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

REPRESENTATION OF SOUTH AUSTRALIA

The PRESIDENT—I table the certificate, received through His Excellency the Governor-General, from the Governor of South Australia, of the choice by the houses of the parliament of South Australia of Senator Buckland to fill the vacancy caused by the resignation of Senator Quirke.

BUSINESS

Government Business

Motion (by Senator Ian Campbell) proposed:

That the order of consideration of government business orders of the day for today be as follows:

No. 3 Tobacco Advertising Prohibition Amendment Bill 2000.
No. 4 Telecommunications (Consumer Protection and Service Standards) Amendment Bill (No. 2) 2000
Telecommunications (Universal Service Levy) Amendment Bill 2000.
No. 2 Higher Education Funding Amendment Bill (No. 1) 2000.
No. 6 Financial Sector Legislation Amendment Bill (No. 1) 2000.

Senator BROWN (Tasmania) (12.31 p.m.)—I would like to have an indication from the government as to where that places the Renewable Energy (Electricity) Bill 2000, which was due to be the first item for discussion today. I am particularly concerned about this bill, as is my constituency. I understand there has been some movement in regard to support for that bill by various senators. It is important for the Senate to know what the new scheduling is. On the weekend I was at a public meeting in Brisbane where there was very strong support for removing from that bill the component which would allow native woodlands to be used to produce so-called renewable energy, and there is a big campaign against that in Tasmania. I am glad that there has been a delay, although I think it is not for reasons that are in the interests of those who want to conserve forests and woodlands. This will give the Labor Party in particular the opportunity to support my amendment which I will flag now, and I hope the Labor Party will insist on the Senate not backing down on the amendments which went to the House and were rejected there. My amendment will remove native forests and woodlands from the legislation insofar as they would be able to be woodchipped, burnt and turned into so-called renewable power.

I know the legislation is going to come before us very shortly because the government wants to have that legislation when it goes to the COP6 conference in The Hague in the Netherlands in just nine days. So the government will be wanting to pass the legislation. With my ear to the ground, I hear that the government is even prepared to accept the Senate amendments. Unfortunately, in this discussion that is going on about the rescheduling of that legislation, senators are not aware of the situation regarding the Labor Party and its support for the government’s woodchipping provisions, the Democrats’ support for the legislation or indeed what other amendments the government might be looking at or might see fit to reject. I would like an indication from the government as to when that legislation is being rescheduled so we can make sure we have an informed ability to look at the amendments and what the government’s new position may be regarding the rejection of the amendments by the House of Representatives.

Question resolved in the affirmative.

TOBACCO ADVERTISING PROHIBITION AMENDMENT BILL 2000

In Committee

Consideration resumed from 5 October.

Senator ALLISON (Victoria) (12.35 p.m.)—I move Democrat amendment No. 1:

(1) Schedule 1, page 3 (after line 4), before item 1, insert:
Add “but does not include communications or conduct relating to the fundraising activities of political parties”.

This amendment would ban tobacco advertising at political fundraising events. The Democrats believe it is totally inappropriate that any political party accept donations or sponsorships from the tobacco industry. The evidence is that donations are buying the tobacco industry time—eight years at least. I think in the eyes of the general public the tobacco industry has been completely discredited. There is overwhelming evidence that tobacco companies knew from their own research that tobacco use caused heart disease and cancer yet bid from the results of this research while promoting tobacco as a healthy product. They even paid doctors to appear in advertisements, reassuring the public that tobacco use was safe.

The government does not seem to share the views of the majority of the population that the tobacco industry is not to be trusted. In fact, the coalition regularly accepts donations from tobacco industry organisations. We all remember that Philip Morris sponsored the Liberal Party’s national conference dinner two years ago and in that same year donated an additional $86,400 to the party. I am pleased to say the Democrats have never accepted donations from the tobacco industry. We believe that accepting financial support from an industry that is responsible for millions of deaths worldwide is morally reprehensible. Unfortunately, we are not able to amend this bill to prohibit donations and sponsorships of political parties by tobacco companies, but this amendment prohibits advertising in association with a political fundraising event. So it is my hope that the coalition and the Labor Party will go further than this and in future refuse all donations from tobacco companies. I have no doubt that the general public would strongly support that stand.

Senator CHRIS EVANS (Western Australia) (12.37 p.m.)—Labor will be opposing this amendment moved by the Democrats. It is not that we disagree with their objective; it is a question of whether or not we think it is effective. We have spoken against political events being used for the promotion of a cigarette company or its messages, as occurred most famously with the Philip Morris sponsorship of the Liberal Party dinner recently. Tobacco advertisements are legal except where an exemption applies under this act. A political party should be treated no differently from any others in regard to tobacco advertisements. However, the amendment being put forward does not appear to be effective in achieving this goal. It also appears to be in breach of the High Court decision in the 1997 case of Lange v. Australian Broadcasting Corporation.

I think the essence of the Democrat amendment is that it changes the definition of what is a government or political matter by excluding communications or conduct relating to the fundraising activities of political parties. Section 9(1A) provides a limited exception covering the defined government and political matters provided they are not an advertisement which promotes smoking in general or a particular brand or range of brands of tobacco products. The reason for this exception being included in the original act was to ensure that free speech prevails. Governments and political parties are not restricted from having debates or talking about these issues, provided they do not amount to either the promotion of a particular range of tobacco products or the promotion of smoking itself. To add the words proposed by the Democrats to the definition does not have the effect of preventing sponsorships and it may have unintended consequences. I hate arguing on that particular line because that is usually what the government uses for anything it wishes to oppose, but I think there is concern about the Democrat amendment which I understand the government shares.

An example of a consequence of the Democrat amendment could be that the Australian Electoral Commission might be prevented from publicly reporting donations by tobacco companies to political parties because the publication of those names would come within the definition of an advertisement of conduct relating to fundrais-
The Labor Party believes that all such donations should be publicly disclosed and hence cannot support the amendment in its current form. Likewise, the exclusion of any conduct, including fundraising, is not limited to conduct relating to fundraising from tobacco companies. Hence, a forum which has some fundraising element would lose the protection of being a political matter and a discussion of tobacco policy would no longer be protected.

For these reasons the opposition is unable to support the Democrat amendment, though broadly supports the objective. Senators would be aware that Labor has circulated an alternative amendment which closes this loophole to the extent that this can be done, while dealing with the concern about the constitutional right to free speech. Some concerns were expressed by the government about that attempt as well. We recently revised that, and I think that has recently been circulated in the chamber. We will be moving that amendment as our attempt to meet the objective of the Democrats but which we think will be a better way of getting there. So we will be opposing the Democrat amendment but, as I say, hoping to pick up most of the objective they express in our amendment, which I will move next.

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (12.40 p.m.)—The government does not accept this amendment by the Democrats. It obscures the intent of this major piece of public health legislation and opens up a debate that is entirely tangential to its core concern. The legislation is about limiting the exposure of the public to measures and images that favourably market cigarettes and portray smoking in a way that may persuade them to start smoking or continue smoking or to use or continue to use tobacco products. The object of the act is to improve public health. It is ludicrous to suggest we stop citizens and corporate Australia making contributions to public causes such as political parties and charities via this bill. Sponsorship of this nature is well beyond the scope of the bill and any controls over it are catered for in other ways and other avenues. The matter of political parties accepting funds from business is a matter for the party executive. Accepting this amendment to the act could see the ludicrous situation of the Commonwealth prosecuting a political party, which may be the government of the day, for accepting sponsorship from a tobacco company.

On the international stage, Australia is a world leader in tobacco control. In June 1999, the Commonwealth and all states and territories endorsed a National Tobacco Strategy. The strategy provides a framework for all jurisdictions, including the Commonwealth, to develop their own action plans for tobacco control. The strategy not only is the first attempt to coordinate tobacco control nationally but also places Australia among a handful of countries globally who can say they have tobacco control strategies that reflect all those interventions deemed by the World Health Organisation as best practice.

The government is committed to maintaining, and improving on, Australia’s excellent track record in tobacco control by consistently implementing new initiatives. In 1998, the European Parliament voted for a ban on tobacco advertising, including a ban to be placed on sponsorship advertising of events or activities organised at an international level. This bill is consistent with the decision made by the European Parliament and introduces the same time frames for introducing these bans. The phase-out of all tobacco advertising in Australia also represents a major contribution to the National Tobacco Strategy and, in particular, the Commonwealth’s commitments under this strategy.

Under this bill there will be no tobacco advertising at any sporting or cultural event after 1 October 2006 under any circumstances. There is to be a phase-out period between 1 October 2000 and 1 October 2006. With the passage of this bill, any event that has not previously received an exemption before 1 October 2000 will not be able to apply for an exemption under section 18. Events that have previously received an exemption may continue to apply, but they will receive no expansion on the advertising permitted, and it is our intention that advertising be progressively restricted. It should be
noted that, where exemptions are given, they are very prescriptive as to the amount, the size and the placement of any advertising. These exemptions are then monitored by officers from the Department of Health and Aged Care, and any infringements jeopardise future exemptions.

Amendment not agreed to.

**Senator CHRIS EVANS (Western Australia) (12.45 p.m.)—** I move:

(1) Schedule 1, page 3 (after line 4), before item 1, insert:

1A Subsections 9(1A) and (1B)

Repeal the subsections, substitute:

Exception—political discourse

(1A) To remove any doubt, it is declared that if:

(a) something (the advertisement) does not promote, and is not intended to promote:

(i) any particular tobacco product; or

(ii) a particular range of tobacco products; or

(iii) a manufacturer of tobacco products; or

(iv) a tobacco trademark; and

(b) the advertisement does not promote, and is not intended to promote, smoking; and

(c) the advertisement relates solely to government or political matters;

the advertisement is not a tobacco advertisement for the purposes of this Act.

**Political comment by a manufacturer etc.**

(1B) Without limiting the scope of subsection (1A), the use by a manufacturer of its own name in an advertisement or publication is not a tobacco advertisement for the purposes of this Act where:

(a) the advertisement or publication is for the purpose of the manufacturer participating in government or political matters; and

(b) the advertisement does not promote, and is not intended to promote, smoking.

As you have indicated, Mr Chairman, this is a revised amendment being a redrafted version of an amendment moved by the opposition. The original amendment was redrafted after the government expressed some concerns about its potential to interfere with decisions regarding the right to free speech etc. We think this amendment achieves the objective of ending the loophole that has allowed the Liberal Party to provide advertisements for Philip Morris as part of a dinner sponsorship arrangement. The exception currently refers only to the name of a tobacco product or a range of tobacco products and explicitly allows for advertisements, including the name of a manufacturer, to continue. Although Philip Morris manufacture other products, I think all Australians know that their name is synonymous with cigarette products and this arrangement is viewed publicly as tobacco sponsorship.

Turning to the root of the problem, the opposition is keen to end the loophole that allows continuing sponsorship of political events because of the current wording of this section. The Philip Morris sponsorship of the Liberal Party function is not prohibited because, in that case, the Liberal Party has been promoting the name of the manufacturer. The general prohibitions on advertising in this bill include the names of manufacturers and trademarks, but the exception for political matters is narrower because it applies only to the names of tobacco products. The exception in subsection 9(1A) allows political comment in circumstances where a manufacturer’s name or a trademark is displayed but not where a range of tobacco products is mentioned. This point is made clearly in subsection 9(1B), which says explicitly that a manufacturer’s name does not of itself constitute promotion of a tobacco product.

The opposition believes this is a loophole that has been exploited to allow advertising in conjunction with Liberal Party events, and it is appropriate that this loophole be closed. The amendment that I circulated the last time this bill was debated was intended to achieve that outcome, but, as I have said, the Crown Solicitor concluded that the draft amendment was flawed by the same argument concerning free speech established in the case of Lange. Freedom of speech to discuss the tobacco issue must be maintained in a democ-
racy. However, this should not extend to an exemption for political parties to advertise and promote tobacco products or the names of tobacco manufacturers or trademarks when everyone else is barred from doing so. Therefore, the opposition is moving the revised amendment to have this effect, which we believe will retain the free speech rights of tobacco manufacturers without permitting advertising by a third party. The new amendment allows a tobacco company to advertise its views about issues in its own name, provided that this does not amount to a promotion of smoking or of particular tobacco products.

A recent relevant example is the new laws controlling the illegal production and sale of tobacco. Another example could be advertisements to enforce the rules concerning the sale of tobacco to minors. Participation by tobacco companies in mainstream political life should not be curtailed unreasonably, and the opposition’s amendment will preserve their right to free speech. However, it will stop advertising by others on behalf of the tobacco manufacturers as part of a sponsorship arrangement. It will no longer be possible for a political party to advertise on behalf of a tobacco company and promote the name of donors. This will ensure that political parties and all other organisations are put on the same footing. I therefore urge senators to support the amendment.

Senator ALLISON (Victoria) (12.49 p.m.)—The Australian Democrats support the opposition’s amendment, which restricts the advertising of tobacco products in association with political activity. It will allow tobacco companies to use their own names in political discourse—for example, in lobbying the government on issues such as the illegal sale of tobacco—but it prohibits a tobacco company from paying another organisation or agent to use its name or trademark in political discourse. This would prohibit the use of political donations and sponsorships to gain publicity or to promote a tobacco company. The Democrats appreciate that there may be some legitimate reasons why a tobacco company needs to enter into political discourse and debate on topics such as under-age smoking or illegal tobacco sales. However, we cannot see any justification for allowing tobacco companies to use political discourse to promote either themselves or their products.

Having said that, I understand that the government has some problems with subsection (1B) so we will listen to what the parliamentary secretary has to say about that. We have a suggested amendment to (1B) that may solve the problem. I wonder whether the parliamentary secretary could explain that issue.

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (12.50 p.m.)—This is a very important issue that requires careful consideration. As the committee will be aware, during previous consideration of this bill before the parliamentary recess, the Labor Party distributed a form of amendment different from that which has been circulated today. We had difficulty with the previous amendment because the Australian Government Solicitor advised:

The effect of the ALP amendments to the Bill would be to severely restrict the range of communications that could be made by a tobacco company without offending the provisions of the Act. In our opinion, there is a significant risk that those amendments would not satisfy the tests for the validity of a law on the grounds of freedom of political communication which has been identified by the High Court in Lange versus the Australian Broadcasting Corporation 1997, 189CLR520 at page 567. Therefore, we consider that it is highly likely that the High Court could consider the ALP amendments to the bill to be beyond constitutional power.

