to proceed and it guarantees maintenance of the—

Opposition senators interjecting—

The PRESIDENT—Order! There are too many interventions.

Senator MINCHIN—As minister responsible for the Snowy corporatisation pro-
cess, I welcome this agreement because it means that corporatisation can now proceed. It guarantees the maintenance of the quality and quantity of water that is going to South Australia. It also protects the position of the Murray-Darling irrigators and it paves the way for additional environmental flows down the Murray River, which is particularly important to senators from South Australia. As the responsible Commonwealth minister, I have worked closely with New South Wales and Victoria over the last 12 to 18 months to achieve this outcome. I have convened a number of meetings involving my New South Wales and Victorian counterparts to progress this matter. I must say that I have found the responsible New South Wales minister, John Della Bosca, particularly frank and honest in his dealings with the Commonwealth. It should be recorded that it is an extraordinary pity that in Australian politics a person of his qualities should be penalised for his honesty and prevented from becoming president of his own party as a result of the honesty which was clearly on display in his dealings with me.

I congratulate the states on this agreement, which the Commonwealth can now formally consider. The Prime Minister and I have indicated that the Commonwealth is likely to respond positively to this, but we must complete the Snowy corporatisation environmental impact statement assessment process before we can respond. I look forward to the advice of the Minister for the Environment and Heritage on this matter. He will provide expert, quality advice before the Commonwealth can make any formal position known. I would hope that our response can be made known by about mid-November to enable corporatisation to proceed early in the new year.

From the Commonwealth’s point of view, it is very important that Murray-Darling water users and the people of Adelaide are reassured that this agreement protects their interests. There has been some concern in those quarters that more water down the Snowy River would be at their expense. One of the great things about this agreement is that that will not be the case. The Commonwealth response will put a priority on using some of the water savings achieved from greater efficiencies to ensure extra flows down the Murray River. Any money provided by us will be directed towards that end. As Senator Hill has rightly reminded us, the Murray River flow, at its mouth, is only 20 per cent of the natural flow, compared with 50 per cent for the Snowy River. So the health of the Murray is critical to us in this process.

I am particularly pleased that this agreement does bring corporatisation of the Snowy Mountains Hydro-electric Authority that much closer. It removes a great deal of uncertainty that has been hanging over the heads of the people of Cooma, in particular, for quite some time and it allows renewable Snowy energy now to be traded competitively in the national electricity market. The Commonwealth, quite properly, welcomes this agreement as allowing the upper Snowy to flow again but in a way that clearly protects the interests of all of those who depend upon the Murray River, most particularly the people of South Australia.

Education: Greenwich University

Senator CARR (2.48 p.m.)—My question without notice is addressed to Senator Ellison, representing the Minister for Education, Training and Youth Affairs. Can the minister confirm that the report of the Gallagher committee examining the bona fides of Greenwich University on Norfolk Island was sent to the Minister for Education, Training and Youth Affairs in August 2000? Why has the report not been released? What is the reason for the delay? When will the report be made public?

Senator ELLISON—I thank Senator Carr for that question in relation to Greenwich University. This is a longstanding issue. Senator Carr is quite right that there has been a Gallagher inquiry into this matter. As to the whereabouts of the report, I will take that up with the minister and advise Senator Carr.

Senator CARR—Madam President, I ask a supplementary question. Minister, are you aware that Greenwich University has recently appointed a new vice-chancellor, a Dr Ian Murray Mackechnie? Is the minister also aware that, according to a report in the Australian newspaper, in 1993 Dr Mackechnie...
was jailed by the Victorian County Court for one year and four months after pleading guilty to embezzling $220,000 from the Anglican charity, the Brotherhood of St Laurence? Will this factor influence the government’s deliberations on the bona fides of Greenwich University? I repeat: Minister, can you give the Senate an undertaking of when this report will be made public?

Senator ELLISON—It would be improper for me to comment on any individual or on any aspect relating to the background of an individual while this matter is being looked at. As I said earlier, there has been a very thorough inquiry into Greenwich University. I will take the matter up with the minister and see at what level the report is.

Kalejs, Mr Konrad: Extradition

Senator GREIG (2.51 p.m.)—My question is to the Minister for Justice and Customs, Senator Vanstone, and relates to Mr Konrad Kalejs, who twice has been found guilty of war crimes and expelled from Canada and the USA in this regard, and who fled Britain to live in Melbourne, ahead of a third investigation into his past. I ask the minister to explain why it is that she is relentless in her pursuit of Mr Christopher Skase, who is, at worst, a thief, yet so reluctant and powerless to pursue those suspected of far more serious crimes? Does the minister concede that Australia’s extradition process is grossly inadequate when dealing with war criminals and that anti-genocide laws are needed here in Australia to better address this very serious issue?

Senator VANSTONE—I thank Senator Greig for his question because it gives me the opportunity to correct a number of misunderstandings which he has been labouring under for some time and which I have noticed in the media and let pass. I say ‘misunderstandings’ to give good faith to the senator. I do not assume that he is deliberately misleading; I simply assume he does not understand. The situation is this: no direct analogy, or even a vague analogy, can be sensibly drawn between Mr Skase and Mr Kalejs. Mr Skase has had charges laid against him in Australia. There was an extradition proceeding with Spain under the previous government, which was lost. Those matters are now proceeding down a different path, with the Spanish government proceeding against Mr Skase on immigration matters.

As to Mr Kalejs and the bold assertion by the senator that I am loath to pursue him, I remind the senator that, on taking this position as Minister for Justice and Customs, one of the first moves I made was to instruct the Attorney-General’s Department to start negotiations with former Eastern bloc countries to establish a proper extradition treaty with them. Another was to get an amendment to the Australian War Crimes Act, which would allow for one hurdle to extradition to former Eastern bloc countries to be removed. That bill was not passed in the first Howard government. It lapsed, was reintroduced and has since been passed unanimously by this parliament. I am somewhat at a loss to understand why the senator does not remember those matters. We have contributed everything to the Latvians that has been asked of us in terms of evidence and have participated in all the pluralateral meetings to discuss the variety of evidence that is held in each country.

I remind the senator that if someone has been convicted of war crimes in one country it does not necessarily mean that they could be in another, because the offences are structured differently. That point I think has been made to the senator in the past. He either does not understand it or seeks to ignore it, but the situation is different. The simplest example I might use is that the other countries referred to do not keep the people there, try them for war crimes there and jail them. They simply use other offences, structured in different ways, which are designed to give them the capacity to rid themselves of those people—to pass them onto someone else—whereas Australia, under the previous government, took the right decision and introduced war crimes legislation that would enable us to try people for war crimes here and put them in jail here, provided that they were personally involved in the commission of the crime. It is in the area of personal culpability that our offences can be distinguished from those of the United States and Canada, and that is why those examples are not particu-
larly helpful. This government is doing ever-
thing it can to ensure that, if a request is
made for a suspected war criminal in Aus-
tralia, it is able to comply with that request,
given the limitations of the Extradition Act.

Senator GREIG—Madam President, I
ask a supplementary question. I thank the
minister for her response, but can she con-
firm that Mr Kalejs has not left Australian
shores? If, as the minister says, the govern-
ment is doing everything within its power to
deal with these issues, why is it the case that
nothing has been done to prevent Mr Kalejs
leaving Australian shores prior to any poten-
tial extradition to Latvia, despite the fact that
the Democrats sought on one occasion to
ensure that his passport be confiscated
should he try to leave Australia prior to jus-
tice being done?

Senator VANSTONE—I take it that,
when the senator says that the Democrats
tried to have his passport taken, he means
that he put out a press release making the
suggestion. The taking of a passport is a
matter for the Minister for Foreign Affairs. I
think the senator should take comfort that
there are extremely limited circumstances
under which the Minister for Foreign Affairs
can take an Australian passport. If he has any
further queries in relation to that matter, I
suggest he refer them to the appropriate
minister.

Non-government Schools: Funding

Senator JACINTA COLLINS (2.56
p.m.)—My question is to Senator Ellison,
representing the Minister for Education,
Training and Youth Affairs. Noting that elite
private schools such as Melbourne Grammar
and Geelong Grammar will receive windfalls
of more than $1 million per annum extra un-
der the government’s new funding model, is
the minister aware that the three small Jew-
ish schools serving the Victorian Orthodox
Jewish community will get nothing from the
government schools bill? Is the minister fur-
ther aware that Victoria’s only indigenous
non-government school, Worawa College,
will receive only $106 per student in extra
funds?

Senator ELLISON—You only have to
look at commentators in the education sector
to realise that the previous funding formula,
the ERI funding formula, brought in by the
previous Labor government was not work-
ing. It was inequitable and unfair, and people
were saying that, so something had to be
done about it. We brought in the socioeco-
nomic funding formula, which is a lot fairer.
It looks at the individual parents and their
backgrounds. In fact, Senator Collins should
look at what commentators in the sector have
said. The Christian Controlled Parents
School said:
The Government is to be congratulated. Low in-
come Australian parents and their families have
been given a real chance to exercise genuine
choice in the education of their children.

This is what this is about—giving choice to
the parents of Australia. We have increased
funding to both the government and non-
government sectors so that those parents can
have that viable choice. Peter Crimmins,
from the Australian Association of Christian
Schools, said that choice in schooling is now
a reality for working class Australian fami-
lies. If that is not enough, Fergus Thomson,
from the Independent Schools Association,
said:
The new funding arrangements will enhance edu-
cational choice for all families and provide im-
proved equity to school funding arrangements.

What we are looking at is a much fairer form
of funding, and looking at the background of
the parents who are making the choice to
send their children to those schools. Senator
Collins ought to realise that 80 per cent of
non-government funding will go to schools
serving low income families. Many of these
families are on incomes of less than $26,000
a year. I repeat: they are on incomes of less
than $26,000 a year. Eighty per cent of non-
government funding will go to schools serv-
ing those low income families.

Labor are trying to create a scare tactic by
picking out the odd school here and there.
They are not looking at the whole picture. In
fact, the other day they talked about Wesley
College and about Kings College, but they
did not look at where the students are drawn
from. Are they drawn from country areas?
Do they come from some areas that have low
SES scores? This is all against a backdrop of
the Commonwealth investing an extra $1.4
billion in government schools over the next four years, taking total funding for government schools to a record $7 billion. That is what this government is about: strong government schools and strong non-government schools so that parents can have a viable choice, especially those parents from lower income areas, just as has been indicated by those independent schools associations.

**Senator Jacinta Collins**—Madam President, I ask a supplementary question. I think the minister referred to country schools; perhaps he can explain why non-government schools in rural areas fare especially poorly under his schools bill compared with the elite private schools. Can the Minister explain the emerging pattern of discrimination and inequity in non-government schools funding under his new SES system?

**Senator Ellison**—There is no discrimination; that is the beauty of the new funding formula: it looks at all parents and their socioeconomic backgrounds. In that context it relies on ABS figures. That is a much fairer formula than the ERI index, which Labor put in place and which was criticised as being inequitable and unfair. When talking about indigenous education, as Senator Collins is, I must say that we have increased funding in relation to indigenous education. An amount of $974 million has been provided over four years, across programs, to increase opportunities for indigenous youth. This, coupled with the new funding formula we have introduced, has brought about fairness and choice for Australian parents.

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

**ANSWERS TO QUESTIONS WITHOUT NOTICE**

**Education: Greenwich University**

**Senator Ellison** (Western Australia—Special Minister of State) (3.02 p.m.)—Madam President, I was asked a question by Senator Carr in relation to Greenwich University and also in relation to the whereabouts of the Gallagher report. I understand that the report is now being sent to the Norfolk Island government for comment. It is understood that, following receipt of these comments, a final report will be submitted to the Minister for Education, Training and Youth Affairs, who will then make a recommendation to the ministerial council of education ministers.

**ANSWERS TO QUESTIONS ON NOTICE**

**Senator O'Brien** (Tasmania) (3.03 p.m.)—Madam President, pursuant to the provisions of standing order 74(5), I seek an explanation from the Leader of the Government in the Senate, Senator Hill, on behalf of his ministerial colleagues, as to why I have not received answers to 92 questions on notice within the prescribed period of 30 days.

**Senator Hill** (South Australia—Leader of the Government in the Senate) (3.03 p.m.)—Madam President, I understand there are some answers overdue. I have noted the list that was provided by Senator Faulkner last week. I am pleased to see that there are not too many questions relating to my own portfolio. Ministers have been made aware of the list and are seeking to respond to the questions in a constructive and positive way. In other words, they are seeking to get answers in as quickly as possible. It is more difficult, of course, when they relate to answers from ministers in the other place but we are doing our best in that regard as well.

**Senator O'Brien** (Tasmania) (3.04 p.m.)—I move:

That the Senate take note of the minister's response.

The first point I should make is, of course, that there are very few questions that relate to Senator Hill's direct portfolio responsibility. I would concede that he and his office have generally dealt with matters for which he has direct responsibility in a timely manner. However, a number of his colleagues have not been able to do so. I would expect that it is predominantly because of a lack of cooperation from their colleagues in the other place.

The next point I make is that nine of the 92 questions relate to the Health and Aged Care portfolio. On 28 August, I wrote to Senator Herron about a number of questions that were outstanding, and indeed I raised...
these matters in the chamber on the next occasion—I think it was on 28 August. The minister advised the Senate on that day that he expected the answers to be provided by the end of that week—that is, 1 September. That was 39 days ago. It is notable that seven of the questions that I drew to Senator Herron’s attention at the time remain outstanding. In other words, notwithstanding the understanding that Senator Herron was given that they would be answered by the end of that week, they in fact have not been answered some 39 days after the date he expected them to be answered by. These were answers expected from the Minister for Health and Aged Care. One of questions to the Minister for Health and Aged Care was lodged 262 days ago. Another question to the same minister was lodged a considerable time ago, some 488 days ago. There is a total of 25 questions on the list that were lodged more than 100 days ago.

It is notable that there are 22 questions to the Minister for Transport and Regional Services. Senator Ian Macdonald has encouraged senators to place questions on notice so I have taken his advice and done so. Unfortunately, there are 22 questions he is unable to provide an answer for. There are 17 questions to the Minister for Employment, Workplace Relations and Small Business—through Senator Alston, who was the Acting Leader of the Government in this place last week—but those answers have not been able to be provided. There is a range of questions on the list, and I will seek leave of the Senate to table the list of 92 questions which remain outstanding, just for the information of the Senate. Obviously, the Minister for Health and Aged Care, having given undertakings about answers to a number of questions through Senator Herron, has failed the test badly, but there are other ministers who have responsibilities to meet the requirement of the Senate for timeliness of answers who have failed. I have highlighted only some of them. I seek leave to table the list of questions.

Leave granted.

**Senator HERRON** (Queensland—Minister for Aboriginal and Torres Strait Islander Affairs) (3.08 p.m.)—Senator O’Brien is correct. On 28 August he asked me to ask the minister to pursue the answers to a number of questions on notice, and I advised the Senate that answers would be provided by the end of the week. A number of answers were provided in that time frame.

**Senator O’Brien**—One.

**Senator HERRON**—Senator O’Brien says ‘one’, and I will not dispute it. The fact is that a lot of the information that Senator O’Brien has sought in a number of outstanding questions, which relate to funding assistance provided in a number of electorates, may be found in electorate profiles provided by the Department of Health and Aged Care, and these are now available in the Parliamentary Library. That information is there. I certainly accept the admonition that Senator O’Brien has given me, and I have asked the minister to expedite the outstanding questions as a matter of priority. He has assured me that the questions will be given the priority they deserve.

**Senator IAN MACDONALD** (Queensland—Minister for Regional Services, Territories and Local Government) (3.09 p.m.)—Senator O’Brien mentioned me in his address. I do not deny that there are some questions outstanding, but I am not aware of any at this stage. Senator O’Brien certainly has not made any approaches to my office for responses—as, for example, Senator Faulkner did some time ago on the fate of responses. I can only assume, Senator O’Brien, that they are questions of the ministers I represent here, rather than questions of me. Senator O’Brien raised the point, and I think it is worth commenting on, that I encouraged him to put questions on notice, and I assume he means at estimates committee hearings. With respect, I agree that at times I do ask people to do that rather than waste the time of senators on occasion.

**Senator Sherry**—It is because you cannot answer them. It has nothing to do with wasting time.

**Senator IAN MACDONALD**—They are usually very technical questions about aviation, and I acknowledge Senator O’Brien has an interest in that. I certainly agree with Senator Sherry: I do not have an answer to
some of the very technical aviation questions that are asked. I simply wanted to mention that we have looked at the statistics in the past and my department has more questions to answer than any other department.

Opposition senators—Oh!

Senator IAN MACDONALD—I can hear the Labor Party feigning concern. The Australian public and senators should be aware of the cost to my department of answering these questions, many of which one would think are quite out of date and do not refer to things that are relevant. My department did an exercise—and I do not have the figures in front of me so I cannot say this specifically—that showed it costs in the range of $60,000 to $80,000 to answer some questions from an estimates committee hearing. We always try to be reasonable, but this is taxpayers’ money going into answering what seems, to the department and to me, to be an inordinate number of questions. I cannot say they are irrelevant, because I do not know the purpose for which they are asked, but one would think that they go beyond what is normally required of senators in following issues through. We want to make senators aware that we will continue to do that, but the cost to the taxpayer of answering bundles and bundles of questions is very high, and the Senate should be aware of the cost to the taxpayer of answering these questions.

Question resolved in the affirmative.

FEDERAL OFFICE OF ROAD SAFETY

Senator IAN MACDONALD (Queensland—Minister for Regional Services, Territories and Local Government) (3.12 p.m.)—by leave—I would like to make a very short statement regarding a return to order passed by the Senate. On 5 October, Senator Harris, with the support of the opposition, successfully moved a motion ordering the tabling of a very large number of documents held by the Department of Transport and Regional Services. The documents relate to an inquiry undertaken on behalf of the department into road dynamics of certain heavy vehicles. The order sought documents by 7 September; however, the motion was not passed until 5 October. I was advised that, in these circumstances, the order is taken to require the presentation of documents on the next day of sitting, and that is today.

I am unable to present any material to the Senate today. As I stated before, there is a very large volume of material covered by the order. I am advised that the material is located in some 36 files and comprises some 5,000 pages covering a 10-year period. I am also advised that, within the very wide range of papers mentioned in the motion, some of the files contain specific material that should not be disclosed for particular reasons. For example, some files include information relating to the personal financial and business affairs of identified individuals, companies’ business affairs, documents covered by legal professional privilege, documents relating to current court proceedings that may be covered by the sub judice principle, and documents relating to the internal workings of government.

It will take considerable time and effort to examine all the documents, particularly in relation to items (j), (k) and (l) of the order, to see which elements of them can be properly put before the Senate. The task will involve the staff and legal advisers working for up to two weeks to meet this request. In addition, a number of files are currently with the Federal Court in Melbourne and will need to be obtained, with the agreement of the court, before the contents can be examined. The Department of Transport and Regional Services will work to respond to the order as soon as is practicable.

Senator O’BRIEN (Tasmania) (3.15 p.m.)—by leave—I move:

That the Senate take note of the statement.

The opposition was not originally minded to support the return to order. We were aware of the work that was involved. We put an alternative proposition to the minister which we thought was accepted—that is, that there be an independent review of the assessment of the heavy vehicle project. We were given to understand that that proposition was acceptable, and that led us to the view that we should not support the return to order. However, late in the piece, we were advised that that was no longer the case—that such an independent review would not take place—
and we were given no option but to support the return to order.

I put that on the record because, in that context, it has to be understood that in some respects the amount of work that is involved in supplying the material was occasioned by the refusal of the government to do what we think was a reasonable thing, given the very public concerns about the heavy vehicle review that is being conducted. Having said that, we concede that it is appropriate that some additional time be allowed for the extensive material to be located, gathered together and presented to the Senate.

Question resolved in the affirmative.

ANSWERS TO QUESTIONS WITHOUT NOTICE

Disability Action Plan: Commonwealth Authorities

Senator CHRIS EVANS (Western Australia) (3.16 p.m.)—I move:

That the Senate take note of the answer given by the Minister for Family and Community Services (Senator Newman) to a question without notice asked of her today, relating to disability services.

I think it is fair to say that the Minister for Family and Community Services failed to provide answers to the questions asked of her today, relating to disability services.

The minister said today in answer to my question that she was more interested in results than process and more interested in ensuring that the Commonwealth led by example. So, in my supplementary question, I asked her about the results and the Commonwealth’s record. An APS statistical bulletin released earlier this year shows that the Commonwealth’s record in terms of employing people with disabilities is one of a drop in the number and percentage of people employed. Under this government, the Commonwealth no longer provides leadership in employing people with disabilities. It is a government whose record shows that there is a declining number and proportion of people with disabilities employed in the Commonwealth. That is this government’s leadership role. That is the measure that the minister invited us to apply when assessing her and her government’s record. So under any measure—be it the disability strategy; be it their own employment record—the Commonwealth’s record in terms of leadership in assisting people with disabilities is a very poor one indeed.

There has been some publicity recently about the mess that is the situation with the HREOC Disability Commissioner. The government was finally embarrassed into giving another temporary extension to the acting Disability Commissioner because the government has not brought the legislation on in this place which seeks to abolish that position. I suspect the reason that the government has not brought that legislation on is that that section, at least, will be defeated. I understand that the minors and the Democrats, like Labor, will be opposing the abolition of the Disability Commissioner’s role. That is because we think there is a real role for a rights framework for people with a disability. There is a real role for a specialist disability commissioner in the Human Rights and Equal Opportunity Commission. The government is alone in advocating that that position ought to be abolished.

While the Minister for Family and Community Services goes on with her rhetoric about how much she cares and how much she is doing for people with disabilities, if you look at all the objective measures of the
government’s performance you see a government trying to downgrade the rights framework, a government not committed to providing employment opportunities for people with disabilities and a government, in its own purview, within its own departments, not committed to ensuring higher standards and not committed to making sure its own departments provide employment opportunities.

We hear a lot from the minister about mutual obligation for people with disabilities, but what we do not hear a lot from her about is the Commonwealth meeting its obligations to people with disabilities. Senator Denman asked a question about the people on the disability support pension who want to access employment programs but cannot, about the freeze that has been put on accessing those programs. That is a genuine concern about the Commonwealth’s own role, and the minister does not seem to have any grasp of that issue. She is not able to explain why it is that people are not able to access employment programs. The minister talks of trials. That is all we get from her—more and more trials—and, when we have a successful trial, that is abandoned and we have another trial.

There is no disability policy from this government, other than to remove the framework of rights that Labor established and to deny opportunities while talking about mutual obligation. I have not yet met a person with a disability who was not keen to get employment, who was not trying to get the opportunity to seek employment. All the government wants to talk about is mutual obligation in the framework as if people with a disability are not interested in seeking to enter the work force. It is quite the opposite: they are not being given the opportunities or the assistance to make those efforts. (Time expired)

Senator Patterson (Victoria—Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs and Parliamentary Secretary to the Minister for Foreign Affairs) (3.21 p.m.)—I find Labor’s record on this, and their attempt to dismiss what Senator Newman and the government have done for disability services, absolutely hypocritical. Senator Chris Evans was not here when the Labor Party were in government and did not have the opportunity to see the appalling treatment that was given to people with disabilities. I start first of all by saying that the minister responsible, Minister Howe, under the then Labor government, had a policy of closing down what were then called ‘sheltered workshops’—now called ‘disability business enterprises’. I went to business enterprise after business enterprise around Australia, particularly in Victoria, where parents and providers were in tears because they were not allowed to—and I will use the word that Labor used; a dreadful word—‘backfill’, which means that when a person with a disability was found work in open employment they were not permitted to put somebody into that place. The aim was basically to close down most of the services unless they could reach an unattainable standard.

The Labor government had to back down. It was one of the most compelling times in this chamber. There are not many times when you see a debate change policy. When I spoke on how the Labor Party were not employing people with disabilities in government services and how their numbers were decreasing, the Labor Party actually said that almost all people were able to be employed in open employment and that they were going to close sheltered workshops. I got up and spoke on the figures. I said that federal government departments had decreased the number of people with disabilities. Senator Flo Bjelke-Petersen got up and talked about what an organisation, which she was a patron of, was doing in Queensland, and then Senator Herron got up and asked a question about what was going to happen to his daughter who was severely disabled, and who unfortunately has since died, when her sheltered workshop shut down. Senator Tate, His Grace, was absolutely embarrassed and pursued the advisers. I remember that he leant across to the advisers and said, ‘Have you been to this place?’ They said, ‘No.’ He said, ‘Well, get something done and fix it up.’ Labor backed down on that policy. It is one of the few times when I think a debate in this chamber changed policy.
It was a very good question that Senator Herron asked. Labor had an appalling record. They let a contract to publicise the disability reform package, and the company given the contract at the time was balance sheet insolvent. People with disabilities were left unpaid, the groups that had been contracted to work for this company were left unpaid, tax was not paid by the company, and the company did not complete its contract. So to come in here and bleat about what this government has done about people with disabilities is just hypocritical when you see what Senator Newman has been able to achieve. Unlike Labor, the coalition has delivered $150 million from the Commonwealth towards the important issue of unmet need. Unlike Labor, the coalition has delivered better employment assistance services and, through changes to the Commonwealth Rehabilitation Service, which provides employment related rehabilitation, the coalition has provided a more responsive service. I have not got time to tell you the myths that Ms Macklin has put around about what we were going to do about the Commonwealth Rehabilitation Service. I have spoken about that before.

We have actually seen a significant improvement in disability employment assistance. There has been a 20 per cent increase in the number of people with disabilities placed and supported in employment through Commonwealth funded disability employment assistance services between 1995 and 1998. These services were in disarray when Labor were in government, but we have seen a 20 per cent increase. One of the other things we have done—and I remember being in the chamber when the Labor Party opposed this and then came around to it—is that we have given funding to carers of children who are profoundly disabled, enabling about 980 parents of profoundly disabled children to access a carer payment for the very first time. Labor were about to oppose it, then they finally caved in because they wanted to extend the categories. But never had there been a carers allowance for people looking after incredibly disabled children. Carers are allowed to take up to 63 days respite in a year and still remain eligible for their payments. To come in here and say that we have not done things for people with disabilities is an absolute furphy and is a misrepresentation of the case. Labor ought to go back and look at their own record, because when they were in government it was appalling and people with disabilities were being treated abysmally.

Senator CROWLEY (South Australia) (3.26 p.m.)—I wish Senator Patterson would listen to her own words. It is important that we tell the whole story and the accurate story. What you have just done by criticising the way the Labor Party acted in government was to tell a very insufficient story.

Senator Patterson—You closed down sheltered workshops, Rosemary.

Senator CROWLEY—Yes, a lot of the sheltered workshops were closed because they were nothing more than formidable exploitation of workers, particularly people with disabilities, who were being treated in an appalling way. It is also true to say that, on balance, you would like to think that we did not close those workshops simply to deny people with a disability jobs. What was being done—and you rightly remind us that it was being done by Minister Brian Howe—was to try to provide a much fairer, a much better and a more decent working opportunity for people with a disability. In many cases that succeeded. I also appreciate the point that sometimes governments can go too far, and I would have thought that, if we had to agree with what you said—and I think we do—and if there was a change of policy so as to make sure that not all people who used workshops were denied access to those sheltered workshops, that was a very right and proper thing to do. The reason for doing it in the first place was to try to make sure that people with a disability had access to some kind of reasonable job and reasonable pay and that they were not being exploited through some of the sheltered workshop arrangements.

Just the same, it is right and proper for us to say that at the moment the government is getting it very wrong about disabilities and, I think, more particularly, about women with a disability. I want to pick up on the question and answer related more particularly to my area. I asked the minister about Women with
Disabilities Australia, an organisation that has achieved tremendous things for people with disabilities and an organisation where the spokespersons are women with disabilities. It has 2,000 members, including 600 organisations; uniquely, it is run by women with disabilities for women with disabilities. In 1999 it received the Australian Violence Prevention Award. The work that it has been doing is so good that it is being used as a model for best practice internationally. It has particularly looked at the way people with a disability—and particularly women with a disability—have been subject to a variety of types of domestic violence. This is really beyond the ordinary campaign against domestic violence that the Labor government started and the Liberal government continues. Certainly, it was recognised for the extreme need to address expansion of the issues around violence against women with disabilities. In fact, it was not, first of all, included in the project ‘Under partnership against domestic violence’. What the women did was to negotiate so as to expand the definition of ‘domestic’ to encompass the various domestic arrangements for people with disabilities, such as group houses and boarding houses. They also campaigned to fund and implement a fourth national project dedicated to researching the issue of violence against women with disabilities and to develop information resources on domestic violence for people with disabilities in Australia.

The question to me is: why is an organisation that has been honoured by the Prime Minister and honoured internationally in jeopardy of losing its funding? Under the current arrangements, it is about to be unfunded. It will cease to get any money at all. Why would you stop funding an organisation that has been so honoured and so successful? It is because of a peculiar policy in the government to cease funding many women’s organisations, to try to fund a couple of peak organisations and to mainstream—as they call it—funding for women. Most of us who fought for rights for women know that it is far too early to be mainstreaming—as it is called—women’s issues. They are not set solidly in the community. Sometimes women’s organisations that lose their funding fade out very quickly and the rights and services that people are campaigning for for women are lost very quickly. When an organisation has been so successful, why would this government use their strange way of realigning the funding under the Office of the Status of Women for women’s organisations? Why would they put in jeopardy an organisation which they themselves acknowledge has been so good and which has done such wonderful things for women—which has been a voice for women and a voice for women with disability? To my mind, it is not unlike what the government have done with the Equal Opportunity Commissioner and the Disability Commissioner. They do not like it.

Senator EGGLESTON (Western Australia) (3.31 p.m.)—Like so much of what the Labor Party has to say in this chamber, very little of what has been said this afternoon about disability has had anything to do with the truth or the way the Labor Party conducted its policy.

Senator Crowley—you’re not calling me a liar, are you, Senator?

Senator EGGLESTON—I would never call you a liar, Senator. I would simply say that you were not presenting the facts as well or as accurately as you might.

Senator Crowley—that’s just terrible.

The DEPUTY PRESIDENT—I would be careful and address the chair: ignore the interjections.

Senator EGGLESTON—Senator Evans said that the number of disabled people offered jobs within the Commonwealth under this government has fallen dramatically. Yet the facts of the matter are that there has been a significant improvement in the amount of disability employment assistance offered by this government. In fact, there has been a 20 per cent increase in the number of people with disabilities placed and supported in employment through Commonwealth funded disability employment assistance services between 1995 and 1998, the period of this government. That makes the point that I opened with—that is, the real facts have not
been presented in the most accurate way that they could have been.

There is no doubt that the government is very concerned about providing better disability services to people in this community who are disabled and a great deal has been done to help them. Basically, this government has sought to streamline the mechanisms that are available to disabled people and to simplify the access that they have to jobs. That needed to be done because, under the previous Labor regime, the whole system of providing services to disabled people was very complicated and difficult. There was a confusing set of rules and regulations and it was very hard for people with disabilities to find their way through them.

The Howard government announced, in its first budget after gaining office, a broad reform agenda for disability employment assistance and rehabilitation services. At the time of that first budget in 1996, the Howard government articulated its vision to enhance job seeker access, choice and employment outcomes for disabled people, to make funding arrangements more equitable and to provide employment assistance to as many people as possible with existing funding and to promote flexibility and innovation. These were all important goals in view of the rather confusing and difficult bureaucratic arrangements which existed under the Labor government, which certainly did not have any feeling or sensitivity for the needs of disabled people and the need for a simpler system to be put in place. The Howard government’s vision, put simply, was to provide people with disabilities with more opportunities to participate in the economic and social life of the Australian community and to achieve better outcomes for individuals.

The government’s strategies to achieve this vision involved an independent eligibility assessment and referral process, which is a very good thing to have done, a new quality assurance system—again important—and to have funding linked to individual needs and outcomes and contestability for rehabilitation services. An independent reference group on welfare reform was set up to reinforce this focus on participation outcomes.

Work on the employment assistance reform strategies has proceeded under this government. Many senators would be aware of the community consultations that have already taken place and which have led to the formulation of better employment policies and access—leading, among other things, to the 20 per cent increase in the number of people with disabilities placed and supported in employment through Commonwealth funded disability and employment assistance services under the life of the Howard government—and better linking of funding to individual needs. That is an excellent record indeed.

Senator DENMAN (Tasmania) (3.38 p.m.)—Most of us know that the Paralympic Games commence next week. It is an event that celebrates the courage of those with disabilities. I have been told that it is a very humbling experience to have the privilege of observing the courage of the disabled who participate in those games, and I am sure we all wish them well. However, most of the time people with disabilities are not seen and their plight is not acknowledged. An example of this would be the cuts to the supported wage system. The answer given by Senator Newman is not satisfactory. This is not just an issue about waiting lists. The supported wage system is important, not just in providing adequate variety for those with disabilities but also in giving respite to the carers who so diligently cater for their needs.

A few months ago, a constituent came to see me in my office. Her son had benefited as a result of the supported wage system. She was distressed, as cuts to the system would mean that her son would no longer receive assistance in his work capacity. She was worried not only about the lack of work and what that would do to his self-esteem, but also about how she would cope with a reduction in respite as a result of her son missing out. The respite she received when her son was at work allowed her to do the family shopping, pay the bills and, if there was any time left, grab a few quiet moments for herself during the week. It is easy to see that the loss of that time would impact not only on her son but also on the quality of their family life. Having spent quite a lot of time with my daughter, who is a manager of
one of the respite disabled and accommodation disabled centres in Sydney, I appreciate the need for people to have respite.

Fortunately, because of advances in medications and medical services, those with disabilities are living longer and the commitment to the continuation of any work program is vital. It gives disabled people social contacts which they do not always have, particularly the disabled who are being cared for at home and who do not have employment. Their social contacts are very limited. It is vital for them to continue to have those social contacts. It is important that we encourage disabled people—and provide the necessary funding—to work for as long as possible, for their self-esteem and for the social contacts that work provides as well. Most disabled people have to retire much earlier than other people, but we need to encourage them to stay in the work force as long as possible. If the funding is not there, it is just not possible for them to do that.

Some agencies are running at deficits to accommodate the needs of their clients. That is not because they are inept. Rather, they are trying to meet the needs of the disabled person and also community demand. In some cases, the deficit is close to $3,000 a client. This is an untenable situation. We have to look at where our funding goes and provide more funding for these programs, not cut back on funding. I will digress a bit here. I joined the Labor Party in the late 1970s. The reason I joined was that I was involved with a family day care centre, and that centre was unable to take children with a disability into care while their mums—and it was normally the mums—had a break. Fortunately, since then life has moved on. It is now possible for people who have children with disabilities to leave them in family day care and those sorts of supported situations. But the families of disabled persons who are living to be older, and who have no money to support them, are going to go through the same dilemma—(Time expired)

Question resolved in the affirmative.

Research and Development: Funding

Senator LEES (South Australia—Leader of the Australian Democrats) (3.41 p.m.)—I move:

That the Senate take note of the answer given by the Special Minister of State (Senator Ellison), to a question without notice asked by Senator Stott Despoja today, relating to public funding of universities.

I want to begin by looking at some of the figures that the minister used. Either his brief is way out of date—12 or 18 months at least—or he really is left defending the indefensible. If you look at the Commonwealth’s commitment to the funding of universities and go back to when it rolled in the colleges of advanced education, the CAEs, the Commonwealth took full responsibility for the funding of universities. The level of funding has fallen from 1.6 per cent of gross domestic product to a new low of 0.8 per cent. In other words, it has halved as a percentage of our gross domestic product.

Indeed, over the 25 years of Commonwealth responsibility for funding universities, funding has averaged around one per cent to 1.5 per cent. It was up around that level as late as 1993-94. Had university funding been maintained at that level until now, we would have seen just over $2 billion going into our universities. Where the minister got those extraordinary figures from I am not sure, but perhaps he could mention it to his officer. His brief needs some updating.

Australia’s total spending on education has shrunk since 1995 from five per cent of our gross domestic product to 4.2 per cent. Very few countries in the OECD are spending less than that. The OECD-released Science and Technology and Industry Outlook showed that, while two-thirds of countries increased business spending on research and development, Australia recorded the second steepest decline in its spending. It is, therefore, no surprise that the market has concluded that Australia is generally a bad investment and that we are not serious about being part of the new knowledge based economy. One can find no sense in this. The minister has been left defending the indefensible. The extreme short-sightedness of these cuts is sending a very bad message to the rest of the world about Australia’s interest in the future, particularly the future of our young people, and in how we are planning to restructure our economy.
I think, looking also at our bulging foreign debt, particularly our current account deficit, there is no surprise at all that our dollar is being marked down, not just against the US currency but indeed against a very large basket of currencies. If the government does not believe that Australia’s economic future is important enough to invest in, why should investors from other countries take any interest in Australia and Australia’s future? This is why the Democrats have called for a national summit to get together people from varied interest groups. We want it not to be dominated by any one group, organisation or political party, but to be a truly cross-party summit that allows business, those in academia who are interested in the issue and also the unions to sit down and look at where this country is going and where it should be going, particularly looking at this government’s obsession with paying off the public sector debt while at the same time our current account deficit seems to be something of very little interest to people.