I note that the opposition has brought forward a separate amendment in the form that has been circulated today. Can I indicate that the government could accept the proposed amendments to section 9(1A). However, the government opposes the opposition amendment to section 9(1B). If amended in this form, section 9(1B) could enable tobacco manufacturers to form a commercial alliance and create the necessary elements for a High Court challenge to the constitutional validity of the act. The opposition amendment would prevent that alliance from publishing a purely political advertisement which included the name of a tobacco manufacturer.
The amendment would allow a manufacturer to use its own name in a political advertisement—for example, the recent BATA ads in national newspapers opposing chop chop tobacco. But a third party, such as a commercial alliance of tobacco manufacturers, would not be able to publish the same advertisement with reference to the BATA in the advertisement. Therefore, we indicate that we cannot support the amendment as a whole.

I would put to the Senate, either to the opposition or to the Democrats, that it may therefore be more appropriate to split this amendment, as proposed, and deal with it in two sections—that is, (1A) and (1B). I note that Senator Allison said she was perhaps open to persuasion on this matter. I would ask her very seriously to consider those longer term implications in that regard and perhaps indicate whether she would be prepared to support the government in having the legislation split into two parts.

Senator ALLISON (Victoria) (12.54 p.m.)—Splitting is one option, Minister, but I have an amendment, which I have now circulated, which I understand will solve that problem. So it could be that we could deal with both of them together, provided that that amendment is acceptable.

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (12.54 p.m.)—The words proposed by the Democrats, as I understand it—let me just clear this with Senator Allison—on the amendment as circulated by the ALP would read in the first line of (1B) ‘Without limiting the scope of subsection (1A), the use by a manufacturer or group of manufacturers of its own name in advertisement or publication’ et cetera.

The TEMPORARY CHAIRMAN (Senator Chapman)—Senator, at the moment we have an amendment to the amendment before the chair. You may care to foreshadow that as an amendment, subject to how this amendment is resolved.

Senator CHRIS EVANS (Western Australia) (12.55 p.m.)—Perhaps I could ask the Democrats to pause and think about what the impact of that amendment is. As I understand it, that is very similar to what is currently in the act. It might well have the effect of defeating the purpose that we set ourselves. I am confirmed in that thought by the readiness with which the government agreed to the proposition. That is always a good sign of one perhaps having undone oneself.

I wonder whether, Senator Allison, we might be better off meeting the only substantive argument that the government has made. That would be by including after the words ‘the use by a manufacturer’ the words ‘or group of manufacturers of its own name in advertisement or publication’. The government’s argument is that there is a legal possibility of a group of manufacturers being able to argue that its right to free speech has been contravened. I wonder whether that is not a better way of our seeking to overcome that objection. I am a bit concerned that the use of the words that you propose will effectively undermine the clause completely. As I say, it is difficult doing this on the run, but I wonder whether that might not be a better form of doing it.

Perhaps, Mr Chairman, with your indulgence, I might seek to amend my amendment by adding in (1B), after the words ‘the use by a manufacturer’, a new set of words ‘or group of manufacturers’. Then that first line of (1B) would read ‘Without limiting the scope of subsection (1A), the use by a manufacturer or group of manufacturers of its own name in advertisement or publication’ et cetera.

Senator ALLISON (Victoria) (12.55 p.m.)—Yes, thank you, Chair. I move:

Paragraph (1B), omit “by a manufacturer of its own name”, insert “of a manufacturer’s name”.

Senator CHRIS EVANS (Western Australia) (12.55 p.m.)—Perhaps I could ask the Democrats to pause and think about what the impact of that amendment is. As I understand it, that is very similar to what is currently in the act. It might well have the effect of defeating the purpose that we set ourselves. I am confirmed in that thought by the readiness with which the government agreed to the proposition. That is always a good sign of one perhaps having undone oneself.

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The TEMPORARY CHAIRMAN (Senator Chapman)—Senator, at the moment we have an amendment to the amendment before the chair. You may care to foreshadow that as an amendment, subject to how this amendment is resolved.

Senator CHRIS EVANS—Certainly, Mr Chairman. I was just trying to facilitate the debate. I will move that amendment formally later, if that is the appropriate time. But I just wish to indicate to the Democrats that I think
that might be a better way of reaching our joint objective. I was a bit concerned about the impact of their use of words, which I understand are the same as in the current act.

Senator ALLISON (Victoria) (12.58 p.m.)—I think it would be useful at this stage to hear from the government about that proposal. It is difficult on the run to assess the impact of what might appear to be a minor change. I wonder whether we could just have an indication on that.

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (12.59 p.m.)—This is an important consideration. But I would point out to the Senate that any accusation of doing work on the run is rather opportune and unfair, given that the ALP amendment was given to us this morning at 11.30 before our coming to this place. That was despite the fact that, during the last fortnight, there was plenty of opportunity for quite extensive consultation. In fact, I understand that comprehensive material was made available to the opposition during that period, including legal advice on this matter.

The government are still very reluctant to look at the amendment foreshadowed by Senator Evans for the inclusion of extra words in the area of acceptance of a group. I am advised that this would still provide too narrow an opportunity. It could, for example, involve action by a body such as the Pharmacy Guild, which would then be constrained in the type of advertising that it would and could have. That would be contrary to what we are seeking to achieve. Therefore, the government are not attracted to the foreshadowed amendment as proposed by Senator Evans but would certainly agree to the words that were originally proposed by Senator Allison.

Senator CHRIS EVANS (Western Australia) (1.01 p.m.)—As I understand it, the government are not inclined to support the amendment I have foreshadowed. As I have said to Senator Allison and the Democrats, our concern is that the wording of her amendment will effectively allow people to continue to use the manufacturer’s name as part of sponsorship arrangements, and that will in fact defeat the purpose for which we are aiming. I would urge her not to go down that path and instead to support the foreshadowed amendment which I have indicated I will move if her amendment is defeated.

Senator ALLISON (Victoria) (1.01 p.m.)—We will support the ALP’s foreshadowed amendment, so I will withdraw this one. Can I say that I did not mean to suggest earlier that it was any fault of the government’s in terms of this being a rather rushed decision. I am fully aware that this amendment was circulated at the last minute, so there was no criticism implied in what I said about the government. I seek leave to withdraw my amendment.

Leave granted.

Senator CHRIS EVANS (Western Australia) (1.02 p.m.)—I wish to formally amend my amendment by adding words after ‘without limiting the scope of subsection (1A)’ so that it now reads:

Paragraph (1B), omit “of its own name”, insert “or a group of manufacturers of its own name or their own names”.

I also indicate that I do not wish to get into an argument with Senator Tambling about the timing of the amendments. I was just saying that we were making amendments on the run. I can see that the government has been tick-tacking with us on these issues and we have been trying to get an outcome, but I think there is a genuine difference of opinion in some of this. I must say for the record that in the health area we do have a better level of cooperation about amendments, even if we do not agree in the end. I do not think these arguments about who did what and when are really all that relevant to it. We have been trying to get to the nub of the problem. I think there is a difference of view on the importance of this measure. Anyway, in order to try to meet the government’s amendments, I formally amend the Labor Party amendment.

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (1.04 p.m.)—I must indicate that the government do not accept the amendment proposed by Senator Evans, and I think we must go to the core of the argument and the core of the bill. We are
seeking in this act to ensure that we protect the act as a whole from any possible challenge. I would remind the Senate that this legislation is about prohibiting advertising at sporting and cultural events. The amendments that we have been getting caught up in relate to political involvement, political advertising and political disclosure, which I would argue are much more appropriately dealt with in other legislation, in other places and at other times. In effect, the Labor Party amendment would jeopardise the entire intent of this legislation, and it would be a pity. As I indicated in the earlier debate, the proposal that is put forward by Senator Evans is now fraught with considerable difficulty. I indicated that groups like the Pharmacy Guild could become involved. Similarly, a group of manufacturers could easily collude in such a way as to form a $2 company as a result of what the opposition are seeking to do here, and it would totally frustrate the entire intent of everything that is proposed. There is no way that the government can accept this amendment.

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

The committee divided. [1.10 p.m.]
(The Chairman—Senator S.M. West)

Ayes……………… 33
Noes…………….. 29
Majority……… 4

AYES


NOES

Abetz, E. Alston, R.K.R.


PAIRS


Question so resolved in the affirmative.

Senator ALLISON (Victoria) (1.13 p.m.)—I move Democrat amendment No. 2:

(2) Schedule 1, page 3 (after line 23), at the end of the Schedule, add:

2 After subsection 18(3)

Insert:

(3A) Conditions specified under subsection (3) must not permit the use of tobacco advertising signs (within the meaning of subsection 22(3)) at an event held on or after 1 October 2002.

This amendment brings forward the phasing out of tobacco advertising and bans fixed signage after 1 October 2002. This would significantly reduce the advertising at events after this time and send a clear message to the rest of the world that Australia does not support tobacco advertising. The Democrats do not believe that the government is committed to reducing tobacco advertising as quickly as possible. We believe Australia should be leading the world in banning tobacco advertising rather than just following passively behind other countries, such as those in the European Union. We do not need to wait until other countries have banned tobacco advertising before we do so, in our view. Australia should be taking a strong stance against the promotion of tobacco products and ensuring that it does everything it can to restrict the promotion of tobacco. Of course, the Democrats would prefer a com-
plete ban on tobacco advertising in all its forms, but we recognise that this can be difficult in some cases—for example, where equipment such as cars and yachts is brought from other countries for events. However, in the case of fixed signs that are made specifically for the Australian event, we believe that an earlier phase-out is appropriate.

**Senator CHRIS EVANS** (Western Australia) (1.15 p.m.)—I rise on behalf of the opposition to express our opposition to this amendment. I apologise to Senator Allison; I feel a bit churlish for not supporting her amendments. But the effect of this amendment would be to prohibit all signs at an event approved under section 18 from 2002 because the term ‘signs’ includes all forms of advertising at an event. This would effectively render meaningless the exemption provided by section 18 and, in effect, would bring forward the termination of all existing contracts from the year 2006 to the year 2002. Labor cannot support this measure because of the contractual commitments that exist for the remaining events.

The basis of this legislation is to ensure that there will be an end to tobacco advertising by 2006, and Labor will stand by that position. I understand the intent of the amendment is that there should be some phase-down in signage in the lead-up to 2006. That is not the effect of the amendment because the definition of ‘signs’ is broad and effectively includes all forms of advertising or promotion. I understand, however, that there are discussions going on to achieve some voluntary phase-out of signs on cars and uniforms prior to 2006 and that the Victorian government is investigating complaints that shops adjacent to the Grand Prix had advertising displays which breached the requirements of this act.

If we take a broader perspective, the impact of the residual advertising undertaken with an exemption left for the remaining sporting events will be small and should diminish until we get to the point where existing contractual obligations expire and this avenue for tobacco promotion is closed permanently. The key front in the battle against tobacco has moved from sport to the point of sale where most states are now legislating to control the extent of advertising in shops. Most states are also taking action about smoking in public places and are acting to deter or restrict smoking in restaurants and pubs. We will therefore be opposing this amendment.

**Senator TAMBLING** (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (1.17 p.m.)—The government does not accept this amendment. By attempting to effectively ban tobacco sponsorship from 1 October 2002, this measure is not only impractical but puts at risk the very careful negotiation by the Minister for Health and Aged Care, Dr Wooldridge, and the goodwill he has garnered in support of the 1 October 2006 deadline. October 2006 was negotiated with event organisers to provide sufficient time to pursue alternative sponsorship arrangements and not put the event at risk because of the introduction of this legislation.

As it stands, we have an achievable and sensible phase-out date negotiated and agreed with all parties. This will achieve our public health objective of closing the loop on the association of tobacco with sport while still managing to keep international events and the economic benefits they bring to Australia. To dramatically bring forward the phase-out date to this point would put at risk the goodwill which bodies such as the Federation Internationale d’Automobile have negotiated with the Australian government. To attempt to phase out tobacco advertising four years before the 1 October 2006 deadline would seriously jeopardise these events and affect event organisers’ abilities to meet their obligations under international contracts.

The 1 October 2006 date was set to be consistent with international practice, particularly with European Union directives which came into force on 6 July 1998 and which ban tobacco sponsorship advertising of events or activities organised at world level from 1 October 2006. Although this directive has been challenged and subsequently annulled as of 5 October 2000, the Director General of WHO, Dr Brundtland, has urged member states to redraft the tobacco advertising ban in accordance with the
European court’s indications. Dr Brundtland has also stated that the annulment is on technical and legal grounds and not on health grounds.

Australia is the first country outside of Europe to successfully legislate to put in place a total ban on sponsorship by 2006. This builds on Australia’s tobacco control leadership globally and spearheads our tobacco control effort. As section 22 of the act defines a tobacco advertising sign as ‘a sign that is or contains a tobacco advertisement’, this would include not only track side signage but possibly any advertisements on the uniforms of drivers, competing vehicles, team personnel and team equipment, thereby probably rendering tobacco sponsorship worthless to the tobacco companies.

I would draw Senator Allison’s attention in particular to the front page of today’s Herald Sun newspaper—that is, the news pictorial of Monday, 30 October—where the front-page lead story is ‘Thriller on the island’, and the motorbike in question and the rider are suitably endowed with full advertising. In reality, the amount of track side signage has been reduced at all events. Track signage is not permitted at the Rally Australia and Indy 300 events. It is anticipated that the course signage at any future Ladies Masters Golf Tournament will be substantially reduced. In addition, the permitted track signage at the 2000 Motorcycle Grand Prix will be smaller than that permitted at previous Motorcycle Grand Prix events.

Health warnings are required to accompany all tobacco advertising and to occupy at least 25 per cent of the total area of signs. With regard to the 2000 Rally Australia event, health warnings have been increased to occupy 50 per cent of the area devoted to the display of tobacco advertising. So I very strongly indicate that the government certainly does not accept this amendment.

Amendment not agreed to.

Senator ALLISON (Victoria) (1.21 p.m.)—I move Democrats amendment No. 3:

3 After section 34

Insert:

34A Reports to Parliament

(1) As soon as practicable after each 31 December occurring after 1 January 2001, the Minister must cause to be prepared a report on:

(a) the number and nature of any contraventions of the Act occurring in the preceding 12 months; and

(b) action taken by the Minister or a Commonwealth agency in response to each contravention.

(2) A person who prepares a report under subsection (1) must give a copy to the Minister.

(3) The Minister must cause copies of the report to be laid before each House of the Parliament within 15 sitting days of that House after receiving it.

This amendment would require the government to table a report in the parliament once a year outlining any contraventions of the act that have occurred in the previous 12 months. We believe that tobacco advertising is an important community issue and that the general public have an interest in knowing how successful the current advertising restrictions are. It is an important accountability mechanism which will provide some scrutiny of the government’s monitoring of advertising restrictions. It will also ensure that the parliament is made aware of any companies or organisations that breach the advertising restrictions. It is important to make this information as widely available as possible as this will create a disincentive for companies trying to breach the act as they will risk negative publicity. In my speech in the second reading debate, I went to some length to talk about the sorts of breaches that there have been in the past. It seems that governments have not taken those breaches seriously. We think this is an important amendment which will bring the matter to the fore and make it a matter for the parliament to have a report on.

Senator CHRIS EVANS (Western Australia) (1.22 p.m.)—I indicate that the Labor opposition will be supporting the amendment.

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (1.23 p.m.)—The government accepts this amendment.
he government accepts this amendment. The government would be willing to table such a report once a year. There are only five remaining events which are granted an exemption. These events are held once a year; therefore, annual reporting would be adequate. The department takes actions on notifications of any potential breaches of the act. The notifications of the types of potential breaches range from published articles, photographs and editorials to item display advertising being sold in stores throughout Australia.

Amendment agreed to.

Bill, as amended, agreed to.

Bill reported with amendments; report adopted.

Third Reading

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

TELECOMMUNICATIONS
(CONSUMER PROTECTION AND SERVICE STANDARDS) AMENDMENT BILL (No. 2) 2000

TELECOMMUNICATIONS
(UNIVERSAL SERVICE LEVY) AMENDMENT BILL 2000

Second Reading

Debate resumed from 11 October, on motion by Senator Ellison:

That these bills be now read a second time.

Senator MARK BISHOP (Western Australia) (1.25 p.m.)—The Telecommunications (Consumer Protection and Service Standards) Amendment Bill (No. 2) 2000 seeks to introduce competitive tendering of the telecommunications universal service obligation—or USO, as it is commonly known. Whilst the opposition supports competitive tendering trials on a local, regional or niche basis, there is a number of problems that arise from the way in which the government has sought to implement the pilot programs in this bill by making extensive changes to the universal service regime. The bill provides for the repeal of part 2 of the 1999 Telecommunications (Consumer Protection and Service Standards) Act and substitutes a new part 2. The professed purpose of the changes is, according to the explanatory memorandum, to effect the government’s decisions to (a) amend the universal service regime to improve its general operation, particularly in relation to contestability, costing and funding; (b) undertake two pilot schemes in regional Australia to trial the competitive supply of services under the USO; and (c) extend the funding base for the USO and digital data service obligation, DDSO, to include carriage service providers as well as carriers. Part 2 of the act imposes a universal service obligation on Telstra which ensures that standard telephone services, pay phones and prescribed carriage services are provided to all Australians on an equitable basis, irrespective of where their residence or business is located. The DDO and payphone elements of the universal service regime will not be subject to competitive tendering. Part 2 of the act also provides the funding arrangements by telecommunication carriers of the cost for provision of the USO and DDO.

The amendments contained in the bill envisage and facilitate significant changes to the delivery of the USO and DDO which impact on the delivery of those services through most of Australia’s landmass. The impact of these changes to the universal service regime on Australians living in regional, rural and remote areas is potentially far reaching. We all know that telecommunication service levels in country areas are inadequate. If we lacked proof before, evidence to the Besley inquiry has conclusively demonstrated that significant numbers of Telstra’s country customers are receiving substandard service. As I said, the opposition supports the trial and evaluation of competitive tendering for the USO on a local, regional or niche basis. It is important to distinguish, however, a competitive tendering scheme which could further erode service levels—and I firmly believe this scheme has the potential—from a scheme which will support and ensure resultant improvements in service. The bill goes well beyond simply implementing the pilot projects for competitive tendering. In view of the considerable degree of uncertainty concerning the process of competitive tendering, it is critically important that the outcomes of the pilot programs are analysed in detail prior to the ex-
tension of competitive tendering beyond those pilot areas. For that matter, the pilots could be a dismal failure, and there would be nothing to prevent Telstra from pulling out of all areas where it presently is obligated to provide universal service. The scope of the bill is excessively broad, to the ultimate detriment of all Australians who depend on reliable telecommunication services of an adequate standard.

The importance of the political context of the government’s decision to introduce USO contestability is demonstrated by the way the government has sought to implement these pilots. The government’s decision to pursue these amendments to the universal service regime has been made in the context of its unrelenting quest to privatise Telstra. Provision of the USO and DDSO is critical to continued access to communication services in regional, rural and remote Australia. The government’s portrayal of competitive tendering as the answer to declining service levels and as an argument in favour of the full privatisation of Telstra is nothing short of misleading. The contention that competitive tendering of the universal service obligation is the solution to the inadequacy of service levels outside metropolitan areas is unsubstantiated. The government is deceiving country customers into believing that this is the solution to all their problems in a desperate attempt to quell widespread public opposition to the full sale of Telstra. There are serious doubts whether competitive tendering is the answer to declining service levels, and the time frame for the trials and their analysis precludes any rational justification of full privatisation in this way.

Furthermore, the bill looks beyond the trials and empowers the minister to relieve Telstra of its obligations to provide loss making universal services by declaring another carrier as primary universal service provider, or PUSP. The legislation permits full contestability of the USO without any requirement for analysis or success of the pilot schemes prior to the commencement of Australia-wide competitive tendering. The opposition believes that it is critically important that the trials be subject to a public and independent review and subsequent report to parliament prior to further consideration of any extension to USO contestability.

The government has decided, in its wisdom, that in the pilot areas Telstra must continue to provide a safety net service by continuing as primary universal service provider, or PUSP. Requiring Telstra to remain as the safety net service provider of last resort in the two proposed pilot project areas is tantamount to an admission by the government of the limited scope of contestability. It is very unfortunate that the government has not taken a similarly cautious approach to the $150 million local call zone tenders whereby Telstra would be required to continue to provide services if it failed to win the tender to provide local calls in remote areas. Instead, the local call zone tender arrangements permit Telstra to withdraw from a massive 80 per cent of the Australian landmass should its tender be unsuccessful. Labor have already expressed our concerns at the government’s failure to require Telstra to continue as universal service provider if it fails to win the $150 million tender for untimed local calls in the extended outer zone. The opposition remain concerned at the implications of Telstra’s automatic replacement as universal service provider in those areas.

This bill provides as a transitional measure that Telstra is deemed to be the PUSP for all service areas until such time as another carrier is declared to be the PUSP. A declaration that any other carrier should become the PUSP for a given geographical area and service will be a disallowable instrument pursuant to section 12A of the bill. The opposition believes that if contestability of the USO is to be introduced Telstra should be the primary universal service provider Australia wide. Introduction of competition is just that: a means to provide competition for Telstra in the provision of basic telephone services. It should not be an excuse to allow Telstra to withdraw from providing those services altogether. Telstra should continue to be required to make its services available to customers across Australia. This bill should be amended so that Telstra remains the national primary universal service provider and to remove the provisions allowing a carrier
other than Telstra to become a primary universal service provider.

The bill permits a primary or competing universal service provider to offer customers an alternative telephone service. Some concerns were expressed to the Senate Environment, Communications, Information Technology and the Arts Legislation Committee inquiry that customers might make uninformed decisions to change service providers. In order to prevent customer confusion or misunderstanding, the opposition considers it important that providers be required to fully inform customers of the different service and price arrangements available under the alternative telephone service as compared with the standard telephone service they would otherwise receive. An amendment to this effect will be moved so that providers will be required to make customers fully aware of the consequence of accepting an alternative telecommunications service.

At the appropriate time the opposition intends to move amendments in the Senate which reflect the concerns raised in the Labor senators’ minority report from the committee inquiry into the bill. The amendments will address the concern that the pilot projects will not be subject to proper evaluation before competitive tendering is extended into areas beyond those trials. Surely that is the point of trials, after all. You do not need them if you are certain a project is going to work. Consequently, the opposition will be seeking to amend the bill to require proper independent and public review of the trial results once the pilots are complete.

The opposition is concerned that Telstra will not remain as a safety net service provider Australia wide in the case of a declaration of an alternate universal service provider or will be automatically replaced in the case of the winning tender for the local call zone extension tenders. Accordingly, Labor will move a series of amendments—an amendment to retain Telstra as the national universal service provider and to remove the provisions allowing other carriers to become the primary universal service provider in the region, and in the case of the $150 million local call zone tender an amendment to ensure that Telstra remains as universal service provider and is not automatically replaced by the successful tenderer. This is important, as it potentially impacts on 80 per cent of the Australian landmass.

In conclusion, the fundamental importance of the universal service obligation in ensuring the equitable delivery of telecommunications services to rural and regional Australia requires that the detail of this bill be considered carefully. The nature and extent of some of its provisions are of concern to the opposition, as they unnecessarily go far beyond implementing the two trials of competitive tendering. This unnecessary breadth has some serious implications for continued provision of telecommunications services to country areas. For this reason the opposition will be moving, at the appropriate time, amendments to address our concerns as detailed in the ALP senators’ minority report to the bill inquiry.

The opposition has circulated its second reading amendment, which is in six paragraphs, paragraphs (a), (b), (c), (d), (e) and (f). I move Labor’s second reading amendment, which reads:

At the end of the motion, add “but the Senate, recognising the fundamental importance of high quality and reliable telecommunications services to all Australians now and in the future:

(a) condemns the Government for its continuing push towards the full privatisation of Telstra which will inevitably lead to a decline in services to rural and regional Australia;
(b) recognises the importance of the Universal Service Obligation to the delivery of minimum communications services to rural and regional Australia;
(c) notes that while the Government is holding up competitive tendering as the solution to rural and regional service delivery difficulties and as a justification of the full privatisation of Telstra;
(i) its plan is limited to two pilot projects the results of which will not be known for a number of years; and
(ii) its decision to require Telstra to remain as a safety net provider of last resort in the areas to be covered by the pilot projects acknowledges the unique role of
Telstra in the delivery of services to rural and regional Australia and the folly of pursuing full privatisation;

(d) calls on the Government to ensure that no further competitive tendering decisions are made prior to a comprehensive evaluation of the results of the two pilot projects;

(e) notes with concern that Telstra will be excluded as the Primary Universal Service Provider and will only provide service on a ‘commercial’ basis to 80 per cent of Australia if it is unsuccessful in its bid for the Government’s $150 million tender for untimed local call access in remote areas; and

(f) calls on the Government to ensure that the $150 million tender proceeds on the same basis as the two pilot projects, namely with Telstra as the provider of last resort”.

Speaking briefly on that second reading opposition amendment, in paragraph (a) we are concerned that full privatisation will lead to a decline in Telstra service levels in rural and regional areas. Already the Besley inquiry has shown that, since the partial privatisation of Telstra, service levels have begun to decline. We all know that telecommunication service levels in country areas are inadequate. This competitive tendering scheme could further erode service levels rather than ensure resultant improvements in service.

Turning to paragraph (b), the universal service obligation is critically important to the delivery of minimum communications services to rural and regional Australia. Without this legislatively enshrined USO there would be no guaranteed level of service, particularly for those areas—and there are many—where providing telecommunication services is unprofitable. The universal service obligation aims to ensure equitable provision of a universal application service. If equity cannot be achieved, even with the USO in place, it is unlikely that residents in rural and remote areas would have a service that was even close to adequate—if at all.

In terms of paragraph (c), the government is desperate to convince Australians living in rural and regional areas that their service levels will not decline if Telstra is sold—as everyone knows they will. So the government chooses to hold out competitive tendering as the answer to ensuring universal service continues. The truth is no-one knows if competitive tendering will succeed or fail. The results of the two trials will not be known for a number of years. By that time the government will have well and truly sold off the remainder of Telstra, which is owned by the public. Furthermore the government has acknowledged that Telstra has an important role to play in competitive tendering pilot areas by requiring it to remain as a safety net provider of last resort. This tacit acknowledgment of Telstra’s crucial role demonstrates the importance of retaining majority public ownership of Telstra.

Turning to paragraph (d), it is very important that the results of the two pilot projects are thoroughly and impartially analysed prior to the extension of competitive tendering to other areas. The impact of competitive tendering is unknown. Even though there is a chance of success, it should be cautiously investigated in case of failure. It is important that decisions on extending competitive tendering be deferred until it is certain that competitive tendering will not be detrimental to the interests of rural and remote telecommunication users.

Finally, in addressing paragraphs (e) and (f) of the opposition’s amendment, under the government’s $150 million tender for untimed local call access in remote areas, Telstra—if it is not the successful tenderer—will automatically be replaced as the primary universal service provider in the relevant area by the successful tenderer. The zones where Telstra may be automatically replaced as primary universal service provider cover 80 per cent of Australia. In the event that Telstra is the unsuccessful tenderer Telstra will make a decision on a commercial basis as to whether it will remain in the area as a service provider. This means that Telstra automatically relinquishes its universal service obligations if it is not successful in the provision of untimed local call access under the $150 million program.

The opposition calls on the government to require that Telstra remain as the provider of last resort in the local call tender area, con-
sistent with the government’s decision that Telstra must remain as such in the competitive tendering pilot projects. The decision requiring Telstra to remain recognises the important role it plays in fulfilling the USO. The government must extend this reasoning to the local call zone tender so that 80 per cent of the Australian land mass is not left at risk of not being serviced by Telstra at a time in the near or distant future.