If we do sit down around a table, we should also take on board what other smaller nations, such as Ireland and the Netherlands, have been doing, how their planning has been going, what they have done to make sure that they are part of a future that is very much involved in technology and innovation, to look at where Australia is falling behind and to then look at setting goals and priorities for where this country should be going, particularly looking at research and development. As I have said, if the government really is relying on these figures that Senator Ellison produced to the Senate today, no wonder its policies are so far off target and off beam. I really do hope that all parties will agree to sit down around a table and discuss these issues, not committing anyone to anything but simply airing the issues.

(Time expired)

Question resolved in the affirmative.

PETITIONS

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

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

The petition of the undersigned shows that we oppose government interference in the Internet, and believe that adults have the right to see, read, and display what they wish on-line.
We believe that censorship of the Internet is a violation of freedom of speech, and that it is the role of parents and guardians to monitor the use of the Internet by children, and not the role of the State.
Your petitioners ask that the Senate repeals current Internet censorship legislation and passes new legislation to keep the Internet free from future government interference.

by Senator Greig (from 336 citizens).

Non-violent Erotica
To the Honourable the President and Members of the Senate assembled:
The petition of the undersigned shows that we support legislation to introduce Non Violent Erotica as a labelling category for sexually explicit adult materials, and to do away with the current and outdated ‘X’ classification system.
Your petitioners ask that the Senate should pass the Classifications (Publications, Films and Computer Games) Amendment Bill (2) 1999.

by Senator Greig (from 343 citizens).

Uranium: World Heritage Areas
To the Honourable the President and Members of the Senate in Parliament assembled.
The petition of the undersigned strongly opposes any attempts by the Australian Government to mine uranium at the Jabiluka and Koongara sites in the World Heritage Listed Area of the Kakadu National Pak or any other proposed or currently operating site.
Your petitioners ask that the Senate oppose any intentions by the Australian Government to support the nuclear industry via any mining, enrichment and sale of uranium.

by Senator Lees (from 22 citizens).

Petitions received.

NOTICES

Presentation

Senator Chris Evans to move, on the next day of sitting:
That the Child Care Benefit (Breach of Conditions for Continued Approval) Determination 2000 and the Child Care Benefit (Eligibility of Child Care Services for Approval and Continued Approval) Determination 2000, made under subsections 200(5) and 205(1), respect-
Immediately, of the *A New Tax System (Family Assistance) (Administration) Act 1999*, be disallowed.

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

That the Civil Aviation Amendment Regulations 2000 (No. 3), as contained in Statutory Rules 2000 No. 204 and made under the *Civil Aviation Act 1988*, be disallowed.

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

That the Senate—

(a) notes:

(i) that a recent publication called ‘The Brandis Briefing - A Quarterly Newsletter from Senator George Brandis’ includes a list of parliamentary and backbench committees to which the new senator from Queensland has been appointed,

(ii) that Senator Brandis claims to have been appointed to the Joint Standing Committee on Electoral Matters, and

(iii) that the most recent membership list of parliamentary committees, as published in the Senate Notice Paper of 9 October 2000, does not include Senator Brandis’ name as a member of the Joint Standing Committee on Electoral Matters;

(b) in light of Senator Brandis’ public claim to membership, requests that the Clerk of the Senate urgently investigate who is responsible for this clear omission in regards to the membership records of an important parliamentary committee; and

(c) requests that the Clerk of the Senate:

(i) urgently take appropriate action to remedy this omission from the membership list, and

(ii) urgently examine the list of committee memberships as published by Senator Brandis in order to ensure that there are no further omissions from the Parliament’s official committee membership records.

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

That the time for the presentation of the report of the Environment, Communications, Information Technology and the Arts References Committee on matters specified in paragraph (c) of the terms of reference for the inquiry into online delivery of Australian Broadcasting Corporation material be extended to 29 March 2001.

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

That the Senate—

(a) notes the awareness that Mental Health Week gives to improving community attitudes towards mental health issues;

(b) notes that some of the major aims of Mental Health Week are:

(i) promoting early detection and prevention of mental illness,

(ii) expanding the focus on depression and anxiety,

(iii) promoting a more integrated system of health care, linking other stakeholders such as general practitioners and housing providers,

(iv) raising community awareness that mental health issues affect people of all ages,

(v) promoting more community care and fewer stand-alone psychiatric hospitals, and

(iv) increasing consumer and carer participation in decision-making and advocacy; and

(c) supports Mental Health Week for informing the public and widening the community awareness of surrounding issues.

**Senator Lees** to move, on Monday, 30 October 2000:

That the following bill be introduced: A Bill for an Act relating to the human rights and fundamental freedoms of all Australians and all people in Australia, and for related purposes. *Australian Bill of Rights Bill 2000.*

**Senator CAL VERT** (Tasmania) (3.48 p.m.)—On behalf of Senator Coonan, on behalf of the Standing Committee on Regulations and Ordinances, I give notice that on the next day of sitting I shall withdraw four notices of disallowance, the full terms of which have been circulated in the chamber and which I now hand to the Clerk.

*The list read as follows—*

**Three sitting days after today**

Business of the Senate — Notice of Motion No. 2. Instrument No. CASA 06/00 made under regulation 152 of the Civil Aviation Regulations 1988.
Seven sitting days after today
Business of the Senate — Notice of Motion No.
1. Determination PIB7/2000 made under Schedule 1, paragraph (bj) of the National Health Act 1953

Eleven sitting days after today
Business of the Senate — Notices of Motion Nos.
1. Hearing Services Providers Accreditation Scheme Amendment 2000 (No.1) made under subsection 15(1) of the Hearing Services Administration Act 1997

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

The correspondence read as follows—
Instrument No. CASA 06/00 made under regulation 152 of the Civil Aviation Regulations 1988
22 June 2000
The Hon John Anderson MP
Minister for Transport and Regional Services
Parliament House
CANBERRA ACT 2600
Dear Minister
I refer to Instrument No. CASA 06/00 made under regulation 152 of the Civil Aviation Regulations 1988, that sets out the specifications in accordance with which members of the Australian Parachute Federation may conduct parachute descents.
Paragraph 4.8.13(a) lists three factors, which cumulatively will render a tandem endorsement not to be current. The three factors are that the person has (a) made fewer than 50 descents as Tandem-Master; (b) not carried out 3 tandem descents within the previous 90 days, and (c) not carried out one tandem descent within the previous 30 days. This appears to be inconsistent with paragraph 4.10(c), under which an APF member who has made fewer than 50 tandem descents may make a tandem descent with a student parachutist, provided that the member has carried out either 3 tandem descents within the previous 90 days, or one tandem descent within the previous 30 days. If an APF member has fulfilled only one of those alternative requirements, his or her tandem endorsement is rendered non-current by paragraph 4.8.13(a), and yet paragraph 4.10(c) does not forbid the person making a tandem descent with a student parachutist. If, on the other hand, paragraph 4.10(c) is read as subject to the requirement that the APF member hold a current tandem endorsement, then the paragraph appears to be unnecessary, as the conditions for currency of the endorsement are more stringent than the requirements of paragraph 4.10(c).
The Committee would be grateful for your advice as soon as possible but before 17 August 2000 when disallowance action may be initiated.
Yours sincerely
Helen Coonan
Chair
Senator Helen Coonan
Chair
Standing Committee on Regulations and Ordinances
Parliament House
CANBERRA ACT 2600
13 September 2000
Dear Senator Coonan
Thank you for your letter of 22 June 2000 concerning Instrument No. CASA 06/00 made under regulation 152 of the Civil Aviation Regulations 1988 that sets out the specifications in accordance with which members of the Australian Parachute Federation may conduct parachute descents. Your letter was referred to the Civil Aviation Safety Authority (CASA) for advice. I have now received CASA’s response and am able to address the issue you raise. I very much regret the delay in replying.
The Committee has requested clarification of paragraphs 4.8.13(a) and 4.10(c) of the instrument.
CASA has expressed its thanks to the Committee for identifying the raised inconsistency and bringing it to the attention of the Authority. CASA has advised that the inconsistency was due to the material being carried forward without change from the previous instrument.
To address this inconsistency, CASA has undertaken to redraft the instrument, and work has commenced to this end. CASA expects to issue a new instrument by October 2000.
Yours sincerely
JOHN ANDERSON
Determination PIB7/2000 made under Schedule 1, paragraph (bj) of the National Health Act 1953
17 August 2000
Monday, 9 October 2000

The Hon Michael Wooldridge MP
Minister for Health and Aged Care
Parliament House
CANBERRA ACT 2600
Dear Minister

I refer to the Determination No. PIB 7/2000, made under paragraph (bj) of Schedule 1 to the National Health Act 1953, that amends a determination made on 15 May 2000 to ensure that it operates prospectively and not (as had been the case) retrospectively.

The Explanatory Statement puts the view that ‘while s 48A of the Acts Interpretation Act 1901 appears to prevent the determination on 15 May 2000 from being remade, it does not appear to prevent the determination made on 15 May from being amended’. The Committee would appreciate receiving further information on the basis for this view.

The Committee would be grateful for your advice as soon as possible but before 31 August 2000 when disallowance action may be initiated.

Yours sincerely
Helen Coonan
Chair
Senator H. Coonan
Chair
Senate Standing Committee on Regulations and Ordinances
Parliament House
CANBERRA ACT 2600

Dear Senator Coonan

Thank you for your letter of 17 August 2000 concerning Determination No. PIB 7/2000, made under paragraph (bj) of Schedule 1 to the National Health Act 1953, that amends a determination made on 15 May 2000 (Determination No. PIB 6/2000) to ensure that it operates prospectively.

You requested further information on the statement in the Explanatory Statement to the effect that section 48A of the Acts Interpretation Act 1901 (the AIA) prevented Determination No. PIB 6/2000 from being re-made, but did not prevent Determination No. PIB 6/2000 from being amended.

Determination No. PIB 7/2000 made one small amendment to Determination No. PIB 6/2000. It changed the date that Determination No. PIB 6/2000 was to take effect from 16 February 2000 to 14 June 2000.

As I previously advised in response to your letter of 29 June 2000 concerning Determination No. PIB 6/2000, my Department took this course of action on the advice of support staff of the Senate Standing Committee on Regulations and Ordinances.

In a telephone conversation on 7 June 2000, my Department consulted support staff of the Senate Standing Committee on Regulations and Ordinances about this matter. Following consultations between the support staff and the legal adviser for the Committee, my Department was advised that section 48A of the AIA does not prevent all regulations relating to the original regulation from being made. It only prevents regulations that are the “same in substance” as the original regulation from being made. My Department was advised that section 48A of the AIA would prevent Determination No. PIB 6/2000 from being re-made but that section 48A of the AIA would not prevent a new determination that amended the date of effect of Determination No. PIB 6/2000 from being made.


With kind regards,
Yours sincerely
Dr Michael Wooldridge
14 September 2000

Hearing Services Providers Accreditation Scheme Amendment 2000 (No.1)

Hearing Services Rules of Conduct 2000

17 August 2000

The Hon Bronwyn Bishop MP
Minister for Aged Care
Parliament House
CANBERRA ACT 2600
Dear Minister

I refer to the Hearing Services Providers Accreditation Scheme Amendment 2000 (No.1) made under subsection 15(1) of the Hearing Services Administration Act 1997, and the Hearing Services Rules of Conduct 2000 made under subsection 17(1) of the Hearing Services Administration Act 1997,
Hearing Service Providers Accreditation Scheme Amendment 2000

Item 3 of Schedule 1 inserts a new subsection 6(5) which makes a decision to accredit an entity conditional on the entity not providing false or misleading information to the Commonwealth in connexion with the accreditation scheme or the provision of hearing devices to voucher holders. The Committee would appreciate your advice as to whether it is intended that this imposes a form of strict liability on the entity or whether the condition is intended to apply only to the intentional or careless provision of false or misleading information.

Hearing Services Rules of Conduct 2000

Rule 5 provides that a contracted service provider must not refuse or fail to supply hearing services to a voucher-holder unless ‘it is reasonable to do so’. Rule 13 provides that a contracted service provider must ‘take reasonable steps’ to ensure that a voucher-holder’s consent to the supply of services is informed. Rule 16 provides that a contracted service provider must ‘take reasonable steps’ to ensure that a voucher-holder understands the effect of and liability arising from a document which is to be signed by the voucher-holder. Rule 17 provides that a contracted service provider must give the voucher-holder any information the contracted service provider ‘reasonably believes the voucher holder reasonably needs’. Rule 36(2) provides that a contracted service provider must not recommend a top-up device (as defined in rule 3(5)) to a voucher-holder unless ‘it considers on reasonable grounds’ that the device will meet the voucher-holder’s hearing rehabilitation needs in an appropriate way. The Committee is concerned that the reliance on a standard of reasonableness in each of these rules offers little guidance to contracted service providers and consequently an uncertain level of protection for voucher-holders. The Committee would therefore appreciate your advice as to whether some guidance could be included in the Rules to clarify the requirement of reasonableness in these situations.

Rule 31 provides that the Minister may refuse to approve or register a person if the Minister is satisfied that the person should not perform hearing services to voucher-holders. Rule 34 provides that the Minister may revoke an approval or registration. The Explanatory Statement does not advise whether these decisions are decisions made under the accreditation scheme and therefore subject to reconsideration under section 29 of the Hearing Services Administration Act 1997 and reviewed under section 35 of that Act. The Committee would appreciate your advice on this matter.

Rule 38 deals with complaints procedures established by a contracted service provider. The Rule does not specify what procedures apply if the complaint is not resolved to the satisfaction of the complainant. As such, the Committee would appreciate your advice on this matter and in particular whether any further procedures are envisaged and, if so, whether they are to be specified in the Rules.

The Committee would be grateful for your advice as soon as possible but before 7 September 2000 when disallowance action may be initiated.

Yours sincerely

Helen Coonan
Chair

Senator Helen Coonan
Chair

Standing Committee on Regulations and Ordinances
Parliament House
CANBERRA ACT 2600

Dear Senator Coonan

Thank you for your letter of 17 August 2000 concerning the Hearing Service Providers Accreditation Scheme Amendment 2000 (No. 1), and the Hearing Services Rules of Conduct 2000.

Hearing Services Rules of Conduct 2000

I have noted your comments regarding the inclusion of reference to a standard of reasonableness in the obligations imposed on approved providers in Rules 5, 13, 16, 17 and 36(2). The Committee asks whether some guidance could be included in the Rules to clarify the requirement of reasonableness in the relevant situations.

The Committee would be aware that reference to a standard of reasonableness has a long history in common and statutory law. I am informed that in the statutory context there are relatively few examples where any associated definition has been included. I believe that the standard of reasonableness would require the action or belief of the accredited service provider concerned to be viewed objectively by reference to what would be expected of an ordinary, competent, accredited service provider in the particular circumstances.

Administration of the relevant provisions can be expected to be based on this interpretation which I believe would broadly accord in any event with common sense reading of the provisions. I would mention also that any decision of the Minister relating to a failure to comply with the Rules of Conduct is potentially subject to review by the Administrative Appeals Tribunal. I do not consider therefore that it is necessary to attempt to
prescribe the meaning of “reasonableness” in the Rules.

The Committee has requested in regard to Rules 31 and 34 whether decisions by the Minister under these Rules are subject to reconsideration and review. These Rules do not apply to decisions made under the accreditation scheme, but rather to decisions concerning the approval of persons as being professionally qualified. The Committee can be informed that decisions made by the Minister under Rules 31 and 34, if affirmed or varied, can be the subject of application for review by the Administrative Appeals Tribunal under section 35 of the Hearing Services Administration Act 1997.

Complaints Procedures
The Committee has inquired what procedures would apply if a complaint dealt with under the procedures established by a contracted service provider was not resolved to the satisfaction of the complainant.

Under the Commonwealth Hearing Services Program clients are able to make complaints about a contracted service provider, regardless of whether they have complained to the service provider, and if they have complained to the service provider, regardless of whether the complaint was resolved to the satisfaction of the complainant or not. Clients of the Program receive a brochure with their Hearing Services Voucher detailing their rights in this regard. A copy of the brochure Getting It Right Information for Clients is enclosed for the information of the Committee.

I am advised that the complaints management process, which is administered by the Office of Hearing Services, is well established and has proven most effective in resolving complaints from clients against contracted service providers to date. Except for complaints about processes which are able to be resolved by the appropriate administrative staff, the resolution of almost all other complaints from clients of the Program involves a professional Audiologist employed by the Office of Hearing Services.

Hearing Service Providers Accreditation Scheme Amendment 2000 (No.1)
The Committee has questioned whether in relation to the inclusion of new subsection 6(5) in the Hearing Services Accreditation Scheme Act 1997, it is intended to impose “a form of strict liability”. The new provision subjects the accreditation of an accredited service provider to the condition that it must not provide false or misleading information in connection with the accreditation scheme or the provision of services to voucher holders. I wish to advise the Committee that this is not a situation of strict liability.

A contravention of this condition, and any other condition of accreditation, falls to be dealt with under section 10. The Minister, after considering any written submissions, has a wide discretion to deal with contraventions in a number of ways. Such action would be most unlikely in the event of a purely accidental provision of incorrect information.

Yours sincerely
BRONWYN BISHOP
7 September 2000

Senator CALVERT (Tasmania) (3.48 p.m.)—On behalf of Senator Coonan, on behalf of the Standing Committee on Regulations and Ordinances, I give notice that 15 sitting days after today I shall move that the following delegated legislation, a list of which I shall hand to the Clerk, be disallowed.

The list read as follows—
2. Civil Aviation Amendment Order (No.9) 2000 made under the Civil Aviation Regulations 1988.
3. Determination No.PB9 of 2000 made under subsection 99AAC(2) of the National Health Act 1953.

Senator CALVERT—As usual, I seek leave to incorporate in Hansard a short summary of the matters raised by the committee.

Leave granted.

The summary read as follows—
Australian Federal Police Amendment Regulations 2000 (No.2), Statutory Rules 2000 No.138
The Regulations amend the Principal Regulations in relation to employment decisions, suspension...
from duties of AFP employees and confidentiality of handling of financial statements.

Item 3 of Schedule 1 introduces a new regulation which provides that the Commissioner may suspend an AFP employee in certain defined instances. The operation of this regulation appears to cover suspensions that might be regarded as involuntary (for example where it is believed that the employee has committed a disciplinary offence) as well as those which are voluntary (for example, where the employee wishes to contest an election to a non-parliamentary body). With regard to the first type of suspension, the new regulation does not specify any processes for a suspension decision (for example, whether written notice must be given), nor does it indicate whether such a decision is reviewable. With regard to the second type of suspension, the reference to 'an election to a non-parliamentary body' is vague.

Item 3 of Schedule 1 introduces a new regulation which provides for the attachment of salaries to satisfy judgment debts. The subregulation 13(1) provides that 'The AFP may make deductions from the salary of any of the following persons to satisfy a judgment debt:' There is then a list of four categories of person. The words quoted appear to be drafted widely, covering the judgment debt of any person.

Civil Aviation Amendment Order (No.9) 2000

The Amendment Order requires the installation of portable megaphones in passenger aircraft with certain defined seating capacities.

Clause 2 of the Order states that the Order commences on 1 September 2001 but the Explanatory Statement provides no explanation for the lengthy delay in commencement.

The Regulatory Impact Statement notes that the genesis of the changes introduced by this Order was a review of aviation safety requirements that commenced in June 1996. The Committee notes that the Explanatory Statement provides no information on why its has taken four years for this amendment to be made.

This amendment is limited to aircraft carrying more than 60 persons with no explanation of why it has been limited to these aircraft.

Determination No.PB9 of 2000 made under subsection 99AAC(2) of the National Health Act 1953

The Determination specifies the conditions under which payments will be made in respect of the supply of pharmaceutical benefits by approved pharmacists and approved medical practitioners. By virtue of clause 1(a) of this instrument, it is taken to have commenced retrospectively on 1 January 2000. Although it appears that it does not detrimentally affect the rights of any person other than the Commonwealth, there is no assurance to that effect in the Explanatory Statement.


The Regulations provide for environmental assessment and approvals, conservation of biodiversity, various conservation principles, enforcement and administrative matters. The Committee has received a response from the Minister which met most of its concerns but is seeking further information on the following matters.

The Regulations expressly create a number of strict liability offences. Some of these offences were not previously strict liability offences under the previous National Parks and Wildlife Regulations 1975 (new regulations 12.14, 12.28, 12.29, 12.43, 12.44, 12.48 and 12.54). Others are newly introduced strict liability offences (new regulations 12.50 to 12.52 and 12.55). No explanation is given in the Explanatory Statement for these changes.

Regulation 12.13 sets a penalty of 50 penalty units where a person damages, defaces, moves, possesses or interferes with heritage. Heritage is defined broadly and includes 'objects that have aesthetic, archaeological, historic, scientific or social significance or other special value’. It is quite possible that a person may not know whether an object falls within this broad definition and it may be appropriate to confine this offence to intentional acts.

Regulation 12.24 imposes a penalty of 50 penalty units on a person who captures an image in or of a Commonwealth reserve in contravention of a prohibition or restriction imposed by the Director. The heading to the regulation refers to 'capturing images or recording sound', yet the regulation does not refer specifically to 'recording sound'. There is no information on the processes required where the 'device or means used' to capture the image has been confiscated by the Director, ranger or warden, under subregulation 12.24 (5).

National Food Authority Amendment Regulations 2000 (No.1), Statutory Rules 2000 No.122

The Regulations prescribe various charges for services provided by the Australia New Zealand Food Authority, prescribe certain agencies to which the Authority may disclose confidential commercial information, and make other amendments to the Principal Regulations to reflect changes to the Act.
New subregulation 8(1) fixes a fee for an application of $2,800. Whilst a note to the subregulation explains the components of the fee, the Explanatory Statement does not explain the basis for these components nor for the total amount.

New subregulation 8(2) deems that the application fee (if any) for an application is taken to accompany the application if it is paid ‘without delay’ when the applicant receives notification under paragraph 13A(2)(a) of the Act that the application has been accepted. The words ‘without delay’ do not give the applicant sufficient clear guidance about the time for payment.

New regulation 10 provides for the refund of fees in certain circumstances. Subregulations 10(3) and (4) provide that one amount will be refunded if the application is withdrawn before ‘half of the work required for full assessment is completed’, while a lesser sum is refundable if the withdrawal occurs after ‘half of the work required for full assessment is completed’. Neither the regulations nor the Explanatory Statement indicate how it is to be determined whether half of the work has been completed, or who is to make that decision.

New regulation 14 provides for the review of decisions under subsection 13A(2) or (3) of the Act. Subregulation (1) does not specify any time limit within which the applicant must apply for reconsideration of a decision. Subregulation (2) does not set any time limit within which the Authority must reconsider the matter.

Schedule 3 sets out the charges payable in relation to full assessment, drafting and inquiry. The Risk Impact Statement explains that these fees are based upon ‘an estimate of anticipated costs’ but does not advise how this estimate has been made.

Quarantine Regulations 2000, Statutory Rules 2000 No.129

The Regulations repeal and replace the Quarantine (General) Regulations 1956, Quarantine (Plants) Regulations 1935, and Quarantine (Animals) Regulations 1935.

New subregulation 10(1) items 12 and 13, 10(2) items 5 and 6, and regulation 12 items 4 and 5 each require that certain information must be reported under s.27A(2) of the Act (for regulation 10) and s.27B(2) of the Act (for regulation 12). Regulation 18 items 13 and 14 prescribe the matter about which a quarantine officer may require the master, commander, medical officer, or agent of certain vessels to answer questions. These requirements and reporting obligations arise ‘if any live animal is on board’ the vessel, installation, or aircraft, or ‘if any animal died’ during the voyage or flight. There is no indication whether these requirements and reporting obligations are intended to apply broadly to ‘any’ live animal on board, regardless of whether the presence of the animal was actually known to the master of the vessel or commander of the aircraft.

New subregulation 21(1) states that a person must not give or report information, or cause information to be given or reported to a quarantine officer under certain other regulations if that information is false or misleading in a material detail. A penalty of 50 penalty units is specified for breach. It is not stated that this is a strict liability offence, as is the case with new subregulations 27, 31, 34, and 58(1). There is no indication whether subregulation 21(1) is intended to impose liability regardless of the person’s knowledge of the falsity or misleading nature of the information.

New subregulation 28(1) provides that a quarantine officer may secure any stores or waste that are on an overseas vessel or overseas installation at a port in Australia or the Cocos Islands. New subregulation 28(2) then provides that ‘a person’ must not interfere with the stores or waste, or the means of its security, without the master’s permission. Literally the reference to ‘a person’ in subregulation (2) can include the quarantine officer who has caused the stores etc to be secured in the first place.

New subregulation 41(5) refers to a ‘communicable disease’. This term is not defined in the Regulations or in the Quarantine Act 1908.

New subregulation 76 specifies that an officer who seizes an animal, plant or other goods must give a notice ‘as soon as practicable’ rather than stating a time limit.

Senator Brown to move, on Tuesday, 7 November:

That the Senate—

(a) supports a new national flag without the Union Jack; and

(b) calls on the Government to initiate a national competition followed by a referendum for Australia to adopt a new Australian flag.

ABORIGINALS AND TORRES STRAIT ISLANDERS: RECONCILIATION

Motion (by Senator Ridgeway) agreed to:

That the Senate—

(a) notes that:

(i) the reconciliation committees in each state and territory were federated into a national body on 22 August 2000, the membership of which consists of
the chairpersons from each state and territory reconciliation committee,

(ii) with the cessation of the Council for Aboriginal Reconciliation (CAR) at the end of the year 2000, it is intended that the federation will become the representative body of the people’s movement, providing a national voice to promote the goal of national reconciliation at all levels of government and in all spheres of the community,

(iii) the federation will be the official link to foster an open dialogue between local reconciliation groups, state and territory governments and any national body that may be formed, and its work will be guided by the aspirations and four national strategies of the CAR’s Document for Reconciliation, and

(iv) the New South Wales Government has allocated an annual budget of $110,000 to establish a permanent New South Wales State Reconciliation Committee, to be housed within the New South Wales Department of Aboriginal Affairs;

(b) congratulates the New South Wales Government for its initiative, which is a first among Australia’s states and territories; and

(c) calls on all other state and territory governments to establish and adequately resource their own state or territory reconciliation committees so that the momentum towards the achievement of lasting, national reconciliation is maintained and furthered for the benefit of all Australians.

ABORIGINAL ART

Motion (by Senator Ridgeway) agreed to:
That the Senate—

(a) notes:

(i) the exhibition currently hanging in the National Gallery of Australia entitled ‘Aboriginal Art in Modern Worlds’, which is the largest body of Indigenous artwork to be seen by more people than any other exhibition of Australian Indigenous art to date,

(ii) the exhibition has recently completed a highly successful tour of the most prestigious art galleries of Europe in the lead-up to the Sydney Olympics and has attracted remarkable visitor numbers in each destination, and

(iii) the exhibition toured the Olympic Museum in Lausanne, Switzerland; the Sprengel Museum in Hanover, Germany; and the State Hermitage Museum in St Petersburg, Russia, where more than half a million visitors were recorded in just 2 months; and

(b) congratulates the National Gallery and the Indigenous artists and their communities who created the exhibition for the significant contribution they have made to the promotion and appreciation of Indigenous art and culture both internationally and within Australia; and

(c) acknowledges Australia’s Indigenous art as one of the world’s great contemporary art movements and a manifestation of the creativity and resilience of Australia’s First Peoples.

COMMITTEES

Employment, Workplace Relations, Small Business and Education References Committee

Extension of Time

Motion (by Senator O’Brien, at the request of Senator Jacinta Collins) agreed to:
That the time for the presentation of the report of the Employment, Workplace Relations, Small Business and Education References Committee on vocational education and training be extended to 9 November 2000.

Superannuation and Financial Services Committee

Extension of Time

Motion (by Senator Calvert, at the request of Senator Watson) agreed to:
That the time for the presentation of the report of the Select Committee on Superannuation and Financial Services on the provisions of the Family Law Legislation Amendment (Superannuation) Bill 2000 be extended to 28 November 2000.

Treaties Committee

Report

Senator O’BRIEN (Tasmania) (3.51 p.m.)—On behalf of Senator Cooney, I present the 35th report of the Joint Standing Committee on Treaties entitled Agreement for co-operation in the peaceful uses of nu-
clear energy, together with the Hansard record of the committee's proceedings, minutes of proceedings and a submission received by the committee.

DELEGATION REPORTS
Australian Parliamentary Delegation to the European Institutions
Senator CALVERT (Tasmania) (3.51 p.m.)—by leave—On behalf of Senator McGauran, I present the report of the Australian Parliamentary Delegation to the European Institutions entitled Australia and the European institutions in 2000—An Australian parliamentary perspective.

MIGRATION LEGISLATION AMENDMENT BILL (No. 2) 2000
Report of Migration Committee
Senator McKIERNAN (Western Australia) (3.52 p.m.)—I present the report of the Joint Standing Committee on Migration entitled Review of Migration Legislation Amendment Bill (No. 2) 2000, together with the Hansard record of the committee's proceedings, minutes of the committee's proceedings and submissions received by the committee. I seek leave to move a motion in relation to the report.
Leave granted.
Senator McKIERNAN—I move:
That the Senate take note of the report.
I seek leave to incorporate the tabling statement into Hansard and to briefly speak to the report.
Leave granted.

The statement read as follows—
Madam President, the Minister for Immigration and Multicultural Affairs referred the Migration Legislation Amendment Bill (No 2) 2000 to the Committee on 12 April 2000.
The Committee received 31 submissions on this very specialised area of legislation; it held public hearings in Canberra, Melbourne and Sydney, and heard evidence from eleven organisations.
On behalf of the Committee, I extend the committee's appreciation for the assistance given to this review by all those that provided submissions or gave evidence at public hearings.
The Bill's stated aim is to reduce the opportunity for non-permanent residents to seek to use judicial review of migration decisions to extend their stay in Australia. The Committee considered the issues raised in connection with the Bill and were unable to agree that the abuse of the system was proved or that the government's actions to prevent or halt the so-called abuse were warranted.
In addition, having examined the evidence put to it, the majority of the Committee concluded that the Bill's proposed restriction of access to judicial review by non-permanent residents did not breach Australia's international obligations.
The Committee agreed that the rejection by the courts of cases pursued through class actions in the migration jurisdiction did not necessarily indicate an abuse of the judicial review process. However, the majority believed that judicial review provided an opportunity for abuse, and that there was persuasive evidence that this was occurring in the case of class actions.
The majority conclude that the opportunity for potential abuse arises because non-permanent resident applicants for judicial review automatically acquire bridging visas which entitle them to legally remain in Australia until 28 days after their case has been decided. Class actions can take an average of 18 months to resolve, compared with approximately five months for an individual action. The majority argues that the potential duration of class actions can be the incentive to pursue them, rather than a desire to resolve a point of migration law, or any expectation that members of a class action will acquire residency in Australia as a result of the class action.
The majority make a quite extraordinary suggestion that if a large number of participants do not benefit from a positive decision in the class action which they had joined, then this was a key determinant of their decision to support the aim of restricting access of non-permanent residents to class actions. The Committee found it significant that some involved in class actions might not have even applied for the visa that was the subject of the action.
Overall, the majority concluded that, although not quantifiable, there had been an abuse of the judicial review and the class action process and that this abuse should be addressed.
The majority suggests that issues currently addressed by class actions could be appropriately handled through test cases. Test cases permit a number of cases to be resolved through the hearing of a single case, and having the outcome apply to cases which have been identified as similar. This arrangement permits efficient use of the court's resources.
The Committee notes the comments of witnesses on the Bill, that test cases would be precluded or
that class actions in other, non-migration, jurisdictions would be prevented by the enactment of this bill. The Committee therefore recommended that these potential unintended consequences of the Bill be clarified.

With all of the above provisos, the majority concluded that access to class actions should be restricted; and there should be time limits placed on applications for judicial review of migration decisions.

President, class actions in the migration jurisdiction offer the opportunity for a number of cases to be resolved through the hearing of one appeal that represents many others. This considerably reduces the case-load on courts.

Despite this, the majority supported the restriction of access to class actions in the migration jurisdiction; it considered that efficient use of the court system should be discouraged or even removed. Therefore, in addition to recommending the adoption of the Bill’s proposals for restriction on access to class actions, the majority also recommended steps to encourage more use of test cases.

The Committee also noted that some of the perceived abuses of judicial review would have arisen because of the advice which applicants had received about seeking review.

The Committee was critical of migration agents who encourage nonpermanent residents to participate in class actions without apparent regard for the specifics of the individual’s cases.

When unsuccessful applicants for judicial review are advised that, and I quote: “you might be able to immediately qualify for our new class action, and to obtain a further Bridging Visa” the potential for exploitation of both the legal system and the applicants is obvious.

In response to such approaches to migration litigation the Committee has recommended that the activities of migration agents be brought under closer and continuing scrutiny by the Department of Immigration and Multicultural Affairs and the Migration Agents Registration Authority

The Migration Legislation Amendment Bill (No. 2) 2000 also seeks to limit access to judicial review by more strictly defining those able to apply for it. The proposed provisions are designed to ensure that only those who stand to benefit from the outcome of a review may bring a challenge in the Federal Court.

The Committee saw this as an important move to improve the operation of judicial review and recommended that the proposed changes to clarify who may commence or continue a proceeding in the Federal Court should be adopted.

The Bill proposes to impose time limits on applications for judicial review by the High Court. The Committee noted that migration appeals to the Federal Court have to be undertaken within 28 days of a decision being notified. However, no such time limit applies to the High Court. That Court, therefore, was being asked to determine migration matters, rather than the more appropriate Federal Court.

The Committee noted that there are already time limits imposed in other jurisdictions. Evidence was presented to the Committee that the proposed time limit of 28 days was not unreasonable.

The Committee was sensitive to the importance of the High Court as the last resort for people seeking review of their migration status. The Committee was advised that actions in the High Court do raise genuine life and death concerns. The Committee therefore recommended an extended period for appeal to the High Court of 35 days. The Committee believed that, because the initial application to the High Court required only an outline of the grounds for appeal, rather than a detailed argument, 35 days was a sufficient time period.

The Committee considered whether there should be an option for the High Court to waive the time limit in exceptional cases. This approach, the majority believed, was at odds with the overall aim of the Bill, which is to limit judicial review being used as a means of remaining in Australia. To allow such an exception would be to allow another avenue for nonpermanent residents to extend their stay.

A number of submissions to the Committee raised the question of whether or not the Australian Constitution permitted such a time limit to be imposed. There was no agreement on the position among the witnesses or the submissions. The Committee concluded that the matter could only be resolved in the event of a constitutional challenge.

President, there was some confusion among some witnesses that access to the courts by nonpermanent residents would be eliminated by this Bill. This was a misunderstanding of the Bill. Yes, there are restrictions. But individuals still have access to judicial review if they appeal within a reasonable time and stand to benefit from the outcome.

The dissenting report by Opposition and Democrat members of the Committee provides a useful reminder that the Migration Legislation Amend-
ment (Judicial Review) Bill 1998 is listed on the Senate Notice paper. This bill seeks to further restrict access to judicial review in migration matters by inserting a privative clause in the Migration Act.

The Bill was referred at a time when the Committee had already embarked upon a program with respect to two other inquiries. This caused some delay in reporting on this reference. On behalf of the Committee, I would like to extend the gratitude of the members of the committee to the committee secretariat: Gill Gould, Steve Dyer, Emma Herd and Vishal Pandey. I thank them very much for the help that they gave to all committee members during the committee hearings and inquiry.

Madam President, I commend this report to the Senate.

Senator McKIERNAN—I thank the Senate. The opposition members and the Democrat member of the committee have made a dissenting report. Whilst the tabling statement incorporates, in the main, the words of the committee as were read to the House of Representatives earlier today, I want to add a few words that would express the views of the opposition and possibly the Democrats—although they can perhaps speak for themselves, in speaking to the report.

The opposition members of the committee and the opposition as a whole welcomed this inquiry and welcomed the opportunity to test, in the public arena, a number of theories that abound about the system of judicial review in the migration area. This Migration Legislation Amendment Bill (No. 2) 2000 is brought into the parliament of Australia essentially to address what is called the ‘abuse’ of class actions in the judicial review area. The bill provided the minister, his department and all those interested with the opportunity to present the committee and therefore the parliament with details of the abuses that are occurring within the system. At the conclusion of the inquiry, after hearing from the department and receiving a number of submissions from officers of the department, I am both saddened and pleased to note that that evidence has just not been presented to the committee. I am saddened, on the one hand, because the minister and the department are proved to be incorrect in their public statements about what is purported to be happening in the community. I am also pleased because it does give the opportunity, when this bill comes on for debate in the House of Representatives and in this place, for us to put the department and the representatives of government under greater scrutiny to ask where the evidence of the abuse of the process is occurring.

We have ended up, at the conclusion of the inquiry, in rather a strange circumstance. The report, at 3.34, states: The Committee also considered that migration class actions were not, of themselves, an abuse of process. However, the Committee considered that the process could be subject to abuse—as indeed any process in any part of our democratic system in this country could be subject to abuse. The report goes on, at 3.49, to state: Overall, the Committee concluded that, although not quantifiable, there was abuse of the class action process and that this abuse should be addressed.