Senator ALLISON (Victoria) (1.41 p.m.)—The primary purpose of the Telecommunications (Consumer Protection and Service Standards) Amendment Bill (No. 2) 2000 is to provide for competition in the fulfilment of the universal service obligation. At present the USO is fulfilled by Telstra. At the outset contestability will be introduced in two pilot areas and presumably, if the results of the pilots are positive, it will be extended to other parts of Australia. I have commented on the Democrats’ view of competition in the delivery of the USO on a number of occasions in this place. When the Senate was considering this telecommunications bill earlier this year I expressed the view that the Democrats would not stand in the way of the government pursuing competitive tendering but that, at the same time, we would like to see the government implementing other strategies to advance the technologies available to rural areas. Having made that comment—most recently at the end of June this year—and at no time having received a response from the government to my concern, I was encouraged by the release of the Besley report earlier this month. Recommendation 4 of that report states:

If the contestability processes announced by the Government do not have the effect of materially improving service levels in regional, rural and remote areas, the Government should reassess policy measures, including the USO, with a view to ensuring the contemporary telecommunications needs of all Australians are met.

It was very refreshing to finally see someone countenancing the possibility that contestability might not result in the problems being experienced by rural and remote Australia being solved. It is interesting that the Besley inquiry reached two conclusions in this area, and I quote here from the so-called ‘certificate’ of the inquiry. The inquiry’s first conclusion was:

The Inquiry research indicates Australians who live in metropolitan and regional centres enjoy good telecommunications services and are generally satisfied with them.

I think if you go and speak to any number of people in metropolitan and suburban Melbourne or Brisbane, for example, the anecdotal evidence you will obtain will largely be supportive of the inquiry’s conclusion. By and large most people in the cities and large regional centres do not have a lot of reason to complain about their phone services. I say that as a generalisation, because there are always exceptions of course. The inquiry’s second conclusion was:

However, a significant proportion of those who live and work in rural and remote Australia have concerns regarding key aspects of services which, at this stage, are not adequate.

The report went on to enumerate the three areas of concern, which can generically be termed as: repair and connection times, mobile phone coverage, and Internet access and data speeds. Once again I think if you went out to some of the outlying areas of Victoria or Queensland, it would not take very long to find people who identified repair and connection times, mobile coverage and data speeds as being completely inadequate.

The government was hoping to get a certificate from the inquiry saying, ‘Phone services in Australia are adequate. Therefore, you can sell the rest to Telstra.’ Clearly, that has not occurred. I would like to reiterate that one of the primary reasons for our opposition to the sale of Telstra has always been the inadequacy of services to rural and remote Australia and increased difficulty in remediying that inadequacy if Telstra were completely privatised.

To return to the issues in this bill, in our minority report to the inquiry into the bill, we raised two issues. The first is that we take the view that contestability needs to prove itself, that is, we are introducing this form of fulfilment of the USO as a trial, and that trial should be fully assessed before contestability is introduced in other parts of Australia. I am very pleased to see that the government has responded to our concern. Their amendments
now include a prohibition on the expansion of contestability before a review is conducted. The results of that review are tabled in the parliament. There is no timing for that review. That will be a matter for the government to decide. At this stage we are happy with that because if it appears in six months time that the whole concept is a raging success then we are happy for the government to initiate a review at that time to test that claim.

The other issue we raised in our minority report was much more specific. Universal service providers will be permitted to offer alternative telecommunications services. These may be offerings which include additional services or may be budget priced offerings which, presumably, will be priced at a lower rate than the charge for the standard telephone service. The Democrats were concerned that problems could arise if carriers were offering budget priced services but were not properly identifying the areas in which the service might not meet the standard to which consumers are already accustomed. For example, a budget priced service might not offer call waiting as a facility. It is our view that those sorts of matters should be fully disclosed by providers when offering services. The government has circulated an amendment to attempt to address our concern. We are currently examining that issue and I anticipate saying a little more about that in the committee stage.

Today I would also like to make a couple of observations about the contestability pilot areas. I do not know how many senators have had a chance to look at the maps of the areas that will be covered by the pilots but I must say I was a bit perplexed when I saw them. One of the pilot areas covers the south west of Victoria and the south east of South Australia and includes the Central Goldfields and Greater Bendigo. The other area starts at north-east New South Wales at Kempsey and extends to the Caloundra Shire in Queensland. Both of these areas seem to me to share a characteristic in that they both contain a reasonable number of large regional centres to which carriers would be attracted. In Queensland, for example, there are the cities of Ipswich and Toowoomba, the Pine River Shire and the Caloundra Shire. So there will be some very profitable customers and some loss making services that will attract the subsidy.

I would have thought it would be more interesting to see the results of the pilot conducted, say, in the Kimberley region in Western Australia or around the mining town of Mt Isa in Queensland. Even if benefits are found to exist as a result of contestability in the pilot areas it would be a brave person indeed who would extrapolate from those results that similar benefits would be achieved in areas where there are fewer regional centres and where population densities are much lower. The likelihood is that carriers will simply not be attracted to those areas like they might be attracted to the two pilot areas. I understand that the government undertook a process of consultation and considered a number of factors when deciding the pilot areas, but that does not alleviate my concern that the pilot areas do not seem to be representative of many places that are served by the USO.

On a positive note, the government has conducted public information sessions at three locations in each pilot area to attempt to inform the local media and residents of how contestability will impact on them. One of my staff attended one of those information sessions and I am informed that, whilst only about 20 people were present, the department and the ACA made a very clear and concise presentation about how contestability should work in practice and what safeguards will be in place to protect consumers.

The other matter I wish to discuss here today has been an ongoing wish of the Democrats—that is, that there should be regular reviews of the USO and customer service guarantee to ensure that rural and remote Australians are not left behind when it comes to the availability of services and technologies. In a perfect world the Democrats would like to see a Besley inquiry conducted every four years or so as a means of identifying the gap in services available to rural and remote Australia. In the year 2000 the Besley inquiry found that the problem areas are repair and connection times, mobile phone coverage and Internet access and data speeds, as I
said. It is likely that in four years or so one or two of those problem areas will have been solved, but another gap may have arisen. We would like to see a regular review mechanism put in place to identify that gap or disparity.

The government has refused to agree to put in place a regular review mechanism like that and they have provided their reasons to us for not agreeing to our request. However, as some sort of compromise with us, the government has agreed to legislate that there will be a review of the USO and the CSG within three years. It is our desire that that inquiry will specifically consider the ability of providers to offer alternative telecommunications services and whether that ability has resulted in an improvement in the technologies and services available to those in rural and remote parts of Australia compared to those available to people in metropolitan Australia. I foreshadow that the Australian Democrats will be moving an amendment to that effect when we reach the committee stage.

On this issue, the Democrats are very much realists. We regretfully accept that the services and technologies available to people in metropolitan areas will always outpace to some degree services and technologies in rural and remote Australia. That is somewhat inevitable. It is a function of the fact that it is profitable to offer services first where there are a substantial number of people who will take up those services. However, what we want to achieve is a situation where that disparity in services does not get any wider and, hopefully, gets narrower. Achieving that requires, firstly, an identification of the disparity in services and then a consideration of how to reduce it.

Before I conclude my remarks, I should comment briefly on the Labor Party’s second reading amendment. It contains six points and I will mention each in turn. The Democrats agree with point (a); we are concerned about a decline in services should Telstra be fully privatised. We too recognise the importance of the USO in delivering minimum communication services, particularly in rural and remote Australia—that is point (b). As I have commented on numerous occasions, we are distressed that competitive tendering is being held up as the solution to all communication problems in rural and remote Australia, and we would like to see the government developing and pursuing some alternative strategies. Point (d) refers to the desire that there be a full evaluation of the contestability pilots before any expansion of contestability in other areas. That is one of the issues that I raised in my minority report to the Senate inquiry into this bill. I agree with that point, but I think that we will see some discussion in the committee stage to address the issue.

Points (e) and (f) are related, and I will deal with those together. They are about the $150 million tender for providing untimed local calls to 40,000 Australians in the most remote parts of Australia. The Labor Party is expressing concern that, if Telstra does not win the tender, Telstra will only remain in those areas to serve profitable customers on a commercial basis. The Labor Party’s concern is that, if the successful non-Telstra tenderer does not work out or cannot provide services for whatever reason, Telstra will not be there as a provider of last resort to step in and take over. This issue came up during the debate earlier this year on the Telecommunications (Consumer Protection and Service Standards) Amendment Bill (No. 1) 2000. The Democrats share the concern of the ALP, but we do not think that requiring Telstra to stay in the outer extended zones as a provider of last resort is a practical solution. Those 40,000 customers are the highest loss making customers in Australia. It is expensive to have one carrier providing services to those people, but to have two carriers present in the extended zones just so that one can be there as some sort of backup in the event that the first goes broke or cannot provide service would double the cost of service provision to those people. With that in mind, I move my amendment No. 1, which has the effect of omitting items (e) and (f) from Labor’s amendment:

(1) Omit paragraphs (e) and (f).

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (1.55 p.m.)—There
are a number of remarks I would like to make in response to the speeches from honourable senators, but I will restrict my remarks because I think it is probably in the interests of the Senate to move past the second reading stage and debate the important issues in the committee stage. I will just respond to a couple of points that can be made relatively briefly. Firstly, the criticism of the government’s privatisation agenda: I think there is a remarkable difference between our agenda and that of the opposition. I think the Democrats have been quite consistent in their position, so it is not necessarily worth commenting on, but we have always said that we support the sale of Telstra. Prior to the last election we said we would not take it any further without a full public and independent inquiry, and we have had that. I think anyone who looks at telecommunications policy in Australia would regard the Besley inquiry, if you take away all the politics surrounding privatisation, as a remarkably successful process in trying to understand where the problems are and where the opportunities are in telecommunications in Australia. The government has made a commitment to respond with a plan to the Besley report, and I think that will be clearly the next constructive part of the telecommunications debate. Juxtapose that against Labor’s position, which is to oppose privatisation when it suits them, publicly in relation to Telstra, but of course to support it in relation to Qantas and in relation to the Commonwealth Bank with something like $10 billion worth of privatisations when they were in government. And then of course to privately sneak around, trying to sell Telstra both in government and in opposition—to either break it up, sell off the Yellow Pages, sell it to IBM, sell it to BHP and even sneak off to the Macquarie Bank in the last few weeks and try to find a break-up plan to give them some privatisation proceeds—is, at the very least, a less than honest approach to the issue.

In response to Senator Allison’s point in relation to the description of where the trial should be, the honourable senator mentioned the Kimberley, and of course the Kimberley in my own state is already covered by the untimed local call tender, and so to the extent that that process brings in competition, there will be a benefit for those constituents in that area. Apart from that, I will address some of the more detailed issues in the committee stage. I genuinely thank Senator Bishop and Senator Allison for their contributions to the debate and commend the bill to the Senate.

The ACTING DEPUTY PRESIDENT (Senator Sherry)—I have got to put Senator Allison’s amendment first. The question is that Senator Allison’s amendment be agreed to.

Question resolved in the negative.

The ACTING DEPUTY PRESIDENT—I will now put the opposition amendment as moved by Senator Bishop. The question is that the amendment be agreed to. Those in favour please say aye; the contrary no.

Senator Mark Bishop—Senator Allison indicated in her comments to our amendment that she was supporting paragraphs (a) to (d) but opposing paragraphs (e) and (f). It is unfortunate the Democrats are not here now.

The ACTING DEPUTY PRESIDENT—That does not give me a lot of help. I will consult with the Clerk. I call it for the noes. The amendment is defeated; the ayes have it.

A division having being called and the bells being rung—

Senator Faulkner—I suggest that you call the division off. Normally we do not have divisions, as you would be aware, at one minute to two. There needs to be a division, but my point is I am seeking leave to hold the division at a later hour of the day during government business. That is the sensible course of action.

Leave granted; debate adjourned.

PARALYMPIC GAMES

Senator Hill (South Australia—Minister for the Environment and Heritage) (2.01 p.m.)—by leave—I move:

That the Senate—

(a) recognises the huge success of the Sydney 2000 Paralympic Games, which demonstrated the great capacity and generosity of spirit of the Australian people;
(b) conveys on behalf of all Australians the nation’s pride and congratulations to all the athletes who represented Australia at the Games;

(c) congratulates the Sydney Paralympic Organising Committee (SPOC) and others responsible for staging such an outstandingly successful Games;

(d) expresses its thanks and gratitude to the more than 15,000 volunteers whose cheerful enthusiasm and commitment ensured that the Paralympics were an enjoyable and friendly experience for everyone who attended;

(e) expresses its thanks to all officials from Commonwealth departments and agencies who worked to prepare and support the running of the Games, including the men and women of the Australian Defence Force; and

(f) extends its best wishes to the Government and the people of Greece for their preparations and staging of the 2004 Olympic and Paralympic Games.

The nation can be proud of the success of the Paralympic Games. Like the Olympics, these games were ‘the best ever’. Australians embraced the games and the athletes with exuberance. Throughout the Paralympics, spectators and athletes displayed remarkable sportsmanship and good spirit. The crowd cheered competitors, not only teams. I would particularly like to record a tribute to the men and women of the Australian team. Australia had exceptionally strong representation in these games. Its success in a wide range of individual sports was reflected in the medals table. I congratulate those associated with organising the games, particularly the members of the Sydney Paralympic Organising Committee. The popularity of the games was demonstrated by record ticket sales and record attendance. Television coverage reached an audience estimated at one billion. For the first time, the Paralympics were broadcast live on the World Wide Web. More than 300,000 school children from all over Australia were present to witness the feats of the athletes. Their presence added to the excitement and ambience of the spectacle. I would like to thank the volunteers who also were our international representatives. Finally, on behalf of the coalition in the Senate, and as I said in the motion, I wish Greece well in its preparations for the 2004 Olympic and Paralympic Games.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (2.03 p.m.)—I would like to associate the opposition with the motion that Senator Hill has moved on behalf of the government. There is no doubt that the Paralympic Games, which concluded last night, were truly the people’s games. Hundreds of thousands of school children attended the events, affordable tickets were a great drawcard and children from all around Australia really did show enormous enthusiasm for the games. I think Australians really understood what these games were about, which of course were tremendous feats of athleticism and skill. It was great to see what a Sydney Morning Herald reader wrote of her son who had seen a man in a wheelchair. Instead of asking what was the matter with the man, the child in fact asked if he was a basketballer. The focus of these games has been concentrated on the outstanding ability of these elite athletes, not on their disability. I think the spirit of these games has been awe inspiring for all Australians—the spirit of the crowd, the spirit of the athletes. The stadium drew crowds of over 80,000 people. There was a record crowd of 16,000 people for wheelchair basketball, 6,000 for wheelchair tennis and so on. More than 1.1 million Paralympic tickets were sold, more than double the number sold at the Atlanta Paralympics.

As Senator Hill said, it was great to see that Australia led the medal tally. Australia’s 424 athletes won a total of 149 medals—63 gold, 39 silver and 45 bronze. There were many outstanding individual performances as well. I think in swimming there were some 166 world records set. The Paralympics really did show to the world that the successful staging of the world’s biggest ever test event, the Olympic Games, was not a one-off event at all. The transport ran smoothly, security was effective and unobtrusive, and the world’s best volunteers shone again. Robert Steadward, the President of the IPC, announced to the world in the gracious speech he made in the closing ceremony that these were the best Paralympic Summer Games ever. So, on behalf of the
opposition, I add our voice to the government’s voice in relation to this matter. To the athletes, to the officials, to the Sydney Paralympic Organising Committee, to the volunteers, to all those engaged at all three levels of government, in fact to all those involved in the Paralympic Games, congratulations and sincere thanks.

Senator LEES (South Australia—Leader of the Australian Democrats) (2.07 p.m.)—I rise to give the Democrats’ support to this motion moved by Senator Hill. Again, we must start by congratulating those athletes who won medals but, more importantly, all who participated—all of the athletes and their support bases, particularly their families and friends, their coaches and everyone involved in the preparation of what was a spectacular sporting event. We particularly congratulate the volunteers, yet again. They were very important during the Olympics and again the Paralympics could not have been run as successfully without them. We also congratulate the spectators and all those teachers and parents who gave young children and school children the opportunity to see people maximising their potential. That is really what the Paralympics are all about—inspiring people to do their best, to make the most of their abilities, to never ever give up until you are really convinced that you have done the absolute best that you possibly can. It is an inspiration to all of us that we can get out there and pursue our dreams to the maximum extent. I will not say any more now. There is certainly a lot that can be said, particularly about the enormous support now internationally thanks to the excellent coverage through our ABC and others. So many people have had the opportunity to see such a high standard of sporting achievement.

Senator BOSWELL (Queensland—Leader of the National Party of Australia in the Senate and Parliamentary Secretary to the Minister for Transport and Regional Services) (2.08 p.m.)—I would like to associate the National Party and my colleagues with this motion put before the Senate by the Leader of the Government in the Senate. I think the Paralympic Games were absolutely spectacular. I was fortunate enough to go to Sydney last Sunday night to watch these wonderful men and women put their handicaps behind them and get out there and proudly represent their countries. I was most impressed by the athletes’ times, despite their handicaps. I thought their times were absolutely phenomenal, and the competition was great. We took a party of something like 20 people from all walks of life from Sydney to the games. Without exception, the whole party got right behind them and became totally involved. We stood up and sang the national anthem as our gold medals came in, and it was an experience I will never forget.

The organisation of these games depend on so many volunteers: 1,200 members of the Army Reserve participated and put a three-month commitment into the Paralympics and the Olympics, 2,100 ADF regular troops were also there helping out as volunteers, and all the other volunteers who gave their time so well and so generously and made both games such a complete success deserve our congratulations. I would like to congratulate the organisers, the competitors and all those who made the Paralympic Games a success and I wish them all the best.

Question resolved in the affirmative.

QUESTIONS WITHOUT NOTICE

Department of Finance and Administration: Ministerial and Parliamentary Services

Senator FAULKNER (2.11 p.m.)—My question is directed to Senator Ellison, the Special Minister of State. Is the former minister for administrative services, Mr Jull, correct in alleging bureaucratic incompetence in the Department of Finance and Administration? Is the area dealing with MPs’ entitlements is in need of a shake-up, as Mr Jull maintains, notwithstanding the fact that the Howard government has already purged and gutted the ministerial and parliamentary services area? Why has neither the minister nor his predecessor, Senator Minchin, taken any action to remedy the problems which Mr Jull has drawn attention to, or is this just another case of public servants being made the scapegoat for the failings of politicians?
Senator ELLISON—The opposition has a cheek to come in here and say that we have not been doing things in relation to entitlements, because it is under this government that a number of reforms have taken place. Just to name a few things that we have done: each six months we have a tabling in the parliament which covers travelling allowance payments, commercial fares, car travel and the cost of self-drive vehicles. That was implemented in 1997 by this government. In relation to the recent issue of telecards, last year we tightened the issuing and receipt of telecards, we issued monthly monitoring of amounts and checked those in relation to individual members and senators, and we are now disaggregating those telecard amounts.

This government has looked at other aspects such as frequent flier points. We introduced the policy that frequent flier points should only be used to offset the cost of travel which would otherwise be at official expense. That is another policy that we have introduced. We have also brought in the 60-day rule relating to the submission of travel allowance claims. This requires members and senators to submit travel claims within 60 days of incurring that travel. We have clarified car travel in Canberra so that senators and members may make reasonable use of the access available without risking allegations of misuse. We have also removed cumbersome arrangements for the payment of home telephone accounts, and I remember Senator Ray agreed with that and asked us questions at estimates hearings about that. We have also clarified the chartered transport entitlements.

It is worth while remembering that last year the Ministerial and Parliamentary Services section dealt with 42,000 personnel transactions. They paid 50,000 accounts and also dealt with some 21,000 travel allowance items. What you are dealing with is a very busy section of the Department of Finance and Administration. Since we took power we have brought in reforms, we have made things more transparent, and we have introduced six-monthly tabling—reforms which the opposition when it was in government did not undertake. This government has made those entitlements more streamlined and effective. This government has been all about strengthening those aspects of entitlements which Senator Faulkner has referred to, and we will continue to do so.

Senator FAULKNER—Madam President, I ask a supplementary question. I note that the minister did not answer my question about Mr Jull, but I ask him to answer this important supplementary question. Mr Reith stated at his media conference in Melbourne on 13 October that, when he sat down with the relevant officers from the Department of Finance and Administration, he asked:

‘If you’d got a bill for a million dollars, would you have paid it?’ And their answer was, ‘Yes, we would have paid it.’ And I said, ‘Well, would you have told me?’ And the answer was, ‘No, we would not have.’

Is that correct? Who made this statement—or is it just a case of Mr Reith exaggerating yet again?

Senator ELLISON—If there is any exaggeration here, it is by the opposition. They are trying to beat up this issue in relation to the Department of Finance and Administration. We have dealt with this issue as I have said: we took steps to strengthen the issuing and receipt of the telecards, we have started monthly monitoring as a result of this matter and we have also disaggregated the amounts so that members and senators can check them.

Senator Faulkner—Madam President, I raise a point of order. I asked Senator Ellison a direct primary question that he failed to answer. I then asked a very specific supplementary question. Could you please ask the minister to answer the supplementary question that was directed to him in relation to Mr Reith’s statements about the Department of Finance and Administration? It is a specific question and it deserves an answer—not dissembling from the minister.

The PRESIDENT—I cannot direct the minister to answer the question. I can only be certain that he is dealing with it in a relevant manner.

Senator ELLISON—My answer is relevant because Senator Faulkner is trying to allege that the Department of Finance and
Administration is entirely lax in this matter. It is not, and when there has been a need to tighten requirements we have done so.

**Economy: Tax Reform**

Senator WATSON (2.17 p.m.)—My question is directed to the Assistant Treasurer, Senator Kemp. Will the minister inform the Senate of the latest figures—in particular, the September quarter consumer price index—that confirm the strong performance of the Australian economy since the implementation of tax reform on 1 July? Is the minister aware of any alternative policies?

Senator KEMP—I thank my colleague Senator Watson for that important question. As senators will be aware, on 1 July the Howard government introduced the most far-reaching tax reform in Australian history. Australian families are already benefiting from $12 billion in personal income tax cuts, increases in family allowances and increases in pensions and other allowances. We have also seen—contrary to the predictions of meltdown by Mr Beazley and other Labor Party people—a smooth transition by business on 1 July.

Last week we had further confirmation of the GST’s successful implementation with the release of the September quarter CPI results. Senators will be aware that these were the first quarterly CPI figures to incorporate the effects of the GST. They showed the CPI growing by 3.7 per cent for the quarter. This was significantly less than the 4.25 per cent forecast in the budget for overall CPI growth in the September quarter. Less than three per cent of this increase was due to the impact of the GST—again, less than the 3.75 per cent estimated at budget time to be the GST’s impact on inflation. This was unambiguously good news.

Of course—I am sure that Labor senators will correct me if I am wrong—during debate on these bills, Labor senators argued constantly that no prices would fall and that the inflation effect would be higher than the government forecast.

**Opposition senators interjecting—**

Senator Knowles—They are still grizzling now.

Senator KEMP—As Senator Knowles comments, as usual the Labor Party were comprehensively wrong. To the astonishment of many people—probably including their own supporters—the Labor Party have now adopted the GST as their policy. It has been noted in this chamber and elsewhere that the Labor Party used to talk about a ‘GST roll-back’. I have not heard the word ‘rollback’ from a Labor Party senator for many months now. Certainly Mr Beazley and his colleagues in the other place refuse to use that word, if we can judge from *Hansard*. Why have we heard so little about rollback? I think I have found the answer to that question. I know the Labor Party are sensitive about this issue.

**Opposition senators interjecting—**

The PRESIDENT—Order! There are too many interjections.

Senator KEMP—I am speaking about the Labor Party policy on rollback. I note that, because of opposition interjections, I may run out of time, so Senator Watson may wish to pursue this matter in a supplementary question.

I think we heard the response to this particular issue in the *Herald Sun* last Friday. The *Herald Sun* reported a Morgan and Banks survey of some 6,000 businesses that indicated that 90 per cent of businesses opposed any rollback of the GST. Have we ever heard of a policy that is as comprehensively unpopular as this rollback policy? It rather suggests that whoever the genius was who invented the rollback policy—it might have been Senator Ray, it might have been Senator Faulkner; I do not know—(*Time expired*).

Senator WATSON—Madam President, I ask a supplementary question. Could the minister give some further information about alternative policies?

Senator KEMP—I thank Senator Watson. As I was saying, we were wondering why no-one in the Labor Party in this chamber had mentioned roll-back for many months, given the fact that it was a central part of their policy. We discovered in a survey that—

Senator Sherry—It’s your policy.
Senator KEMP—No, Senator Sherry. You are singularly ill informed, as usual. It was your policy. This roll-back policy may be the singularly most unpopular policy ever put forward by any party in Australian history. No-one in the Labor Party is claiming credit for this roll-back policy. Senator Faulkner is ducking for cover, Senator Cook is not here and Senator Conroy is keeping quiet about it. What we have seen, as usual, is the Labor Party making policy on the run. They have made complete gooses of themselves on tax policy. In the meantime, this government, as it always does, will proceed with reform for the benefit of the Australian people. (Time expired)

Minister for Employment, Workplace Relations and Small Business: Telecard

Senator ROBERT RAY (2.23 p.m.)—My question is addressed to Senator Ellison, the Special Minister of State. Following the warning from Telstra about Mr Reith’s telecard on 17 July 1998, what checking did the Ministerial and Parliamentary Services Group undertake, how did they go about this task and what was the result of their checking? Was the Telstra warning, or the outcome of the internal check which followed, drawn to the attention of any of the following: the then Special Minister of State, Senator Minchin; yourself; the Minister for Finance and Administration, Mr Fahey; or the Minister for Employment, Workplace Relations and Small Business, Mr Reith? If not, why not?

Senator ELLISON—I will answer the second part of that question first. I can confirm to the Senate that neither Senator Minchin, who was then the Special Minister of State, nor myself, nor Minister Reith, nor Minister Fahey was advised of the contact in July 1998 by Telstra. Can I say that there should be a correction made, though, in relation to the notification that took place at that time. The press reports have indicated that it was in relation to high telecard usage; in fact, it was in relation to two calls that were made. It came about as a result of that that there was a look at that report and there was an explanation which was possible for the two calls being made. On that basis, the matter was not taken further.

Senator ROBERT RAY—Madam President, I ask a supplementary question. If two calls were in question—and I accept that—why wasn’t Mr Reith at least queried on it? I would also ask: who in the department therefore made the decision—how high up did it go—not to contact either the minister at the time, Senator Minchin, or Mr Reith about this matter? Can I also ask whether, in fact, the secretary to the department, Dr Boxall, was informed of this matter?

Senator ELLISON—Senator Ray needs to remember that this has its history in the 1990s when Labor was in power, because the then minister, Senator Bolkus, issued a directive in relation to the consolidation of accounts. There was, in fact, a directive that itemised accounts not be issued. What we have here is a situation where there was an explanation of the two calls that were made and, under the existing policy put in by the previous government, the matter was not taken any further.

Law Enforcement: Drugs and People Smuggling

Senator CAL VERT (2.26 p.m.)—My question is addressed to the Minister for Justice and Customs, Senator Vanstone. Will the minister explain to the Senate the importance to Australia of international law enforcement cooperation in the fight against drugs and people smuggling?

Senator VANSTONE—I thank Senator Calvert for the question. Cooperation is the strongest weapon that law enforcement agencies can use against crime. Criminals do not recognise state or international boundaries; they do not recognise jurisdictional boundaries of different law enforcement agencies. The way for law enforcement to respond to those gaps in jurisdiction is to link arms and work together to form a bigger and tighter net in which to catch the crooks in.

On the weekend we saw the Australian Federal Police, plus a number of other inter-
national agencies, assisting the Fijian police to seize a heroin stockpile believed at this point to be somewhere over 300 kilos. The AFP’s role in that investigation was directly funded under the National Illicit Drugs Strategy, through the Law Enforcement Co-operation Program. Intelligence revealed that the Fiji syndicate is also involved in significant people smuggling activity from China through the Pacific nations to Australia, New Zealand, the United States, the United Kingdom and Canada, confirming that transnational organised crime syndicates are not limited to one type of criminal activity but can easily shift from drugs to people smuggling or, in fact, be involved in both. This may be one of the largest seizures that Australia has been involved in if it gets up to around 390 kilos, which is the record set in 1998. Somewhere between two and 2¼ million street deals now will not get onto the streets of Australia and other cities, at a value of $75 million to $100 million. Two people who were arrested are facing Fijian courts today, as I understand it, and a further person was arrested in relation to passport offences.