What an extraordinary statement for a parliamentary committee to be making! They are saying that our system of judicial review is being abused but we cannot measure it. Despite all the resources available to the minister, to his department, to the Attorney-General’s Department and to the various law councils throughout Australia, we cannot measure it. Is it any wonder that the opposition members of the committee concluded, at the conclusion of the inquiry, that the evidence just was not available to it? The committee’s report includes, at 3.101—and this is a very telling statement in itself—the following statement: … it is also noted that the DIMA evidence indicated that detailed examination of the individuals in class actions had not been undertaken systematically, apparently because of the volume of applications. This meant that its data were only indicative, rather than conclusive evidence of the scale of apparent abuse.

What an appalling indictment of the committee itself, where they admit that the evidence is not available but they are going to go out and recommend to the parliament of Australia that this equitable and accessible avenue for individuals to seek justice in this
country be removed from the statute books! The opposition members are not going to go along with actions such as that. I make the point, and make it very, very strongly, as indeed we do within the dissenting report: if the system of review of migration decisions is being abused or taken advantage of by individuals who do not need to access or have the advantage of the system, the opposition members will look at that, will seek out the evidence of that, will seek out the proof of where the abuses are occurring, and then we will address it. But regrettably for the minister and his department, that evidence was not presented to the committee on this particular occasion.

Government members of the committee make the point, at 3.128 on page 40 of the report, that ‘judicial review would still be available to applicants through the lodging of an individual appeal’, that is, they say that, if the access to class actions in the federal system was removed, judicial review would still be available. Opposition members of the committee were very mindful of the fact that the Migration Legislation Amendment (Judicial Review) Bill 1998 [2000] is still listed on the Senate Notice Paper. This bill seeks to further restrict access to judicial review in migration matters by inserting a privative clause in the Migration Act. Government members of the committee might be comforted by the fact that if you remove the access to class actions in the bill is passed the access to individual actions will be restricted in a number of areas.

I also make the point that, of the seven recommendations in the committee’s report, opposition members are only opposing one recommendation—that is, recommendation 1, which addresses the removal of class actions. Other matters contained in the bill are of value and of use and are objective in what they are seeking to do. We have tested those in the course of the committee’s proceedings, and we end up supporting what is being proposed by the minister and his department.

There is one final point I want to end on, and I have addressed this matter in the Senate on a recent occasion—that is, the actions of migration agents and lawyers who act in this field. The committee as a whole found that some migration agents and lawyers were exploiting the procedures about class actions. The committee recommends—and we join them in this recommendation—that the activities of migration agents be brought under the closer, continuing scrutiny of DIMA and the Migration Agents Registration Authority. We would like very quick and immediate action regarding that recommendation. I refer the Senate back to an earlier speech of mine where I expressed my disappointment that the representatives of the Migration Agents Registration Authority, who were appearing at a Senate Legal and Constitutional Legislation Committee estimates hearing in May or June of this year, were not aware of pretty damaging advertising that had taken place to recruit people to become part of class actions. We ended up with the scenario where the representatives of the Department of Immigration and Multicultural Affairs were saying yes, they were told, but the MARA representatives were looking dumbfounded. It was only later that they brought their omission to the Senate’s attention.

Overall, this is a useful report. Despite the shortcomings of the report, despite the lack of evidence that the system is being abused, we look forward to further specific debate on the bill when it comes before the parliament. We hope that by then the government would have had second thoughts about the removal of class actions from the migration area. On the whole, I commend the report to the Senate.

Senator BARTLETT (Queensland) (4.02 p.m.)—As the Democrats representative on the Joint Standing Committee on Migration, I would also like to speak to this report. It is a little bit unusual for legislation to be referred to a joint committee rather than one of the Senate legislation committees but I think it is quite appropriate in this context, with a committee that specialises in migration issues having the opportunity to examine migration legislation and perhaps the policy and legislative end of some of the broader issues that the committee looks at from time to time. I will not repeat my views on the issues and the legislation, as they are con-
tained within the dissenting report along with the views of the Labor Party senators. They are on the record. I would like to thank opposition members for their assistance and the secretariat for their work on the inquiry.

Assuming that the government brings this legislation on, at some stage we will have the opportunity to debate it—although we must keep in mind the government’s record on another piece of legislation that was supposedly meant to deal with inappropriate activities and abuse, the so-called privative clause legislation, which has been sitting on the Notice Paper for a long time now. The government has chosen not to bring that on for debate, and one can never tell for sure whether or not one will get the chance to discuss the legislation in this chamber because one never knows whether the government will ever get around to bringing it on. The Migration Legislation Amendment (Judicial Review) Bill 1998 [2000] has been adjourned here since 2 December 1998. Despite the government repeatedly saying that the Senate is holding up consideration of that issue, it is clearly the government that is choosing not to bring it on—not that that troubles me terribly, because it is an appalling piece of legislation and I would be quite happy to throw it out.

With regard to the Migration Legislation Amendment Bill (No. 2) 2000, the Democrats share the concerns that have been expressed by Senator McKiernan, for a number of reasons. We are always anxious whenever we see a proposal for some people in Australia to have fewer legal rights than others—in this case, people who are seeking to pursue their legal rights under the Migration Act, whether they are asylum seekers or people dealing with other migration matters—and for them not to have the same right as other Australians to use class actions. Certainly one would be apprehensive about agreeing to a principle like that unless a clear need and good cause for it were shown. As Senator McKiernan has outlined, comprehensive evidence was not provided by the department about the extent, the size, the nature or the impact of the abuse. Indeed, it was hard to even get a clear statement from the department or government as to whether this measure would save money, as was suggested in the explanatory memorandum, or actually cost money. Obviously, class actions are a very efficient form of pursuing legal ends and legal means. If even a proportion of those who are signed up to class actions—or who would otherwise have signed up to class actions in the future—chose or were forced to pursue those actions individually, it would lead to a huge increase in costs and in the workload of the High Court. We already see growing concerns about the workload of the High Court specifically as a result of the changes to legislation made by this government in the area of migration law, and the Democrats would be very concerned about adding to that burden.

I would also say that it seems strange to the Democrats that the government chose this particular area as their focus of action to deal with this so-called problem, this unquantified problem, of misuse and abuse of the legal system when there are other avenues—I would suggest far more potentially effective avenues—of targeting misuse and misconduct by lawyers or by migration agents. Obviously, if any abuse is there, these are the people that are facilitating it. Very little seems to have been done by the government to target that type of area of activity. Until stronger efforts are made in that regard, it is very hard to take the government seriously as to what they are saying is their intent. From my perspective, it is much more likely that this is simply about this government once again trying to reduce the legal rights of people in the area of migration law.

I share the concern in relation to some of the comments Senator McKiernan made about MARA, the Migration Agents Registration Authority, although I would probably be slightly less critical in the sense that I think it is a group of people that is still finding its way somewhat as a body that has been recently set up, and it is still coming to grips with its role, how it will operate and indeed how it relates to the department. If the department were serious about this issue, it would have done a lot more to follow up communication with MARA. Nonetheless, I hope that the issue that was raised is properly examined by MARA. We often run into dif-
difficult areas in relation to lawyers touting for business, and this is no different in that regard.

I would be a bit apprehensive about being too critical about some of the advertisements that were put forward as examples of alleged abuse, again in the sense that you are often dealing with people who do not have a good understanding of our legal system and people who do not necessarily have a good understanding of English. If you want to make people aware that they have a legal right, you sometimes do that in a fairly simplistic way to make sure it is clear and that they understand the message. And, if people do have a legal right to pursue, it is not necessarily problematic for a legal firm to make them aware that they may have that right. Having said that, it is not helpful for our legal system—and, indeed, for some of the people involved in some of these issues—if these people are given false hopes by migration agents or lawyers that pursuing a particular avenue is likely to end up in a positive outcome for them when in some cases clearly that is not the case. I think that area of activity really does need to be examined more closely because it is not only adding costs and delay to our legal system but adding costs to those individual people who are being given false hope. This leads to stress and unhappiness when they are continually strung along thinking there is hope there when clearly there is not. In my situation, dealing with immigration issues for the Democrats, I do come across people who have quite genuinely pursued avenue after avenue in the belief that it is going to get them somewhere when you really feel they would be better served by someone having told them, years earlier in the piece, ‘Look, you’re not going to succeed. You’re better off just accepting that.’ It would save them a lot of unnecessary hardship, heartache and expense. So I do urge more action in that regard.

Overall, the report is positive, even the majority report, which obviously I dissent from. In terms of the information that the inquiry managed to identify, and the gaps as well that were able to be identified through the questioning and inquiry process, it was a thorough inquiry. The Democrats will maintain our opposition in the absence of any evidence being forthcoming about the pressing need for such a drastic move. We look forward to the government either bringing forward the evidence or bringing the legislation on for debate so that at least we can explore that further through the second reading and committee stages of the process and also deal with the other parts of legislation that we are not opposed to.

Question resolved in the affirmative.

STATES GRANTS (PRIMARY AND SECONDARY EDUCATION ASSISTANCE) BILL 2000
WORKPLACE RELATIONS AMENDMENT (AUSTRALIAN WORKPLACE AGREEMENTS PROCEDURES) BILL 2000
HEALTH INSURANCE AMENDMENT (RURAL AND REMOTE AREA MEDICAL PRACTITIONERS) BILL 2000
COMMONWEALTH ELECTORAL AMENDMENT BILL (No. 1) 2000

First Reading

Bills received from the House of Representatives.

Senator HILL (South Australia—Minister for the Environment and Heritage) (4.12 p.m.)—I indicate to the Senate that these bills are being introduced together. After debate on the motion for the second reading has been adjourned, I will be moving a motion to have the bills listed separately on the Notice Paper. I move:

That these bills may proceed without formalities, may be taken together and be now read a first time.

Question resolved in the affirmative.

Bills read a first time.

Second Reading

Senator HILL (South Australia—Minister for the Environment and Heritage) (4.13 p.m.)—I table revised explanatory memoranda relating to the States Grants (Primary and Secondary Education Assistance) Bill 2000 and the Commonwealth Electoral Amendment Bill (No. 1) 2000 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—

STATES GRANTS (PRIMARY AND SECONDARY EDUCATION ASSISTANCE) BILL 2000

The Bill renews the Government’s commitment to school education for the 2001-2004 quadrennium. It secures funding for Commonwealth programmes of financial assistance to the States and Territories for government and non-government schools. It succeeds the States Grants (Primary and Secondary Education Assistance) Act 1996 which authorised funding for the 1997 to 2000 funding period.

This Bill reflects the Government’s policy decisions related to the 2001-2004 school funding quadrennium including:

Implementation of the new socio-economic (SES) funding arrangements of non-government schools.

Introduction of a streamlined structure for Commonwealth targeted programmes for schools, improving accountability and permitting greater flexibility in the application of Commonwealth funds to improving outcomes for educationally disadvantaged students.

Strengthened accountability and reporting arrangements where education authorities will be asked to commit to reporting on student outcomes against agreed performance indicators and targets underpinning the National Goals of Schooling.

This Bill acknowledges the right of Australian parents to choose the most appropriate schooling for their children. It supports the devolution of decision-making about education to where it belongs, to parents and communities. It will ensure that we have an education system that is responsive to student needs.

The Bill represents a major investment in the future of our society. Through increased financial assistance to schools, particularly schools serving the neediest communities, the Government seeks improved outcomes from schools and a brighter future for Australian students. The Bill ensures Australia will be in a better position to respond to the changing needs of students and their families and to direct their resources towards achieving the best possible learning outcomes for their students.

The Bill allows for the increased funding to schools to be phased in over the quadrennium. Schools that are funded on their SES scores will have their increased funding phased in at a rate of 25% of the increase each year, so that by 2004 schools will be fully funded at their new level.

The Bill guarantees financial security for all schools. No school will be financially disadvantaged by the move to the new SES funding system. Schools that would otherwise have their funding reduced under the new arrangements will have their year 2000 per capita entitlements maintained, with the year 2000 dollar rates adjusted annually in line with the latest AGSRC figures.

The Government’s 1998 election commitment to Catholic systems will continue to be honoured under the new SES-based funding arrangements. Approved Catholic school systems will be funded on a basis that essentially preserves in real terms the per capita equivalent of their current funding categories in the year 2000.

New non-government schools not belonging to Catholic systems will have their entitlement to Commonwealth funding assessed according to an SES-based measure of need. Therefore, new schools that attract students from the neediest communities will also be eligible to receive a higher level of financial assistance. This is a vast improvement on previous arrangements for new schools and augurs well for the future health of the education sector.
In addition, the Bill provides additional funding for schools experiencing severe financial hardship or facing problems of viability during the transition to the new SES funding arrangements and establishment grants will be available to assist new non-government schools with costs incurred in their formative years and enable them to be competitive with existing schools.

In keeping with the Government’s commitment to choice and equity in schooling, the Bill also provides recurrent funding for distance education students receiving that education from non-government schools.

The Bill provides for the introduction of a revised structure for some Commonwealth programmes of targeted assistance for schools which is the outcome of the review foreshadowed in the 1999-2000 Budget.

The revised structure combines the literacy and numeracy grants to schools programmes and the special education school support fixed and per capita grants into the Strategic Assistance for Improving Student Outcomes programme. This programme will be aimed at helping schools and school authorities to improve student learning outcomes of educationally disadvantaged students, particularly in literacy and numeracy and schools, school authorities and government centres to improve the educational participation and outcomes of students with disabilities.

The Bill also combines the priority and community languages programmes into the Languages other than English programme and simplifies administrative arrangements under this programme. Funding provided under this programme will continue to be aimed at helping schools, school authorities, government educational institutions and other bodies to improve the teaching and learning of languages other than English.

The Bill recognises the right of parents to choose the type of education they want for their children.

The Bill recognises that every child is entitled to a base level of public funding towards their education. This Bill recognises the right of children to a quality education through improved outcomes for all students. This Bill provides for a more equitable approach to funding non-government schools. We want quality education for all our children. Through improved accountability and outcomes this Bill will ensure the health of our education sectors and the future growth of our nation.

The Bill also introduces significant reforms in accountability for Commonwealth grants to schools. New accountability requirements will strengthen the link between the funding provided under Commonwealth programmes and improved outcomes for all Australian students.

In essence, all education authorities — government and non-government — receiving Commonwealth grants will be required to commit to achieving performance targets against the National Goals for Schooling and to report publicly on their achievement.

With adoption by all education Ministers in 1999 of the National Goals for Schooling in the 21st century, Australia has its first set of outcomes-focussed schooling goals. Ministers have committed themselves to nationally comparable reporting of educational targets in key areas of the goals, such as literacy and numeracy and VET in schools.

Meanwhile national benchmarks for student achievement in basic skills have been put in place. Now, by mid-2000, we have the goals needed to support national performance targets, standards in the form of the first national benchmarks, and the first national performance measures under development.

The Commonwealth has played a key role in establishing National Goals, benchmarks and measures. It is now time that this approach to improving student outcomes be reflected in the Commonwealth’s own programmes for schools.

I commend the Bill to the Senate.

WORKPLACE RELATIONS AMENDMENT (AUSTRALIAN WORKPLACE AGREEMENTS PROCEDURES) BILL 2000

The Coalition’s 1998 workplace relations election policy More Jobs, Better Pay contained commitments to further legislative reform in our second term of office.

These commitments were reflected in four pieces of legislation already introduced by the Government since October 1998, dealing with small business unfair dismissal exemptions, superannuation, youth wages and multiple reform issues in the Workplace Relations Legislation Amendment (More Jobs, Better Pay Bill) 1999.

That Bill was passed by the House of Representatives on 14 October 1999 but subsequently blocked by the combined opposition of the Labor Party and the Australian Democrats in the Senate.

Since opposing the More Jobs Better Pay Bill 1999 last November, the Democrats have publicly indicated that they prefer to deal with the contents of that Bill on an issue by issue basis, not as an omnibus piece of legislation.

In a speech to the ACT Industrial Relations Society on 6 April 2000 Democrats spokesman Sena-
They have helped lift productivity, often tailored wages to performance incentives and bonuses, and allowed more flexible work arrangements so employees can balance their work and family requirements.

The Government is committed to AWAs and the right of workers and employers to choose to make them. The Government, unlike the Opposition, believes that it is important to ensure that employers and employees have genuine choice about the working arrangements which will apply to them.

**Streamlining agreement-making**

While ensuring that Australian Workplace Agreements, certified agreements and the no-disadvantage test are retained, the amendments will introduce a streamlined approval process for AWAs.

The current filing and approval processes for AWAs will be amalgamated to ensure a much simpler and speedier formalisation process. AWAs (and variation agreements) will take effect from the date of signing, or the date specified in the agreement or the date employment commences. This will mean that pending approval by the Employment Advocate, there is a presumption that the AWA meets all the statutory tests.

Employers will be required to apply within 60 days to have the agreement approved. There are complementary provisions introducing cooling off periods and compensation provisions to fully protect employees’ interests.

AWA procedures for high salary earners (those whose remuneration is higher than $68,000) will be fast tracked. Unless otherwise requested, for employees whose remuneration is above $68,000, an AWA accompanied by the appropriate declarations from an employee will not be assessed against the no disadvantage test before approval. Of course, where the employee still requests such an assessment be made by the Employment Advocate, it will occur.

The employer will no longer be required to satisfy the Employment Advocate that the employer did not act unfairly or unreasonably in failing to offer AWAs in the same terms to all comparable employees. These changes will provide greater scope to recognise individual performance through such agreements.

Approval of all AWAs will be by the Employment Advocate. Currently, where the Employment Advocate has concerns about whether an AWA meets the no-disadvantage test (NDT), the Employment Advocate must refer the AWA to the Commission. This has frequently meant delay in finalising approval of the AWA. The proposed
amendments will give the power to the Employment Advocate to decide whether or not to approve an AWA, subject to principles which may be developed for this purpose by the President of the Commission.

**Relationship between AWAs and other instruments**

In addition to simplifying the processes associated with the making and approval of AWAs, the legislation will clarify the relationship between AWAs and awards (including State awards), certified agreements, State agreements and other legislative instruments, in order to allow them to operate more effectively. For example, provision is being made to ensure AWAs are not excluded by those awards made under section 170MX.

**Industrial action and AWAs**

Finally, the Bill’s amendments will remove the limited immunity available in respect of industrial action taken in support of a claim for an AWA. The AWA industrial action provisions appear to have rarely been threatened, let alone used.

In introducing this Bill the Government is conscious of the fact that the Australian Democrats have supported the role that AWAs play in our modern workplace relations system.

As Democrat spokesman Senator Murray said on 1 June 2000, “AWAs have a good place as part of the agreement mix. A limited number of employees, particularly better paid highly skilled employees, where the one-size-fits-all award could be an impediment to productivity, do well under AWAs.”

The Democrats’ dissenting report to the Senate Employment, Workplace Relations, Small Business and Education Legislation Committee in November 1999 did not support the AWA amendments as a whole, but did indicate that “there are some positive matters dealt with in this [AWA] schedule.”

The Democrats are also on the record as supporting simplified, less technical and less legalistic procedures for employers and employees using the system.

In these circumstances, it is reasonable for the Government and the Democrat support for AWAs to be translated into a more streamlined approval process. That is what these amendments do.

In introducing this Bill I am clearly indicating that the Government is determined to proceed on an issue in respect of which there appears to be Democrat support. The Government is prepared to consider amendments to refine the detail of the procedures proposed by the Bill, if it is the detail that is the barrier to the Bill’s passage through the Parliament.

The Bill is an important one which will build on the objects of the 1996 reforms and improve the AWA system in the interests of employers, employees and small business.

Of course this matter has already been before a Senate committee. However, the government would welcome further Senate scrutiny provided that such a committee will review the Bill in order to ensure a more effective framework for making AWAs, and so underpin better access to the full range of agreement options.

The right of the Coalition to implement its workplace relations mandate, subject to constructive Senate review, is a principle that has been acknowledged by the Democrats – and one that they should now act upon.

On 15th June 1996 the then Leader of the Australian Democrats (now Labor shadow Minister Kernot) said on the issue of workplace relations, and I quote:

“The Democrats accept that the Government has been elected to govern and that it has its right to present its legislative program to the Parliament for consideration. But the Democrats have been elected to do a job, and that is to closely scrutinise legislation to ensure that it is fair, and workable and the best solution to an identified problem.”

“...the Democrats have no intention of being obstructionist in this Senate. As we have done for 15 years of holding balance of power, we will carefully review legislation, suggesting ways to make it work better if possible.”

Adopting a just say ‘no’ attitude to this Bill would be inconsistent with not only the proper role of the Senate as a House of Review, but also breach the principle under which the Democrats themselves marked out their past approach to these issues, at least until 1997.

**HEALTH INSURANCE AMENDMENT (RURAL AND REMOTE AREA MEDICAL PRACTITIONERS) BILL 2000**

The Health Insurance Amendment (Rural and Remote Area Medical Practitioners) Bill 2000 amends the Health Insurance Act 1973 to enable the Commonwealth to restrict payments of Medicare benefits for a specified time to any medical practitioner who breaches a contract with the Commonwealth under which the practitioner has agreed to work in a rural or remote area. The time specified in the bill is twice that which the medical practitioner has agreed to work in a rural and remote area under the relevant contract. Medicare
The amendment to the Health Insurance Act 1973 ensures that the government’s long-term strategy of delivering more doctors to rural communities will not be compromised. The Medical Rural Bonded Scholarship Scheme will provide 100 extra medical students with $20,000 per annum to study medicine, on the condition that they agree to work in a rural community for six years once they have completed their basic medical training and GP or specialist fellowship. These 100 places are over and above the places that already exist in Australian medical schools, so students will be gaining access to a place in a medical school to which they would not otherwise have obtained entry.

Applications will be through the normal university admissions process, and selection of bonded scholars will be according to academic merit. Also, interest in rural health and motivation to work in rural areas will be taken into account where possible. Students will have full information on the conditions and obligations of the Medical Rural Bonded Scholarship Scheme, and they will therefore be able to make informed commitment and to sign contracts with the Commonwealth. These contracts will bond them to work for six years in a rural or remote area in Australia.

Requirement for students to work in a rural community for six years is absolutely reasonable, considering the Commonwealth will pay between $80,000 and $120,000 during the course of their degree and will have to meet a similar amount again for the cost of the place in medical school. This assistance is additional to that which is funded to the universities, and of course they are places in medical school to which the student may not have otherwise gained selection.

There will be another 100 medical students who will be able to choose a career opportunity they would not have otherwise had, and it will deliver these students, once they are qualified, to the areas most in need of their professional services. The conditions of the contract provide that bonded scholars will work in a rural or remote area, once they have attained GP or specialist fellowship, for six years. Should a bonded scholar breach this contract, they will be required to repay the scholarship with interest, and there will be a 12-year ban on their access to Medicare benefits. Without this legislation, there will not be the incentive for bonded scholars to honour their obligation. This ban will not prevent a medical practitioner from practising in a hospital or other area such as medical research where it is not necessary to attract Medicare benefits.

There is a need for more doctors in rural and remote Australia. This is a bill for rural Australian communities that enables the Commonwealth to honour its commitment to provide rural and remote Australia with more doctors. It guarantees to deliver 100 qualified GPs and specialists to rural Australia each year in the long term.

COMMONWEALTH ELECTORAL AMENDMENT BILL (No. 1) 2000

This bill contains amendments to the Commonwealth Electoral Act 1918 (the Act) which will:

- specifically allow for the provision of a wide range of elector information, in addition to name and address information, to Members of the House of Representatives, Senators and federally registered political parties.
- specifically allow for the provision of age range extracts from the electoral Roll for use in approved medical research and public health screening programs.
- require all political parties applying for registration from 3 October 2000 to prove that they have 500 members.
- provide that currently registered parliamentary parties retain their registration as long as they have a party member in Federal parliament.
- provide that currently registered parliamentary parties which are registered on the basis that they have a party member in a State or Territory legislature have a period of 6 months from 3 October 2000 in which to satisfy the Australian Electoral Commission that they have 500 members or be deregistered.

The Howard government is committed to ensuring that Australia has a fair and equitable electoral system that upholds the values of democracy and principles of fair play. The legislation this government has introduced since we have been
elected demonstrates our strong commitment to having an electoral system with integrity and to ensuring that Australia has a world-class system of which we can all be justifiably proud.

This bill addresses the issue of authorising certain access to a range of elector information products and the fields of information contained in those products. It also addresses the important issue of registration of political parties.

The amendments relating to the provision of elector information are required following legal advice obtained in June and July 2000 that indicated that the Australian Electoral Commission (the AEC) could not provide the above information without specific authority in the Act. The AEC had been providing geographic and other information on the basis that the Act did not preclude the provision of such information.

Without those proposed amendments, the only elector information the AEC can provide to members of the House of Representatives, Senators and federally registered political parties will be full name, enrolled address, date of birth, gender, salutation, and federal Division.

In short, these proposed amendments allow for the provision of the range of fields of elector information that was previously available on the AEC’s Elector Information Access System (ELIAS) to members, Senators and federally registered political parties. While it is proposed to restrict the data provided to members and Senators to their respective constituencies, it is proposed that federally registered political parties organised in five or more states and territories, or that have at least five federal representatives, would be able to receive elector information for all states and territories.

The AEC had been providing geographic and other information in ELIAS on the basis that the legislation did not preclude the provision of such information. This amendment, therefore, restores the provision of that information to members, Senators and federally registered political parties.

In regard to the provision of age range information to medical researchers, the AEC received legal advice in 1992 to the effect that the provision of decade age-range information to medical researchers and public health screeners was not in breach of the Act. On the basis of that advice, the AEC has been providing decade age-range information to medical researchers and public health screeners since the commencement, in 1993, of the regulations specifically allowing for the use of elector information in approved medical research and public health screening programmes.

Recent legal advice, that there is no specific authority in the Act for the AEC to provide decade age-range information, caused the AEC to withdraw the provision of this information to medical researchers. However, age range information is a critical piece of information needed to make such research useable.

The AEC normally provides elector information to medical researchers and public health screening bodies in a minimum of 5 year age cohorts. However, the bill allows for provision in 2 year age cohorts. This is to allow for studies on critical public health issues, such as immunisation, where it may be necessary to be able to clearly determine the influencing factors in order for the study to be viable and provide useable results.

Such elector information is not made available to just any researcher. Medical researchers must meet guidelines issued by the National Health & Medical Research Council as well as have the research approved by their institution’s Ethics Committee. Public health screening bodies must be approved by the Department of Health & Aged Care as well as meet guidelines issued by the department.

In essence, this bill will restore the previous established practice for the provision of elector information by the AEC to these groups.

The amendments relating to the registration of political parties address Government, and broader public, concerns that the political party registration provisions of the Commonwealth Electoral Act 1918 could be open to exploitation where members of parliament use their parliamentary membership to register political parties for federal election purposes, even when these parties do not enjoy the support of at least 500 members.

The amendments also provide that an application for registration of a political party will be refused if the proposed name of the party applying for registration is the name, abbreviation or acronym, or closely resembles the name, abbreviation or acronym, of an existing parliamentary party, registered party or certain parties which have stood candidates under their party name at State or Territory elections in the preceding 5 years.

The government has not moved to make any other amendments to the Commonwealth Electoral Act 1918 at this time. The Joint Standing Committee on Electoral Matters (JSCEM) has recently reported on its inquiry into the conduct of the 1998 federal election and the government will be responding to that report in due course. The JSCEM has also recently advertised, on 9 September 2000, for submissions to two other inquiries it is conducting. These are an “Inquiry
into Electoral Funding and Disclosure” and an “Inquiry into the Integrity of the Electoral Roll”. It is appropriate to leave any further electoral amendments until after these processes are complete.

I commend the bill to the Senate.

Debate (on motion by Senator Ludwig) adjourned.

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

COMMITTEES

National Crime Authority Committee

Membership

Message received from the House of Representatives acquainting the Senate that Mr Schultz has been appointed a member of the Joint Standing Committee on the National Crime Authority in place of Mr Somlyay.

RENEWABLE ENERGY (ELECTRICITY) BILL 2000

RENEWABLE ENERGY (ELECTRICITY) (CHARGE) BILL 2000

In Committee

Consideration resumed from 5 October.

RENEWABLE ENERGY (ELECTRICITY) (CHARGE) BILL 2000

Senator BOLKUS (South Australia) (4.15 p.m.)—When we were discussing this legislation last week, I sought deferral on the basis that there was a particular problem with respect to fixed price non-reviewable contracts which affected—and probably still do affect—a whole range of government utilities across at least four states. Our concern was that, to the extent that those contracts were fixed term, there was no capacity to pass on the penalty charge to the contracting parties. The issue is complex. The reason we deferred this legislation was to give the parties some extra time to get into the debate and to give the minister some time to focus on the issue when he returned from his most recent trip overseas and before the next one. I gather this issue has attracted some discussion between lawyers on behalf of the Australian Greenhouse Office and Macquarie Generation. In a sense, it has probably been disappointing that Macquarie Generation has been the only company which has been prepared to get into discussion with the government. I was led to believe that there might have been other companies as well.

We have come to a stage now where, I gather, discussions have not led to any consensual outcome. I gather the parties are still at odds, although the one extra bit of information that has come out is that, once the legislation is passed, particularly clauses 111 and 160, the regulator will have access to contracts to be able to satisfy himself or herself as to the powers of review that may be encompassed in the contracts. Without consensus, we have to make a decision as to whether we would proceed with the amendments that we were contemplating last week.

We had not formulated those amendments and put them into the Senate last week—basically, they were amendments that Macquarie Generation put to the government.

It is our view now that we have identified a problem, but we are not sure that the amendments would satisfactorily rectify the problem, nor are we sure that the amendments would not have unintended consequences. If we were to allow for total passing on to the contracting parties, it has been put to us by some in the Green movement that this may take the pressure off some of these utilities to focus on renewable sources and not have to pay the penalties. I raise this issue in this context once again for the minister. It is an issue which concerns not just us but I gather at least four state governments. It is an issue which may contain a degree of inequity in the way that the government’s legislation will impact on consumers and taxpayers as opposed to the contracting parties. I ask the minister whether he is prepared to have these issues as part of an ongoing scrutiny with a view to ensuring, if any problems do arise—if they do, they will arise in the immediate future—that the government is prepared to come back to this place to rectify the problems.

Senator HILL (South Australia—Minister for the Environment and Heritage) (4.19 p.m.)—Firstly, can I record my thanks to Senator Ian Campbell, who ably looked after this matter last week; although, I regret to say, he was unable to complete the matter. The issue which has just been raised by Senator Bolkus has been one which the gov-
ernment have been considering for some time. I think it is fair to say that, while the Renewable Energy (Electricity) (Charge) Bill 2000 clearly sets out the liable parties—and that was in terms of the government’s decision on the matter—we nevertheless expected that the cost would be passed on. Macquarie Generation have suggested to the government that they will not be able to pass on some costs because of the terms of certain contracts. Unfortunately, they have not been prepared to show us those contracts. It is very difficult for the government to verify that circumstance. Macquarie Generation, through their solicitors, have suggested a number of alternative courses that we might consider. At one stage, the course involves amendments that specifically mentioned their contracts.

In more recent times, amendments have been in more generic terms but, nevertheless, I presume, in such terms that Macquarie Generation believe that their contracts would be covered; in other words, they would refer to an acquisition of electricity that is pursuant to an agreement entered into before a certain date and would cover certain quantities of electricity, and so forth. I think honourable senators would understand that, in such vague circumstances, it really is very difficult for the government to address the issue of Macquarie Generation. Senator Bolkus has suggested that there may be others who also have a difficulty in this regard. As far as I know, no other party has come forward on the matter. We therefore think the bill should stand as it is.

If passage is achieved and Macquarie come forward and convince us that they are unable to pass on the cost, we would look to see whether there was any course of action that we could take. I would not want that interpreted as an undertaking to legislate further, because preliminary examination indicates that such legislative amendment may have a range of inadvertent consequences addressing not so much how it relates to Macquarie but how it might relate to other parties, how that might affect the intention of the original bill, whether it could be done under this legislation or whether it would require a separate piece of legislation of a different type.

There is a whole range of complex legal questions involved in this matter, therefore all I can indicate at this stage is that, if, after passage, Macquarie believe that they are in some way discriminated against in relation to their existing contracts, we would be prepared to look at the matter further. I presume that, in that circumstance, if they did take the matter seriously, they would provide the contracts for the consideration of the government’s lawyers, and we would see whether anything could be done to assist. That is as far as we are prepared to go. Senator Bolkus said there is a provision in the bill that could allow the regulator to call in the contracts, but that was not the purpose of that provision. The provision, as I recall it, was part of the enforcement provisions of the legislation to ensure there is no abuse. Senator Bolkus is talking of using that provision for a significantly different purpose for which it was not designed.

I think that, if, after the passage of this legislation, Macquarie do seriously believe they have been disadvantaged, they will come forward with their contracts, will seek to openly make out their case and will give us the chance to verify the information, by which time we no doubt will know whether any party has been similarly affected or whether other parties have been affected in a different way but in a way that could have a similar consequence. We would look at all of those circumstances at that time. We obviously want the legislation to work effectively. It is a new scheme for Australia, and it is innovative, but whenever you get into legislating in a new area there is the chance of inadvertent consequences. That is something that any sensible government would look at when the scheme is in operation and has been put into practice. That is how we are approaching the matter.

Senator BROWN (Tasmania) (4.25 p.m.)—The answer the minister gave is totally unsatisfactory. A major problem with this legislation has been identified by a major generator in New South Wales. To put the case simply, the problem is due to a bulk buyer of electricity being under a contract
which cannot be altered. The extra cost of producing renewable energy is not to be passed on to them, so who does it get passed on to? It is the generator of the electricity that has to make up the cost of providing the new—what the government calls 'eco-friendly'—power. It gets passed on to all the other consumers. That means that the cost involved goes on to the rest of the retail sector in New South Wales, and that includes home owners, while the big aluminium processor is freed of that cost through their contractual arrangement for however long their contract might go. I understand that in this case it may be as far away as the year 2017, so it is for the next 17 years.

It is not a small matter. The bulk buyer involved purchases 10 per cent of the electricity in New South Wales, so it means that other consumers will be paying at least 10 per cent more of the added cost, if there is added cost, for providing green energy. The minister is unable to say that this is not the case. We do understand that he has traversed the argument. He knows there is a problem, but he has not come up with an answer. He says that, if we wait until some future time, there will be a review if this problem really surfaces—notwithstanding the fact that it is already on the surface—and that something could be done about it. It is totally unsatisfactory. The minister, Senator Hill, is effectively prepared to expose all the rest of the New South Wales consumers—at least those supplied by this generator—to an unnecessary, unfair and unwarranted cost. The argument that you cannot deal with this is spurious; of course you can. There is a very specific problem here, and amendments have been put forward by the people who have spotted that problem. It is up to the government to come up with better amendments.

The minister has indicated that other generators may have the same problem. Tasmania is one of them. As you will know, Mr Temporary Chairman Murphy, some 66 per cent of the power in Tasmania is bought by bulk contractors. They are secret contracts, as is this one in New South Wales. I have spoken with the Hydro Electric Corporation in Tasmania, and they say that, whilst the biggest contract there, which is with Coomalco, may not be a problem because it has been recently drawn up in light of the changes to the Tasmanian system—whereby the Hydro Electric Corporation produces the power and Aurora sells it—some of the other bulk contracts are not in that league, and there could be a problem with some of them. It is not known, but they could fall into this same situation in New South Wales. I put it to the government that that burden of extra cost on Tasmanian small business and householders will be comparatively greater. There is an identifiable problem here. Without fixing it, there is not just the risk on the face of it but the reality of an unfair cost going on to small business and to home owners in at least two states—and very likely in more states.

I understand that the government is not prepared to furnish its legal advice. That is not new. But it is not acceptable for the government to say, ‘There’s a problem here that we’ll deal with later.’ The time to deal with this is while this legislation is before this committee. Senator Bolkus brought the problem forward; the government should fix it. Unless of course the government says, ‘There is no problem.’ That is very evidently not the situation as far as the minister is concerned. He has not said that. He cannot say that, because there is a problem. All he has said is, ‘We don’t know how to fix it,’ or ‘We don’t quite know how extensive the problem is.’

It is totally unsatisfactory for a minister to put that to this committee, and I suggest that the minister roll up his sleeves and do some work on this. It is totally unacceptable to leave this to be fixed up further down the line. It is sloppy and unacceptable for Senator Hill to come in here and say, ‘There’s a problem in the offing but I’m not going to do anything about it because it looks too hard.’ If it is too difficult for him he should give it to somebody else. It is an identifiable problem coming from the industry itself that needs fixing at this juncture while the legislation is before this committee. It ought not be too difficult for the opposition to amend the legislation to fix the problem. Senator Bolkus moved last Thursday that we wait until today so that the government would
have the time to consider the legislation and to fix it. All we get from the government is that, yes, they agree there is a problem but they are not going to do anything about it. That is totally unacceptable.

The TEMPORARY CHAIRMAN (Senator Murphy)—The question is that the bill be now passed without requests.

Senator Brown—I do not agree that the bill should be passed in this unacceptable form, and I hope that will be recorded.

The TEMPORARY CHAIRMAN—That is your prerogative. It certainly will be and I am sure Hansard have taken note of the point you have made. I put the question again: that the bill be now passed without requests.

Senator Brown interjecting—

The TEMPORARY CHAIRMAN—You have spoken twice, Senator Brown. I understand that you have asked that your opposition to this motion be recorded. I assume that is what you are seeking to do again but I am just finalising the question that I did previously put.

Question resolved in the affirmative.

RENEWABLE ENERGY (ELECTRICITY) BILL 2000

The TEMPORARY CHAIRMAN—We now move to the Renewable Energy (Electricity) Bill 2000. The question is that the bill as amended be agreed to.

Question resolved in the affirmative.

Renewable Energy (Electricity) Bill 2000 reported with amendments; Renewable Energy (Electricity) (Charge) Bill 2000 reported without amendments or requests; report adopted.

Third Reading

Motion (by Senator Hill) proposed: That these bills be now read a third time.

Senator BROWN (Tasmania) (4.34 p.m.)—I will vote against the third reading. This legislation is brought before the chamber as an environmental innovation, but in fact it has become an environmental travesty. It was not seen as important enough for the minister to be here through the debate last week, nor to add a contribution at this stage when he could well do so. I am sure that getting to my feet will encourage him to at least say something about this piece of legislation. This legislation is to have Australia increase by two per cent the renewable energy component of its electricity production by 2010.

When you look into the legislation you find that, in fact, it is increased by one per cent, by 9,500 gigawatt hours. You have to compare that with a world average aim over the next 10 years of 7.4 per cent to see how derelict this legislation that the so-called minister for environment is putting before this chamber. When you look at the figures for almost all other similar countries in the world, you can see they are rating up to between five and 15 per cent added renewable energy, green energy, by 2010. Indeed, the figure for Denmark is 20.3 per cent. The minister for the environment has brought in legislation to this chamber that puts forward a paltry two per cent in a country that, per capita, has the worst greenhouse gas production of any country in the world. In other words, we ought to be world leaders in this matter; instead, this government is a world laggard in the matter.

To compound this dereliction by the government, we have manifest deceit: the government is going to include in so-called energy renewables—that is, environmentally friendly energy under this legislation—the burning of woodchips out of native forests. The word ‘renewable’ does apply to solar power and everybody can see, on a day-by-day basis, that the sun renews and replenishes the power that comes to the Earth, and that is where the name comes from. But what the minister has in mind is the destructive removal of native forests and native forest ecosystems by the woodchip industry which, as you know, Mr Acting Deputy President Murphy, is destroying Tasmania’s tall forests and rainforests at the greatest rate in history. To give some measure to that, right through the 1980s and into the 1990s the maximum allowable figure for export woodchips out of Tasmania’s native forests was 2.88 million tonnes. Currently, on most recent ABS figures, it is more than five million tonnes per annum.
Each time I go back to Hobart or Launceston and drive into town, I am ashamed about the convoys of log trucks, including B-doubles, carting our native forests to the woodchip mills to end up on the rubbish dumps of the Northern Hemisphere. They are not value added and they are not valued for what they are. Under the Howard prescription, because this is the regional forest agreement outcome that Prime Minister Howard signed without ever having gone to the forests, it has also led to the loss of hundreds of jobs. The highly automated industry—which cried crocodile tears and which, you will remember, Mr Acting Deputy President, had hundreds of log trucks around this parliament five years ago, with the CFMEU, the union representing the workers of the industry, helping orchestrate that on behalf of the woodchip corporations—got the RFA that it supported with John Howard and the now Labor government of Jim Bacon in Tasmania, but it did nothing about the hundreds of jobs that have been shed since Prime Minister Howard signed that deadly contract to give power over Tasmania’s forests to several out-of-state woodchip corporations.

They see that there is a problem with selling those woodchips into the future, because native forests do not provide the same quality of woodchips as the massive plantations of eucalypts elsewhere in the world, and the Japanese are forcing down the price. So they have to look for alternatives, and one alternative they have found is burning woodchips in furnaces to produce energy. But that is an expensive exercise. This minister, who despite all this still wears the name ‘minister for the environment’, and is a disgrace to his portfolio, has moved to classify the burning of native forests and wildlife ecosystems at the greatest rate in history—at least the part diverted into making electricity—as renewable when patently it is not. It is an absolute deceit by this government. It is high deceit of the Australian people, who will be asked to buy that power and to do so with the government classification of ‘eco-friendly’ or ‘environmentally sustainable’ when patently it is not. Moreover, by bringing onto the market woodchip-fired electricity, there will be a squeeze put on solar power and wind power, which is legitimate renewable energy but is, arguably, still more expensive to produce. So the certificates under this system which give a boost to renewable power may go to the people burning forests, not just in Tasmania but also in New South Wales, Western Australia and Victoria, at the expense of solar and wind power.

This is a multimillion dollar operation, and this minister has got the gall to beat his chest about $2 million or $3 million solar installations which the Greens and others have been pushing for for decades. He comes along lately and says, ‘Aren’t I good? I am getting behind solar installations in the bush, even though I blocked the Greens’ sun power bill just two years ago, which would have expedited that.’ At the same time, he is prepared to give the logging industry a multimillion dollar favour, way over the amount going to the solar installation, to accelerate the destruction of forests—and the first cab off the rank is the so-called Southwood project in the Huon Valley in Tasmania. What is Southwood? Southwood is a project by Forestry Tasmania, the villains and mis-managers of Tasmania’s forest. They are defrauding Tasmanians of not only their heritage but also of the right to a proper income and proper management of the forests so that there is proper downstream processing and so that you do not have sawlogs sent to woodchip mills or, worse, left to rot on the forest floor. They now want to divert sawlogs through a woodchip mill into a furnace to produce, at the bidding of this disgraceful minister for the environment, what is going to be called renewable energy. This is extraordinary deceit, extraordinary duplicity, and an extraordinary dereliction of duty by all involved.

One of these days there will be an investigation—it ought to be a royal commission—into Forestry Tasmania and its relationship with the out of state woodchip industries, the job-shedding managers from St Kilda Road and elsewhere, and its breakfasts at the Imperial Hotel Breakfast Room in Tokyo where they negotiate serially downwards the price of woodchips in Tasmania. There will be an investigation as to how they have come to devise this Southwood project, which is go-
ing to take 300,000 tonnes of woodchips out of the wild forests of the Huon, Weld and Picton valleys and adjacent regions in Tasmania, put them into a furnace and sell them as environmentally sustainable power with the imprints on that labelling of a minister who is a disgrace to his office and a government which is a disgrace to Australia’s environmental sensitivities. The Minister for the Environment and Heritage will, of course, get up and go through a mantra of past failed defences on this matter. He will say, ‘I would have thought Senator Brown would have caught up with greenwash. I would have thought Senator Brown would have allowed himself to be drawn into this fraudulent depiction of environmentally sustainable energy—one that is consistent with the destruction of ancient and wild ecosystems and the wildlife that lives in them, because those that survive the holocaust of the firebombing after the logging in these forests in Tasmania get poisoned with 1080 as a result of this minister’s regional forest agreement.

What we have here is a trial being put forward by the logging industry, to which this government is subservient, against the wishes of the majority of Australians, to find another way of making a quick buck out of the nation’s heritage forests—and we are talking here about forests which include forests of world heritage value. And the whole process goes forward without the royal commission and without the public review that some say the government will come up with at state or federal level. I would like to add that in the last few days Forestry Tasmania, up to its usual level of behaviour, has engaged public relations consultants to go to the people of the Huon Valley to try to sell them this Southwood project which, amongst other things, is going to burn woodchips. It is also going to export hundreds of thousands of woodchips through a new port built at public expense in the Margate area. Everywhere these consultants have gone they have been dogged by ferocious opposition—at public meetings in Judbury and Ranelagh on the weekend, in Sandfly during last week and in Huonville—to the extent where, at Judbury, the citizens brought along a PA system so that they could help hear what was being said. The public relations consultants turned the PA off and said, ‘We refuse to speak to this congregation of people; we’ll see you bit by bit behind the curtains, over there behind this display and over there behind that screen—one on one.’ They did not want to face the anger of locals about what is happening to the forests, about the lack of consultation, about the woodchip trucks that are going to roar down the roads that, amongst other things, take their kids to school on buses and about the degradation of their valley by the actions of this minister, this government, the Bacon government in Tasmania and Forestry Tasmania.

I have seen a lot in my life as an environmentalist. I have spent some 15 years in the parliament of Tasmania and in this Senate but, in terms of deceit, dishonesty, duplicity, and a travesty of environmental sincerity, this legislation and this minister take the cake. It is the worst display—

**Senator Hill interjecting—**

The **ACTING DEPUTY PRESIDENT (Senator Murphy)**—Senator Brown, I think you should be aware of the standing orders with respect to reflecting on other senators and members. I draw the standing orders to your attention and remind you of them.

Senator BROWN— I thank you for doing that, Mr Acting Deputy President. Should I stray in that direction I will halt from doing so but, so far, every word I have said has been brought forward to this chamber with aforethought and I mean every word. The minister, through his interjection, as I heard it, is quite willing to wear it. Deep inside he must feel embarrassed to the core by the way in which this deceit is being performed and how the environmental fallout is being dressed up as a good thing for all of us. I have never seen any environmental act as low as this one in terms of legislation—never. Usually people who want to maraud the environment, who want to destroy wildlife and who want to bring down ancient forests have got the innards to come in and legislate for it directly. They do not try to use the terminology ‘environmentally sustainable’ as the minister is doing on this occasion. They also do not try to knock out other environmental goods while they are at it. That is what this minister’s bill does.
As I said earlier, the bill not only uses a device to portray an environmentally destructive and heinous projection on the forests and woodlands of Australia but also tries to pass that off as being a good thing. Robert Hill is responsible for that. He is doing the bidding, no doubt, of his cabinet and of the Prime Minister Mr Howard—the prime minister who did not have the gumption to go and look at the forests of Tasmania before he wrote their death warrant. He did not have the ticker to do that. But when you get to an outcome like this, you just wonder how low this government can go. The environment may not be on the agenda in general as it was in the eighties, but it is roaring back onto the agenda. I challenge this minister for the environment now in this chamber to come down to the Huon Valley, to face the people of the Huon at a public meeting, and to explain to them how burning 300,000 tonnes of native forest per annum to produce 30 megawatts of power to send through Basslink and to sell on to the mainland as so-called eco-friendly power is a good thing. I will tell you what, Mr Acting Deputy President, he will not come because he cannot face the people. He is good at throwing away glib remarks about how Bob Brown and others have lost the plot and are no longer in touch with the people. But I tell you we are in touch with the people; he is the one who is out of touch. It is time he woke up to that and got some courage into his convictions and came and faced the people who do not like the direction he is taking this country and, in particular, who do not like the direction he is sending their forests. This legislation is a black mark on his record, on the government’s record and on Forestry Tasmania’s record. We will live to see the day that it has to be rectified.

Senator HILL (South Australia—Minister for the Environment and Heritage) (4.54 p.m.)—in reply—In closing the debate, I thought I would make a few comments because it gives me an opportunity to thank a few different interests and to remind honourable senators of the historic nature of the Renewable Energy (Electricity) Bill 2000. It has got a little way to go, I have to concede. It will go back to the House of Representatives, and I would anticipate some amendment at that point.

If anyone wanted a demonstration of the irrelevance of Senator Brown in the environmental debate, they would just have to read the ranting and raving that we have just heard. I regret to say that, in the 15 years that Senator Brown has been a parliamentarian, I do not know of one instance in which he has used the parliamentary process to advance the interests of the environment. How he can in all conscience stand here today and still claim to be an environmentalist I would suggest is beyond comprehension. Senator Brown’s interest, of course, is the grand stunt: leaping in front of the prime minister’s car and generally finding himself on the television where he can claim to his small band of supporters—the remnants of what was a green movement—that he is still relevant to the Australian political process. In actual fact, he has now become totally irrelevant because the vast majority of what was once that green movement have moved away from Senator Brown. They are the people who are now using the processes to advance their interests rather than condemning the processes.

How Senator Brown could come in here today and say that a piece of legislation that requires the compulsory purchase of renewable energy is a disgrace would be a revelation to anyone who claims environmental credentials. This is the sort of legislation that the green movement has been demanding for years. This is historic not only in Australian terms but also in international terms. What we are now doing is going beyond the no regrets level and requiring wholesalers to purchase an additional two per cent of their requirements from renewable sources. That means, I am advised, that it will require an investment of approximately $2 billion to achieve that quantity of renewable energy. It will push the renewable energy sector in Australia up to about 12 per cent, which will be one of the highest in the world. Senator Brown comes in here and says, ‘But of course it is less than Denmark.’ But of course what Senator Brown does not tell the Senate is that Denmark relies heavily upon hydro, which he condemns, and also partly upon nuclear, because Denmark locks into the grid and takes nuclear power, which he also con-
demnys. That, if anything, demonstrates the hypocrisy of his comments.

This is historic. It will require Australia to lift its renewable energy outcome. It is a result of a commitment made by the Prime Minister in 1997 when we sent out a suite of programs that we would implement to achieve the target that Australia accepted at the Kyoto conference on greenhouse. It has been difficult in the coming. There has been a lot of complex negotiation with all stakeholders. It is fair to say that sometimes there has been resistance from some, including former Labor ministers from this place, I might say, who say that it will add an unreasonable cost to production. It is the position of the government that it will not add an unreasonable cost. In some instances, it might add a small cost, but that will be a significant contribution to producing the mass that can bring down the cost of renewable energy and make renewable energy more attractive and thus start to rebalance the fuel sources in Australia, which are of course heavily biased towards carbon fuels. That is something that Australia has benefited from. We have used the availability of cheap carbon fuel to help build our economy. It is partly for that reason that we have such an energy intense economy. But we do believe there should be a better balance for the future and this is one of the initiatives that we are implementing in order to encourage and support the development of the renewable energy sector. That is why the renewable energy sector has applauded this legislation—something that Senator Brown neglected to mention in the chamber today.

But it is not just the effect of this legislation that will enhance that industry. I should remind the Senate that about $350 million has been advanced by this government in support of a suite of other programs to encourage the development of a competitive renewable energy sector. Some senators will remember the showcase grants which enabled us to financially support some key renewable energy projects that we could use as a showcase of what can be achieved in this country. In addition to that, there is the government’s Renewable Energy Commercialisation Program. We are in the process of announcing the fourth phase of those grants. We have supported over 40 projects around Australia so far. It is a $55 million program. I was very pleased last weekend to announce support for two new solar powered systems within Australia—one in the Anangu Pitjantjatjara lands in South Australia and one in Broken Hill—each utilising world leading technologies that will intensify the energy from the sun and apply it to solar cells in the production of energy. I am advised that, after the testing period, it could work commercially but it needed some Commonwealth support to do so. So we are putting $1 million into each of those two projects. I have no doubt that that technology will, in the future, not only be taken up elsewhere in Australia but overseas as well.

Senator Brown failed to mention the photovoltaic program, which we have supported, for members of the Australian community who wish to take up photovoltaic cell production of energy in a domestic sense. So successful has been the uptake of that program that, in the first year, we actually ran out of money and had to address that situation. But it is an indication of the community reacting positively to a government innovation on renewable energy—something conveniently overlooked by Senator Brown today. He could have mentioned, but of course he did not, the government’s program—some $60 million, from memory—in support of the adoption of renewable technologies in remote areas of Australia. I could go on. We estimate that the government has put in some $350 million in positive support of these programs and now, to complement that, we have this requirement for the purchase of renewable energy which will encourage such a large investment in the sector. The result of all that, as I said, will be the growth of renewable energy in this country—something that I would have thought Senator Brown would have applauded.

As I have said, this is one of a suite of programs that we announced in November 1997. All of those programs have either been implemented or are in the process of being implemented. They have been complemented by further initiatives since, including the
major grant scheme which we are currently assessing for the first $100 million, in effect for the purchase of carbon as another step towards achieving Australia’s greenhouse outcome. I am proud of what this government has been able to achieve in a very short period. It has put us on the step to achieving our Kyoto outcome—an outcome that is very demanding for a country such as Australia, but an achievement which is going to be necessary if we are to do our fair share in achieving a better global outcome in relation to greenhouse gases.

Lastly, I thank those who have cooperated in the development and processing of this legislation to date, in particular Australian industry. Some sectors of industry do recognise that this is an extra cost that they will have to bear but, in the end, they have been prepared to cooperate with us in this goal. The electricity industry and its industry association also came on board in a cooperative way. The Australian Democrats have been demanding but, nevertheless, cooperative in the development of legislation that they obviously believe to be important. And, I might say, we had the begrudging support of the Labor Party. All of that taken together will lead you to the conclusion, Madam Acting President, that the only person who is totally disenchanted is Senator Brown, but that will come as no surprise because I have never heard him say a positive thing about anything. I take the opportunity, in speaking to the third reading motion, to commend the bill to the Senate.

Senator ALLISON (Victoria) (5.06 p.m.)—by leave—I urge the government to accept the amendments the Senate made to this legislation when it goes back to the House of Representatives. There was an amendment on a CPI adjustment, which I think is very important for the workings of this bill, an amendment on tax deductibility, and a number of somewhat minor reporting and notification amendments that were put. I urge the government to think seriously about those amendments. They are reasonable in the extreme. It would be wise of the government to at least take those on board. Of course, the Democrats wanted to see native forest products removed from the consideration of eligible sources. I put the electricity industry on notice now that we will be mounting a strong campaign, I hope, of consumer action to see that electricity consumers do not source their renewable electricity from our native forests. I think that will be quite a persuasive campaign. Of course, we wanted to see the penalty increased to $60. That would have made it quite clear that many more renewables would have been included in this measure. We also wanted to see a straight-line uptake of the target. We know that the industry is able to accommodate that but, again, we could not get support from the ALP or the government for the measure. We also wanted to remove the penalty forgiveness that is currently in the bill for a three-year period. We thought bringing it back to one year and discounting it by 50 per cent was a reasonable thing to do.

Having said all of that, this is not a perfect bill by any means. There are many ways in which we could have improved it. It could have gone further, from two per cent to something else. But conservation groups, the renewable energy associations and just about everybody who came to the Senate inquiry into this legislation said: ‘Whatever you do, make sure the bill is passed; it is an important first step.’ For that reason the Democrats are supportive of this bill. We look forward to the development of a renewables industry in this country.

Question resolved in the affirmative.

Senator Brown—Madam Acting Deputy President, I ask that my single negative against this legislation be recorded—in the most positive way.

The ACTING DEPUTY PRESIDENT (Senator Crowley)—It will be so done, Senator.

Bills read a third time.

INTERACTIVE GAMBLING (MORATORIUM) BILL 2000

In Committee

Consideration resumed.

Senator STOTT DESPOJA (South Australia—Deputy Leader of the Australian Democrats) (5.09 p.m.)—I move Democrats’ amendment No. 1:
I believe we were listening to Senator Lundy when this debate was adjourned earlier. Just to reiterate: the aim behind the Australian Democrats’ proposed—and what we consider workable—solution is to give credence to some form of moratorium that is non-retrospective and that, therefore, does not carry with it some of the compensation problems that have been outlined previously in this debate.

I want to respond very briefly to some of the assertions—or attacks—from the minister. Firstly, it is a little unfair—an understatement—of the minister to suggest that this is motivated by a stunt or by not really caring about the issue or by the Democrats not having realistic concerns about the issue of gambling or, should I say, problem gambling. That is another distinction this government fails to make. Just because people gamble in whatever arena, in whatever form, does not necessarily make them pathological or problem gamblers. That distinction might be lost on people who have not been intimately involved in this debate.

I reject the minister’s assertions made earlier in this debate. Minister—through you, Chair—if we did not want to participate in this debate, if we did not think that it was a worthy and perhaps unique opportunity to debate both the social and the legal issues, then we would not have come to you with a proposed alternative. You may not like the alternative, but it is a little churlish of you to make out that this was done as a stunt or as an attempt to show you up. We showed quite a degree of goodwill in attempting to discuss this with you and your office. To that extent we have had regular contact with your office. We were keen to seek some common ground that would further the interests of those people who were concerned about this debate. That was an unfair accusation.

Clearly, it seems that the debate is not going to progress. We are aware of both the government’s and the Labor Party’s views on this. There is an impasse. It was an impasse that we sought to redress, not necessarily with a compromise but with a workable proposition that fixed up some of the flaws that we considered a part of the government’s proposal. It proposed not simply—as the government said in its explanatory memorandum and as the minister reminded us in this debate—to pause the development of the Australian based interactive gambling industry and to allow for an investigation into the feasibility and consequences of banning interactive gambling, because that is not what we see as the key objectives here. What we were offering was a real solution that would examine strategies to ensure that harm minimisation strategies were implemented, that there was a national public education campaign and counselling support and that all those services were examined.

I acknowledge—and the minister placed it on record earlier today—that this is not a ‘long-term solution’. Indeed, it is a very short-sighted, short-term, populist solution designed to result in no particular assistance to those people who may have problems in relation to gambling. The memorandum itself has exposed the government’s agenda, and that is to look at banning—not necessarily to look at regulation or services that might assist those people.

Clearly there is an impasse. It is one that the Democrats and, I acknowledge, Senator Harris have tried to break. I get the impression that neither of the old parties will even be considering amendments in this debate. On that note, Minister Alston did mention that a majority of my colleagues support the proposition we have put forward. In fact, all my colleagues support the solution proposed on behalf of the Democrats. At least one Democrat senator has indicated in this.
chamber that he has concerns with the issue of gambling and therefore would probably support the legislation. FUNNILY enough, that does not seem to threaten the Democrats as much as it threatens Senator Alston. It is absurd for him to pretend that he may not be aware of that fact. Of course he knew, otherwise his staff would not have been madly ringing every Democrat senator’s office this morning. You probably would have got a bit more support if you had not done that, Minister. We actually respect the fact that we will have differing views on this issue.

We also acknowledge that this is an issue that requires an understanding of the complexities of the technology involved as well as a compassion for, and a willingness to try to do something about, some of the adverse social consequences of gambling. I think there are a number of people in this chamber who are coming to grips with that and who are recognising that the legislation before us does nothing to assist that and that amendments would be the best way to go. But I see the writing on the wall and recognise that probably most of our amendments will be defeated. I think that is a great shame. As I said, if, as the government believe, we were doing this as a stunt, we would not have been so keen to interact with both them and the ALP to try to come up with a solution. We will see how the vote goes—and be it on your head, Minister.

**Senator Sherry (Tasmania) (5.15 p.m.)**—I should perhaps indicate that the Labor Party will not be supporting this Democrat amendment. As I am sure all other senators would be aware—they would know from the contributions in the second reading debate that occurred earlier, some of which occurred last Thursday—the Labor Party is opposed to this legislation in total, as has been indicated by a number of speakers, including me. I will not go over the reasons for that on this amendment; we have our reasons on the record as to our concerns about this legislation.

There is one issue that I do want to raise at this stage, Minister, and that is compensation. You might be able to address this now; I certainly hope so. As I am sure everyone who is familiar with this legislation is aware, there have been a significant number of companies which have developed product and which have been caught by the May deadline. They have spent very significant amounts of money in the development of their product. It is on the record on page 56 of the *Hansard*. I did refer to this one because it relates to my home state of Tasmania by way of example. The Federal group—which, so that people are aware, actually owned and operated Australia’s first legal casino—according to evidence given to the Senate committee, have spent some $14 million in developing their web site. I have had the opportunity to look in some detail at what Federal Hotels have developed. It is an impressive product in terms of the safety and security in a variety of areas. I will not go into that in detail but, nevertheless, they have spent some $14 million. I do not have figures available for other individual companies, but I am aware that the Northern Territory government indicated in June this year that a High Court challenge may be mounted if this bill is passed. The ACT government, according to page 55 of the *Hansard*, has sought general advice about possible compensation.

In short, has the government obtained legal advice about the implications of compensation and/or litigation, given the stated intentions of state and territory governments? There certainly seems to me to be the possibility of legal action by at least some of the companies that have developed product and that have been caught or will be caught if this legislation is passed. They are significant issues. They are issues of concern not only to those people who are affected by the legislation but also to the opposition in that there could be an ongoing legal saga if this legislation is passed. They are significant issues. They are issues of concern not only to those people who are affected by the legislation but also to the opposition in that there could be an ongoing legal saga if this legislation is passed. They are significant issues. They are issues of concern not only to those people who are affected by the legislation but also to the opposition in that there could be an ongoing legal saga if this legislation is passed. They are significant issues. They are issues of concern not only to those people who are affected by the legislation but also to the opposition in that there could be an ongoing legal saga if this legislation is passed. They are significant issues. They are issues of concern not only to those people who are affected by the legislation but also to the opposition in that there could be an ongoing legal saga if this legislation is passed. They are significant issues.

**Senator Harradine (Tasmania) (5.19 p.m.)**—I listened to what Senator Sherry said. He raised the question of the issue of Federal Hotels. I would like a bit of clarification on this amendment. This amendment actually covers that situation, as I understand
it. In other words, in Federal’s case the licence was actually issued before the commencement date. This amendment would take that into account and, therefore, satisfies that side of the argument. I come back to the point that the government is genuinely trying to give a message to those who are involved in online gambling that there has to be a good look at this before it is too late. I think most of us would agree that the greater the extension of gambling opportunities, the greater the number of problem gamblers there will be. The reason I raise this is to ask Senator Stott Despoja for clarification. I presume we are only dealing with amendment (1) on sheet No. 1935. Is that right?

Senator Stott Despoja—Yes.

Senator HARRADINE—On that particular one I assume that what I have suggested is correct. Amendment (1) states:

This Act prohibits a person from providing an Interactive gambling service, unless the person was already providing, or was licensed to provide, the service before the commencement day. Is that likely to cover it?

Senator Stott Despoja—Yes.

Senator HARRADINE—I am getting an acknowledgment there.

Senator HARRIS (Queensland) (5.22 p.m.)—In speaking to the Democrats’ amendment, for clarification for the chamber I would like to acknowledge the reason why One Nation has not continued with the first of our amendments—and that is because it is substantially similar to the Democrats’ amendment. The Democrats’ single amendment covers two of our proposed amendments. So I support the Democrats’ amendment to this bill. In speaking to that, I would like to address a couple of issues that arose during the second reading debate.

In Senator Ellison’s speech just prior to lunch, he inferred that gaming and wagering were basically equivalent when viewed in relation to problems with compulsive gamblers. I believe that there is nothing that could be further from the truth. In actuality, gaming machines—that is, poker machines—represent 76 per cent of the turnover, on average, of gambling, and wagering represents 14 per cent. There is an enormous difference in the amount of money that is being invested in gaming and wagering. The Australian gambling statistics for the year 1998-99 clarify that situation extremely well. In New South Wales, $964 per capita was spent in total wagering—that is oncourse totalising, oncourse bookmaking and offcourse bookmaking. I am not for one moment saying that that is not a substantial amount of money and that we in this chamber should not have concerns that that amount of money is being spent by each and every person in New South Wales. But compare that with the gaming machines, by themselves, where $7,260 per person was spent on average. In Victoria, there are similar figures: the total wagering was $866 and gaming machines $5,842. We are not a great degree better in Queensland; it causes me great concern that on wagering we in Queensland are spending on average $651. But the difference is there again on gaming machines: $2,040 was spent on gaming machines alone. So for the minister to stand up and infer that the problems with gaming machines and wagering are one and the same is, I think, grossly misleading this chamber.

The legislation in its current form is retrospective legislation, because it affects the rights. People in this industry have, on the receipt of government licences, gone out and expended considerable amounts of money on both research and development and on employment. The minister said that 12 months is a short time. I would hate the minister to have to hold his breath for 12 months, because that is about the same effect it is going to have on the Internet technology relating to the gaming industry. Twelve months is a huge period.

The other issue we need to focus our minds on is: is there any influence by the haves and the have-nots? A group of people have paid for their licences and have got their sites up and operating. Has there been any influence by them on the government to exclude those who have been granted licences but do not have their operations up and running? These are questions that I believe have not been answered.

The industry itself turns over $1.56 billion; it is a substantial industry. I believe the
majority of senators in this chamber, if we
had the ability to have that amount of money
transformed into development capital for
development in Australia, would all prefer to
see it going there where its benefits for this
country would be substantially greater. But
that is not the case, so we need to look at this
industry from the overall perspective of what
the government is setting out to do.

The government has said that the primary
motivation for this bill is to protect the Aus-
tralian people from the effects of Internet
gambling for a period of 12 months. If that is
its reason for this bill, then the government
should support the amendments that are go-
ing to be moved in this chamber subse-
quently, amendments which would have that
effect in a more fulfilling way. The govern-
ment’s bill fails in that all it does is restrict
the Australian operators while leaving the
playing field wide open for the industry that
is set up offshore. If the government is
genuinely concerned about the effects that
this form of gambling is going to have on
both the Australian people and the Australian
economy, then it should be supportive of
measures that would make it far more effec-
tive.

In conclusion, I support the Democrats
amendment, because in the simplified outline
that the Democrats have put forward there is
a reference to a licence that was provided. If
we are going to have a moratorium, then the
exception to it should apply to all of those
participants who have paid for their licences
and who have been granted their licences.
They should be on the same footing as any-
one who was granted a licence and had their
business up and operating. I commend the
Democrats amendment to the chamber.

Senator ALSTON  (Victoria—Minister
for Communications, Information Technol-
ogy and the Arts)  (5.31 p.m.)—I will deal
firstly with Senator Stott Despoja’s contribu-
tion to the debate. I do not know whether or
not it is deliberate, but there seems to me to
be a refusal to face up to what is essentially
being put forward by the Democrats: a pro-
aposal which is not a moratorium proposal. It
is using the term ‘moratorium’ to cover the
fact that the Democrats are opposed to a ban;
they are in favour of harm minimisation.

That is the start, middle and end of what the
Democrats are on about, whereas we want a
breathing period to look at all the options,
including a ban. That is really where the dif-
ference lies. I took exception to Senator Stott
Despoja saying that she would not contem-
plate going down this path because she was
not satisfied that we were not motivated by
concern for the polls—a statement I find of-
fensive because intellectually it is quite dis-
honest. It means you are not prepared to look
at the legislation on its merits. It then turns
on whether or not you accept our bona fi-
des—and that is an absolutely treacherous
stretch of sand to walk on. You cannot ever
vote on legislation depending upon what you
might think of someone’s bona fides—for
example, I might prefer yours but not those
of one of your colleagues. I thought the
whole underpinning of your reasoning was
an absolute nonsense to disguise the fact that
you were never interested in a moratorium as
such, that you were never interested in a ban;
you were interested in harm minimisation.
Harm minimisation is one of those matters
that may well emerge—

Senator Stott Despoja—Have you read
the Netbets report by the Democrats, Minis-
ter?

Senator ALSTON—Yes, I have. I have
also read your response, which promotes a
three-month period of time. No-one can tell
when it starts or finishes, so no-one would
have any idea who is covered by it. Anyone
who was in any shape or form interested in
avoiding it would simply start up now. If you
were so slow as to have been asleep at the
wheel before the thing was proclaimed, you
might be caught, but otherwise it is business
as usual for virtually every operator or as-
ipiring operator in the country. If that is not a
farce and a charade, I do not know what is. I
hope you will understand why I regard this
as nothing more than window-dressing. I
acknowledge that you have made a number
of attempts to persuade us to back away from
a moratorium, to back away from a ban and
to settle for harm minimisation, but they are
all the sorts of things that can be looked at
during the period of the moratorium. You
look at what is feasible, you look at what is
economically and socially desirable, and you
may well in the course of that come to the view that harm minimisation is a better path to travel. That is not our predisposition, but the whole purpose of having an open mind during the moratorium period is to honestly examine those issues. You have closed your minds to that. You have decided that there are no circumstances in which a ban is justified, and you have effectively decided that there are no circumstances in which a moratorium is justified. You simply want to carry on with what the states have been talking about for some years, and that is harm minimisation strategies. As I have said to you more than once, the tougher those are the more likely it is that people will avoid them and go offshore.

Quite clearly, the proposition of the Democrats—and, by extension, of Senator Harris—does not commend itself to the government. To have a non-fixed and prospective commencement date does not give anyone any sense of what might be caught down the track. A lot of the criticism of this plan—and I will move on to the compensation issue next—is that, because some people have already embarked upon a business plan, we should not put at risk their hard-spent dollars. There is such a thing as legislative risk. There is such a thing as an obligation on governments to take action in areas where they have concerns or where they believe the community might be justified in having concerns. We can go back almost 12 months to the time when the Prime Minister effectively put the gambling community on notice by saying that the government would have a serious look at Internet gambling, obviously with a view to taking some action to restrain or prohibit it. That is what has eventuated, and that is why 19 May was ultimately selected as a date—so that people would have some certainty. A few people were up and running by that date, and therefore they qualify. The mere fact that people might have been granted licences even some years ago is surely not a basis on which government should be paralysed or intimidated out of taking what the community might regard as sensible action. Therefore, the government simply do not accept the proposition that, because some people have started to spend money in a particular area, it is all too hard and we should throw in the towel.

In terms of compensation, all the advice available to us is that the Commonwealth has clear constitutional powers to regulate Australia’s communication services, and that includes interactive gaming and gambling. The advice also confirms that acquisition of property claims are unlikely to succeed because there is not a clear reciprocal benefit to any other party. We cannot guarantee that people will not take action, but once again the mere threat that someone might take action that might bog down in the courts and protract the resolution of an issue surely cannot be a sufficient reason for governments not to even get into the business in the first place. Others are entitled to take their own legal advice. I must say most of the people who have spoken to me have proceeded on the basis that the Commonwealth does have clear constitutional powers, just as the states in many respects have a lot of the other powers to do with traditional gambling, and that is why the responsibility has been in their courts. To the extent that they have been derelict, you can well argue that there is a case for further intervention. But the powers of the Commonwealth to intervene in those areas are certainly not clear and stand in marked contradistinction to its powers in relation to interactive services.

Senator STOTT DESPOJA (South Australia—Deputy Leader of the Australian Democrats) (5.38 p.m.)—I have a process query, Chair. I wonder whether the chamber would agree to my moving the first three Democrat amendments en bloc. I realise that a couple of those amendments are identical to those proposed by Senator Harris of One Nation, but it might facilitate this debate, given that most of the arguments have been canvassed.

The TEMPORARY CHAIRMAN (Senator Crowley)—Is leave granted?

Senator HARRADINE (Tasmania) (5.39 p.m.)—Can I explain why I think leave cannot be granted. I will be seeking to amend the boxed area of the proposition that is before the chair by deleting the words ‘the commencement day’ and inserting in lieu
thereof ‘19 May 2000’, and by deleting the second dot point.

The TEMPORARY CHAIRMAN—Leave is not granted. I think that makes it clear that we might put the subsequent ones together but at this stage we are looking at Democrat amendment No. 1.

Senator HARRIS (Queensland) (5.40 p.m.)—I would like to briefly place on record that some of the amendments that I will move have different purposes from the Democrats’ amendments, and I will continue to move those amendments.

The TEMPORARY CHAIRMAN—Senator Harradine, we may need you to move your amendments now.

Senator HARRADINE (Tasmania) (5.41 p.m.)—I was not going to move them now; I would move them after this was disposed of.

The TEMPORARY CHAIRMAN—You are not moving an amendment to Democrat amendment No. 1?

Senator HARRADINE—In the end, Madam Chair, what I would like to see is this. I acknowledge that the government had to make a decision about this matter and I acknowledge that 19 May 2000 is the date on which it made the announcement. I disagree, with respect, with Senator Stott Despoja that this is retrospective legislation. The announcement was made on that date and the government has introduced the legislation, which operates from the particular date. But the difference I have with the government is simply on the question of whether or not a licence was provided. While the government includes in its legislation a person who was already providing a service, I believe it is fairer to include those who were licensed to provide the service as well before 19 May 2000. So what I would be proposing by way of an amendment—I will write it out shortly—is the deletion of the words in the first dot point ‘the commencement day’ and the insertion of the words ‘19 May 2000’, and the deletion of the second dot point.

The TEMPORARY CHAIRMAN—So you are suggesting that the best way to operate would be to deal with the Democrat amendment first and then come to you. We will proceed in that manner.

Senator LUNDY (Australian Capital Territory) (5.43 p.m.)—I would like to make a number of general comments. First of all, I give a clear indication of Labor’s position on the amendments before us. Labor will not be supporting any amendments because this legislation is beyond salvation. Whilst I acknowledge the efforts of those who have spoken from the crossbench about their concerns about problem gambling, I maintain, and Labor maintains, that this bill is not designed in any way, shape or form to assist those afflicted with problem gambling in this country. The fact that the coalition’s rhetoric associated with this bill dwells on harm associated with problem gambling typifies the fact that they are trying to once again demonise the Internet as being the source of social harm, either currently or in the future.

I also acknowledge Minister Alston’s comments about harm minimisation and how somehow a position opposing this particular bill relates to a stance on harm minimisation or any other approach, such as prohibition, to gambling in this country. It seems to me to have lowered the sophistication of this debate somewhat to have to remind Senator Alston that prohibition does not work as a solution to resolving problems, no matter what their nature, and that as a civil society we acknowledge that some people will always have problems of some sort and that the most responsible course of action of a legislature is to put in place structures to support a wide range of people across society and a whole range of experiences, acknowledging that we are not able, in our red-carpeted rooms, to prevent them from coming to any harm whatsoever.