The success of this resulted from a long-term intelligence probe into the activities of transnational crime in the Asia-Pacific region. It was an AFP desire to see the extent to which transnational crime could have become established in a number of South Pacific island nations. Intelligence revealed that some of the islands were being used as transit points for heroin trafficking to North America and to Australia. Police believe that the syndicates have attempted to use instability in the region as an opportunity to expand their criminal networks. This seizure is expected to put an end to a very substantial alleged transnational crime syndicate. As I have indicated, criminals do not recognise international borders and law enforcement therefore has to cooperate across those borders with other agencies to form a tighter net to catch the criminals.

Since July, Australia has had Australian Federal Police agents working in Suva as part of an agreement to assist the Fiji police force in an operation against suspected transnational crime. The team was then expanded to include the Royal Canadian Mounted Police, the New Zealand Police Service and the US Drug Enforcement Administration once the size and complexity of this operation became apparent. All in all, some 30 law enforcement people from around the Pacific rim were there to assist the Fiji police through provision of expertise and technology. It is a demonstration of how we can successfully work internationally, that we are prepared to go offshore to combat activities like drug trafficking and people smuggling and that, where we have the information on organised crime, we will work with overseas partners to ensure that people in other countries do not fall victim to their insidious operations. It confirms the Australian Federal Police as a major player on the world stage so far as the war on drugs and people smuggling is concerned. I would like to record the government’s thanks to the people involved. (Time expired)

Minister for Employment, Workplace Relations and Small Business: Telecard

Senator O’BRIEN (2.30 p.m.)—My question is to Senator Ellison, the Special Minister of State. Was the minister made aware of statements on 13 October by both the Prime Minister and Mr Reith in rejecting allegations of a cover-up of the telecard affair that the affair was always going to have public exposure because there is a process for the $950 repayment to be tabled in parliament along with the details of all the other entitlements of MPs? Can the minister confirm that this is not the case? Can he confirm that there is no process for tabling the details of telephone expenses or repayments and that only travel details are tabled?

Senator ELLISON—I can confirm that travel details are the subject of tabling, as is car usage, which I mentioned earlier, and that repayments in relation to those matters are mentioned in the tabling reports. Can I say in rejecting this allegation of any cover-up that there has been a proper process followed here and it was a process which was set out by the then Special Minister of State, Senator Minchin. It was set up in consultation with the Attorney-General, and that was to put this aspect of investigation at arms-length from the minister, because when Labor was
in power it was the minister who made the decision to refer the matter to the police. Quite correctly, Senator Minchin thought at that time that that was not a proper course of events and that there should be a proper process put in place whereby an investigation would follow a set course. That is what has happened here.

In fact, in accordance with the fraud control policy of the Commonwealth, the matter had to be first investigated by the department’s Internal Audit Section. I notice that the opposition has made much of these guidelines in relation to the Public Service but, if you have a look at them, they say that in the first instance you have an investigation and then any reference to the police is considered. What happened in this case was just that. In fact, it was referred to the Internal Audit Section of the department even prior to my being briefed. I can say that this was a complex and time consuming investigation. It is on the record that there were some 11,000 calls involving over 900 different telephone numbers and that there were several people involved in this.

The department proceeded with utmost care to ensure that due process was followed, that it was scrupulously fair in handling the matter and that proper regard was given to the legal aspects of the matter. Of course, that was made all the more complex with the set of facts that I have mentioned in relation to the extent of this operation. This investigation involved the setting up of the departmental committee, which had been arranged under the protocol set by my predecessor, and it was that committee that looked at the matter with a view to referring it to the Australian Federal Police. In fact, in one of the briefs that has been touted by the press, I note that at the outset, on 8 April, it was mentioned that we should have an internal audit investigation with a view to later referral to the police.

Senator Robert Ray—September, you mean.

Senator ELLISON—On 8 September last year—I correct that. But it did say that there should be an internal investigation in the first instance with possible reference to the police later, and that is exactly what occurred. The proper process was followed.

Senator O’BRIEN—Madam President, I have a supplementary question. I take it, Minister, that there is no such process for the $950 repayment to be tabled in parliament, as alleged by the Prime Minister and Mr Reith. Did the Department of Finance and Administration at any stage draw to the minister’s attention the inaccuracy of the statements by the Prime Minister and Mr Reith? Has the minister or his office made contact with the Prime Minister, Mr Reith or their officers to inform them that their claims were incorrect? If so, when was such contact made?

Senator ELLISON—I am not aware of any contact by the department in that regard, and I will take that on notice.

Members of Parliament: Entitlements

Senator MURRAY (2.34 p.m.)—My question without notice is to the Special Minister of State, Senator Ellison. Does the minister accept that, from the community’s point of view, there are three strong requirements regarding parliamentarians’ entitlements and expenditures: firstly, that there be a total review of all entitlements; secondly, that there be a thorough audit of all entitlements; and, thirdly, that an independent body administer and enforce entitlements? With regard to an audit, would the minister support the Auditor-General auditing all parliamentarians’ allowances, expenditures and entitlements, including the operational and staffing costs of electorate and parliamentary offices?

Senator ELLISON—I understand the Auditor-General has already said that there will be a routine review in the new year in relation to entitlements. The press reported that he was going to have a special investigation in relation to this matter. That is not the case. As I understand it, it was a routine review that he mentioned. The government are perfectly happy with that, Senator Murray. Can I also say that we have the Department of Finance and Administration which administers entitlements. It is a very busy section, as I mentioned. There is a lot of work involved in relation to that. The ad-
administration of entitlements, with respect, is not really the role of the Auditor-General. The Auditor-General has a different role of scrutiny; he does not have the role in the delivery of service which the Department of Finance and Administration has. The Acting Prime Minister has already said, in relation to independent monitoring, that the system we have in place is sufficient and that we are continually looking at ways of improving any scrutiny. I think that is really the path to go down.

Senator MURRAY—I thank the minister for his answer. I am going to take it—unless you correct me—that that is a yes and that you support the Auditor-General auditing all entitlements, and I therefore ask you a supplementary question. With regard to a review, is the government prepared to review all entitlements and, in particular, is the government now prepared to also review parliamentarians’ superannuation so that it more closely matches community standards?

Senator ELLISON—The question of superannuation is a matter for the Minister for Finance and Administration. I will take that up with him but, in relation to a review by the Auditor-General, it is always open to the Auditor-General to review all entitlements and, in particular, is the government now prepared to also review parliamentarians’ superannuation so that it more closely matches community standards?

Minister for Employment, Workplace Relations and Small Business: Telecard

Senator FAULKNER (2.37 p.m.)—My question is directed to Senator Ellison, the Special Minister of State. Can the minister confirm that, by 23 September 1999, the Department of Finance and Administration had identified the total number of calls made using Mr Reith’s telecard, the number of originating points for those calls and the total cost of those calls? Can the minister therefore explain why it took a further seven months for the department to complete its investigation? Were any of the Prime Minister’s staff or officers of PM&C informed of the problem prior to 8 May 1999? When was Minister Fahey, Senator Ellison’s senior portfolio minister, first informed of the telecard problem?

Senator ELLISON—The investigation which was being conducted at that time was by the department, and the department notified Minister Fahey at an appropriate time. These were complex matters, and that is revealed in the documents that Senator Faulkner has referred to. The first one, which was of 8 September, was a briefing. The second one was not; it was an internal working document of the department. I think that Senator Faulkner needs to clarify that.

Senator Faulkner—Madam President, I rise on a point of order. Senator Faulkner needs to clarify nothing. I asked Senator Ellison a specific question which I think the
Senate is entitled to an answer to—namely, were the ministerial briefings of 8 and 23 September 1999 or the information contained therein passed on to Mr Reith? Senator Ellison, either deliberately or otherwise, is not answering these questions and has not attempted to answer many questions in question time today. Could he either provide the Senate with an answer or, if he does not know the answer to these questions, take these important questions on notice and provide the Senate with an answer as soon as possible?

The PRESIDENT—There is no point of order.

Senator ELLISON—One just has to look at the documents to know that they are not in conclusive form and, in accordance with the protocol as established by my predecessor, where the matter is referred to a departmental committee—

Senator Faulkner—If you don’t know, take it on notice.

Senator ELLISON—This is the answer, if you would listen. The answer is that there was a departmental committee set up and if you look at the protocol—which has been released—that departmental committee then makes a decision as to whether to interview the person concerned or not, and it is at that point that that committee makes a decision as to whether the information is put to the person concerned. (Time expired)

Environment: Renewable Energy

Senator BROWN (2.42 p.m.)—My question is to the Minister for the Environment and Heritage. Is Senator Hill aware of concern in Queensland that the burning of sugar cane in furnaces to produce so-called renewable energy for three months of the year will be augmented for the other nine months by the burning of timber from land clearing, which is principally taking place in pastoral areas? Would the minister agree that such a proposition is not environmentally acceptable and that such energy is not renewable? Will the minister be opposing that as a form of renewable energy and a means of containing global warming?

Senator HILL—We think significant use can be made of waste from the sugar cane industry in a way in which energy benefits can be obtained. In relation to the burning of timber from land clearing, which is principally taking place in pastoral areas, I cannot see how that could possibly be economic. I have said before in this place that the government are opposed to the rate of land clearing that is occurring in Queensland. It is about 80 to 85 per cent of land clearing in Australia; we think it is up around 500,000 hectares a year. We very much regret that the Labor government in Queensland does not have the courage to take the political decisions that are necessary to bring it to an end. There needs to be a regulatory bottom line on land clearing in Queensland.

Senator Bolkus—You promised them a hundred million bucks.

The PRESIDENT—Senator, there is an appropriate time for you to ask questions.

Senator HILL—It is the responsibility of the state government as it is the responsibility of the state government in every other state. Other states have met that responsibility. Mr Beattie and his government are not prepared to do so, and that is the problem.

Senator Bolkus—You promised them the cash.

The PRESIDENT—Senator Bolkus, you are disorderly.

Senator HILL—I cannot see how the potential burning of it to create energy could possibly add to the problem because the cartage, the transport, the gathering and so forth would simply be uneconomic. It seems to me it is a long bow to suggest that in some way our renewable energy bill, which will provide the greatest drive in terms of building the Australian renewable industry in the history of this country, will contribute to the unnecessary and unwarranted land clearing that is occurring in Queensland. My advice to Senator Brown, through you, Madam President, is to take his complaints to the Queensland government, try and exert a bit of pressure—if he still has any influence at all—upon Mr Beattie, and say that all Aus-
ustralians expect state governments to meet their constitutional responsibility in relation to natural resource management, and that responsibility for Queensland is to curb the excessive land clearing that is occurring under his government.

Senator BROWN—Madam President, I ask a supplementary question. I take it from that answer that the minister for the environment does not oppose the use of native vegetation cleared from Queensland being given points, being given government acceptance, as renewable energy when it is burned in furnaces. I secondly ask the minister: does the same apply to Tasmania where the Southwood project proposes to burn 300,000 tonnes of native forest woodchips per year to produce 30 megawatts of electricity to be sold through Basslink to the mainland? Will that be a potential source of renewable energy under the government’s legislation, and does the minister support the burning of wild forest woodchips being classified as renewable energy?

Senator HILL—Senator Brown knows that the independent consultants—not the government, the independent consultants—believe that no more than three per cent of the energy under the renewable energy legislation would be created through burning the waste from forest operations. I have said before in this place that if that waste is going to be burned in any event—as is often the case—why not burn it and gain some value from it as well and therefore help create jobs and economic wealth? Why can’t we be more positive and look for win-win outcomes that can give good economic gains as well as good environmental outcomes? That has been the approach of this government to these matters and remains its approach.

Minister for Employment, Workplace Relations and Small Business: Telecard

Senator FORSHAW (2.47 p.m.)—My question is directed to Senator Ellison, the Special Minister of State. I ask the minister: is it true that the minister was advised by his department on 23 September 1999 that ‘it would assist internal audit’—that is, of DOFA—to have access to information from Mr Reith’s office which might assist in identifying any individuals whose names may be known. I ask: when did you, Minister, or your office ask Mr Reith or Mr Reith’s office for this assistance? When did Mr Reith or his office provide that assistance?

Senator ELLISON—I think Senator O’Brien is referring to the internal working document dated 23 September. It was Senator Forshaw—I am sorry. While I am on my feet I can say that, in relation to Senator O’Brien’s question which I took on notice, I can answer that question. There will be some figures tabled—

Senator Faulkner—Don’t do it now. Answer this one.

Senator ELLISON—Okay. I will do it at the end of question time. As I said, the document dated 23 September is an internal working document. The department had its processes in place. There was a subsequent interview with Mr Reith and the matters that the department wanted to go through were then pursued with Mr Reith and I understood that he gave them some assistance in that regard.

Senator FORSHAW—Madam President, I ask a supplementary question. I remind the minister that the question was very specific about the assistance that was sought. I would ask you, since you failed to answer the question, Minister, to maybe have a go at it in this supplementary. Minister, isn’t it the case that the time has now been reached where there should be a full independent inquiry to resolve all these inconsistencies and conflicting claims so the truth can come out?

Senator ELLISON—Madam President, there is no need for a judicial inquiry into this matter. What you have is a proper process adopted by the Department of Finance and Administration in relation to this matter, and it followed a process set down by my predecessor. The matter was appropriate. It resulted in a referral to the Australian Federal Police and an investigation was carried out. There was no cover-up. It was an appropriate process that was followed.

Aboriginal and Torres Strait Islanders: Welfare Dependency

Senator FERRIS (2.51 p.m.)—My question is to Senator Herron, the Minister for
Aboriginal and Torres Strait Islander Affairs. I ask the minister: what is the Howard government doing to assist indigenous Australians to overcome the problems faced by families and communities, particularly welfare dependency?

Senator HERRON—I thank Senator Ferris for the question and also for her interest in rural and regional economic development. I congratulate the Renmark-Paringa district council on their economic conference which both Senator Ferris and I attended in the week before last. It was an important occasion. The government is well aware of the serious and complex problems faced by indigenous communities, particularly those that impact on women and children. This government is very serious about supporting indigenous people to overcome disadvantage. Already we are spending an unprecedented $2.3 billion this year in key areas such as health, housing, education and employment.