In saying all of these things, I would like to reinforce the original point which underpins Labor’s position. The Interactive Gambling (Moratorium) Bill 2000 is not about gambling; it is about a government trying to position the Internet in a place where it is demonised and the source of social harm—in this case, it is gambling. Last year, during debate on the Broadcasting Services Amendment (Online Services) Bill, it was pornography. I remember distinctly, in the emotive way that the coalition pursue anti-Internet legislation, that the word ‘paedo-
philia’ was used in a way that perpetuated the fear associated with the Internet. Here we are hearing about harm minimisation. This is not a debate about the merits or otherwise of gambling and how we as a legislature protect people. To vote against this bill is in no way voting against the fact that we need to address issues of social harm relating to gambling. As I said before, I acknowledge those sentiments expressed in the chamber because Labor have expressed them ourselves. We have expressed them in the form of a successful second reading amendment and we will continue our positive endeavours to find a way forward to address the issues of social harm relating to gambling.

I say to the Democrats, in acknowledging their comments, that it is entirely valid that you hold those concerns and views and vote against this government’s bill. You will not be perceived in any way, shape or form as not having those concerns and not caring to the greatest of your ability. In fact, voting for this bill demonstrates that you acknowledge and in some way you actually respect the government’s pitiful manipulative tactics to place the very serious issue of social harm associated with gambling at the front of a very flaky and flawed piece of legislation which does not solve those problems.

I believe that all of the crossbenchers have been placed in the position where, because of the flawed structure of this bill, they are going through comprehensive damage control. They are trying to find ways to section bits off, to exempt bits, and to change the application, the timing and the operation of this bill. In fact, all of those efforts just perpetuate the government’s original position that somehow this bill does have an impact on the future and nature of gambling, and indeed problem gambling, in this country. I continue my contention that that is not the case.

I would like to draw the Senate’s attention to an interesting document which came my way during the early stages of the debate. It is the coalition’s background briefing for the joint party room meeting. It gives some insight into the cynicism of the motivation behind this bill. One of the dot points in this document states:

The Commonwealth is particularly keen to cooperate with the states and territories throughout the review and has invited the states and territories to take part in this study.

An earlier point states:

During the 12-month moratorium, the National Office of the Information Economy (NOIE), in consultation with Treasury, the Attorney-General’s Department and the Department of Family and Community Services, will conduct a thorough and considered study into the feasibility and consequences of banning Internet gambling.

We have already heard in the Senate today how completely opposite the coalition’s conduct has been in terms of that consultation, despite the states giving an indication very specifically to the Commonwealth at that ministerial council, where Senator Alston first dropped his bombshell, that they were working very strongly towards strengthening state regulations in states which did not have regulations on interactive gambling. This statement to their own party room supports the notion that the government are deluding themselves and deluding their own backbench as to the serious intent of their party to deal with this in a realistic way.

We have heard evidence from the state governments as to how they were not consulted. I acknowledge Senator Harradine’s point: why would you tip people off—if there were a moratorium coming—to go into damage control with this bill and allow those who were licensed before 19 May to continue operating? It does not help when, clearly, there is an agenda here that the coalition are seeking to push through to the point where they are attempting to mislead their own backbench. State and territory governments have placed on the public record their surprise and their disappointment in the federal government for not providing the leadership that they have actively subscribed to. ‘You give us leadership,’ they said, ‘and we will work with you in coming up with an appropriate regime.’ The coalition government, in typical style, particularly in relation to regulations concerning the Internet, said, ‘Go away; we’re on a little crusade here and no sensible suggestion is going to divert us.’

In another area of this document, I note with interest that the government presents its
arguments for this course of action as marketing points—they are not arguments in favour but marketing points. Among the marketing points, a lot of the buzz words that you have heard in this legislation come to the fore, including another piece of misleading information which says:

The government is enforcing a pause to thoroughly consider issues associated with what the Productivity Commission call the ‘quantum leap’ in accessibility to gambling services provided by Internet gambling—a poker machine in every lounge room—before the problem becomes the size of the current pokies problem.

Well, well, well! Doesn’t that just defy what we know to be the facts as a result of the Productivity Commission Report! Here we have the government feeding their emotive line of a poker machine in every lounge room to try to stir up the anti-Internet sentiment of the population, who are actively and genuinely concerned about the issue of problem gambling. The point goes on:

The government is particularly concerned that the alluring interactive nature of these services could attract a new and younger market of gamblers, particularly amongst the Internet generation.

That is the first time I have heard the coalition acknowledge that there is a generation that is interested in the Internet. I quote further:

The government is determined not to allow this new mode of gambling to exacerbate problem gambling in this country.

This is my point: these are all marketing points that the government has positioned itself around in this debate. You can see by the structure of this legislation—by virtue of the fact that this moratorium bill does not stop you going to those sites that are placed offshore that are a bit unreliable in terms of both their legality and their reliability—that it does not go to the heart of all these rhetorical points. It just puts in place a flawed mechanism that in turn demonises the Internet and fails to address any of the genuine social concerns.

Another point I would like to take this opportunity to make is about hypocrisy, and this has been mentioned by several of my colleagues. It is ironic that this matter comes up on the day that we see John Howard, the Prime Minister, actively trying to defend the dive of the dollar, saying, ‘We really are a new economy country. We really are on the ball with the technology new wave.’

Senator Alston interjecting—

Senator LUNDY—The coalition gets it so wrong, and, Senator Alston, you should know this because you are the one in the hot seat here, aren’t you? The government is scraping the bottom of the barrel to present itself as somehow understanding the implications of the Internet and the new economy and all of the social and economic restructuring that comes with it. In the other chamber, the government is telling us how savvy it is; in this chamber we find ourselves arguing about yet another bill that seeks to place Australia in this artificial wall of non-progression when it comes to embracing the opportunities that the Internet provides to our society. The Internet brings with it a series of social challenges, and that is widely acknowledged. What it does not bring with it is an environment full of fear; it is actually an environment full of hope if you believe that information is power. This technology brings with it an opportunity for so much to be gained by so many in our society.

This type of legislation reinforces the concerns of those who, by virtue of this government’s policies, have found themselves on the wrong side of the digital divide. It makes it a scary place to go. We see nothing in this bill about the support and the education that our second reading amendment and the Democrats and others have given articulate expression to. We see nothing positive about that education campaign and support and encouragement; we just see fear being perpetuated by a government that is not capable of providing leadership through change but indeed finds itself, with its ministers, at the forefront of blocking initiative and blocking opportunity.

The bottom line is that the government are trying to make something illegal online that is entirely legal offline. This time it is gambling. I think the efforts in their doing so send a very singular message. As I said, in the other place they are trying to argue that they get it, whereas the dive of the dollar and other factors like a reduced investment in
education, industry and R&D demonstrate otherwise. In this chamber we find ourselves arguing about the types of legislation that give absolute substance to the belief of a large proportion of the international community, and a growing number of Australians, that the government are not up to the leadership required through this period of great technological progression that is being accompanied by a series of social challenges. It seems that it is just beyond them.

I would like to acknowledge the quite significant role that Senator Alston has played in this too. It is from him that we always hear all the rhetoric about the new economy. How uncomfortable you must be to find yourself being the one that has to stand up in this place and defend a piece of legislation you know to be a piece of rubbish—that you know undermines every argument you spruik from a platform in front of every IT conference around this country. I can imagine, from your point of view, that the best thing that could conceivably happen would be that this bill go under. And I bet you are hoping that is exactly what happens. If it gets up in its current form—which is likely, given your office has been lobbying every Independent on the crossbench for the last four hours—you will be the minister that has to solve the mess, because you will be the minister that is singularly responsible for inflicting it on Australia.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (5.58 p.m.)—I am afraid I will have to respond to some of that. It is hard to know how seriously to take Senator Lundy on these matters. I can understand the frustration of being in opposition for a period of years. I can understand the frustration of reading that your colleagues think you are not up to the job—that that is exactly what happens. If it gets up in its current form—which is likely, given your office has been lobbying every Independent on the crossbench for the last four hours—you will be the minister that has to solve the mess, because you will be the minister that is singularly responsible for inflicting it on Australia.

This whole notion of genuflecting at the shrine of the Internet as though it is an untouched area, the last frontier where no-one should even think about imposing restraints, suggests that you really have not been following the debate over the last 12 months or so. There have certainly been a number of books—and I could recommend The Control Revolution: How the Internet is Putting Individuals in Charge and Changing the World We Know to you as one—magazines and articles that are very much trying to come to terms with where the balance ought to be struck. You will not find too many IT leaders in the US who are saying, 'We want untrammelled rights to do whatever we choose, irrespective of community standards.' I do not know where you get your philosophy on these things from, but it certainly does not come from the mainstream of the Internet community.

There will always be arguments about balance and about particular aspects, but I did not notice you, for example, in any shape or form attempting to suggest that it was either not possible or not feasible to ban Internet gambling. So I was at least encouraged by the fact that you did not even advert to that. But I was nonetheless concerned at your suggestion that we were somehow trying to pretend this was going to
fix problem gambling. We have never suggested any such thing. We have said that, because there are problem gamblers out there, if you provide a new medium for gambling that is as accessible as Internet gambling it is likely that a cohort of problem gamblers will emerge in due course.

Senator Lundy seems to think that we are arguing that this bill could have no impact—or as she might have asserted—on problem gambling. Of course it can, and should. If you were to go down the path of banning and it were effective, there would not be any problem gamblers on the Internet by definition. The unwitting casuistry involved in saying that, because problem gambling is allowed offline it should be allowed online, defeats me entirely. Clearly if it is a social evil or a social problem that is within our capacity to address, I cannot see why we should not want to tackle that issue. This is not about banning; this is about breathing space—a moratorium. It is very convenient to pretend that it is something more and worse. I think your point was that we have not sought to involve the states and territories.

What you read out from that briefing note were all points that seemed to me to be quite unexceptional. I did not have any difficulty with any of them but you seemed to have. If you are somehow under the mistaken impression that we are saying we want to involve the states and territories and we are ignoring them, the facts are that we have made every attempt to—Senator Lundy interjecting—

Senator ALSTON—There have been discussions going on between the Commonwealth and the states for months and months and months. They have not all been asleep at the wheel since the Prime Minister signalled his intentions back in December last year. They had a very good sense of where we were coming from. It is not as if they turned up to Canberra thinking that, somehow, we were about to say, ‘Let’s have a cosy chat about harm minimisation,’ which is what Senator Stott Despoja would like to think the debate should be all about. We turned up with a tougher agenda. We make no apologies for that. They knew it. They came in on that basis and they did not like it. A number of them had been telling us that in advance. And after the event we have sought to involve them in having this discussion and conducting a number of reviews into both the economic and social implications, as well as the technical feasibility. We would welcome their involvement in any of those review processes. So I cannot for the life of me see why you would take exception to something like that. I suppose it is just grasping at straws. But certainly there was nothing in any of those points that I think in any shape or form contradicts our approach here. I do not think I need to say much more than that. If you were minded to take a balanced view of these things, you would be in a better position to debate the merits. But to simply get up on an opportunity like this and rant about how sacrosanct the Internet ought to be and that no-one should even think of taking action, even when you have the Productivity Commission foreshadowing that there is likely to be a quantum increase in accessibility, seems to me to be not really concerned about the emergence of a new form of problem gambling and, therefore, not interested in taking action to deal with it, all because you like to think that the Internet is where life starts and finishes. The fact is that not even your colleagues think you should be entrusted with that sort of wisdom.

Senator BROWN (Tasmania) (6.05 p.m.)—I would like to test the minister on a couple of assertions he made earlier in the day, because I think they are quite important to the outcome of this debate. Firstly, he said that he has had, from a number of sources, clear technical advice on how to block or prevent interactive gambling. I ask the minister to give that advice to the committee. Secondly, I think the minister said that it is now possible to block international outlets by putting blocks on providers. I would like him to expand on that and to explain how that is done. With reference to his statement that wagering is second only to poker machines and that, as far as problem gambling is concerned, it is a third of the problem—I think he mentioned
half a million dollars a year in effect—I notice that Senator Harris said the figure he has is 14 per cent. I wonder if the minister could say where those figures came from that show that one-third of problem gambling, and indeed it being second only to poker machines, comes from wagering.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (6.07 p.m.)—I am not about to provide a technical exposition on how these matters work. Suffice it to say that you can certainly require an ISP to block certain sites. If that then induces a user to seek to bypass the Internet and to go via an international ISP, then that would involve the cost of an international call, which could of course be absorbed by the offshore provider, but it could also mean that you are using much slower lines, data rates would be lower, and therefore it would be unattractive. It would be highly unlikely that an offshore provider would find it worthwhile to restructure the site simply to cater for the prospect of a few potential gamblers in Australia, locating on another as yet unblocked site, but you could play that game of cat and mouse. I think you would find that the economics of that are very heavily on the side of saying that they simply would not bother. They would cater for the rest of the world and they would therefore effectively accept the block that would be put in place at the level of the telephone carrier or domestically.

I should make the point that, in any event, the moratorium is not about making a definitive finding on any of these matters. It is about providing time for that work to be done by the experts. I am giving you a layman’s recitation of what has been put to me, but all that does is give me a prima facie sense that it is doable. The purpose of the moratorium is to allow the experts to come back and formally give us advice on the issue.

Senator LUNDY (Australian Capital Territory) (6.09 p.m.)—It is amazing: you ask a technical question and then watch Senator Alston flounder in his responses. I feel obliged to challenge Senator Alston on his reflections on me and my comments, particularly in relation to the paedophilia issue. I do so on the basis that Senator Alston’s comments expose very clearly the fact that he still does not get it when it comes to the online services bill. There is illegal content, Senator Alston, as you know, and that includes paedophilia. It is unacceptable, it is illegal. Your online services bill, despite your using that word throughout the debate, is in fact about making illegal online what was legal in other forms in other rated categories offline. There is no doubt that there is a place for laws that capture and prevent illegal content on the Internet and the production and hosting of illegal content. This bill is not about illegal content. It is about services that are currently legal in other media and through other technology. That is the difference here.

Senator Alston—What, interactive gambling? I did not know that was available offline.

Senator LUNDY—Telephone gambling, Minister, as you know—specifically exempted from this legislation—is a form of interactive gambling. What we are talking about here in this bill, despite its name of ‘interactive gambling’ is Internet gambling—gambling on the Internet. Telephone betting is interactive because you interact with the person you are placing the bet with. We heard evidence at the IT select committee inquiry that you can get the information from the punter and process it via the phone or by the punter using the input frames on a web site and hitting ‘submit’. There is very little difference whether you glean that information over the telephone or over the keyboard and screen of a computer that is connected to the Internet. The business process at the back end of that wagering operation, we heard in evidence, is exactly the same. So do not stand up here in this place and talk about interactive gambling as though it is something special and unique.

I would also like to challenge you about the Productivity Commission reports and your comments about technical feasibility. I think you were not paying attention when I made my comments about what I believe is a technical, unfeasible approach. Even now your comments in relation to the online services bill and its operation in forcing the
ISPs to actively block content is not how that legislation is operating via the code of practice out in the field. The mandate that exists places an obligation on those ISPs to carry the filters and, indeed, to make public and offer a whole range of mechanisms to do that. So let us get very clear the facts of the legislation that this government is contemplating in perpetuating this ban on Internet gambling and interactive gambling services online. The minister has claimed that it is technically feasible, based on the possibility of an increased usage of interactive gambling services. There are a lot of ifs and buts in there, and there are a few too many ifs, buts, possibilities, may be feasibles, and what ifs than I think constitutes any sensible excuse for a piece of legislation. There are far too many ifs and buts in this legislation to make it stand up in a credible light in this chamber.

In closing, the Internet is quite an extraordinary medium and this government has shown a propensity to misunderstand and mishandle it in a legislative sense. This bill, once again, stands as evidence of their ongoing ignorance about change, particularly in relation to the Internet and information technologies.

Senator BROWN (Tasmania) (6.13 p.m.)—I wonder if the minister would like to comment on those figures again. I drew his attention to the figures from Senator Harris that 14 per cent of problem gambling comes from wagering, and the minister said before lunch that it was a third. Which figures are we to accept?

Senator HARRIS (Queensland) (6.14 p.m.)—While the minister is considering Senator Brown’s questions, I have some questions for the minister that go to exactly the same issue—that is, how to block overseas IPs. With the minister assuring us that it is possible or feasible, what would the actual costs be of putting those blockages in place? Secondly, who would be expected to pay? Would it be the government, because it would be requiring that Australian people do not participate in interactive gambling, or would the government merely offload those costs to the present IP providers?

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (6.15 p.m.)—The answer to Senator Brown’s question is that about a third of the money lost on wagering is derived from problem gambling. The answer to Senator Harris’s question is that they are precisely the matters that ought to be examined by the review process. If we knew all the answers we would not need to have a review. Quite clearly, blocking can occur at different levels and it can have different cost implications for different ISPs. So I do not think there is a single answer to the question in any event. It is one of those matters that I would have thought people would be interested in knowing. That is why it is one of the matters that is currently being looked at.

Senator STOTT DESPOJA (South Australia—Deputy Leader of the Australian Democrats) (6.16 p.m.)—Briefly, before the amendment standing in my name is put, I just want to tackle a constant misrepresentation by the Minister for Communications, Information Technology and the Arts. Obviously, the Democrats are concerned with harm minimisation strategies, but our concerns are clearly much broader than that. We seek to achieve a national regulatory system for Internet gambling. We have said repeatedly in our reports, both to the Senate Select Committee on Information Technologies and the Senate Environment, Communications, Information Technology and the Arts Committee, that we support the provision of a national standard and, therefore, an easily recognisable guarantee for domestic and international users. I reiterate that because Senator Alston seems to be passing off the Democrat proposal as merely an interest in harm minimisation strategies—although I acknowledge that that is a key component of the Democrats’ proposal.

We believe we have had an opportunity today to promote effective legislation and, I believe, effectively curb adverse social impacts related to gambling. We have put on record—and I do acknowledge this point that the minister has made in relation to my party—that we have grave concerns about bans and prohibitions online, again for the reasons we have outlined in reports, including Netbets. To correct the minister and for his information, when I asked him whether
he had read the Democrat report, we actually did sign off on a moratorium but it was not in that report that we advocated a three-month moratorium. We actually signed off on the bulk of the evidence contained in the report of the Senate Select Committee on Information Technologies with additional comments, recognising some of those issues that Senator Lundy and Senator Harris have referred to in the chamber today—that is, the difficulties associated with banning content online.

So we have acknowledged in the past and in this debate that a moratorium has some value. But we have also acknowledged for the record, as have most groups in the community, most states and territories and even some of those groups associated with trying to curb the adverse impact of social gambling, that this bill is particularly poorly thought out and that its retrospective nature potentially poses problems for this government either because the basis on which it has been constructed is constitutionally questionable or because there will be compensation claims arising from people in the industry or the states and/or territories. We believe a ban will only facilitate the proliferation of unregulated or poorly regulated sites offshore. That is a concern that has been raised repeatedly by the Labor Party and by Senator Harris, and it is a concern that I do not believe the minister has proven is one that does not have justification.

I commend the amendment to the Senate. I have appealed previously to others on the crossbenches and also the opposition to consider this amendment as at least an attempt to ameliorate some of the worst aspects of this flawed piece of legislation. It offers a realistic way through that has received support from the states and territories, whose goodwill—before it was completely smashed by this government on 19 May when it legislated by press release—still actually remains in some degree. They are keen to get over this period of uncertainty. They are keen to actually investigate the possibility of a national standard. Many of them have standards in place in relation to regulation of online interactive gambling. They have perhaps better regulations than exist for land-based gambling practices. I would say to the minister: if this government is really keen to do something about problem gamblers or unrestricted or poorly regulated gambling practices elsewhere, let us hear about it and do not just say, ‘That’s a state and territory responsibility.’ Clearly, this is an example of where the states and territories do have a responsibility that the government is quite clear to get involved in.

I should also acknowledge the support not only of the states and territories but also of one of the key Internet groups—the Internet Industry Association—who have obviously worked before with the government and other parties in this place to try to further the debate about online regulation or, probably more appropriately, online freedoms. They have come out very strongly both in a release on 31 August and since saying that they support the Democrat amendments to the gambling bill. In commending this amendment to the Senate, my party and I had hoped that this would lead to a realistic debate about some of the concerns associated with gambling. But the Labor Party is correct in stating that this bill really has little to do with curbing any of those social problems. However, this was a unique opportunity to try to amend this legislation in a way that might actually not only investigate harm minimisation strategies, Minister, but also look at a national framework and national standards which the Democrats have conceded all along are called for. This is, I guess, a last ditch opportunity by us. But this debate is so full of simplistic arguments and misrepresentations by the government that I am not quite sure why we are bothering. I seek leave to table the press release from the Australian Internet Industry Association.

Leave not granted.

**Senator ALSTON** (Victoria—Minister for Communications, Information Technology and the Arts) (6.22 p.m.)—Leave is not granted, but in principle rather than specifically in this instance. I think we have all seen the release. I mean no ill will to the Australian Internet Industry Association, but, Senator Stott Despoja, the idea that because you have a press release that you want to rely on you should incorporate it in *Hansard* or even table it seems to me to be going too far
in the scheme of things. We have all got press releases we could table every day of the week. If you have an argument, put it; if you want to say they are onside, say so; but do not clog up the system to that extent.

Senator LUDWIG (Queensland) (6.23 p.m.)—In relation to the tabling of the document, the usual practice in this chamber is for that document to be circulated prior to seeking its tabling. That is the usual rule. It has not been shown to the opposition, so we would oppose it on that basis.

Amendment not agreed to.

The TEMPORARY CHAIRMAN (Senator Bartlett)—We now proceed to Senator Harradine’s amendment, which, I am told, leaps its way up the running sheet.

Senator HARRADINE (Tasmania) (6.24 p.m.)—I move:

(1) Clause 3, page 2 (lines 4 to 9), omit the clause, substitute:

3 Simplified outline

The following is a simplified outline of this Act:

This Act prohibits a person from providing an Interactive gambling service, unless the person was already providing, or was licensed to provide, the service before 19 May 2000. The prohibition ceases at the end of 18 May 2001.

The only reason for this amendment is a genuine attempt to get some bipartisan support to address at a national level the grave problems that are likely to be associated with the extension of online gambling. The amendment that I have circulated follows in a way the amendment moved by Senator Stott Despoja. It differs from that amendment in that the operative date is 19 May 2000. Previously I indicated that I would concede that the government did in fact announce its intentions on that particular day to introduce legislation for a moratorium. To suggest that the legislation that is currently before us is retrospective flies in the face of the practice of both Labor and coalition governments that a piece of legislation was not considered retrospective if it commenced operation from the date of the announcement. In the current circumstances it would be impossible, I suggest, to allow a situation to exist whereby the moratorium would commence on the date of the commencement of this legislation.

The reason that I say that is that there might well have been a number of firms and others involved in Internet gambling who have taken advantage of, or have taken a risk in, the matter being operative from the date on which the act commences. So I have proposed in the first dot point of the amendment to go back to the date that is suggested by the government. But the significant difference between what I am proposing and what the government legislation is proposing is that my amendment, if accepted, would prohibit a person from providing an Internet interactive gambling service, unless that person was already providing or was licensed to provide the service before 19 May 2000. So in fairness to those in receipt of a licence on that particular date of 19 May—and a number were, including, I am sure, Federal Hotels—and who had expended a very substantial amount of money in order to establish their site, this would enable their operation to continue.

The second part of the amendment deals with the question of prohibition and is virtually the same as the government’s legislation—in fact, it is the same. We are really only talking about a couple of months difference—three months or 18 May 2001. It might be six months by the time the legislation gets through the House of Representatives and back here. Who knows, it might be five, but it is not a real big issue to argue about. I would suggest to the Australian Democrats and my other colleagues on the crossbenches that they might give that consideration. I particularly ask the Labor Party to have a good look at this amendment and to have regard to the merits of the amendment.

Sitting suspended from 6.30 p.m. to 7.30 p.m.

Senator HARRADINE—I was, at the break, urging the Labor Party to consider this amendment and to support it. Indeed, I
would urge the government to do so as well. So far as the government is concerned, I would indicate that the only difference between this and the government’s proposal is that this would exempt a person who was licensed to provide the service before 19 May 2000. I gave an example of one such organisation which had been provided with a licence by the state government and had spent something like $14 million or a very substantial amount in preparing for the launch of the sites. They would, of course, be caught up in the government’s legislation. So in fairness to those to which it should apply, unless the person was already providing the service, as the government has stated, or was licensed to provide a service by 19 May 2000, I have supported the government’s date. The second dot point is identical to the government’s bill.

So far as the Labor Party is concerned, Senator Lundy will recall that on the committee we did receive—I think you have already mentioned it—some substantial submissions, and particularly some substantial oral submissions, which expressed a high degree of concern about problem gambling and the extension of the service exacerbating that problem gambling. I take it on face value that the government is genuine in attempting to address that situation by means of a moratorium, during which time there will be efforts made by experts and by state and Commonwealth governments to address the situation and to finally determine on a situation with regard to Internet gambling at the end of the moratorium. I think amongst the public there is widespread support for that. Given the fact that the moratorium would conclude all events on 18 May 2001—and this is not an enormous length of time; it is a short period—it does give us a breather which should be accepted.

Senator LUNDY (Australian Capital Territory) (7.34 p.m.)—I have some brief comments. I would like to acknowledge the points made by Senator Harradine, but I also want to remind you, Senator, of points made earlier. Very clearly this government have not, in either this legislation or in stating their intent with the legislation they are contemplating for banning interactive gambling in perpetuity, explored at any great length the issue of the control and regulation of online gambling content. This has not been done either within state legislation or through umbrella legislation at a federal level. That is an area of great neglect. I think the fact that there are significant consumer protections and consumer protection opportunities for gambling in an interactive or Internet environment means that the responsible approach is to actively secure a highly regulated environment for gambling content. The appropriate jurisdiction for regulating that content is the states.

On top of that, several of the states have already embarked on this endeavour, and I think their pursuit is genuine. There is no doubt that, whether this bill fails or indeed is successful, there is still a desperate need for leadership in producing and working towards a consistent, strong regulatory environment for gambling content on the Internet. I maintain that the appropriate and proven jurisdiction for success in that endeavour is indeed the states. Very clearly, however, this is not the direction that the coalition chooses to move in. Nowhere in this bill does it give expression to a great deal of the substance that was explored through that Senate inquiry and that is discussed both in the government’s report and indeed in the minority reports of other participants, where the focus was on the consumer protections.

This bill creates a space for the government to move, sometime, in a different direction. That is one of the most disappointing features about it. I think it exposes the coalition for not being genuine about issues relating to social harm in gambling. In the essence of this bill, they are still not standing up in this place and talking about how they are going to create a better environment for those who do choose to gamble online. From all the evidence, we know that people will still be able to access those types of sites, regardless of bans and other legislative intentions. We are still not hearing that commitment from the coalition in any sense. Their activities to date demonstrate quite specifically that they have little regard for and are not prepared to tolerate an active involvement of the states in providing that
regulatory environment. This feature of the legislation shows that it is not the wellbeing of the community that is at the forefront—it is for all the wrong reasons that I have probably spent far too much time already in this committee debate making the points on.

Senator STOTT DESPOJA (South Australia—Deputy Leader of the Australian Democrats) (7.38 p.m.)—The Democrats will support Senator Harradine’s amendment insofar as it endeavours to take up some of the wording contained in our original amendment. I still state, for the record, that we do not support the 12-month moratorium but, if the legislation is going to pass, I would prefer this wording than the one currently in the bill.

Senator HARRIS (Queensland) (7.39 p.m.)—I would like to express support for the amendment that Senator Harradine has just moved. Senator Harradine has refined an amendment that had been put forward by both One Nation and the Democrats and it provides more clarity for whoever ends up administering the bill. Senator Harradine has put it very clearly and succinctly that only those people who received a licence before 19 May will be able to operate effectively. I take his point because, in the amendment that we had proposed, it could have been construed that anybody who had applied for or received a licence between 18 May 2000 and the date on which the bill commenced would be able to operate as well. I can understand very clearly what Senator Harradine is doing. To a large degree, his amendment will achieve what the Democrats and One Nation set out to do, that is, to allow somewhere between four and six operators who had paid for their licences, had them granted and were in the process of having the website developed to proceed without being affected by this cut-off procedure.

The Federal group is one of those operators. Senator Harradine was a little unsure about the amount that Southern Cross Casinos had put into the development. It is $14 million. They also have about 28 staff involved in the process. The Federal group has also put into IT a considerable amount of development capital over and above that $14 million. I believe that, in actuality, all the groups involved in the IT have invested the sum of $400 million. It is a considerable investment. In a country that is sorely lacking in terms of industries having an incentive to put R&D into whatever sector they are working within, this bill should cause alarm bells to ring that should be heard everywhere in this country—and if the government continues the process of introducing legislation relating to IT that will make their commitment and their expenses in R&D null and void, virtually with the stroke of a pen.

In conclusion, I support Senator Harradine’s amendment. I understand, with clarity, what he is doing—that is, ensuring that those who were provided with licences before 19 May will be able to operate. I commend the amendment to the chamber.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (7.43 p.m.)—I respond to Senator Harradine’s amendment by saying that, on the face of it, it does seem to go some distance—certainly from where the Democrats were until a moment ago—but, in a sense, the fact that the Democrats came on board demonstrates that the gap is simply too wide. The problem is that, if you are serious about trying to stop the growth of interactive gambling for a period, you really should be trying at the same time to ensure that the major players are not able simply to go ahead irrespective of that. As we know, the Tasmanian government took it upon itself to grant six licences the day before our announcement, and I think the ACT granted another five. So you would have all the major players licensed, which would probably be up to 15 people, and the amendment does not say by whom—but assuming it meant even by the state or territory authorities—so basically everyone would be able to get cracking as though there were no such thing as a moratorium. There would be no-one left at the barrier. Anyone who is serious, even if they have not spent much at all, would have a licence to simply ignore the moratorium and I do not know who it would catch. At the end of the day, whilst it might have some superficial appeal, I have to say that it just leaves a gaping hole there and defeats the whole purpose of the moratorium legislation.
In relation to the states, because Senator Lundy does not seem to quite know whether or not the states should have responsibility here, to the extent that they have been working on a so-called national model now for some five years and have had great difficulty in achieving agreement amongst themselves, presumably in part because they are all seeking to obtain competitive advantage, there is absolutely nothing to stop them putting in place harm minimisation regimes right now in relation to anything, whether it is online or offline. But they have not. They are basically just stalling. I do not think we should be crying too many crocodile tears for the states on this front. The states will basically go along with what they are forced to go along with, and not much more. The finger can be pointed even at those states that supported our moratorium—and bear in mind there were two out of the six. New South Wales is already up to its eyeballs in poker machines, and that is why it has announced that it will not license any more in the foreseeable future. It is the same with Victoria. I do not think we could say the states have a great track record in this area.

I do not quite understand the distinction Senator Stott Despoja wants to draw between national regulation and harm minimisation. I would have thought they are pretty much one and the same thing. If they are not, Senator Stott Despoja has not indicated what more she would be proposing to do other than persuade the states to come behind a uniform scheme.

At the end of the day, whilst I think Senator Harradine is at least endeavouring to act constructively, the fact is that this would render the moratorium process meaningless. Anyone who wants to get out there, whether it is Tabcorp, Tattersalls, Federal Hotels or anyone else, could just treat it as though there was not any restriction on their activities even if they had not started to spend money, which some have and some have not.

Senator LUNDY (Australian Capital Territory) (7.47 p.m.)—In relation to this particular amendment, we in Labor are being consistent in our opposition to the Interactive Gambling (Moratorium) Bill 2000 and the attempts at damage control that ultimately will be unsuccessful in ameliorating the adverse effects. I would like to say a few things about the government having just failed an essential litmus test on this bill. It is very clear from Senator Alston’s comments that the bill is designed to actively hurt those who got in before the prime ministerial decree that it would be banned forthwith. It was designed with that specific view in mind. The opportunity was there for the coalition, if it had any sense of commitment to what it says it is trying to achieve, to see this as one of the few amendments it would have contemplated actively and supported. The fact that it did not stands as a strong argument reinforcing the position that Labor has taken on this in that this is not a bill about practical operation, implementation, meaningful pause or anything else that the government has sought to position itself on. It is just a crusade that will achieve little—in fact, achieve nothing—of the proclaimed moral agenda that the government says it is pursuing.

Amendment not agreed to.

The TEMPORARY CHAIRMAN (Senator Chapman)—We now move to Democrat and Pauline Hanson One Nation identical amendments No. 2.

Senator STOTT DESPOJA (South Australia—Deputy Leader of the Australian Democrats) (7.50 p.m.)—I move:

(2) Clause 4, page 2 (after line 23), after the definition of Chapter 8 agreement, insert:

commencement day means the day on which this Act commences.

The amendment before us on behalf of the Democrats deals with a definition in relation to the commencement day and is an attempt by the Democrats and also Senator Harris to deal with the issue of retrospectivity, an issue that we have covered in the debate previously.

Amendment not agreed to.

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Senator HARRIS (Queensland) (7.50 p.m.)—The purpose of the amendment is to bring clarity to the bill because, the way it is
drafted, the bill refers to a closing date for the one-year prohibition and fails to identify a commencement date. What we are doing here in line with a further amendment that will be moved later on in the debate on this bill is establishing clarity for when the bill will commence. Earlier on, Senator Alston made mention that there is nothing in the bill referring to the commencement day. It would seem, for the benefit of both the members of this chamber and the people who ultimately will be required to administer this bill, that it would clarify that point very succinctly and clearly. If the minister was saying earlier on that there is no real commencement day, here is the opportunity for the minister to reverse that situation and for the government to clearly set out when the commencement day for the bill is. I commend the amendment to the chamber.

Amendment not agreed to.

The TEMPORARY CHAIRMAN—We now move to an amendment to be moved by Senator Harris on behalf of Pauline Hanson One Nation, which is identical to an amendment proposed by the Australian Greens.

Senator HARRIS (Queensland) (7.52 p.m.)—I move:
(3) Clause 5, page 5 (after line 27), after paragraph (b), insert:

(ba) a service to the extent to which it relates to betting on a horse race, harness race, greyhound race, sporting event or sporting contingency, conducted by a person who is authorised under a law of a State or Territory to do so;

I seek some clarification: the running sheet shows that this amendment is in conflict with Senator Harradine’s amendment (1) on sheet 1950, but I believe they are identical.

Senator Harradine—I could clarify that. Mine does not have the words ‘sporting event or sporting contingency’.

Senator HARRIS—I have spoken earlier on about the problems relating to gambling and how there are some anomalies relating to what the government is telling us in relation to where that problem gambling lies. In moving this amendment, which is identical to Senator Brown’s and I believe also the Democrats’ amendment as well, I would like to make very clear to the chamber the considerable difference between what is referred to as ‘wagering’ and interactive gambling. Wagering is different from interactive gambling in that it is the actual placing of a bet on an actual event that will occur either on that same day or at some time in the future. It could be on horseracing or on a football game. Internet interactive gambling, on the other hand, is an interaction between the person who is playing the game and a supposedly real life respondent—whoever is providing the service.

Wagering is something that Australians have done normally by going into their TAB and placing a bet, and they can now do that over a phone line if they have an account established with any of the TAB agencies, whereas interactive gaming is a game that is played in real time between the person themselves and the service that is being provided by the casino, whether it is onshore or offshore. So you have a situation where other issues can come into play. For example, in arcade games and the like—and I am not inferring that interactive gambling does use this process—it is not uncommon to see processes that will gradually lift what is for all intents a human heartbeat, accelerating the speed of that heartbeat to arouse the emotions of the player to ‘hook’ the player into that game. I am not saying that interactive gaming uses any of those processes at all, but it leads towards the situation where the person is pitting their skills against the computer that they are operating on.

Wagering is totally different. Wagering is either ringing up on the phone and placing a bet with the TAB or merely using the PC to place a bet on an actual event that is to occur. They are extremely different in the approaches to them and the personal participation of that person. If this bill continues in its present form, we are going to see enormous impacts on what has been the normal wagering sector of this industry. As I have clearly shown earlier, that makes up only approximately 14 per cent of what is being put through the gambling industry. So therefore, although it is not of little significance, it
is reasonable to assume there would be far fewer compulsive gamblers tied up in it.

TABCORP is one of those services that comes out of Tasmania. It contributes $4 million in income and government taxes and charges, and its net expenditure is $12 million. In total, over half a million people are employed, either directly or indirectly, in casinos, clubs, hotels, TABs, lotteries and the racing industry. The total economic contribution of these industries exceeds $6 billion. This figure has been reached through extrapolation from figures in a report by the National Institute of Economic and Industry Research, so it has not been plucked out of the air. That report was presented in March 2000, and it stated that Victoria’s gaming industry had a gross state product of $1.9 billion. Therefore, the national gross product from the gaming industry would exceed $6 billion, a figure about four times greater than the mid-point average suggested by the Productivity Commission. Those figures were produced by Dr Peter Brain, the director of the National Institute of Economic and Industry Research.

I would like to close by saying that wagering is not interactive gambling. It is quite different from interactive gambling in that wagering is the placing of a bet on an event that will occur, such as a horse race or a football game. I commend the amendment to the chamber.

Senator BROWN (Tasmania) (8.01 p.m.)—I am not yet decided as to how this legislation shapes up, but it will certainly make a difference to have the exemption which the Greens amendment and the One Nation amendment would make. It is a very big glitch in this legislation that the Tasmanian and Victorian TABs are, for the period of the moratorium, shut out of the advantages that online gambling offers to New South Wales, South Australia and Western Australia and shut out of the potential flow-on effects to the racing industry. I have always been a strong supporter of the racing industry in Tasmania. It is a prodigious employer and a very important rural industry, with beyond-the-course activities that take place as a result of the breeding of horses and dogs. It is an enormous interest, and a traditional interest, for a fairly big section of the community. I rarely go to the races—I think the last time I went was the interdominion final in Hobart a couple of years back. I enjoyed that greatly except for the earful I got from a couple of non-Green participants who had had too much to drink on that evening.

I readily understand how important the industry is, how much income it produces and what enjoyment it gives to many Tasmanians—that is why I brought forward my amendment. I note that Senator Harradine has a refined version, and I am inclined to think that that is good as well. I would be loath to support a piece of legislation if Tasmania—and indeed our daughter state across Bass Strait, Victoria—came to be in a disadvantaged position, even for a period of six months or so, because of that legislation. It is quite important that the government look carefully at this amendment and the logic in it. Senator Harris has explained the difference between wagering and other forms of gambling, such as casino gambling in particular and not least poker machines, and I concur with that as well. I recommend this amendment as I think it is quite an important one. As far as I am concerned, it is the signal one in terms of getting rid of, as far as is possible and for the short period of the moratorium, inequalities which are state based. Let us be clear about this: this is one case in which Tasmania would be clearly disadvantaged if the legislation stands as it is. The minister may say that not much is going to happen until 20 May next year and that those few Tasmanians who want to go online will be able to do that through a New South Wales or South Australian agency. But if nothing much is going to happen, then why the worry? Why have a moratorium at all? It will be interesting to hear from the government as to what it thinks is going to be the difference to its legislation if this amendment is adopted and whether it thinks that it is indeed not a positive difference.

Senator STOTT DESPOJA (South Australia—Deputy Leader of the Australian Democrats) (8.06 p.m.)—The Democrats recognise the differences between wagering and gaming. Indeed, we recognise the dif-
ferring requirements or harm minimisation strategies that might be required for both of these pursuits, and we also acknowledge that the states and territories already differentiate between wagering and gaming. Many have different ministers or representatives for each area and, if they have the same minister, he or she wears very clear hats. We believe that any required differences between the two pursuits would be reflected in a national regulatory approach formulated by the states and territories. While we are cognisant of that distinction, we feel that that could still be taken into account in any discussion taking place among the states, the territories, industry, other stakeholders and the federal government.

We are not convinced that further exemptions and specific provisions would further the promotion of a coordinated or a comprehensive regulatory approach, although, having said that, I do not necessarily believe that we are pursuing, with the bill as it remains, a step towards a comprehensive or coordinated national regulatory approach. But any further delineations we believe may further complicate and polarise a young and innovative industry, and certainly this relates to an amendment with which we will be dealing later, moved by Senator Harris, that may appeal to outdated national boundaries that are meaningless in this global information medium. So, while we are aware of the arguments, we are not supporting the amendment. Senator Alston finds that funny. He might even change my mind. Given that the prerequisite for not supporting Senator Harradine seemed to be the fact that the Democrats were supporting the amendment, you never know.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (8.08 p.m.)—I suppose I have got to respond to Senator Brown. As I understood it, it is being suggested that there is somehow some valid distinction between gaming and wagering. Each of them involves putting money on an outcome or, if you like, having a bet. One is a mechanically determined outcome; the other is a real-life event. Beyond that, they each involve the outlay of money based on some element of chance, and in that sense they both constitute interactive gambling. The government’s view is that, to the extent that through the Internet, the television set or otherwise it is possible to generate a new industry that caters for either or both of those streams of chance, they should all be put on hold for the period of the moratorium in order to make a judgment about what is a sensible approach. That does not involve having a guess at this point in time about which is more likely to take off or to what extent people are likely to go down that path or suppliers are likely to come up with business cases.

We have taken the view that you have got to draw the line somewhere. It is reasonable to say that if you are already offering a service then you should not have to, if you like, retrospectively close that service down, but if all you have is merely a ticket by way of a licence then you are not disadvantaged because you are not offering a service to the public. Therefore, to the extent that some jurisdictions might already be offering some form of interactive gambling service, they could continue during the period of the moratorium but they would not be allowed to enhance it. I think the evidence to date suggests that there has not been a great take-up, and that is probably because you will need to refresh the technology in order to get to the next stage, and that is the very sort of thing we think should not be occurring during the moratorium period.

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

The committee divided. [8.15 p.m.]
(The Chairman—Senator S.M. West)

Ayes............ 3
Noes............. 55
Majority........ 52

AYS
Brown, B.J. Harradine, B.
Harris, L *

NOES
Abetz, E. Allison, L.F.
Bartlett, A.J.J. Bishop, T.M.
Boswell, R.L.D. Bourne, V.W.
Buckland, G. Calvert, P.H.
Campbell, G. Carr, K.J.
Senator Harradine—Pursuant to order, I declare an interest in that I have a betting account.

The CHAIRMAN—Senator Harradine, according to the running sheet your amendment is next. What is your wish?

Senator HARRADINE (Tasmania) (8.20 p.m.)—I believe that it would be pointless my moving item 1 on sheet 1950. Therefore, I do not intend to move it. I have a similar view about my prospects of success regarding items 2 and 3 on sheet 1950 and therefore, in the interests of time, I do not intend to move those amendments.

The CHAIRMAN—Thank you, Senator Harradine. That means we now go to the Democrats amendment.

Senator STOTT DESPOJA (South Australia—Deputy Leader of the Australian Democrats) (8.21 p.m.)—I support the Democrats amendment for a moratorium of three months, which is identical to Pauline Hanson’s One Nation’s amendment. The purpose of the amendment is to minimise the moratorium period in which the industry will find itself if the government’s bill proceeds unamended. As I said earlier, I disagree totally with the minister, who said that 12 months is not a long time. With technology as we know it today, 12 months is a huge gulf for an industry which has invested up to $400 million in R&D and finds itself locked out of the process. The amendment is an attempt to bring some reality to the period of the moratorium and to bring it back to a three-month period from the assent of the bill, which I believe would give the government ample time to put in place a consultative process with the people of Australia.

The minister is saying that the purpose of the moratorium is to consult with the Australian people, at which time the government will make up its mind whether it is going to legislate for Internet gambling or ban it totally. I believe that it would be extremely unjust for the government to stand up in this place and purport to be consulting with the Australian people if it has the intention to totally ban Internet betting. I support the Democrats amendment as it is identical to Pauline Hanson’s One Nation’s and call on the government to listen to what the industry is saying. You are consigning the Australian interactive gambling industry to the rubbish pile.

Amendment not agreed to.

Senator STOTT DESPOJA (South Australia—Deputy Leader of the Australian Democrats) (8.24 p.m.)—I withdraw amendment No. 4 standing in my name. The changes relate in particular to an earlier amendment in relation to commencement, and that amendment was not successful. I am happy to move on to debate Senator Harris’s amendment for the same clause.

Senator HARRIS (Queensland) (8.25 p.m.)—I move:
Clause 11, page 8 (lines 16 to 32), omit the clause, substitute:

11 Exemption for interactive gambling services in existence before the commencement day

(1) In a prosecution for an offence against section 10 in relation to the provision of a particular interactive gambling service (the current service) during a particular day, it is a defence if the defendant proves that:

(a) on a particular day before the commencement day, the defendant provided, or was licensed to provide, an interactive gambling service (the pre-commencement service); and

(b) the current service is the same or substantially the same as the pre-commencement service; and

(c) the current service is provided under the same name as the pre-commencement service; and

(d) in the case of a pre-commencement service that was in operation before the commencement day—the service had at least one arm’s length paying customer.

(2) In a prosecution for an offence against section 10 in relation to the provision of a particular interactive gambling service during a particular day, it is a defence if the defendant proves that:

(a) on a particular day before 19 May 2000, the defendant was licensed to provide an interactive gambling service (the licensed service); and

(b) the service in question is the licensed service; and

(c) the licensed service is provided only to persons located outside Australia.

Note: A defendant bears a legal burden in relation to the matters mentioned in this section (see section 13.4 of the Criminal Code).

The purpose of this amendment is to replace clause 11 of the bill. This clause refers to the exclusions or the exemptions for interactive gambling. The government is clearly indicating as we progress through this bill that it is not interested, as Senator Lundy said earlier on. The government is not interested in putting forward legislation that will address the problems with excessive gambling. I believe that the government has an alternative motive for bringing this bill on.

If the government is intent on protecting the Australian people from interactive gambling, I draw the attention of the chamber to subsection (2)(c), which has been changed to read:

... the licensed service is provided only to persons located outside Australia.

This would allow the Internet providers who are up and running to continue to operate provided that the service is not provided to a person located within Australia or its territories.

I come back to my opening remarks. If the government is concerned about compulsive gambling and the problems associated with Internet gaming, it should have no problem supporting this amendment, which excludes the Australian people from participating in this activity but leaves the businesses that are there now to operate. Those businesses provide a sound interactive gambling process for people who are offshore. In particular, it has been indicated by some of the participants in this industry that 80 per cent of their income is derived from overseas. By agreeing to this amendment, we would be doing two things: we would be protecting the Australian people, as the government is purporting to do; and we would be assisting these industries to continue. The industries would provide R&D while they are operating, they would provide jobs for Australians within Australia because they would not have to go overseas, and they would contribute in a substantial way to the revenue of the government.

If the minister is not going to support the proposal, I look forward to hearing from him as to exactly why not.

Senator Lundy (Australian Capital Territory) (8.30 p.m.)—Again, I would like to address my comments to the broader issues. Firstly, I want to acknowledge the activities of the Democrats and those on the cross-benches in their continued efforts to go into damage control on a fundamentally flawed bill. Labor is still maintaining its clear and consistent position that this bill is irrevocable in its flawed structure and will continue to oppose it until the bitter end.
It is interesting to highlight the government’s immovability on a range of amendments, despite the opportunities to improve the bill quite profoundly and incrementally, according to the crossbenches. As I said before, the government’s unwillingness to contemplate any of the amendments I think reinforces the point: (1) that Senator Alston is sitting there hoping like crazy that the bill does not get up because he will inherit the problem; and (2) that if indeed it does get up it will be the Democrats that have to answer to the industry and to the broader Internet community about what they suffer as a consequence.

Finally, the point I would like to make is about the intent of the bill. It is a point I have made several times so I will be very brief. This bill does not address the consumer protection issues or issues related to Internet gambling and how we support problem gamblers, either in relation to gambling generally or in relation to perceived potentiality for problem gambling on the Internet. This bill and how senators vote on it is not a test about their commitment to alleviating the social harm for people with a gambling problem. It should not be perceived as such because in no way, shape or form does the bill address those concerns. Labor has not approached the bill in this way. We will continue to oppose it, as I said, on the basis that it is a flawed structure on the back of a misguided and manipulative agenda on behalf of the coalition. I would urge the crossbench to keep all of these issues in mind as they sit here, as I do, and watch the minister reject opportunities to improve the operation of the bill and to take it, as I do, as evidence that the government are not interested in the effective operation of the bill at all but are indeed happy to buy trouble if the bill is passed tonight, which, unfortunately, it may well be.

Senator STOTT DESPOJA (South Australia—Deputy Leader of the Australian Democrats) (8.32 p.m.)—I would like to respond briefly to those last comments. Indeed this is not a test of senators’ commitment to the issue of alleviating the adverse impacts of gambling, and problem gambling in particular. This debate has been a test of legislators’ commitment to passing good or bad laws. When it is directed to the Democrats that we may or may not be responsible for the passage and/or defeat of this bill, I point out the numbers in the Senate, for the benefit of the members of the two old parties. If this bill passes in its current form, which is one that most people in this place have accepted as being flawed or requiring amendment, I think it will be a sorry day. Both the old parties in this place have completely disengaged from the debate to the point where there have been no amendments proffered by the opposition or any support proffered for amendments.

I acknowledge the point Senator Lundy made on behalf of the opposition that the bill cannot be salvaged. It is bad. I think certainly on the crossbenches there is an agreement that this legislation is flawed. As legislators we have endeavoured to improve, or ameliorate, the worst aspects of the bill in an attempt to make sure not only that the industry does not suffer in a way that is inappropriate but also that we further the debate we thought we were talking about when this legislation was first mooted, introduced and referred to a committee for discussion. At least the crossbenchers have tried to engage in a process of improving what we acknowledge, and what all Democrats have acknowledged, is flawed legislation.

It should also be pointed out for the record that the proposal that has had the most support in this chamber is the Democrats’ proposal, supported and moved by Senator Harris. The proposal is also supported by Senator Brown from the Greens and by industry associations through to the Internet industry associations—that is, from the Internet sector through to the various gambling and state and territory stakeholders—and even those social justice groups who have an interest in alleviating the impact of problem gambling in our society, so there is no question as to what the community would have preferred in this debate. Certainly Senator Lundy is right: Minister Alston is going to have to wear the consequences of this bill and, yes, most of us are aware of the fact that he probably would prefer the legislation to dive so that he could go back to the drawing board and improve it.
in a way that is certainly not retrospective or open to compensation claims.

It is not enough for the opposition in this place to suggest that they have made a principled decision to back out of this debate and that it will be up to the Democrats and the crossbenchers whether or not the bill passes. Numbers may count in this circumstance because the balance of power comes into play, as it does fairly rarely, but it only comes into play and it only matters when the two old parties disagree. On this occasion, I think that neither of the old parties has engaged in this debate in a legislative manner that perhaps would have suited them. Certainly, and I think typically, the work has been left to the crossbenches to try to improve a poor piece of legislation. I hope that it does fail. If it does pass I think it will be a sorry day not only for the gambling industry in an interactive gambling industry sense but also for the Internet industry more generally.

Senator HARRIS (Queensland) (8.36 p.m.)—I would like to comment on the assertion by Senator Lundy that the responsibility for this bill could ultimately lie with the Democrats. I believe that is incorrect, because we have had through this debate a process where every senator in this chamber has had the ability to assess each amendment as it has been put forward. If the bill does go forward in its original form, the responsibility will lie with the Labor Party, because they have had the opportunity to support amendments that would have changed the bill for the better.

The scenario is that, if this bill is supported by a group of senators who are exercising their democratic right to assess this bill on its merits and not on political party lines, then that is how this chamber should operate. It certainly does not appear to be doing that tonight, and it is crunch time—not for the government or the crossbenchers but for the Labor Party. Through the whole of this debate, they have continued to say, and I agree with them, that this bill is not about providing a safe Internet process for people, particularly Australians, who participate in it. It is crunch time because this is exactly what this amendment will achieve. It will protect every Australian so that they will not fall foul of the perceived detriment of interactive gambling. It will assist the industry to continue overseas and it will assist the industry to get a return on their R&D—which the government is so good at saying that we need in this country. So it is actually crunch time for the Labor Party, because if they refuse to support this amendment, what they are actually doing, whether the bill gets up or not, is subjecting the Australian people to exactly what they say they should not be subjected to: betting on the Internet.

Senator BROWN (Tasmania) (8.40 p.m.)—I could wait until the third reading, but I will not; I will say my piece now. As I see it, the vote on this legislation comes down to four, and I am one of them. The difficult decision is whether to vote for it or against it. Through most of this debate, and certainly in the lead-up to it, I have been inclined to vote for the legislation. During the committee stage, I have made it clear why. I think that problem gambling, in particular addictive gambling, is a real blight on society. I have been involved with families, with loved ones and with people suffering from addictive gambling, and I have seen the havoc and distress that it causes. One does not have to be a genius to know that the Internet is going to afford ready access to people who have, or will have, that sort of trouble.

I cannot divorce this legislation from the alarm I have about the social impact of ever easier gambling access on a bigger and bigger number of vulnerable people. I am also concerned about the targeting of Australia by big international gambling interests, which are having their access to Internet gambling facilities blocked, not least in the United States. That is why I first raised the issue of Internet gambling in this place early last year. In fact, I think this matter is much more important than the government’s priority, which was to try to stomp on salacious components available on the Internet.

The two speakers before me were quite right. There has been a block, by the opposition and the government, on entertaining any of the amendments put forward. When it comes down to getting the legislation passed, it is ultimately the government that has got to
weigh up the mood of the Senate, and by ‘mood’ I mean the very real concerns that senators have with it. Instead of doing that, the minister has been quite offhand with real efforts to get real information which would help here. When Senator Harris, Senator Harradine and I jointly moved to get rid of one quite unnecessary shortcoming of this legislation, that is, the exclusion of the Tasmanian and Victorian TAB, so that there would at least be a level playing field during the moratorium period—and remember that increases, against my own wishes, access to gambling in some small way—the minister was cavalier about it. He would not entertain it. I made it very clear to the minister that the way the government went on that would help determine which way I would vote on this matter.

This is a serious matter, and I have had a great deal of trouble coming to a decision on it. But I have been persuaded that not only is the legislation not the right piece of legislation but this government does not mean it—or this minister is not up to putting the case for the government. I have heard that, in cabinet, it is just the Prime Minister who is pushing this legislation, and I have heard lots of other rumours. Watching the performance of the minister in the chamber today could only lead one to believe that the government does not have its heart in it either. Otherwise I would expect that the minister would have been on top of this, he would have had answers where he turned down crossbench amendments, and he would have expressed at least some depth of understanding of the very important amendments which would have led me to support this legislation.

I reiterate that I began by wanting to support this legislation. I reiterate that I have enormous concerns about the social impact of Internet gambling, and they are not going to go away because of the way I vote on this piece of legislation. However, I am not in the business of having a government with a piece of legislation which it believes it has ownership of, which it is blind to any shortcomings in and which it does not believe is amenable to input from the other parties in the Senate. The government will have to go away and come back with better. This is an interim measure. If the government is building up to a ban on Internet gambling, the fact that I am going to vote against this piece of legislation does not mean I am going to vote against that. I would suggest that the government change its approach. I would suggest that the government puts into the Senate its publicly espoused concern for the nation as far as Internet gambling is concerned. It is not good enough to simply say no to every amendment, including ones which quite patiently were going to improve this legislation and make it fairer. Remember that it is a short period that we are involved with—it is just until next May. There was, I think, goodwill in here—a feeling by certainly all the parties up this end of the Senate to work this out, to go a long way, if not all the way, towards the government’s wishes, with a few amendments. But the government was not entertaining that. That being the case, the flaws in the government’s legislation, including those it quite dismissively refused to fix—and glory knows they were not big enough—lead me to be opposed to this legislation as it stands.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (8.47 p.m.)—I will just respond to that latest example of monumental hypocrisy. Quite clearly, what Senator Brown is seeking in that display of petulance is that the government should make a special exemption for Tasmania. That is really what he is asking for. He can understand why he wants to put that position—that is what representational politics can be about—but to pretend that somehow, because he does not get his way on that, this legislation is flawed is absolutely hypocritical. Anyway, I do not want to get sucked in by Senator Brown because he is a past master at running those sorts of lines and I do not think anyone takes it seriously.

I did want to respond to Senator Harris. He asked me why it was that we were not attracted to his amendment. The answer is that it is essentially the same amendment that
we have already dealt with in relation to providing a cut-off in relation to services that have already been licensed as opposed to services that are already available. As I have explained, this would drive a coach-and-four through the whole moratorium concept because, effectively, everyone who is serious about offering these services already has a licence. Therefore, you would render the concept of a moratorium essentially meaningless. The second part of Senator Harris’s amendment relates to limiting activities to persons located outside Australia. Again, that is one of those matters that could be further canvassed during the period of the moratorium, but the principle of the issue ought to be whether or not you are concerned to at least nip in the bud for the time being the growth of such an industry. If you allow it to continue on through the moratorium period in relation to offshore services, it inevitably makes it that much harder to decide later on that that is not the way you want to go. So the sensible thing to do is to simply treat interactive services in the same way wherever they might be offered to the extent that it is feasible to do that, have the moratorium and then examine these issues in some detail, and that is the approach we have taken.

If Senator Brown or anyone else wants to characterise that as intransigence or being bloody-minded, what they are really saying is that, unless the government is prepared to make comprehensive concessions, irrespective of the consequence, it is not acceptable. We can both play that game. To pretend that somehow these were concessions that would inevitably improve the bill is preposterous on its face. It is worse than casuistry; it is absolutely false and misleading. By any stretch of the imagination, it would broaden the scope of the exemptions to the point where it may actually make the moratorium period pretty meaningless. Senator Brown knows that as well as I do. He knows that you cannot allow one very significant section of the industry to carry on business as usual, just as he knows that there is a huge difference between talking about new services before 19 May and new licences. If he wants to pretend otherwise, that is just consistent with the game he plays. The government does not for a moment accept that sort of nonsense.

Senator BROWN (Tasmania) (8.51 p.m.)—I might point out that that section of the industry—the racing industry—would have been able to carry on largely as ever because New South Wales, Western Australia and South Australia have been licensed for this activity and betters in other states would have passed through to them if need be. So Senator Alston is wrong there. There is a very clear message to the states in this; that is, if they do not want to see a comprehensive ban on interactive gambling getting through this place somewhere in the second half of next year, then the time is now for them to get this industry under control with nationally applicable and, as close as possible, uniform laws which do the business of implementing standards that are going to allay the public’s fear about problem gambling and that are going to ensure that the community and individuals within the community are protected. The government’s proposed ban would eliminate the industry altogether, as far as Internet betting is concerned. If the states do not want that to happen, they have to get themselves into far better order than they have been able to up until now. They have until May next year to come up with a set of standards ready and implemented which are going to allay the fears of those of us who are concerned about problem gambling in particular, and the means of being able to deal with it and cut it off before it happens, in an industry which is going to be tempting people in their homes, through their computers, all over the country. I will be writing to each of the states to make it clear that they have an understanding that, if they do not do that, there is a need for national standards and that legislation of some form or other is going to go through this place. So they have a choice. I think this situation should concentrate their minds on coming up with a satisfactory alternative to the comprehensive ban which the government is contemplating.

Amendment not agreed to.

Bill reported without amendment.

Adoption of Report

Motion (by Senator Alston) proposed:

That the report from the committee be adopted.
Senator HARRIS (Queensland) (8.54 p.m.)—I move the amendment as circulated on sheet 1951:

At the end of the motion, add:

“and that there be laid on the table by the Minister for Communications, Information Technology and the Arts, no later than 6 months after the commencement of the Interactive Gambling (Moratorium) Act 2000, a report on the technical and legislative options for banning access to overseas Internet gambling services”.

The purpose of this amendment is to have the minister for Communications, Information Technology and the Arts table a report on the technical and legislative options for banning access to overseas Internet gambling services no later than six months after the commencement of the proposed Interactive Gambling (Moratorium) Act 2000. The government, through debate on this bill in the committee stage, has made references to the fact that it is possible to put in place processes to block overseas Internet sites from being accessed from within Australia. The purpose of this amendment, in adopting the Senate committee’s report, is to require the government to meaningfully set about doing that and to report back to this chamber on the effective measures and options for legislating for the banning of overseas Internet gambling services in Australia.

In relation to the issues of concern about interactive gambling—not only with regard to the bill but also with the problems of compulsive gambling in Australia that Senator Brown spoke of—this amendment, which requires the government to provide a report on how this one section of the Internet gambling industry could be blocked out, would be beneficial to this chamber in ultimately assessing the legislation that the government will put forward. The government is saying that the moratorium is there for the purpose of consulting with the community and industry on this issue of interactive gambling. In making an informed decision on that, this chamber would most certainly be assisted if the government were required to inform this chamber on how that overseas sector could be excluded. I commend the amendment to the chamber.

Senator STOTT DESPOJA (South Australia—Deputy Leader of the Australian Democrats) (8.59 p.m.)—The Democrats will be supporting the amendment to the motion moved by Senator Harris for the reason he has stipulated: the need for the technical and legislative options to be presented. We prefer a time frame of six months as opposed to the nebulous or rather ambiguous time frame that has been put forward by the government. I would ask for some procedural advice, Mr Acting Deputy President, because I also have an amendment to move to the motion that the report of the committee be adopted. I believe it is correct for me to foreshadow that amendment.

The ACTING DEPUTY PRESIDENT (Senator Hogg)—If you are foreshadowing it, yes.

Senator STOTT DESPOJA—I do just that and draw the Senate’s attention to the amendment to be moved in my name to the report of the committee motion. The Democrats will be supporting Senator Harris’s amendment. I circulated our final amendment early on in this debate. It was originally intended as a second reading amendment, but it applies equally as an amendment to the motion that the report of the committee be adopted. It is self-explanatory, but clearly it canvasses many of the issues that we have raised during this debate, in the lead-up to this debate and in the committee processes that have investigated the concept of a moratorium—that is, the Netbets report of the Senate Select Committee on Information Technology and, more recently, the Senate committee that investigated the moratorium legislation that is before us.

The gist of this amendment, the gist of the Democrats’ entire role in this debate and the gist of the amendments for this debate has been partly to encourage the states and the territories to agree on a uniform set of principles to apply to all new licences. That was to be determined during what we proposed in this debate—a three-month moratorium as opposed to the 12-month retrospective, constitutionally questionable, open to compensation claims moratorium that the government is persisting with. We also recognised that, at the end of that time frame, if there
was an inability for the government to reach agreement—and certainly this is still provided for, even under the 12-month process—there would be the possibility of the introduction of legislation as soon as possible after the end of the moratorium, reflecting the minimum principles acceptable to a majority of the states and territories.

Again, we wanted a moratorium that would achieve something, not a moratorium that would only investigate what is clearly Senator Alston’s and Prime Minister Howard’s objective—that is, banning. Their idea is to deal with prohibition, regardless of the technical feasibility or otherwise. They are going to investigate it before declaring that things should be banned online. What we wanted was to not only investigate some of the issues surrounding interactive gambling and many of the issues that still remain unresolved in this debate—issues such as distinctions, be they offshore/onshore distinctions or wager and gaming distinctions—but to do so in a cooperative and constructive way as opposed to the way this government legislated by press release on 19 May this year and, in doing so, destroyed a lot of the goodwill that existed among the states and territories. We wanted those groups—the stakeholders, social justice groups and people in the community—to be involved in that process so that we could come up with a set of standards that provided for a regulatory regime and, indeed, a regulatory regime that took into account harm minimisation strategies and looked at effective regulation that included public education.

Again, that is covered by the Democrats’ amendment, which provides that the government undertake a national public education campaign about the national regulation system and harm minimisation strategies for Internet gambling and, finally, recommend to the states and territories that part of their revenue be allocated to a centralised fund to finance the national public education campaign. In the context of a debate that has allegedly been about doing something about gambling, this is the first real strategy to be moved in the debate that actually deals with alleviating some of those consequences that everyone has referred to in relation to gambling and problem gambling. It is the only amendment to deal with issues like harm minimisation strategies or national education campaigns or public education. If the government are really serious about all their concerns in relation to gambling and, specifically, interactive gambling, they should not have a problem with supporting this amendment, which I still think is compatible with the legislation as it stands, even though it does not necessarily fulfil what the Democrats were hoping to see—a three-month moratorium that actually achieves something.

Senator Lundy was not kidding when she said mentioned the bitter end, because it is a pretty bitter end to be dealing with the flawed piece of legislation that stands before us, despite the attempts by Senators Harradine, Harris and Brown and the Democrats to improve it. On that note, I commend all of those people who participated in the debate. I actually thought it was full of gravitas. I thought that if Senator Alston was trying to win your vote—in a last-minute bid to win your vote—with his contribution in response, then I would hate to see him really schmoozing. It was quite extraordinary when Senator Brown raised legitimate issues and explained that he entered this debate sympathetic to the government’s legislation and sympathetic to the intent of the legislation. By the end of it I think he, like many of us, had been put off not only because of the fact that the legislation is fundamentally flawed but also because of the minister’s response in debate. I think that is a very sorry note on which to end this debate—at least it should be for the government. What a way to lose a vote. But I do commend Senator Brown and others on their decision to oppose this legislation and appeal to all senators to defeat this legislation.

Senator WOODLEY (Queensland) (9.06 p.m.)—I just wanted to rise to say that I will be supporting the amendment because I really think it does what I was trying to set out in my speech in the second reading debate, and that is to do something about a
problem that we have with gambling in this country. I do not think anyone can doubt that. It is interesting to me that I have had this conviction for many years. I was, for many years, regarded as a wowser on this issue, but now it has become a mainstream justice issue. However, I need to indicate that I am supporting this amendment and I need to indicate that, should the amendment be defeated, I will support the third reading of the government’s bill because I believe that, even though it is a flawed piece of legislation, we need to send some kind of signal to the gambling industry that at least one government in this country is serious about the problem that we are facing in terms of the gambling industry. I do hope that this amendment will be carried, but even if it is not I will support the government’s position at the third reading.

Senator LUNDY (Australian Capital Territory) (9.07 p.m.)—I think that all of the amendments to this legislation have been extremely well motivated. With respect to the amendment before us, I believe very genuinely that, to excuse the pun, the horse has already bolted. It is very clear that the coalition is already directly engaged in preparing legislation for an ongoing ban. Whilst I acknowledge Senator Woodley’s genuine concerns about gambling, I do not believe that the way to send a message or to express that concern is by supporting a flawed piece of legislation. I do not believe that this bill gives expression to the social concerns that have been expressed very genuinely throughout this debate about problem gambling and I do not believe that addressing interactive gambling on its own, in the way the moratorium bill attempts to do, in any way addresses those concerns.

I note, with interest, the government’s unwillingness to entertain improvements to the bill. I would like to point out that, in the opposition’s successful second reading amendment, we gave expression to a positive course of action. We gave expression to what needed to be done in terms of consumer protection and guidance to the states, with the federal government showing leadership. We expressed this in a very lengthy and detailed second reading amendment. There are other options beyond this bill that are very positive and go to the heart of the concerns.

It is also interesting to note some comments that have been made regarding the opposition. We have taken a principled position from start to finish on this bill. Whilst this has not served the well-meaning endeavours of some on the crossbench, it should be acknowledged that Labor has developed a principled position on the bill. We have stuck to those principles throughout the debate and we will continue to do so. We urge all senators to join with us in opposing this bill.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (9.10 p.m.)—I would have hoped that there was not only one party in this chamber that could claim to have a mortgage on principled positions. Without wanting to debate the merits of it, I simply say that the government regards itself as being in that position. That is why the concessions that were suggested and the amendments that were moved did not commend themselves. I am pleased that at least my silver-tongued oratory seems to have appealed to Senator Woodley.

Senator Woodley—You nearly lost it.

Senator ALSTON—I know, but I am grateful that you stayed the course. You do at least have sufficient strength of character to recognise a good argument when you hear one and not to trot out specious reasons for doing what you are always intending to do.

Senator Jacinta Collins—Are you smooching again?

Senator ALSTON—No! If you had had to sit here and listen to what Senator Brown said to Senator Hill in unmitigated sledging for at least 20 minutes—I was in the chamber—you would have been appalled. It is an absolute disgrace for any senator to have to put up with that behaviour.

Having said that, there is a certain irony about Senator Stott Despoja saying that she is attracted to a proposition that contains certainty, in terms of Senator Harris’s amendment, unlike the uncertain proposals that she has had to consider elsewhere. Hers has to be the high watermark of uncertainty
because we do not know when her moratorium period would start and when it would finish. Yet we are asked to vote on it as is. I simply say that I agree it has the virtue of certainty but, beyond that, it is six months down the track when virtually all of the moratorium period will have expired. In those circumstances, I do not think that much would be usefully gained by accepting Senator Harris’s request. Clearly, if the government were minded to go to the next stage in relation to a ban, all of those matters and more would need to be exhaustively canvassed. The government accepts that it would not be sensible or feasible to ignore the advice that might be obtained in relation to this and other issues before proceeding to that point.

As far as Senator Stott Despoja’s foreshadowed amendment to the committee report motion is concerned, again it suffers from the consistent flaw that I think bedevils her whole approach to this area—that is, it prejudges the whole idea of a moratorium. It proceeds on the basis that, no matter what form the moratorium takes, it will be business as usual afterwards. This is about encouraging the states and territories to agree on a uniform set of principles to apply to all new licences at the end of the moratorium. It may well be that we take the view that there should not be any more new licences issued, so why on earth would you want to commit yourself to a proposition of that kind? Similarly, if she believes that the states and territories are moving quickly, she has obviously ignored the fact that it is some five years since they first talked about a national code and they are still essentially debating the issue amongst themselves. I do not think it needs the Senate to give them gratuitous advice about setting aside a percentage of gambling for a centralised fund to finance a national public education campaign. If the states are serious about harm minimisation, there is absolutely nothing to stop them from all getting together, coming up with a uniform approach and putting that in place notwithstanding. They can do it in relation to non-interactive gambling. They can do it in relation to any other form of gambling that they think has deleterious social consequences. Again, I do not think this amendment adds anything to the debate.

Amendment not agreed to.

**Senator STOTT DESPOJA** (South Australia—Deputy Leader of the Australian Democrats) (9.14 p.m.)—I move:

At the end of the motion, add “but the Senate calls on the Government:

(a) to encourage the states and territories to agree on a uniform set of principles to apply to all new licences at the end of the moratorium and to existing licences on renewal;

(b) if unanimous agreement cannot be reached at the end of the moratorium, to introduce legislation as soon as possible after the end of the moratorium, reflecting the minimum principles that are acceptable to a majority of the states and territories;

(c) to undertake a national public education campaign about the national regulation system and harm minimisation strategies for Internet gambling; and

(d) to recommend to the states and territories that a percentage of their gambling revenues be allocated to a centralised fund to finance the national public education campaign.”

I covered the issues contained in the amendment when I foreshadowed it earlier.

**Senator BROWN** (Tasmania) (9.15 p.m.)—I just want to comment on Senator Alston’s statements about the earlier debate that took place. I am an environmentalist and it breaks my heart when I go back to Tasmania and see the procession of log trucks heading out of the forests through Hobart, past the airport or, if it is into Launceston, through to Long Ridge. It is now five million tonnes per annum of those forests being sent to the woodchippers by this government. Do not underestimate—I know Senator Alston is not here for much of the proceedings on environmental debates—my motivation as far as—

**Senator Alston**—Mr Acting Deputy President, I raise a point of order. Senator Brown has had an opportunity to debate environment issues for quite a considerable time today. My point was simply in relation to the language—
Senator McKiernan—What’s your point of order?

The ACTING DEPUTY PRESIDENT (Senator Hogg)—What is your point of order?

Senator Alston—My point of order relates to the fact that if he claims to be responding to what I have said in this debate all I was doing was referring to the vicious tone of language that he used, in the same breath saying that that was some reason why somehow he was turned off my argument. If he wants to justify that, that would be within the terms of this debate; otherwise I suggest that he is completely out of order to start redebating environment issues.

The ACTING DEPUTY PRESIDENT—Senator Brown, there is no point of order. Continue.

Senator BROWN—There is not, Chair. Thank you. That is a very wise ruling. Let me say that if there is anything vicious about the matters at hand it is the way that the chainsaws and bulldozers are being driven into Tasmania’s wild forests in a historically destructive impact on one of this nation’s great pieces of heritage. The government may feel that the minister for the environment is put upon, but any day of the week he could stop that. All he does is enhance it, and on this occasion he is enhancing it by wanting to send more of those woodchips to furnaces to be turned into electricity.

Notwithstanding having to deal for the last week with what I described today as for me the most depressing piece of legislation that has been through this place in the five years I have been here, I came to this debate feeling that social responsibility meant I was in favour of this piece of government legislation. I believe legislation of this sort will be back here again that next time around there should be a more accommodating approach to the Senate. This is not the House of Representatives, where the government have the numbers regardless; this is the Senate, and it is a different situation.

I want to say again that there is also a very heavy duty on the states and territories to get their act together and put in controls which are impressive to us before the government, about this time next year, I predict, presents us with legislation for a complete ban.

Senator HARRIS (Queensland) (9.19 p.m.)—I would like to rise briefly to speak in support of the Democrat amendment to the motion regarding the report from the committee. I believe that the issues that have been raised, contrary to the minister’s understanding of pre-empting the outcome of the public consultative process, add substantially to it and should become part of the base of the consultative process that the government is committing itself to. Rather than preempting it, I believe they are in actuality the basis on which it should proceed.

Senator HARRADINE (Tasmania) (9.20 p.m.)—I will be very brief. I do not think that Senator Stott Despoja’s motion precludes a ban. On the face of it, yes, I thought that at first, but looking at the wording now I think there is room for an interpretation that it does not pre-empt, for example, a ban at the end of the time.

I would like to say to the committee that somebody has to take the initiative, and I think the federal government needs to be supported in taking such an initiative. If we
leave it to the states and territories, they are an interested party. They are getting the money; they are getting the revenue. My concern all the time has been that, if those that are going to get the revenue become the regulators, that poses a definite conflict of interest. I commend the government for its attempt to do something about the tragic situation and the situation whereby a substantial extension of gambling facilities will exacerbate problem gamblers.

I will be supporting the amendment by Senator Stott Despoja. May I say to the minister that I would like to have supported the legislation and I strongly believe in a moratorium. One of the difficulties was, however, that small amendment where I felt you needed in fairness to exempt those that were licensed to provide the service prior to 19 May. They should be exempt as well as those persons already providing the service. In fairness, I heard what the minister, Senator Alston, said about the two or three other groups that were licensed. Apparently there are also three or four in the ACT. Notwithstanding that, as that amendment ‘hit the dust’, I am put in a difficult position; I am between a rock and a hard place. I might in the end have to abstain from voting on the third reading. I apologise for being out of order and talking about the third reading whilst we are discussing the amendment.