Indigenous leaders have openly acknowledged many of these problems, such as family violence, substance abuse, welfare dependency and the breakdown of family and community structures. Indigenous people themselves have stressed that they can and want to find solutions and can and want to take action, and they need our support. This government recognises that it is not appropriate to tell indigenous people how to address their problems or to invent ‘one size fits all’ solutions. We need to develop partnerships with indigenous people and support them to take actions that strengthen their families and communities. Since coming to office in 1996, the Howard government has sought to assist indigenous communities become self-empowered and to take responsibility for, and ownership of, their community problems. It is only in the last couple of years that the media has begun to take notice of indigenous leaders such as Noel Pearson and Jack Dann and to report on their efforts to take responsibility. The first major step is listening to what indigenous leaders and community people have to say, and with this in mind my colleague the Minister for Family and Community Services, Senator Newman, and I convened the Indigenous Families and Communities Round Table in Canberra last week. I thank Senator Newman for convening that roundtable and for her attendance. To ensure a practical edge to our discussions, the government has earmarked $20 million from the $240 million Stronger Families and Communities Strategy to fund indigenous specific projects to assist indigenous communities and families. As well as Senator Newman and me, this peak forum consisted of 18 indigenous leaders and influential Australians such as Noel Pearson, Evelyn Scott, Boni Robertson, Sir John Carrick, Joe Ross, two ATSIC commissioners as well as community development experts and others from church, government and industry groups.

We discussed how government could better support indigenous communities and families and address issues such as community breakdown, substance abuse, family violence and the need for youth leadership. At the conclusion of the roundtable, community leaders had mapped a way forward to tackle the major issues impacting on indigenous communities. The roundtable agreed on a range of key principles to govern the design and implementation of programs for local Aboriginal and Torres Strait Islander communities. A significant outcome was the establishment of an ongoing working group consisting of Dr Adam Graycar, Dr Margaret Valadian, ATSIC commissioners Eric Wynne and Brian Butler, Boni Robertson, an academic from the Gumurrii Centre in Griffith University, Tom Mayne of World Vision, Vince Paparo and Tom Slockee to provide ongoing advice. The full roundtable will reconvene in six months. The federal government is now moving to implement strategies based on a detailed communique from the roundtable. Among the many recommendations is urgent attention targeting the needs of children and young people, particularly in the areas of leadership training, self-esteem building, awareness of one’s culture and antiviolence training. The Howard government is proud of its record in addressing indigenous disadvantage, particularly through practical reconciliation measures. The roundtable strategy builds on that record in making significant changes to the
lives of disadvantaged indigenous Australians.

Minister for Employment, Workplace Relations and Small Business: Telecard

Senator ROBERT RAY (2.55 p.m.)—My question is to Senator Ellison, the Special Minister of State. Can the minister confirm that, as stated by the Prime Minister, at the time the department reported to Mr Reith on its investigation of his telecard account in late April 1999, it advised Mr Reith that he should pay the full amount owing on the telecard account? What precisely was the department’s view of Mr Reith’s liability? Did the minister or his department seek legal advice on the question of Mr Reith’s liability and, if so, when and from whom?

Senator ELLISON—There was correspondence between Mr Reith and the department, and the issue of the amount was canvassed. The department indicated it would issue a debit note— and I think that has been on the record—in relation to that. What precisely was the department’s view of Mr Reith’s liability? Did the minister or his department seek legal advice on the question of Mr Reith’s liability and, if so, when and from whom?

Senator ELLISON—There was correspondence between Mr Reith and the department, and the issue of the amount was canvassed. The department indicated it would issue a debit note— and I think that has been on the record—in relation to that. What the department was looking at was what was usage within entitlement and what was not, and as a result of a letter from Mr Reith regarding the amount he has spoken about—$950—was then able to calculate what was not usage within entitlement. From that it could come to a figure. That figure has been paid today, as I understand—a sum of just over $47,000—and the matter was subsequently referred to the police.

Senator ROBERT RAY—Madam President, I ask a supplementary question. Could the minister answer that part of my question that asked whether the department or the minister sought legal advice as to Mr Reith’s liability and, if so, when and by whom? Could the minister also answer whether that repayment would ever have been published in documents tabled in this parliament? Given that travel allowance and travel are, will he now at least concede that phone charges and phone repayments are never tabled in this parliament?

Senator ELLISON—This goes back to Senator O’Brien’s question. I can say that, as a result of questions on notice, any repayment would have been tabled or put before an estimates committee—which is the Senate, after all—and that would have been made public. That is obviously what Mr Reith and the Prime Minister were referring to.

Australian Broadcasting Corporation: Privatisation

Senator BOURNE (2.58 p.m.)—My question is addressed to Senator Alston, Minister for Communications, Information Technology and the Arts. Is the minister aware of allegations raised on the Sunday program yesterday concerning plans to privatise parts of the Australian Broadcasting Corporation? Has the government received a report from the investment bank Credit Suisse First Boston regarding the break-up and privatisation of parts of the ABC as reported on the program? Does the minister believe the break-up of the national broadcaster would be in the public interest?

Senator ALSTON—Yes, I did read the text of what was put on the Sunday program yesterday. As I understand, it was despite having been assured on a number of occasions that the proposition was fundamentally incorrect. Nonetheless, the reporter claimed that Credit Suisse First Boston confirmed that it initiated the report last year. I think that is accurate. As I understand it, CS First Boston actually came up with some proposal—which people are allowed to do in a democracy—and took it to the ABC for comment. The facts of the matter are that OASITO has never commissioned nor has it ever undertaken any work at any time in relation to the sale of ABC assets.

Honourable senators interjecting—

The PRESIDENT—Order! Senators near Senator Bourne should pay her the courtesy of letting her listen to the answer. Your conduct is disorderly.

Senator ALSTON—Madam President, I presume you are referring to Senator Bolkus, who seems to be totally ignoring your ruling.
The PRESIDENT—Order! I am speaking about Senator Forshaw and Senator Boswell.

Senator ALSTON—Madam President, on a point of order, could I also indicate that if you are concerned about those close to Senator Bourne, then Senator Bolkus surely has to come into that category and should be asked to resume his seat.

Senator Robert Ray—Like Senator Hill right behind you. Turn around and have a look.

Senator ALSTON—He is not particularly interested in my answer, you see. I understand the Labor Party’s total lack of interest in this subject, but I am prepared to accept that Senator Bourne does have a sincere and abiding interest. I well recall her performance on the night when certain legislation went through the chamber last—

Honourable senators interjecting—

The PRESIDENT—Order! We will proceed when the Senate comes to order.

Senator Kemp—He’s taking my calls; he’s not taking yours.

The PRESIDENT—Including you, Senator Kemp.

Senator ALSTON—As I have already said, I think, OASITO can find no record of the alleged CS First Boston report. Whilst it is not unusual for investment banks to put proposals to various government instrumentalities—or, indeed, to the department of finance—there is simply no record of that, and to suggest that the receipt of unsolicited material could constitute an intention on the part of the government to endorse any such proposal is arrant nonsense. It was also alleged that the ABC itself approached CS First Boston. I am instructed by the ABC that they have never asked CS First Boston to investigate any form of privatising the ABC. They have looked at their records going back to 1998. They have not used CS First Boston for anything. In those circumstances, there would seem to be absolutely nothing to this story other than a consistent attempt to desperately find some scare campaign to fuel the Friends of the ABC and a few others into even greater levels of fury. But certainly as far as the government is concerned the board is required under its charter to take its own decisions. It has statutory duties, which I am sure it would adhere to. It therefore has the capacity to make decisions about these matters, which the government generally does not have.

Senator BOURNE—Madam President, I ask a supplementary question. I think it is fair to say to the minister: you do not need this for a scare campaign; the level of funding of the ABC is scary enough. But can I ask the minister to respond to the third part of my question: does the minister believe the break-up of the national broadcaster would be in the public interest?

Senator ALSTON—Much and all as I suppose we often think of ways in which we might fill in the time in question time, I do not think it would be terribly helpful for me to hypothesise about the various proposals or certainly to give any endorsement or otherwise of any hypothetical proposal which the government has never seen. All I can do is direct Senator Bourne—and she will probably find this very scary—to the fact that the ABC act, section 25—

Senator Bourne—Yes, I know about that.

Senator ALSTON—You do? It actually says:

... the Corporation has power to do all things necessary or convenient ...

And it also has the power:

... to acquire, hold and dispose of real or personal property ...

Just in case you are a bit unclear, 'personal property' covers a fairly wide range of matters. It goes well beyond what you might think is personal property. We could get you some legal advice perhaps on the nature and extent of it, but suffice it to say that there is a power there for the board to take its decisions. We are happy to leave it to them. We do not want to interfere.

Minister for Employment, Workplace Relations and Small Business: Telecard

Senator CARR (3.03 p.m.)—My question without notice is to Senator Ellison, the Special Minister of State. Given that the Department of Finance and Administration has conducted an exhaustive and thorough in-
vestigation into the calls made on Mr Reith’s telecard account, I would ask the minister four specific questions. I ask you, Minister: can you confirm whether any of these calls were operator connected calls from hotels that Mr Reith was staying at? If so, how many such calls were made? Can the minister confirm whether any operator connected calls were made from the Gardenvale investment property where Mr Reith sometimes stayed with his son and Ms Odgers, during the period April to August 1994? How many calls were made by Mr Reith after he was issued with a mobile phone? Can the minister confirm when Mr Reith was first issued with a mobile phone?

Senator Hill—And do all that without notice.

Senator ELLISON—As Senator Hill says, yes I will do that all without notice and give you the numbers off the top of my head! Those details as to whether those calls were operator connected or where they originated and how many are not details that I have ready to hand. I will look into that and get back to you.

Senator CARR—Madam President, I ask a supplementary question. Minister, I would ask if you can confirm that you are taking all of those questions on notice. I would ask you as well: could you please indicate to the Senate how many of these calls were by Mr Paul Reith, and how were they identified? When was this done? Finally, Minister, can you tell us on what day the $950 owing on these calls was paid back?

Senator ELLISON—With respect to the payment and the date thereof, I will take that on notice. In relation to the calls and who made them, there are aspects which could touch on the police investigation. I will have to see whether or not I can answer those questions. But on those where I am able to get back to the Senate, I will.

Northern Australia Forum

Senator EGGLESTON (3.06 p.m.)—My question is to the Minister for Regional Services, Territories and Local Government, Senator Ian Macdonald. Will the minister inform the Senate of the outcomes from the very successful northern Australia policy forum held in Katherine and attended by some 200 delegates from across the north of Australia?

Senator IAN MACDONALD—Senator Eggleston raises the question of the Northern Australia Forum which was held since we last met. I thank Senator Eggleston not only for his question but for the significant contribution he, as a northerner, made to that conference. I also appreciate the bipartisan support given to that particular forum. A number of Labor Party people were there. Mr Warren Snowdon, the member for Northern Territory, attended.

Opposition senators interjecting—

The PRESIDENT—Order! Minister, I am having difficulty hearing you because of the number of people who are contributing.

Senator IAN MACDONALD—I mentioned Mr Warren Snowdon, the Labor member for Northern Territory. His colleagues of course are not interested in him or what he said, but he was very complimentary, in a bipartisan way, of the progress that could be made. Senator Eggleston, as the former Mayor of Port Hedland in Western Australia, is obviously very interested in what happens in the north. There were a lot of indigenous representatives.

Opposition senator interjecting—

Senator IAN MACDONALD—I hear a comment there. I could name some of the Torres Strait Islander leaders who attended and made a significant contribution. People attended from the Northern Territory, ATSIC and the north of Western Australia—they all made a contribution. I am particularly pleased that, as a result of the forum, governments with an interest in Northern Australia, Western Australia and the Northern Territory—even the Labor government in Queensland—agreed to get together in partnership to highlight the great advantages of doing business in Northern Australia and also to encourage more private and government investment in that region.

As well as that, as a result of the forum a number of CEDA conferences will be held in southern capitals highlighting the fabulous contribution that Northern Australia makes
to the nation’s wealth and some of the investment opportunities that are available.

Honourable senators interjecting—

The President—Order! Senators conversing across the chamber should not be doing so, and they know it.

Senator IAN MACDONALD—I was pleased to be able to advise, following the forum and the comments made there, that three new TradeStart offices would be opening in Northern Australia in Carnarvon and Kimberley—which will interest Senator Eggleston—and Alice Springs. There will be a comprehensive whole of government response to the issues raised at the forum. That will be coming out quite soon—within the next five or six months—as the government responds to this matter.

Following on from the northern forum the government was also able to announce the Regional Solutions Program—something that Mr Anderson, the Deputy Prime Minister, and I have been working on for a long period of time. That is a very flexible program, with $90 million over four years for regional communities. We are very pleased to announce the five pilot projects, and the organisations and areas, that succeeded in getting funding: the Atherton Tableland; in the Northern Territory, the Christian Schools Association; the Border-Highlands rail project, which I had the privilege of visiting on Saturday afternoon—that will be a great project and it is a good example of how people in regional Australia can build upon a historic asset, the Wallangarra railway station, and create jobs and employment activity out of it; the Tweed shire; and the Creswick district newspaper.

This forum is part of the government’s ongoing aim to get a bipartisan approach. I thank Senator Mackay for coming along to the forum for the day that she was there. It was good to see people from the south coming up and seeing some of the great attributes of the north and some of the difficulties that people of the north experience. (Time expired)

Senator EGGLESTON—Madam President, I ask a supplementary question. I thought the detail that the minister provided to the Senate was quite informative, but I wonder if he would be good enough to provide details of the workshops held at the forum and of any of the policy initiatives which came out of those workshops on the various subjects discussed.

Senator IAN MACDONALD—Again the workshops were a very important part of that program because they brought together people from Northern Australia—leaders who had been elected by their own communities—to put together the great opportunities that were available. Politicians from both sides of the fence were involved in those workshops as well. One of the very significant parts of the Northern Australia Forum was that a number of public servants from Canberra, Brisbane, Perth and Darwin were also present at the forum. They were able to understand some of the difficulties that people in the north sometimes face and be part of the atmospherics, one might say, so that when decisions are required to be made by government—and, as well as government representatives, a number of business leaders were there; people from the peak organisations—they will all have a better understanding of this part of regional Australia. We can only look forward to bigger and better things. (Time expired)

Senator Hill—Madam President, I ask that further questions be placed on the Notice Paper. 3.13 p.m.