The ACTING DEPUTY PRESIDENT (Senator Hogg)—You are not the only one who has been out of order, but I have been very tolerant in the last few minutes. The question is that the amendment moved by Senator Stott Despoja be agreed to.

Question resolved in the negative. Report adopted.

Third Reading

Motion (by Senator Alston) put:

That this bill be now read a third time.

The Senate divided. [9.29 p.m.]

(The President—Senator the Hon. Margaret Reid)

Ayes .......................... 33
Noes .......................... 33
Majority ............ 0

AYES

Abetz, E.
Alston, R.K.R.
Brandis, G.H.
Chapman, H.G.P.
Eggleston, A.
Ferris, J.M.
Harradine, B.
Herron, J.J.
Knowles, S.C.
Macdonald, L.
Mason, B.J.
Newman, J.M.
Payne, M.A.
Tambline, G.E.
Tierney, J.W.
Vanstone, A.E.
Woodley, J.

NOES

Bartlett, A.J.J.
Bolkus, N.
Brown, B.J.
Campbell, G.
Cooney, B.C.
Crowe, R.A.
Evans, C.V.
Gibbs, B.
Harris, L.
Hutchins, S.P.
Ludwig, J.W.
Mackay, S.M.
McLucas, J.E.
Murray, A.J.M.
Ray, R.F.
Sherry, N.J.
West, S.M.

PAIRS

Campbell, I.G.
Crane, A.W.
Ferguson, A.B.
Hill, R.M.
McGauran, J.J.J.

* denotes teller

Question so resolved in the negative.

MIGRATION LEGISLATION AMENDMENT (PARENTS AND OTHER MEASURES) BILL 2000

MIGRATION (VISA APPLICATION) CHARGE AMENDMENT BILL 2000

In Committee

Consideration resumed from 5 October.

MIGRATION LEGISLATION AMENDMENT (PARENTS AND OTHER MEASURES) BILL 2000

The bill.
Senator PATTERSON (Victoria—Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs and Parliamentary Secretary to the Minister for Foreign Affairs) (9.32 p.m.)—I table three supplementary explanatory memoranda relating to the government amendments to be moved to this bill. The memoranda were circulated in the chamber on 30 August 2000.

I seek leave to move the following government amendments together: amendment (1) on sheet DA245, amendments (1) to (4) on sheet DA243 and amendments (1) and (3) on sheet DA248. The government will not be moving amendment (2) on sheet DA248 as it is redundant in light of the wording of amendment (1) on sheet DA245.

Leave granted.

Senator PATTERSON—I move:

[DA245]

(1) Schedule 1, item 2, page 3 (lines 18 to 22), omit subparagraph (iii), substitute:

(iii) has not, both:

(A) on or after the commencement of this paragraph, made an application for a protection visa under that Act (whether or not the person has applied for any other visa), other than an application that has been withdrawn or otherwise finally determined; and

(B) whether before or after the commencement of this paragraph, made an application for a parent visa under that Act (whether or not the person has applied for any other visa and whether or not the application for the parent visa has been withdrawn or otherwise finally determined); and

[DA243]

(1) Schedule 1, item 2, page 3 (line 11), omit paragraph (e).

(2) Schedule 1, item 2, page 3 (lines 14 and 15), omit “(other than a temporary protection visa)”.

(3) Schedule 1, item 2, page 3 (after line 15), after subparagraph (i), insert:

(ia) is not covered by regulations made under subsection 6A(1); and

(4) Schedule 1, item 7, page 4 (lines 27 to 31), omit the item, substitute:

7 After section 6

Insert:

6A Certain prescribed persons in Australia to be treated as eligible persons etc

(1) The regulations may provide that a person who:

(a) holds a prescribed kind of temporary visa; or

(b) holds a prescribed kind of temporary visa and is a member of a class of persons prescribed for the purposes of this section;

is, subject to the regulations, to be treated as an eligible person for the purposes of this Act while he or she is in Australia.

(2) Without limiting the generality of subsection (1), the regulations may provide for all or any of the following:

(a) the periods within which a person is to be treated as an eligible person;

(b) the circumstances in which a person is to be treated as an eligible person;

(c) the professional services in relation to which the person is to be treated as an eligible person;

(d) the professional services in relation to which the person is not to be treated as an eligible person.

[DA248]

(1) Schedule 1, item 2, page 3 (line 17), after “been”, insert “withdrawn or otherwise”.

(3) Schedule 1, item 2, page 3 (line 27), after “been”, insert “withdrawn or otherwise”.

One of the major measures contained in this bill is the removal of access to Medicare from parent visa applicants and protection visa applicants who are in Australia temporarily while their permanent visa applications are being processed. This amendment will ensure that future protection visa applicants will be eligible for Medicare on the same basis as applicants for other permanent visas unless they have applied for a parent visa. This amendment reflects the outcome of the government’s further consideration of the issue of access to Medicare by protection...
visa applicants. The effect of this amendment is that persons who apply for a protection visa and who would be eligible for Medicare under current arrangements will retain that eligibility, provided they have never applied for a parent visa.

With respect to sheet DA243, these amendments will provide the government with a more appropriate, flexible and responsive mechanism for extending Medicare access to certain persons who are in Australia on a temporary basis. The Health Insurance Act currently gives temporary visa holders access to Medicare, provided they satisfy the definition of 'eligible person' in that act. Amongst other things, this requires temporary visa holders to apply for a permanent visa. This way of accessing Medicare will remain. The government is, however, concerned to ensure that certain temporary visa holders do not have to apply for a permanent visa for the sole purpose of obtaining access to Medicare. The bill currently provides expressly for Medicare access for temporary protection visa holders by defining such persons as 'eligible persons' for the purposes of the Health Insurance Act. This will mean that temporary protection visa holders will no longer have to make a separate application for a permanent protection visa application in order to access Medicare.

The bill does not, however, contain a sufficiently flexible mechanism to enable the government to provide direct Medicare access for other groups of temporary visa holders in the future. These amendments introduce such a mechanism. Consistent with the government's commitment to extending Medicare access to temporary protection visa holders and, in the future, to other groups of temporary visa holders as appropriate, we intend, as soon as this legislation comes into effect, to prescribe temporary protection visa holders, and any other appropriate groups of temporary visa holders, as eligible persons for Medicare access under the proposed new section 6A of the act. As an interim measure and to facilitate timely and simplified access to Medicare for current temporary protection visa holders, the Minister for Health and Aged Care has made an order under the existing section 6 of the act to ensure that all temporary protection visa holders have access to Medicare.

With respect to the amendments on sheet DA248, amendments (1) and (3) are technical amendments which will ensure that, for the purposes of determining a person's eligibility for Medicare, visa applications that have been withdrawn are treated in the same way as visa applications that have been finally determined. As I mentioned before, the government does not propose to move amendment (2) as the essence of this amendment is already contained in the amendment on sheet DA245. I commend the amendments, and the supplementary explanatory memoranda which I have just tabled, to the chamber.

Senator McKIERNAN (Western Australia) (9.36 p.m.)—As a number of the speeches from opposition senators during the second reading stage indicated, we do not have any problems with schedule 1 of the bill, nor indeed the amendments that Senator Patterson has now moved to schedule 1. I thank Senator Patterson for the explanation of how the amending legislation will impact upon those temporary protection visa holders. The information she gave when she moved the amendments was helpful, but I ask for clarification. Will there be a requirement for the individual within a detention centre who is becoming eligible for the grant of a temporary protection visa—an adult individual, obviously—to make application to the Health Insurance Commission for a Medicare card or to access the provisions of Medicare, or will that be something that happens automatically with the grant of the temporary protection visa?

While the parliamentary secretary is getting the information, I understand that the situation in place at the moment is quite cumbersome and a great problem not only for the individuals who are granted temporary protection visas but also for those individuals in the community who are assisting those temporary protection visa holders to settle into our community. As the parliamentary secretary said in moving the amendments, those individuals now have to apply for permanent residence in Australia in order to access the provisions of Medicare.
That in itself is no easy task for individuals who are in a strange country. Some of them have probably spent a period of time in detention and some of them certainly do not have English as a first language and may not have a great command of the English language itself.

The other thing that impacts upon individuals who are in receipt of the grant of a temporary protection visa is the fact that there is a fee attached to the application for permanent residence in Australia. This has caused some strains upon the persons who are assisting the people once they arrive in the capital cities, and invariably it is a capital city where the temporary protection visa holders are located. I think the parliamentary secretary has now got the information asked for in my question, and I await the answer.

Senator PATTERSON (Victoria—Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs and Parliamentary Secretary to the Minister for Foreign Affairs) (9.39 p.m.)—Apparently it is a requirement of all people, whatever visa they are on, to actually present at a Medicare office to obtain their card. People in detention have access to medical treatment through Immigration until they actually leave the detention centre. When they leave the detention centre, they are eligible for Medicare. They then have to go and apply for their card. I have just asked the officers whether they are advised of that before they leave the detention centre. They could not tell me whether that was the case, but I have asked that they ensure that a process be put in place for people leaving the detention centre to be advised that they need to present themselves at a Medicare office, if it is appropriate. I am not now able to make a commitment here on the floor of the chamber but, if it is appropriate for them to have an application form before they leave and be assisted with filling that out, then I will ask the department to do that. For some reason that I do not know, it may not be appropriate. However, they will be given every assistance in ensuring that they know where the Medicare office is and that they are told that they need to apply. They will be eligible from the time they leave the detention centre.

Senator McKIERNAN (Western Australia) (9.41 p.m.)—I appreciate the response from the parliamentary secretary and I do accept that you are not able to give a cast-iron assurance on your feet on the floor of the chamber. But I appreciate the commitment that you have given, and we would hope that it will work out to the satisfaction of all concerned, both the people who have been released on the temporary protection visa and those individuals who have been assisting them, mainly church organisations, who meet them and assist them after the Centrelink people have talked to them and explained some of the other provisions that are in place. If it is not possible to issue the persons with an application form prior to their leaving the detention centre, it may be possible for that application form to be issued to them at the time the Centrelink people meet them when they arrive at their destination, which I am told is invariably a capital city.

Senator PATTERSON (Victoria—Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs and Parliamentary Secretary to the Minister for Foreign Affairs) (9.42 p.m.)—I really cannot speak on behalf of the minister for Centrelink and say whether that is feasible, but I will look and see whether there is a possibility of having the application forms at the detention centre. However, as I said to you before, that may not be appropriate. I have taken on board your concern and I will do everything that I can to facilitate their accessing Medicare cards. I know it will require them to attend a Medicare office. They should be provided with the locations of Medicare offices in the city they are going to or close to the Centrelink office they initially go to. As I said, perhaps we can get the form to them, and if it is possible I will arrange for that, but I do not know that I can actually guarantee it being the Centrelink office.

Amendments agreed to.

The TEMPORARY CHAIRMAN (Senator Chapman)—I believe it would suit the convenience of the committee to determine first whether schedules 2 and 3 are to remain in the bill before considering any amendments to those schedules. Senator
Bartlett of the Australian Democrats has circulated an amendment sheet which indicates that the Australian Democrats will oppose schedules 2 and 3 and move a consequential amendment.

Senator Bartlett (Queensland) (9.43 p.m.)—I will first speak to oppose schedules 2 and 3. We have canvassed this issue in the second reading stage of the debate, so I do not think we need to go over it in detail again now. These schedules deal with the core component of the bill, the parent visa and the visa application charge. The Democrats are opposed to those for the reasons that I outlined in my speech on the second reading. In the interests of time, I shall not extrapolate further on that.

One other thing I would state is that it is my understanding—if my understanding is flawed, I would appreciate the parliamentary secretary correcting me before we get to the third reading stage—that schedule 2 being removed relating to the visa application charge therefore negates the purpose of the visa application charge bill that we are debating cognately with this bill and therefore it would be appropriate to knock that out at the third reading stage. It is my intent to vote that way. If that is going to cause an inadvertent consequence, I would appreciate the parliamentary secretary letting me know before we get there. The fundamental component of these schedules, to introduce the special parent visa with the extra charge, is one that the Democrats are not able to support at this time, for the reasons previously outlined.

Senator McKiernan (Western Australia) (9.45 p.m.)—In the interests of preservation of time, I too will be very brief in my comments. We again indicated during the second reading debate on this bill that schedules 2 and 3 were causing us concern. The fundamental component of these schedules, to introduce the special parent visa with the extra charge, is one that the Democrats are not able to support at this time, for the reasons previously outlined.

Senator Patterson (Victoria—Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs and Parliamentary Secretary to the Minister for Foreign Affairs) (9.45 p.m.)—The government will not be supporting the foreshadowed opposition by the Democrats because it would mean that the two bills will be knocked out. I think I have explained very clearly, as has the minister in his second reading speech in the other chamber, the government’s position with regard to the need for people in the community—and there has been a request from people in the community to this effect—to make a contribution towards the costs of somebody coming here later in life. I ask the Democrats and the Labor Party to think very carefully about having discussions with us about what they think is reasonable in terms of the relative cost of someone who comes here later and how many people per annum they think ought to come into Australia.

I think it is reasonable to say to people in the community who want to bring their parents here, ‘If you oppose the regulations and you oppose these bills, what are you prepared to accept?’ Minister Ruddock’s office is open and my office is open if somebody wants to tell us so that the people who are applying and waiting for their parents to come will know what the Democrats and/or Labor think is a fair thing. We will not be supporting Senator Bartlett.

Senator McKiernan (Western Australia) (9.47 p.m.)—To respond briefly to the request by the Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs, a fair indication was given last year when the opposition parties, together with the Democrats and others in this place, disallowed the regulation which put a $17,000 charge on parent visa applications. That should have sent a very strong message to the minister and to the government that we considered that to be an excess. They have come forward now with a $25,000 visa health charge, which obviously indicates to the chamber and to the Australian population that the minister has had no interest in discussing with us, and probably with any other party in the Senate, what fair charges ought to be. Obviously, if $17,000 was considered excessive by the Senate, a $25,000 health levy is most certainly excessive.
The TEMPORARY CHAIRMAN (Senator Chapman)—The question is that schedule 2 stand as printed.

Question resolved in the negative.

The TEMPORARY CHAIRMAN—The question now is that schedule 3 stand as printed.

The committee divided. [9.54 p.m.]

(The Chairman—Senator S.M. West)

Ayes………… 31
Noes………… 35
Majority……… 4

AYES
Abetz, E. Abston, R.K.R.
Boswell, R.L.D. Brandis, G.H.
Calvert, P.H * Chapman, H.G.P.
Cooan, H.L. Eggleston, A.
Ellison, C.M. Ferris, J.M.
Gibson, B.F. Harris, L.
Heffernan, W. Herron, J.J.
Kemp, C.R. Knowles, S.C.
Lightfoot, P.R. Macdonald, I.
Macdonald, J.A.L. Mason, B.J.
Minchin, N.H. Newman, J.M.
Patterson, K.C. Payne, M.A.
Read, M.E. Tambling, G.E.
Tchen, T. Tierney, J.W.
Troeth, J.M. Vanstone, A.E.
Watson, J.O.W.

NOES
Allison, L.F. Bartlett, A.J.J.
Bishop, T.M. Bolkus, N.
Bourne, V.W. Brown, B.J.
Buckland, G. Campbell, G.
Collins, J.M.A. Conroy, S.M.
Cooney, B.C. Crossin, P.M.
Crowley, R.A. Denman, K.J.
Evans, C.V. Forshaw, M.G.
Gibbs, B. Greig, B.
Harradine, B. Hogg, J.J.
Hutchins, S.P. Lees, M.H.
Ludwig, J.W. Lundy, K.A.
Mackay, S.M. McKiernan, J.P.
McLucas, J.E. Murphy, S.M.
Murray, A.J.M. O’Brien, K.W.K *
Ridgeway, A.D. Sherry, N.J.
Stott Despoja, N. West, S.M.
Woodley, J.

PAIRS
Campbell, I.G. Ray, R.F.
Crane, A.W. Carr, K.J.
Ferguson, A.B. Cook, P.F.S.
Hill, R.M. Faulkner J.P.
McGauran, J.J.J. Schacht, C.C.

* denotes teller

Question so resolved in the negative.
The Irish government facilitated this by creating an arms-length statutory authority, the Industry Development Agency. This agency has very wide discretionary authority to offer incentives to overseas companies to a very high value before having to go to cabinet for approval. The IDA encourages foreign companies to employ local skilled workers and graduates, which exposes them to advanced technologies. Links were forged with universities and increasingly higher levels of R&D have been undertaken in Ireland; sharing in this more and more are the Irish workers.

To attract and assist foreign investment, the IDA coordinates with governments, universities, economic development organisations and the community to address the need for land, transport, infrastructure, skills decentralisation to rural regions and other issues affecting investment decisions. Underpinning the incentives is the Irish economy’s trump card: very low company tax rates which, even now, are at a world leading 15 per cent. Initial efforts during the 1980s to attract foreign investment, however, met with very little success. High profile IT companies like IBM were, by that stage, very well established, with plants in a number of European countries. The Irish Department of Enterprise, Trade and Employment then cast a net for new high-flyers with rapid growth potential. In the early days—and remember we are talking about 20 years ago—they managed to attract very promising companies starting in the field, such as Apple, Microsoft and Digital, among others. In the pharmaceuticals area companies like Pfizer, which now has its worldwide manufacturing operations for Viagra in southern Ireland, were attracted. Most of the manufacturing and IT companies were initially attracted to Dublin, a city with a population of 1½ million, which is now bursting at the seams. Increasingly, newer economic development and the more recent companies coming to Ireland are moving into rural and regional areas.

Many IT and manufacturing industries were initially attracted by the very large pool of graduates from Ireland’s excellent schools, universities and further education institutions. The universities are very well located across the regions of Ireland. In the late 1970s, a completely new type of university was created in the city of Limerick, on the west coast of Ireland. Formerly an institute of technology, it was upgraded to university status and hired as its professors many former heads of R&D divisions in manufacturing and IT companies. The resulting synergy created between the university and industry found expression in the creation of a high-technology industry park in Limerick. Over the last 20 years, quite a number of the high-technology companies have located in the park, creating a symbiotic relationship between themselves and the university.

Established in 1984, the National Technology Park at Limerick has become home to a growing and influential network of over 90 technology companies, employing some 5,000 people in the precincts of the university. Information technology, including e-business, is the dominant sector in Ireland’s first digitally networked science and technology park. Another factor behind its success is that businesses that set up in the park have the latest technology at their fingertips. A fibre optic network loop has been installed that offers a very wide range of broadband services from this regionally based university to the national economy and through to the international economy.

This sets the scene for a clustering of technology based companies in a remote rural and regional area. Both have benefited from this partnership, with expert advice given to local companies and the latest research, design, training and graduate courses meeting the needs of industry. One of the most exciting aspects of the park is its innovation centre. This building is a fast incubator for many start-up IT companies where the research generated from the university is formed into information technology products. For example, two students designed a highly advanced company financial reporting system which was taken up by a number of the Fortune 500 companies in the United States. After six years, the two graduates floated their company and then sold it for $60 million.
The expansion of the university and technology park has helped the Shannon Region on the remote west coast of Ireland to reinvent itself as a showcase information-age city in regional Ireland. The university is an excellent model for Australian universities that may wish to build a more effective link with commerce and industry, particularly in regional areas. The aim of such a technology park is to create the appropriate physical, administrative and technological environment and to aid the growth of technology and knowledge based enterprises. The technology park provides a world-class business environment networked to a modern university. When the two combine in the one location, the benefits to the local community are widespread. While the idea of technology parks and clustering of industry has begun in Australia—for example, at the University of Ballarat in Victoria—other regions need to move to adopt this concept. We must drive this new type of development further in the regional areas of Australia to ensure, during the information age, that we reduce not increase the rural-urban divide and that regional economies can thrive in this new age.

Transport Industry: Road Safety

Senator HUTCHINS (New South Wales) (10.06 p.m.)—Over the past few days there has been increasing attention given to safety in the road transport industry, and this will continue over the next few months. Today the House of Representatives Standing Committee on Communications, Transport and the Arts published its report, Beyond the midnight oil: an inquiry into managing fatigue in transport. It contains a series of recommendations which are unanimous, and I understand that at a later stage we will have an opportunity to speak on that report. I would like to take that opportunity when it arises.

Tonight I want to comment on a draft discussion paper that was released yesterday by a group called the Road Transport Industry Code of Conduct Working Party. The independent chairman of that group is Mr Des Powell. I know Mr Powell to be an honourable and decent man, and it is with regret that I rise tonight to highlight what I see as inconsistencies and shortcomings in his draft voluntary code of conduct. As I said, this paper was released yesterday, but it is dated 6 October. In the letter addressed ‘Dear Transport Operator’, Mr Powell identifies no fewer than seven areas where, I believe, there is a failure of this draft code of conduct. The first is in paragraph 2, where he says that this will not be and cannot be a cure-all for the range of issues affecting the industry. The second is:

... the matter of prices are not addressed within the Code, as such matters should be an outcome of commercial negotiations.

I will highlight shortly that this is the reason why there is a need for a code of conduct and that prices are the reason for some difficulties. The third area Mr Powell identifies in his apologia is ‘non-conformance in areas such as speed, driving hours, road maintenance, et cetera’—and I would add driver health into ‘et cetera’. The fourth area, which he sees as a key objective, is that this conduct would be a voluntary system which would place an ‘emphasis on internal compliance to develop safer industry practice.’ The fifth area is that the code ‘relies on the integrity of participants’ in the scheme. The sixth is that it is ‘a voluntary Code in itself and will not necessarily rope in the fringe operators, but it may influence their performance.’ Finally, Mr Powell identifies the single greatest flaw in the proposed code of conduct, and that is that it does not contain any sanctions.

There has been, since the tragic accidents on the North Coast of New South Wales in which a number of people lost their lives, a generally bipartisan approach to identifying some of the difficulties that long distance drivers and the long distance transport industry experience. That has led to a number of key and significant developments in conduct for the industry. One was the commencement and continuation of the National Road Transport Commission, but I believe that lately the federal government has had difficulty in being prepared to go that one step further and address the issues of excessive driving hours, excessive speed, low vehicle maintenance, and driver health. The Commonwealth needs to grapple with the enforceability of some of the schemes.
There is an inquiry being conducted by Dr Michael Quinlan in New South Wales which is required to report on safety in the long distance trucking industry. I am pretty sure that the participants know full well that they will need to identify the core issue, and that is the need to make sure that people who drive on the road are compensated for the work they do. Currently there is no mechanism for that to occur, and that is why we have difficulties with health and safety. We also know, from a survey of truck drivers conducted not long ago, that truck drivers are still regularly working over 100 hours a week, more than 30 per cent of drivers surveyed admitted to drug use, and suicide and family breakup in the industry far exceed the national average.

We have an opportunity, in the report that the House of Representatives published today and in the draft code of conduct that the government funded Road Transport Industry Code of Conduct Working Party has published, to show some direction in dealing with this problem. I believe the code needs to be redrafted to make it enforceable, not voluntary. I know from my own lifelong experience in the transport industry that it is a very robust, very competitive industry. It is very much dog eat dog. If people are put in a position of having to choose to ignore safety and their own health, they will do so because they are not in a position to negotiate that, because the balance of power in that relationship is not equal. I would argue that we need to have an enforceable code of conduct that takes into account all areas of the chain of responsibility in the transport industry—not just the driver, his employer and his subcontractor, but also the loading agents, the retailers and the manufacturers—because inevitably, and I have seen it over the years in my own background, a lot of people pass the buck and, in the end, the driver is the man, or the woman, who has to bear the responsibility if something occurs on the road. People pass that responsibility on, hoping that the load gets to Brisbane, Sydney or Melbourne within what they require for their business but not within the enforceable laws of the land. I do not see any area in this draft voluntary code of conduct which places responsibility on anybody else in the chain besides the driver. When we have an opportunity to discuss managing fatigue in transport, I hope that we will have an opportunity to flesh out other areas which need to be highlighted.

As I said earlier, I think we really need to recognise what the problem is, and that is the rate structure, where there is no enforceable mechanism industrially for lorry owner-drivers to enforce their contract rates. In New South Wales there has been for nearly 20 years a mechanism for local drivers in whatever capacity to be able to go to a tribunal to set their rates of contract of carriage and for them to be able to have those rates enforced and for those rates to be negotiated with the balance of power equal in that relationship between a contractor and a lorry owner-driver. This has not been accepted, as I understand, by the federal government—maybe for ideological reasons; I do not know. I am aware that when the issue of petrol pricing was raised last week with the Treasurer, the Treasurer said to the transport industry that he believed they had not had it so good and that they should go back and look at where they are going. I do not think that is good enough. I do not think that this voluntary code of conduct will in any way change the practices that are occurring on the long-distance road haulage routes at the moment. All it will do, I believe, is serve to highlight the inadequacy of the people who are putting this forward as a voluntary code. It needs to be mandatory, not voluntary, and it needs to be enforceable.

National Party of Australia: Leadership
Australian Broadcasting Corporation: Restructure

Senator O'BRIEN (Tasmania) (10.16 p.m.)—Tonight I want to talk about the Australian Broadcasting Corporation, regional Australia and the National Party in particular. In September 1995 the Prime Minister, Mr Howard, addressed the 75th Anniversary National Party Conference. He spoke about the history of the National Party, past glories and past leaders. He spoke in glowing terms about people like Fadden, McEwen, Anthony, Sinclair, Nixon and Hunt. The National Party leaders referred to by Mr Howard, particularly Fadden, Nixon and Sin-
clair—I am not so sure about Ralph Hunt—had considerable clout in the coalition cabinet room. All of those leaders have well and truly gone and so, I might say, has the effectiveness of the National Party as the junior member of the coalition. The National Party is now effectively leaderless. It has no authority at all in the Howard cabinet room.

*Government senators interjecting—*

**Senator O’BRIEN**—Senator Eggleston and Senator Lightfoot want to defend the National Party, but let me make the case and give the Senate some examples of exactly what I am talking about. In 1998 the wool industry told the then Minister for Primary Industries and Energy, Mr Anderson, that it did not want the sale of wool from the stockpile to be frozen. The freezing of sales was a simplistic proposal put forward at the time by One Nation. Mr Anderson—who, I remind the Senate, was then the fourth most senior member of cabinet—took the industry’s view to the cabinet room for endorsement only to see it thrown out by the Prime Minister and the cabinet. Can anyone really imagine that happening to John McEwen, Doug Anthony or Ian Sinclair? I think not. The Prime Minister apparently did not even give Mr Anderson the opportunity to withdraw his submission to enable him to save face.

**Senator Eggleston**—How would you know? Were you in the cabinet room?

**Senator O’BRIEN**—Senator Eggleston asks how I know. It is well known and not denied, frankly, Senator Eggleston. I wonder if Senator Eggleston really knows what goes on in the cabinet room. He seems to know little about that today. As I said, the Prime Minister let the minister, Mr Anderson, bring the submission forward and then had it knocked off. Why? Because Mr Howard was more concerned about the perceived threat of One Nation than about Mr Anderson’s reputation. The dairy industry and the sugar industry have also suffered as a result of the lack of National Party clout in the cabinet room.

The National Party leadership not only is failing to effectively represent the interests of rural industries and regional Australia in the cabinet room but also no longer gives those sectors a proper hearing. For example, the increasingly desperate circumstances facing the Australian pork industry in 1998 were largely ignored by Mr Anderson. The only way that industry could get its genuine concerns across to the government was to become an active participant in the last election campaign. It finally did receive some government support but it was a long time coming and hard won. The chicken and horticulture industries have also suffered from, at best, National Party indifference and, at worst, National Party hostility. Perhaps the most glaring example of the National Party’s failings has been the Howard government’s refusal to honour its commitment not to allow petrol and diesel prices to increase as a result of the GST. Again, it is impossible to believe that McEwen, Anthony or Sinclair would have allowed Mr Howard to break a promise so important to regional Australia.

As I said, the National Party is now effectively leaderless, and regional Australia is paying a very high price.

The second issue of concern to regional Australia highlighted in Mr Howard’s 1995 speech was, and remains, his view of the Australian Broadcasting Corporation. In that speech Mr Howard spoke about the barriers between the then opposition and the Treasury bench. He said that the then Labor government had all the advantages of incumbency but that:

... they have also infiltrated the non-bureaucratic opinion forming organisations of Australia.

He went on to say:

I don’t know what the latest count is but I think it is a matter of concern that so many members of the Australian Broadcasting Corporation should have such obvious affiliations with the Labor Party or the trade union movement.

And he continued:

What we face is not just a government and a Labor Party, but we face a degree of institutional infiltration and institutional bias...

That is what the then Leader of the Opposition, now Prime Minister, said.

The managing director of the ABC, Mr Shier—I assume with the endorsement of the ABC board—is undertaking a radical restructure of the organisation, and that radical
restructure looks bad for regional Australia. Why do I say this? Just look at the recent headlines in the media. For example, the Courier-Mail on 9 September screamed ‘Nats fight changes by ABC boss’, and the Australian on 11 said ‘Nationals act to save ABC’s regional voice’. The view of the minister, Senator Alston, about Mr Shier’s plan is clear. He says that he is not going to second-guess Mr Shier in relation to his restructuring plans for the national broadcaster. That means that city based Liberal interests will win again and regional Australia will again be the loser. It is clear that the National Party leadership team has failed to convince the cabinet that an effective, properly resourced national broadcaster is essential for the future of regional and rural Australia. The best that the Nationals can do is to summon the ABC managing director to attend a party meeting—I think it is to be on 30 October—for Mr Shier to explain himself. I understand that Mr Shier has organised a number of meetings in Canberra around that time, but I am in no doubt that the principal reason for him being here in Canberra on that day is to explain himself to the National Party.

Michelle Gilchrist got it right in a comment piece that appeared in the Australian on 11 September. She said that it was a bit late for the National Party to start campaigning against the onslaught of change. She highlighted the fact that when the ABC had sought funding, much of which was earmarked for rural projects, it received no money from the government and no support from the Nationals. Now, yet another National Party leadership defeat in the cabinet means that the best Mr Anderson can do is to summon Mr Shier to appear before a meeting of his party. This will do little more than allow his colleagues to let off some steam. That is about all the National Party is good for these days.

**Derby Tidal Power Project**

**Senator EGGLESTON (Western Australia)** (10.24 p.m.)—Tonight I would like to speak in the Senate about something I have spoken about before: that is, the Derby tidal power project. I am sure many people around Australia would have heard of the $335 million proposal by Tidal Energy Australia and Leighton Contractors to construct a tidal power facility in Derby in the Kimberley to meet the electricity supply demands of the people of the West Kimberley. This innovative and forward looking proposal would harness the power of the tides in order to produce continuous, clean, renewable energy. The tides in the West Kimberley are known to be the highest in Australia and are recorded consistently at over 10 metres. This project offers benefits not only to the region but also to the nation as a whole. The Derby tidal power project offers the prospect of cheap electricity to the people of the West Kimberley, and that is the major reason why I support it. At present, the cost of electricity in the area is 31c a kilowatt hour. That is undoubtedly a major contributing factor to the high cost of living in the West Kimberley and is the biggest disincentive to further development in the area.

As I understand it, the best offer submitted to the state government by the Derby tidal power project is that they would be able to deliver electricity at around 16c a kilowatt hour initially, and then, as time goes on, it is anticipated that that price would progressively drop to something like 8c a kilowatt hour or 25 per cent of the current price of electricity in that area. The reason for this dramatic drop being possible is that, when it comes to tidal power, the only ongoing costs are for maintenance because the fuel—the tide—will keep on coming in and out every day, just as it has for millions of years, irrespective of movements in the price of oil or gas, both of which have gone up dramatically in recent times. Another major benefit of tidal power for the nation is that, unlike the gas option, it does not produce greenhouse gas emissions. Indeed, the proponents estimate that the project would reduce greenhouse gas emissions by over 150,000 tonnes per year, so earning Australia valuable greenhouse credits.

The only functional tidal power station in the world at the moment is in Normandy, where the tides are in fact a little bigger than those in the Kimberley. Last month it was my privilege to visit the tidal power station on La Rance River in St Malo in Normandy as a guest of the French electricity company,
Electricité de France. The critics of the Derby tidal power project often claim that the technology is unproven and probably unreliable but, having seen La Rance, I would say that those sorts of criticisms are certainly unfounded. In fact, La Rance power station is a testimony to the reliability of the technology involved and proves that this technology is quite reliable and can be seen as a modern technology which will provide continuous and reliable electricity. The La Rance facility was not rushed into; it was, in fact, constructed only after 25 years of exhaustive study. If one thinks about the technology, it is centuries old, because there were tidal mills on the coast of Brittany as early as the 12th century which used water captured in ponds at high tides to drive waterwheels as the tides fell. The proposed Derby facility will consist of hydro turbines and two barrage dams. These hydro turbines are no different in principle to those used in many parts of the world in hydro-electricity plants and in fact at La Rance itself.

While at La Rance I made a point of inquiring about whether or not there had been any major breakdowns in the system there over the years since it has been running, and I was told that there had not been any major problems at all with the technology and with the hydro turbines. The La Rance facility was constructed between 1961 and 1966 and, as I said, it has been phenomenally successful. It generates some 600 million kilowatts of electricity from 24 bulb generators. This output is equivalent to three-quarters of a nuclear power station's output, generating eight per cent of the energy requirements of the four departments in Brittany and meeting the needs of a city of 300,000 people. The power it generates feeds into the Normandy grid, and the production is computer controlled according to demand by varying the flow of water through the generators. The 24 generators work in three banks of eight according to need.

The La Rance tidal power station had a design life of 120 years. As with the business plan in Derby, the initial cost of constructing the La Rance power station has long since been repaid. It now produces power more cheaply than gas or nuclear alternatives. In the north-west of Western Australia, it has been argued by those supporting the gas option that establishing a grid to distribute power from the tidal generators would be hazardous in a cyclone area like the Kimberley. Those who put forward this argument ignore the fact that the transmission lines would be well inland and away from strong winds and, furthermore, that there has been a power grid along the Pilbara coast running for some 200 kilometres, from Cape Lambert to Port Hedland, for the last 10 years which has withstood many cyclones. Whereas the Pilbara grid has withstood cyclones, the roads in the Kimberley are frequently cut in the wet and this would mean that gas truck deliveries to local gas power stations would be frequently interrupted. It is the gas option which would be subject to weather hazards, not the Derby tidal power option.

Additional community benefits from the tidal power project, according to the proponents, would include 500 permanent jobs, many of which would go to indigenous people. There is the possibility of establishing aquaculture in the storage ponds and, if La Rance is anything to go by, a large boost to local tourism. If the Derby tidal power station were to be established, Western Australia would have a reliable, cheap, predictable and renewable source of energy that would create no pollution and thus help, as I said, to reduce greenhouse emissions. The fact that the Derby project would earn Australia valuable greenhouse credits is a major factor in its favour. Excitingly this would mean that, with the North-East Kimberley on hydro power from the Ord, the Kimberley itself would become the first region in Australia to have almost all of its power needs met from local renewable and non-hydrocarbon sources if the Derby tidal power project were to go ahead. In these times of rising oil prices, tidal power offers the cheapest energy available to the West Kimberley. Much more than that, however, the proposal is visionary and exciting. I believe it would be a missed opportunity both for Western Australia and for Australia in general not to establish the second major tidal power project in the world in the West Kimberley.
Aboriginals and Torres Strait Islanders:  
Port Keats

Senator CROSSIN (Northern Territory)  
(10.34 p.m.)—I would like to talk tonight  
about an Aboriginal community south-west  
of Darwin called Wadeye, or Port Keats. The  
reason I want to talk about Wadeye is that it  
is a community that recognises that they  
have suffered a breakdown in their traditional  
systems, which has resulted in an undesirable  
way of life for all of its community members,  
particularly the young people. Wadeye, or Port Keats,  
is generally severely criticised in the Northern Territory  
in newspapers such as the NT News, and it struggles  
from time to time to be able to present a positive image of its community and of what  
its people are doing. I am hoping that in some way this speech might go towards rectifying that situation.

Faced with difficulties in the community, the people of Wadeye have come up with a proposal to re-establish their traditional family values. It is a project which they have developed that I wish to focus on because the community itself has identified ways in which the situation can be improved. But first let me give some historical background to Wadeye and the region. Wadeye falls within the Jabiru ATSIC region, which is spread over 114,211 square kilometres. The Jabiru region has several of the Northern Territory’s biggest Aboriginal communities, including Wadeye. There are also some 130 communities or out-stations for fewer than 100 people in that region. The Aboriginal and Torres Strait Islander population of the Jabiru region in 1994 was estimated at 8,500 people. Ninety-six per cent of people five years and over in the region speak an indigenous language, and there is strong identification with family, culture and land. The region covers a diverse range of language groups and cultures. For example, in Maningrida alone there are at least nine distinct language groups.

While the majority of the population rent housing and report access to services, less than one-quarter report that they are satisfied with their current dwelling. Much of the housing is old and needs repair and/or replacing. Most houses are located on unsealed roads, creating dust problems. This was a problem which was highlighted back in May, when our shadow minister for health, Jenny Macklin, visited Port Keats. She identified that they had severe housing needs. She went on to say that urgent funding was needed for 100 extra houses in the Top End community of Port Keats to stem the indigenous housing crisis in that community.

The shadow minister went on to say in her press release that many problems—health problems—which she saw in communities were the result of the dire lack of resources and not just a shortage of health workers. Also in the Jabiru region, despite the presence of major industries in parts of that region such as Kakadu National Park and the Ranger mine, as well as large population centres, one-third of the Aboriginal people are long-term unemployed. Approximately 80 per cent of Aboriginal people in that region earned $12,000 or less in 1994. Only three per cent earned more than $25,000. Ten per cent earned no income and fully two-thirds received government payments.

Aboriginal landowners in the Daly River-Port Keats Aboriginal Land Trust have opened up 10,500 square kilometres to a multinational company to explore for petroleum and over 1,400 Aboriginal landowners were required for consultation for the broad area to be explored. The traditional landowners of Wadeye are the Kardu Diminin. The population of Wadeye is 2,200 with 1,500 under the age of 25 years. It also comprises 16 tribal groups using seven different languages, the main language being Murinhpatha, which is the language of the traditional owners. English is not used unless in meetings or workplace situations involving non-Aboriginal people. The Menzies School of Health statistics show that 80 per cent of the population dies before reaching 50 years of age. Housing occupancy rates average 16 per house. Wadeye also has the highest incarceration rate per capita of any town or community in Australia. We experienced those figures during the recent mandatory sentencing debate.

In the short space of some 60 years, the people of the Daly River-Port Keats region have been subjected to a journey which has
taken them from a traditional existence to the present where they are expected to participate in a foreign cultural, political, social and economic environment. However, they recognise that, whilst there is a need to compromise in certain areas, there are other areas where their own tried, true and proven methods which have evolved over many thousands of years must remain intact and in practice.

Prior to any contemporary government legislation, the senior people of the 16 tribal groups of the region met in a forum known as Tharmarurr which presided over issues of local government, ceremony, use of natural resources, economic transactions and minor law and justice matters. In a higher forum known as Memelma, male elders met and had jurisdiction over ceremonial rituals and law and justice matters. These structures still operate today and will form the foundation of the contemporary structure which I spoke about, which will support the social, political, cultural and economic development of the people in partnership with both Commonwealth and state and territory governments of the day. In the view of the Kardu people, Tharmarurr is a legitimate, recognised structure in which tribal leader-representatives have authority to make decisions over matters pertaining to everyday life with the exception of matters relative to a particular tribal group’s land or its usage.

The community has developed a proposal to develop tripartite agreement between the Commonwealth government and the Northern Territory government to re-establish traditional family values through the development and implementation of the family support project and complementary community infrastructure. The broad aim of the family support project that, by staged implementation, it will provide the necessary practical support to family unit members in all age groups, which will result in increased self-esteem and cohesion within the general community. The project proposes that both the Commonwealth and the Northern Territory government enter a joint venture with the Wadeye community to plan, develop and implement a multifaceted approach to support the family unit via traditional and contemporary means and community development strategies.

The Kardu people have already identified some of the strategies towards this, including family support groups which will facilitate meetings for family members to discuss issues of concern; supporting mainstream agencies, including innovative education delivery and establishing a school-to-work program; and capital infrastructure projects, including housing and a proposed subdivision to cater for the growing needs of the community—recreational facilities, for example. The Wadeye community does not believe it is dysfunctional, but it does acknowledge that there are existing and impending serious social problems and that they need support to overcome them. Wadeye wants all governments to work with them, rather than to tell them what is best for them.

Some months ago I travelled to Port Keats and, with Ms Jenny Macklin, met with a number of women at Port Keats—very strong women who hold much knowledge and respect within their community—including Theodora Narndu, Loyola Mullumbuk, Mary Bunduck, Mary Elizabeth Dilla, Margaret Mary Cumaiyi and Angela Pinnal. They made comments about the appropriateness of some programs. For example, the Northern Territory government created a Strong Women, Strong Babies program. But very often we misunderstand what is meant in Aboriginal culture—hence my reference to working with them rather than telling them what to do. Their comment to me was, ‘We are strong women. We are strong leaders in our community.’ They could not understand the relationship between strong women and strong babies. What non-indigenous people meant was their health, nutrition and their physical strength. But that is not how it was interpreted by these very strong women who were well respected in their community.

There is also a need for governments to respect communities such as these wanting to move forward. This community, for example, is struggling to get funds for its swimming pool. In a township of nearly 2,500 people, it still does not have a fire station. There was evidence of that some weeks
ago when a building in the community literally had to burn to the ground because there were no facilities to stop the fire. Bob McMullan, on his recent trip, highlighted the fact that this community was struggling to get funds from the Northern Territory government for access to a diversionary program.

The Northern Territory Labor Party have preselected a candidate, Mr Robert Knight, who will work with this community. He is dedicated to working with this community. He knows that the people of Port Keats deserve a commitment that the Northern Territory government and this federal government have yet to give that community. He knows that, with the support of their projects and efforts, they will have a member of the Territory parliament that supports their vision for a better future.

National Youth Roundtable

Senator LUNDY (Australian Capital Territory) (10.45 p.m.)—The 2000 National Youth Roundtable is convening at Parliament House this week after participants have completed various consultations with their peers across Australia and drafted recommendations to government. I want to address the Senate today to offer my support and congratulations to the 50 members of the 2000 Youth Roundtable for their contribution to the body of knowledge on youth affairs in Australia and for getting involved in the political process. I have spoken to a number of delegates in the months leading up to the October meeting and have been very impressed by their dedication, the level of intellectual thought and the professionalism with which they have tackled the many issues and challenges that have been placed before them. I would like to make the point that this is not surprising, given the plethora of talents that exists in the youth community in Australia. I will look forward with interest, along with my Labor Party colleagues, to the topic group presentation sessions which the minister, after rolling over on a previous exclusion stance, has now invited non-government members to attend this year.

Having stated both my support and indeed the support of the Labor Party for these young people and what they are trying to achieve, I must however take this opportunity to speak on some matters of particular concern to me involving the roundtable process. One area is the handling of the 1999 roundtable outcomes package. After spending over a quarter of a million dollars of public money on the 1999 National Youth Roundtable, the recommendation reports made by delegates to the roundtable have been classified as a departmental document and are therefore not available for public release. This is very unfortunate as the information contained in the outcomes package expands on the publicly available topic group summaries that are posted on the source web site. The public web site has one or two pages per group but it is worth noting that, I understand, the departmental outcomes package has over 300 pages of the views, opinions and insights offered by the young people participating in the Youth Roundtable.

This means that valuable youth policy initiatives and analysis of what constitutes the most extensive youth consultations by the coalition with delegates are not available for public acknowledgment, consumption and critique. The roundtable outcomes are the result of months of research by delegates, many of whom feel that they entered into this process in good faith and had an expectation that their efforts would be circulated to a much wider audience. Many of them feel they have been actively misled by the minister by not having these recommendations received by a wider public audience.

Another area of concern is the treatment of the participants’ recommendations by the department, DETYA. A botched release of the outcomes document distributed to participants was a specific area of concern. The outcomes package originally sent to 1999 and 2000 delegates in late August was redistributed two weeks later because of complaints by participants about spelling mistakes and other errors. It is important to note that the deadline for handing in reports for the 1999 delegates was way back in October-November 1999. The department has had that information ever since.

These young people were hand-picked to represent the voice of young Australians, and
yet the minister has given them little evidence to suggest that their input was given any sort of formal consideration by the government. As Australia’s youth can no longer rely on AYPAC to lobby on their behalf, roundtable outcomes are effectively the only form of fresh policy input and youth consultation that occurs. I would like to remind senators that it was the coalition government that defunded AYPAC, the peak consultative and representative body in Australia. By doing so, it effectively took away the voice of many young people. It has offered up the roundtable as an alternative voice since then. By not releasing this policy input by Australia’s youth, the minister is compromising the detailed policy analysis on youth affairs that was previously performed by AYPAC, bringing into question, I believe, the integrity of the whole roundtable process. It is very disappointing that Dr Kemp has yet again reinforced the negative stereotypes that so many young people develop of politicians by demonstrating actively that their views are not respected and that the coalition does not take youth affairs seriously.

Another area of concern I have is the length of time for individual and topic group presentations. This relates to the actual structure of the roundtable experience, remembering of course that delegates have volunteered their own time in good faith to work on their community action plans over the last six months. Each of the topic groups at this roundtable will have only approximately 45 minutes in total to present six months worth of hard work. That is a really short time to get an incredibly complex and important message across. When you think about the fact that there are six topic groups, with eight or nine members per group, this makes for a very hectic couple of days. I think that for each individual involved, if you extrapolate it, there is barely five minutes for presenting their thoughts, views and ideas based on six months of hard work. It is ambitious and indeed unrealistic to expect delegates to cover all these months of research in such a short period. I know that in the past this has led to situations where individuals have tried to get some time from others and it has been a real exercise where the young people have felt that they have had to compete for time by force of will just to have their voice heard.

In last year’s presentation one topic group ran over time by 35 minutes and the roundtable presentation sessions in April this year also ran over time. Yet there has not been any acknowledgment of this issue in the organisational structure of the forthcoming Youth Roundtable. Even if presentations do run according to the agenda, the time frame is insufficient to allow these young people to do justice to their thoughts and ideas and communicate their recommendations.

I mentioned earlier the issue of access to the thoughts, views and opinions of the young people by non-coalition members of parliament. If young people want to effectively influence political policy, they need to be able to meet confidentially and raise issues with the opposition and minor parties in addition to representatives of the government.

Now that we know the outcomes packages are not for public release, the presentation sessions are the only official channel for topic group members to communicate their recommendations to non-government members. Although I am aware that some delegates have independently met with non-government members, I have spoken to delegates living outside the ACT and New South Wales who have expressed frustration at not having the luxury to be able to meet with non-government members during the sitting weeks during the course of the roundtable. I think this is disappointing. Due to the scheduling of the roundtable it is virtually impossible to organise any formal meetings with any politician outside of the government during their time in Canberra, or indeed inside of the government—it is that tightly packed. I reiterate the point that five-minute grabs of conversation during the program functions such as the opening and closing ceremonies do not really equate to access.

With respect to the roundtable program itself, some members of the roundtable have expressed their disappointment over the strict time frame not just because of access to other politicians or to more of the parliament but also because of what Canberra has to offer as the nation’s capital. Including visits
to the War Memorial, the National Gallery, the High Court, the National Library and other really important national institutions would have added meaning and participation to their program. For many, this is their first time visiting Canberra, and they will probably not be able to visit again because of financial barriers.

In order to ensure the 2001 roundtable is a representative body representing a wide range of experiences and diverse backgrounds, I encourage all young people to apply for the 2001 program. Finally, I renew my previous statements urging Dr Kemp to allow program confidential dialogue sessions between topic groups, topic group delegates and non-government members to be included in future roundtable programs and call on him to put all youth roundtable outcomes packages on the public record. I wish the youth roundtable members the best of luck in their deliberations, as I know they will continue to inform the members of the Australian parliament about their aspirations, their opinions and their political views and indeed to make this parliament a more informed place.

Senate adjourned at 10.55 p.m.

DOCUMENTS
Tabling

The following documents were tabled by the Clerk:

A New Tax System (Goods and Services Tax) Act—
GST-free Supply (Drugs and Medicinal Preparations) Determination 2000 (No. 2).
GST-free Supply (Health Goods) Determination 2000 (No. 2).
Civil Aviation Act—Civil Aviation Regulations—Civil Aviation Orders—Directive—Part—
107, dated 25 September 2000.
Sydney Airport Curfew Act—Dispensations granted under section 20—Dispensations Nos 12/00-17/00.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

**Environment and Heritage Portfolio: Agency Boards**

(Question No. 2205)

Senator O’Brien asked the Minister for the Environment and Heritage, upon notice, on 4 May 2000:

(1) Do chairpersons of any boards that administer agencies within the Minister’s portfolio receive any payments, or other allowances, in addition to those paid to other board members; if so: (a) what is the nature of these additional payments or allowances; and (b) how is the quantum of these additional payments determined.

(2) On how many occasions since January 1998 have the above payments been varied, and in each case: (a) what was the reason for the variation; (b) who determined the quantum of the variation; and (c) what was the quantum of the variation.

Senator Hill—The answer to the honourable senator’s question is as follows:

**AUSTRALIAN HERITAGE COMMISSION**

(1) Yes. (a) The Chairman of the Australian Heritage Commission receives higher annual remuneration than Commissioners. (b) Determined by the Remuneration Tribunal.

(2) Once. (a) Payments to part time office holders are reviewed annually by the Remuneration Tribunal. (b) The Remuneration Tribunal. (c) Annual remuneration increased by 6.44% on 1 March 1999.

**GREAT BARRIER REEF MARINE PARK AUTHORITY**

(1) Yes. (a) The Chairperson of the Great Barrier Reef Marine Park Authority receives higher annual remuneration as the full time Chief Executive Officer of the Great Barrier Reef Marine Park Authority than do the other part time members of the Great Barrier Reef Marine Park Authority. (b) Determined by the Remuneration Tribunal.

(2) Twice. (a) Payments to full time office holders are reviewed periodically by the Remuneration Tribunal. (b) The Remuneration Tribunal. (c) Annual remuneration increased by 2% on 1 July 1998 and by 5% on 31 March 1999.

**Attorney-General’s Department: New Tax System Consultants**

(Question No. 2383)

Senator Faulkner asked the Minister representing the Attorney-General, upon notice, on 20 June 2000:

(1) How many consultants have been engaged or used by the department, and all agencies in the portfolio, to 31 May 2000, in order to: (a) advise on the internal implementation of the new tax system; and (b) advise on, and/or publicise, the effect of the new tax system on the portfolio’s client group(s).

(2) Can a full list be provided of all consultants engaged or used in relation to the purposes set out in (1), together with the cost of each consultancy.

Senator Vanstone—The Attorney-General has provided the following answer to the honourable senator’s question:

I have been advised by my Department and agencies within my portfolio of the following information on consultants engaged to advise on the new tax system:

**Attorney-General’s Department**

(1)(a) Six (b) None
Monday, 9 October 2000  SENA TE 18163

<table>
<thead>
<tr>
<th>Business Name</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deloitte Touche Tohmatsu</td>
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<td>Mastech ASIA-PACIFIC</td>
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<td>Information Technology and Telecommunications Careers</td>
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<td>Davis Consulting</td>
<td>$32,703</td>
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<tr>
<td>Computer Science Corporation (formerly BHP IT)</td>
<td>$12,600</td>
</tr>
<tr>
<td>SAP Australia Pty Ltd</td>
<td>$20,000</td>
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**Australian Customs Service**

(1) (a) One(b) Three

(2)

KPMG Chartered Accountants and Management Consultants  $5,250

(2)(b):

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<th>Business Name</th>
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<tr>
<td>Donovan Research Pty Ltd</td>
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<td>J Walter Thompson</td>
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<td>Mitchell Media</td>
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**Australian Federal Police**

(1) (a) Three (b) None

(2)

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<tr>
<td>PricewaterhouseCoopers</td>
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<td>PricewaterhouseCoopers</td>
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<td>OTT Group Pty Ltd</td>
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**Australian Security Intelligence Organisation**

(1) (a) One (b) None

(2)

<table>
<thead>
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<tbody>
<tr>
<td>Wizard Information Services Pty Ltd</td>
<td>$38,000</td>
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</tbody>
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**Australian Transaction Reports and Analysis Centre**

(1) (a) One (b) None

(2)

<table>
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<th>Business Name</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>APA Management Services</td>
<td>$6,930</td>
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</tbody>
</table>

**Family Court of Australia**

(1) (a) Two (b) None

(2)

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<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deloitte Touche Tohmatsu</td>
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</tr>
<tr>
<td>PricewaterhouseCoopers</td>
<td>$40,222</td>
</tr>
</tbody>
</table>

**Office of Director of Public Prosecutions**

(1) (a) Two (b) None

(2)

<table>
<thead>
<tr>
<th>Business Name</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>SAP Australia Pty Ltd</td>
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<tr>
<td>BTEC</td>
<td>$16,000</td>
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**Attorney-General’s Department: Programs and Grants to the Bass Electorate**

(Question No. 2415)

Senator O’Brien asked the Minister for Justice and Customs, upon notice, on 26 June 2000:
(1) What was the level of funding provided through programs and/or grants administered by the department to provide assistance to people living in the federal electorate of Bass in the 1999-2000 financial year.

(2) What level of funding provided through these programs and/or grants has been appropriated for the 2000-01 financial year.

**Senator Vanstone**—The Attorney-General has provided the following answer to the honourable senator’s question:

**Commonwealth Legal Aid Program**

(1) In 1999-2000 an amount of $3.720m was provided to the Legal Aid Commission of Tasmania under the Commonwealth Legal Aid Program for Commonwealth legal aid matters. These funds are used by the Commission to provide legal aid services in Commonwealth matters across Tasmania. Whilst it is not possible to identify how much of the funding is provided to the electorate of Bass, there is a regional office of the Commission located at 64 Cameron Street, Launceston which provides a range of legal assistance services throughout the electorate.

With regard to the Commonwealth Community Legal Services Program, the Launceston Community Legal Service received total funding of $219,733.

(2) The level of funds to be provided to the Legal Aid Commission of Tasmania under the Commonwealth Legal Aid Program in 2000-01 will be $3.773m. Funding of $221,931 will be provided to the Launceston Community Legal Service for 2000-01.

**Attorney-General’s Department: Programs and Grants to the Gippsland Electorate**

(Questions Nos 2468 and 2471)

**Senator O’Brien** asked the Minister representing the Attorney-General and the Minister for Justice and Customs, upon notice, on 26 June 2000:

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

(2) What level of funding provided through these programs and/or grants has been appropriated for the 2000-01 financial year.

**Senator Vanstone**—The Attorney-General has provided the following answer to the honourable senator’s question:

**Commonwealth Legal Aid Program**

(1) The level of funding provided under the Commonwealth Legal Aid Program to Victoria Legal Aid for Commonwealth legal aid matters in 1999-2000 was $27.750m. In the 1999-2000 Budget, the Commonwealth Government announced it would fund five new community legal services, including the Gippsland region, as part of the expansion of the Program into regional, rural and remote Australia. Anglicare Victoria was selected as the preferred tenderer for Gippsland and will operate as The Gippsland Community Legal Service out of Morwell. The Gippsland Community Legal Service was funded at $200,000 per annum (on a reduced pro-rata basis in the first year - 1999-2000) and received a total of $199,661 including establishment costs.

(2) The level of funding to be provided under the Commonwealth Legal Aid Program to Victoria Legal Aid for Commonwealth legal aid matters in 2000-01 will be $27.750m. Funding of $202,000 will be provided to the Gippsland Community Legal Service for 2000-01.

**Goods and Services Tax: Political Parties**

(Question No. 2481)

**Senator Brown** asked the Assistant Treasurer, upon notice, on 27 June 2000:
Monday, 9 October 2000  

(1) (a) Are political parties charities for the purposes of the goods and services tax (GST); and (b) if registered for the GST, are their sales of raffle tickets and second-hand goods GST-free.

(2) (a) Why are religious institutions treated differently from all other non-profit organisations for the GST in avoiding the obligation to charge the GST on internal transactions; and (b) will the Government give the same treatment to other non-profit organisations with similar structures; if not, why not.

(3) What is the difference between the situation described in paragraph 28 of GST Ruling 2000/11, where a payment to a farmer to reduce his or her harvest of a potato crop is subject to GST and payments under the Dairy Industry Adjustment program, which the Government advises are not subject to the GST.

Senator Kemp—The following answer is provided to the honourable member’s questions:

(1)(a) Political parties are not charities for the purposes of the goods and services tax (GST). They are, however, gift deductible entities for income tax. That is, gifts made to these entities are deductible under Division 30 of the Income Tax Assessment Act 1997. The GST Act provides concessions to charities and gift deductible entities.

(b) Yes (if the party is registered for the GST)

(2) The ability to group for GST purposes and therefore eliminate GST on internal transactions is available to both religious institutions and other non-profit organisations.

Charitable bodies belonging to the same religious organisation can now be treated as a "GST religious group". This enables transactions between members of that group to be excluded from the GST.

A similar concession exists for all other non-profit organisations which are members of the same non-profit association that elect to form a GST group. Internal transactions between members of a non-profit association that form a GST group are excluded from the GST.

The "GST religious group" was introduced to overcome administrative difficulties that religious institutions may face adopting a GST group i.e. due to the large number of entities involved in some religious organisations, it would be difficult for a representative member of a group to consolidate accounts within the specified time after the end of the tax period; and the size of the group would mean that all entities within the group would be required to account for GST monthly.

(3) The situation outlined in paragraph 28 of GST Ruling 2000/11 where a potato farmer is paid to reduce his or her crop differs from the provisions of the Dairy Industry Adjustment Package, in that in the case of the Dairy Structural Adjustment Package, the dairy farmers do not have to provide any undertaking or obligation in order to receive any benefits.

Where a payment is subject to GST, the payer (if registered for GST) will be entitled to an input tax credit.

Aboriginal and Torres Strait Islander Commission: Missing Laptop Computers  
(Question No. 2514)

Senator Faulkner asked the Minister for Aboriginal and Torres Strait Islander Affairs, upon notice, on 29 June 2000.

(1) Since 1 January 1999, have there been any laptop computers lost or stolen from the possession of any officer of the department and/or any agencies within the portfolio; if so: (a) how many have been lost; (b) how many have been stolen; (c) what is the total value of these computers; (d) what is the average replacement value per computer; and (e) have these computers been recovered or replaced.

(2) Have the police been requested to investigate any of these incidents; if so: (a) how many were the subject of police investigation; (b) how many police investigations have been concluded; (c)in how many cases has legal action been commenced; and (d) in how many cases has action been concluded and with what result.

(3) How many of the lost or stolen computers had, on their hard disc drives, or in the form of floppy disc, CD-ROM or any other storage device, departmental documents, content or information other than operating software.
(4) How many of the documents etc. referred to in (3) were classified for security or any other purpose and, if any, what was the security classification involved.

(5) (a) How many of the documents etc. referred to in (3) have been recovered; and (b) how many documents etc. referred to in (4) have been recovered.

(6) What departmental disciplinary or other actions have been taken in regard to the computers referred to in (1) or in relation to the documents etc. referred to in (3) or (4).

Senator Herron—The answer to the honourable senator’s question is as follows:

The Aboriginal and Torres Strait Islander Commission has provided the following information:

1. ATSIC undertakes asset stocktakes at the end of each financial year. Information provided in this response covers the period end of financial year 1998/99 to end of financial year 1999/2000 inclusive. Therefore the information provided is for a longer period than is asked in the question.

(a) Set out in the table below are the laptop computers that have been lost or stolen.

(b) One laptop has been identified as stolen.

(c) The value of the items is shown in column 6 of the table below.

(d) The replacement value is shown in column 7 below.

(e) A number of the laptop computers identified as missing in the 1998/99 stocktake were found during the 1999/2000 stocktake. ATSIC records do not show whether new items were specifically purchased to replace missing equipment.


<table>
<thead>
<tr>
<th>Number</th>
<th>Type</th>
<th>Lost or stolen</th>
<th>Fin year item identified as missing</th>
<th>Purchase date</th>
<th>Value (question 1(c))</th>
<th>Replacement Value (question1(d))</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Laptop comp</td>
<td>Lost</td>
<td>99/00</td>
<td>16/9/97</td>
<td>$960</td>
<td>$3890</td>
</tr>
<tr>
<td>2.</td>
<td>Laptop comp</td>
<td>Lost</td>
<td>99/00</td>
<td>31/10/97</td>
<td>$960</td>
<td>$3890</td>
</tr>
<tr>
<td>3.</td>
<td>Laptop comp</td>
<td>Lost</td>
<td>99/00</td>
<td>28/10/97</td>
<td>$697</td>
<td>$3890</td>
</tr>
<tr>
<td>4.</td>
<td>Laptop comp</td>
<td>Stolen</td>
<td>99/00</td>
<td>18/02/98</td>
<td>$1931</td>
<td>$3890</td>
</tr>
</tbody>
</table>

(2) The stolen laptop was reported to the police. The investigation did not result in any legal action being taken.

(3) Documents on laptops would usually be documents that are also on the network and this material would be stored on a server. It is a matter for individual officers and work areas whether records are kept of documents on disk or CD-rom.

(4) Given the last known locations of the laptop computers and the nature of the work carried out by those areas, the highest level of classification of any documents would have been “Confidential”.

(5) Documents on the network can usually be retrieved from the server or back-up systems. Documents outside the network eg available only on disk may not be able to be recovered if the disk is lost.

(6) There has been no evidence to provide grounds for taking disciplinary action.

Aboriginal and Torres Strait Islander Commission: Missing Computer Equipment

(Question No. 2533)

Senator Faulkner asked the Minister for Aboriginal and Torres Strait Islander Affairs, upon notice, on 29 June 2000.

(1) Since 1 January 1999, have there been any desktop computers, or any other item of computer hardware, other than laptop computers, lost or stolen from the possession of any officer of the department and/or any agencies within the portfolio; if so: (a) what and how many have been lost; (b) what and how many have been stolen; (c) what is the total value of these items; (d) what is the normal replacement value per item; and (e) have these computers been recovered or replaced.
Monday, 9 October 2000

(2) Have the police been requested to investigate any of these incidents; if so: (a) how many were the subject of police investigation; (b) how many police investigations have been concluded; (c) in how many cases has action been commenced; and (d) in how many cases has action been concluded and with what result.

(3) How many of the lost or stolen items had, on their hard disc drives, or in the form of floppy disc, CD-ROM or any other storage device, departmental documents, content or information other than operating software.

(4) How many of the documents etc. referred to in (3) were classified for security or any other purpose and, if any, what was the security classification involved.

(5) (a) How many of the documents etc. referred to in (3) have been recovered; and (b) how many documents etc. referred to in (4) have been recovered.

(6) What departmental disciplinary or other actions have been taken in regard to the items referred to in (1) or in relation to the documents etc. referred to in (3) and (4).

Senator Herron—The answer to the honourable senator’s question is as follows:

The Aboriginal and Torres Strait Islander Commission has provided the following information

(1) ATSIC undertakes asset stocktakes at the end of each financial year. Information provided in this response covers the period end of financial year 1998/99 to end of financial year 1999/2000 inclusive. Therefore the information provided is for a longer period than is asked in the question.

(a) Set out in the table below are the desktop computers that have been lost.

(b) None have been identified as stolen.

(c) The value of the items is shown in column 6 of the table below.

(d) The replacement value is shown in column 7 below.

(e) A number of the desktop computers identified as missing in the 1998/99 stocktake were found during the 1999/2000 stocktake. ATSIC records do not show whether new items were specifically purchased to replace missing equipment.


<table>
<thead>
<tr>
<th>Number</th>
<th>Type</th>
<th>Lost or stolen</th>
<th>Fin year item identified as missing</th>
<th>Purchase date</th>
<th>Value (question 1(c))</th>
<th>Replacement Value (question 1(d))</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Desktop comp</td>
<td>Lost</td>
<td>1/7/97</td>
<td>1/7/97</td>
<td>$960</td>
<td>$1900</td>
</tr>
<tr>
<td>2.</td>
<td>Desktop comp</td>
<td>Lost</td>
<td>1/7/97</td>
<td>1/7/97</td>
<td>$960</td>
<td>$1900</td>
</tr>
<tr>
<td>3.</td>
<td>Desktop comp</td>
<td>Lost</td>
<td>5/6/97</td>
<td>5/6/97</td>
<td>$697</td>
<td>$1900</td>
</tr>
<tr>
<td>4.</td>
<td>Desktop comp</td>
<td>Lost</td>
<td>5/6/97</td>
<td>5/6/97</td>
<td>$697</td>
<td>$1900</td>
</tr>
<tr>
<td>5.</td>
<td>Desktop comp</td>
<td>Lost</td>
<td>11/9/97</td>
<td>11/9/97</td>
<td>$1440</td>
<td>$1900</td>
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<tr>
<td>6.</td>
<td>Desktop comp</td>
<td>Lost</td>
<td>16/9/97</td>
<td>16/9/97</td>
<td>$697</td>
<td>$1900</td>
</tr>
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</table>

(2) There was no evidence to provide grounds for referring the missing items to the police.

(3) The Commission’s desk top computers are in the main networked and material would usually be stored on a server. It is a matter for individual officers and work areas whether records are kept of documents on disk or CD-rom.

(4) Given the last known locations of the computers and the nature of the work carried out by those areas, the highest level of classification of any documents would have been “Confidential”.

(5) Documents on the network can usually be retrieved from the server or back-up systems. Documents outside the network eg available only on disk may not be able to be recovered if the disk is lost.

(6) There has been no evidence to provide grounds for taking disciplinary action.
Attorney-General’s Department: Salaries
(Question No. 2573)

Senator Faulkner asked the Attorney-General, upon notice, on 6 July 2000:

As a dollar amount, and as a percentage of the Department’s total outlay on salaries, what was the cost of (a) staff training; (b) consultants; and (c) performance pay, in the 1999-2000 financial year.

Senator Vanstone—The Attorney-General has provided the following answer to the honourable senator’s question:

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>% of Salary Outlay</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Staff training</td>
<td>$2,361,958*</td>
<td>2.72%</td>
</tr>
<tr>
<td>(b) Consultants</td>
<td>$4,760,811</td>
<td>5.49%</td>
</tr>
<tr>
<td>(c) Performance pay</td>
<td>Nil</td>
<td>not applicable</td>
</tr>
<tr>
<td>Total salaries</td>
<td>$86,694,656</td>
<td></td>
</tr>
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</table>

*This figure represents payments to third parties only. It does not include the salary and other costs of the staff training and development sections within the Department, the Australian Protective Service and the Insolvency & Trustee Service, Australia.

Department of Immigration and Multicultural Affairs: Salaries
(Question No. 2574)

Senator Faulkner asked the Minister representing the Minister for Immigration and Multicultural Affairs, upon notice, on 6 July 2000:

As a dollar amount and as a percentage of the department’s total outlay on salaries, what was the cost of: (a) staff training; (b) consultants; and (c) performance pay, in the 1999-2000 financial year.

Senator Vanstone—The Minister for Immigration and Multicultural Affairs has provided the following answer to the honourable senator’s question:

The figures in the following table are reproduced from the 1999-2000 Annual Report:

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>% of Salary Outlay</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Staff Training*</td>
<td>$2,442,802</td>
<td>1.24%</td>
</tr>
<tr>
<td>(b) Consultants</td>
<td>$1,950,192</td>
<td>0.99%</td>
</tr>
<tr>
<td>(c) Performance Pay</td>
<td>$144,728</td>
<td>0.07%</td>
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</tbody>
</table>

* Includes costs of external training only. Costs of internal training provision, coordination, attendance and the like are not centrally recorded in the Department and could not be reliably estimated.

Aboriginal and Torres Strait Islander Commission: Salaries
(Question No. 2577)

Senator Faulkner asked the Minister for Aboriginal and Torres Strait Islander Affairs, upon notice, on 7 July 2000:

As a dollar amount and as a percentage of the department’s outlay on salaries what was the cost of: (a) staff training; (b) consultants; and (c) performance pay, in the 1999-2000 financial year.

Senator Herron—The answer to the honourable senator’s questions is as follows:

The Aboriginal and Torres Strait Islander Commission has provided the following information.

The total outlay on salaries and salaries related expenditure for ATSIC for the financial year 1999/2000 was $77,482,000 (subject to audit).
The items in the question as a dollar amount and as a percentage of salaries outlay for 1999-2000 were:

(a) Staff training $1,161,837 1.5%
(b) Consultants (includes all outsourced services and contractors)(1) $29,634,051 38%
(c) Performance pay $99,704 .13%
(1) Source: ATSIC Consultancy Database

Department of Defence: Salaries
(Question No. 2611)

Senator Faulkner asked the Minister representing the Minister for Defence, upon notice, on 25 July 2000:

1) What was the Department’s total outlay on salaries and salary-related costs in the financial years: (a) 1996-97; (b) 1997-98; (c) 1998-99; and (d) 1999-00.

2) As a dollar amount and as a percentage of the Department’s total outlay on salaries, what was the cost of contracts for outsourced services and functions in the financial years: (a) 1996-97; (b) 1997-98; (c) 1998-99; and (d) 1999-00.

Senator Newman—The Minister for Defence has provided the following answer to the honourable senator’s question:

(1) Expenditure on salaries and salary-related expenditure.

<table>
<thead>
<tr>
<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td>Salaries</td>
<td>3,466.391</td>
<td>3,464.116</td>
<td>3,432.106</td>
<td>3,437.311</td>
</tr>
<tr>
<td>Salary Related (Superannuation)</td>
<td>652.369</td>
<td>658.914</td>
<td>654.160</td>
<td>644.900</td>
</tr>
<tr>
<td>Total Salaries and Salary Related</td>
<td>4,118.760</td>
<td>4,123.030</td>
<td>4,086.266</td>
<td>4,082.211</td>
</tr>
</tbody>
</table>

(2) Expenditure on contracts for outsourced services and functions and as a percentage of outlays on salaries.

<table>
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<tr>
<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td>Contracting Out</td>
<td>119,820</td>
<td>155,113</td>
<td>233,123</td>
<td>373,387</td>
</tr>
</tbody>
</table>

Aboriginal and Torres Strait Islander Commission: Salaries
(Question No. 2620)

Senator Faulkner asked the Minister for Aboriginal and Torres Strait Islander Affairs, upon notice, on 25 July 2000:

1) What was the Department’s total outlay on salaries and salary-related costs in the financial years: (a) 1996-97; (b) 1997-98; (c)1998-99; and (d)1999-00.

2) As a dollar amount and as a percentage of the Department’s total outlay on salaries, what was the cost of contracts for outsourced services and functions in the financial years: (a) 1996-97; (b)1997-98; (c)1998-99; and (d)1999-00.

Senator Herron—The answer to the honourable senator’s question is as follows:

The Aboriginal and Torres Strait Islander Commission has provided the following information:

(1) The total salaries outlay costs were:
Financial Year | Total outlay on salaries and salaries related expenditure
--- | ---
(a) 1996-97 | $72,459,000
(b) 1997-98 | $70,095,000
(c) 1998-99 | $76,721,000
(d) 1999-00 | $77,482,000 (subject to audit)

(2) The cost of contracts for outsourced services and functions (1):

<table>
<thead>
<tr>
<th>Financial year</th>
<th>Dollar amount</th>
<th>Percentage of total outlays on salaries</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) 1996-97</td>
<td>$22,322,108</td>
<td>31%</td>
</tr>
<tr>
<td>(b) 1997-98</td>
<td>$18,253,235</td>
<td>26%</td>
</tr>
<tr>
<td>(c) 1998-99</td>
<td>$13,334,429</td>
<td>17%</td>
</tr>
<tr>
<td>(d) 1999-00</td>
<td>$29,634,051</td>
<td>38%</td>
</tr>
</tbody>
</table>

(1) Source: ATSIC Consultancy database

Renewable Energy Showcase: Completed Projects
(Question No. 2625)

Senator Brown asked the Minister for the Environment and Heritage, upon notice, on 27 July 2000:

For each of the projects that received grants under the Renewable Energy Showcase program in December 1998:

1. Has the project been completed; if so (a) when was it completed; (b) has it fulfilled the commitments made at the outset; and (c) has the grant been fully expended or exceeded.

2. If the project has not been completed; (a) at what stage is it; (b) how much money has been paid; and (c) when will it be completed.

3. Has an evaluation of the program as a whole been completed; if not, why not; if so, can a copy be provided.

Senator Hill—The answer to the honourable senator’s question is as follows:

1. No projects have been completed.

2. That information is commercial-in-confidence and therefore not available. However, two projects, the Denham wind farm control technology and energy storage system, and the Solid Waste Energy Recycling Facility (SWERF), near Wollongong, are expected to be commissioned before the end of 2000.

3. An evaluation process has not yet been implemented. The Government’s evaluation strategy requires that each program is evaluated over a cycle of three to five years. Renewable Energy Showcase commenced in July 1998 and is due for review in mid 2001.

Rural Partnership Program: Requests for Assistance
(Question No. 2721)

Senator O’Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 14 August 2000:

1. How many regions, other than the 11 currently receiving assistance, have requested assistance through the Rural Partnership Program.

2. In each case:
   (a) who made the request;
   (b) what was the nature of the request;
   (c) when was the request made;
(d) what action has been taken to date in response to the request.

(3) Has any work been undertaken by the department, any of its agencies or the relevant state and territory departments, to identify regions, other than those currently receiving assistance through the program, that may benefit from the program; if so, what regions have been identified and what work has been undertaken to develop program packages to assist these regions.

Senator Alston—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

(1) Two.

(2) Requests were made for:

- the Murrumbidgee Irrigation Area by the State of New South Wales in partnership with the Murrumbidgee Council of Horticultural Associations to improve long term viability of properties in the region. The request was made in 1997 and arrangements are soon to be finalised to establish the program.

- the South Australian Murray Mallee by the State of South Australia in partnership with the Murray Mallee Task Force to address a range of structural issues in the region associated with regional infrastructure. The request was made in 1997 and assessed as not being a high priority for support, not meeting the criteria for assistance and being related more to State and community infrastructure than to agricultural industries.

(3) Work was undertaken with the States under the auspices of ARMCANZ during the development of the program in 1994-95 on the potential for application of the program across Australia. The Rural Partnership Program required drive and support from the community and States and Territories to identify areas of need and work was only undertaken by the Department on the two regions named above in respect of which applications for assistance were made. I am not aware of what work, if any, has been undertaken by the States.