ANSWERS TO QUESTIONS WITHOUT NOTICE

Minister for Employment, Workplace Relations and Small Business: Telecard

Senator ELLISON (Western Australia—Special Minister of State) (3.13 p.m.)—I undertook to get back to Senator Carr on a question he asked in relation to a payment of $950 by Minister Reith. That was paid on 8 May this year.

Minister for Employment, Workplace Relations and Small Business: Telecard

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (3.13 p.m.)—I move:

That the Senate take note of answers given by the Special Minister of State (Senator Ellison), to questions without notice asked today, relating to
the use of a telecard issued to the Minister for Employment, Workplace Relations and Small Business (Mr Reith).

What we had in question time today is yet another demonstration of the Howard government’s blame game. Who do you blame in a situation where ministers are under the microscope? Of course, the answer for the whole life of the Howard government has been the same: the departmental officers. No minister is held responsible for his or her actions. It is always the bureaucrats who have to take the rap. That is the modus operandi of the Howard government and that is of course what has been exposed again in question time today.

Mr Reith has been declared innocent of any rorting by the Prime Minister, although he has been proven guilty. This is standard operating procedure for the Howard government. We have had longstanding form from this government of dissembling. We have fingers pointed again at the public servants who have the risky and onerous task of administering politicians’ entitlements. Who would take the job in Ministerial and Parliamentary Services in the Department of Finance and Administration? After all, it is always the public servants who get the blame. Senator Ellison could not explain to the Senate in question time today why what Mr Jull said was wrong in relation to his attack on the officers of the Department of Finance and Administration—not a word of defence, not a word of criticism of Mr Jull. What is the government’s position in relation to these daily attacks on those departmental officials responsible for administering parliamentary entitlements? There is not a word of defence.

The inconsistencies continue. Senator Ray asked a question in question time today—the third question asked in this chamber today. It was a good question. In answer to it, Senator Ellison, for perhaps the only time today, provided some new information. Instead of ignoring questions, either deliberately or through his own incompetence, instead of dissembling, Senator Ellison in one answer today provided some new information. He said that the Telstra warning of 17 July 1998 related only to two calls made on Mr Reith’s telecard account. You have to ask yourself a question. Look at the massive inconsistency between the statement that Minister Ellison made in question time today and the DOFA ministerial briefing of 8 September 1999, the last dot point on the first page. Let me quote it:

On 17 July 1998, the telecard fraud investigator contacted a junior officer in MAPS to alert him to the high volume of calls being made against the telecard in Mr Reith’s name. Payments for the telecard were sourced to Mr Reith’s office phones account.

This particular ministerial briefing requested by Senator Ellison’s office and the statement that Senator Ellison has made in question time today cannot both be right. Who is wrong? What is wrong? How does this fit with what the Prime Minister said in his transcript of a doorstop of 23 October this year on the same matter? Let me quote the Prime Minister, and what happened—(Time expired)

Senator ABETZ (Tasmania—Parliamentary Secretary to the Minister for Defence) (3.18 p.m.)—Labor, devoid of policies, embarrassed that its dishonest scare campaign over tax reform has failed so comprehensively, has decided to return to what it knows best—wallowing in the sewer pit of personal vilification.

Senator Carr interjecting—

Senator ABETZ—Can we slip Senator Carr a Valium or something? Labor’s one foray into policy making was roll-back, which has now been comprehensively rejected by over 90 per cent of people. So here it goes again, back to personal vilification. Only some months ago Labor pledged itself to lift its game and to stop playing the person. Labor’s approach of personal vilification has had tragic consequences for Labor. We recall the allegations on travel allowances, which ensnared its deputy Senate leader. Only then did Labor stop its attacks. The unauthorised use of Mr Reith’s telecard is an issue that Labor has pursued only to be confronted by the tragic consequences of the unauthorised use of a Labor senator’s publicly funded vehicle. These allegations and counter allegations impact on all parliamentarians. They dissuade honourable people
from entering public life. They also highlight the high price family members may pay for their parents’ involvement in public life.

The Australian people expect leadership in the areas of policy, and vision. They, quite rightly, are repulsed by the antics of those who seem unable to rise above the S-bend. It is tragic to see senior members of the opposition wasting so much of their time on personal vilification. Can I simply suggest to them that there is life above the S-bend. I can understand that Senators Ray and Faulkner, being senior officials in the failed Labor government, are now trying to reinvent themselves. They cannot reinvent themselves by putting forward alternative strategies for our nation. Their one foray into policy making was roll-back of the GST, something that they have now not referred to for months on end because of the political embarrassment they caused themselves.

These senior people from the previous Labor government are unable to show leadership to the new crew of Labor Party members—to say, ‘Get on with the issues of policy.’ So what do they do? They undertake a policy of vilification, hoping that people will not remember the one million unemployed Australians they presided over, the $10.3 billion black hole that they misled the Australian people about before the 1996 election, or the interest rates that soared to the 20 per cent plus mark under their failed policies.

So what have Labor done? They have sought to barricade themselves behind personal vilification and then come out every now and then with an attack on an individual. We know that Peter Reith is not a liked person amongst Labor because he in fact actually supports the rights of workers to choose in relation to trade union membership; that is a basic decent human right that even that prominent Labor frontbencher Cheryl Kernot seems to agree with. What we have here is another tawdry exercise by the Labor Party, who are unable to engage on the excellent consumer price index figures, unable to engage on the excellent employment figures, unable to engage on a balanced budget and unable to engage on the real issues confronting the Australian people. So what do they do? They continue to wallow in the septic tank of personal vilification. I invite them to come in tomorrow and actually use question time to discuss policy. (Time expired)

Senator CARR (Victoria) (3.23 p.m.)—

Today we have heard a call yet again for national leadership. I would have thought that today was a good opportunity for that national leadership to have been shown. We could have seen from this minister a few explanations, a few clarifications. An attempt was made to once again continue the campaign of basically seeking to avoid the fundamental questions. That is why I think the calls for an independent judicial inquiry are entirely appropriate. What we need is quite clearly an independent means of separating the wheat from the chaff in this matter; to get the truth from the fiction. There has been a failure to answer basic questions and to explain the inconsistencies between Mr Reith, Senator Ellison and of course Mr Howard. It is a failure to come to terms with half-truths and a failure to correct errors and misrepresentations.

Today we were told that the ministerial briefing note that was sent on 8 September, referring to the fact that a teledrad fraud investigator had contacted an officer in DOFA on 17 July 1998 and pointing out that there was a problem with a high volume of calls, was apparently incorrect. We have been told that only two calls were made. It beggars belief that an officer would seek to present this advice to a minister when only two calls were involved. I ask myself: who is right and who is wrong in this matter? The briefing note goes on to say, ‘We are still seeking to ascertain what action was taken as a result of this contact’—that is the contact on 17 July 1998. It appears that no action was taken either (a) to cancel the card or (b) to refer the matter for investigation. In fact it was only in May last year that the matter was referred to the Federal Police, despite the fact that all the advice pointed to the need for a Federal Police investigation. I think we are entitled to ask why this government, and Mr Reith in particular, has gone to such lengths to avoid scrutiny? Why has this minister sought to blame everybody he can possibly think of.
Let’s go through the list: Telstra workers, his staff, hotel workers and mysterious public servants. And the greatest mystery of all is Ms X and Mr Y. All of these were attempts to basically divert public attention away from his responsibility. We have been told on numerous occasions that he did not understand precisely what was going on, but he thought that the PIN had been taken by one of these persons. He was not clear whose idea it was to refer it to the police. He claimed at one stage that it was his idea to refer it to the police. The evidence points to the fact that, for the better part of two years, he sought to avoid scrutiny on all of these matters.

We have quite clear contradictions emerging between the advice given to this parliament, from this minister in this chamber, from the Prime Minister and from the minister for industrial relations. We have quite clearly now advice coming to this parliament that various ministers were kept out of the loop. One has to ask: why was that the case? When it comes down to questions on national leadership, we are entitled to look to the government. When it comes to these issues of propriety and ethics in government, we are told constantly by Minister Reith that he sees himself as above the concerns of other people in these matters. We are told that he was going to be the man that was going to provide us with examples of a rort a day. He of course had the moral authority to push through changes to industrial law in this country and to attack the wages and conditions of workers in this country. What do we discover? In reality, his own personal standards do not bear the scrutiny that he expects of others.

I think it is time for an independent judicial inquiry. It is appropriate that these questions be explored because, quite clearly, we are not going to get the answers out of this minister. He does not seem to either know what is going on or is unable to answer some pretty basic questions to which he ought to know the answers. This minister, Mr Reith, has failed to fulfil the Prime Minister’s own obligations under the code of practice, obligations that have been imposed on other ministers—Mr Jull, for instance. There is a whole series of others, including former Senator Short, Senator Parer, Mr McGauran and Mr Sharp. All of these had standards applied to them that do not apply to Mr Reith. We are entitled to ask: why not? We are entitled to ask: why is this minister still in office? Why doesn’t the Prime Minister apply the same standards to Mr Reith that he has applied to so many others? Why is it that we are not getting the answers to some pretty basic questions? Why is this government going to such lengths to cover up its inaction in these matters? (Time expired)

Senator MASON (Queensland) (3.28 p.m.)—In these matters there is a high road and a low road. The low road is to attack the man and the high road is to attack the problem. Earlier this morning I had a quick look at the issue and the background from Mr Reith’s perspective. He gave the telecard and indeed, admittedly, the PIN to his son, Paul Reith, when Paul was travelling to Western Australia. If he had said to Paul to phone him back reverse charges, all phone calls made by the family from their residence would be covered by parliamentary entitlements. It is a funny thing that parliamentary entitlements, if they are not loose, are sometimes not as transparent as they should be. Perhaps some of us do not always observe them fully. I wonder how many of my colleagues on both sides have lent their mobile phones to people or have had friends drive their cars when they should not have. There is a problem and I do not deny that, but we should examine it. As Senator Ellison said today in question time, this government has done some things to tighten up the accountability mechanisms, and I think the opposition acknowledges this.

Senator Robert Ray—Only after problems though. That’s the problem.

Senator MASON—Senator Ray, both sides are not innocent in this. We have both had our problems with accountability at times. We have been forced by the public and the other side to fix the problems. We have tightened up the telecards and they are now being disaggregated, as Senator Ellison said. Frequent flier points have been addressed. There is a 60-day limit for travel claims. The use of cars in Canberra has been an issue, even in the 15 or 16 months since I
first came here. Car leasing, charter aircraft and international air travel have been issues, too. Importantly, these details are being tabled in the Senate every six months and that is a very good thing.

Senator Robert Ray—But nine months late. That’s one of the problems.

Senator MASON—Sometimes it is late, but at least the approach of having it tabled every six months is a good one. I think for all sides that is an excellent idea. In Senator Murray’s question today to Senator Ellison, he mentioned the review and audit of entitlements and a body to administer and enforce those entitlements. Senator Murray, you are out to attack the problem and not the man, and I think that is the way we should go. One of the exquisite ironies of taking note in this place is that sometimes you are expected to know a chronology of events or indeed divine the intention or the knowledge of other parties. I do not know what Mr Reith’s or Mr Fahey’s or Miss Odgers’ or Mr Paul Reith’s intentions or knowledge were. So it is no good me going down that track, Senator Carr. I cannot address some of your concerns specifically. All I can do is talk about the problem.

The DEPUTY PRESIDENT—Address the chair, please.

Senator MASON—Sorry, Madam Deputy President. The bad faith, I understand it, on behalf of Mr Reith is primarily about when he knew there was a problem. He did not know until August of last year.

Senator Carr—And who he blamed.

Senator MASON—Senator Carr interrupts. In the last sitting week, I took note on this same issue and the issue then was when he knew; now it is about who he blames. Again, we are looking at the man and not the problem. The bottom line is that he did not know because the bill was not disaggregated. That is the true issue. Senator Carr, he did not know until then. The policy has now been changed and he will know in the future. I read a press release last week where my friend Senator Conroy was asked on 2BL: So you would know each month what your individual Telecard is racking up?

Senator Conroy replied: You don’t know the individual Telecard. You know what your electorate office phone card is and that includes a component of your Telecard.

You do not know and he did not know. As Senator Ellison said in question time, these calls will now be disaggregated so the process will be much more transparent and indeed a great improvement. Senator Carr, if you look at the problem and not the person we will move on. Indeed, as Senator Ellison said, the Auditor-General’s proposal to audit certain entitlements next year is a very good idea. I applaud that and I am sure you do. That is how we should be going on this. All you are doing is trying to find an area where there is some misconception, understatement or misapprehension, and then you think, ‘Great, we’ve got him.’ The problem is not being addressed at all, and this government has a pretty good record on addressing the problem. (Time expired)

Senator ROBERT RAY (Victoria) (3.33 p.m.)—We have been accused of playing the man today, but in actual fact all our questions went to the processes dealing with this particular matter. The great weakness, after having two weeks to prepare for this and Senator Ellison having his own staff in the department doing the digging, was that Senator Ellison could not answer the questions on process here. Let me go through them. We asked him whether Mr Jull’s comments and criticism on the department were fair. He did not respond to that question at all; in fact he accused us of criticising the department when all we were doing was asking him to comment on Mr Jull’s comments. He made no reference at all to Mr Jull. We then asked him about Mr Reith’s outrageous claims about the $1 million and that they would have paid the bill. There was no response at all trying to rebut that particular statement. There was no defence of his department on that particular subject.

We asked him who made the decision not to pass on to Mr Reith the query on 17 July 1998. There was no answer. Someone has to be held accountable for that. It is ridiculous to refer back to the fact that members were not going to get a disaggregated account. That is true, but if there is a problem they
should be consulted. Someone made a decision—and we understand it was not Senator Minchin or Senator Ellison—not to send that up the line when they should have, and we are entitled to ask about it. Senator Ellison refused to answer any questions about the tabling of telephone costs. Here we have the Prime Minister and Mr Reith on the same day saying that there cannot be a cover-up because all these figures would have been revealed in answers tabled in parliament. Rubbish! Only travel details are published in the parliament, not telephone costs. Maybe they will be in future. Mr Reith and the PM basically, and I think inadvertently, misled. Senator Ellison, being in charge of those entitlements, should have corrected the record and should have taken the opportunity today, but he refused to answer the question.

We asked a very specific question: was the PM’s staff ever informed prior to 8 May? It was totally ignored; it was not taken on notice, but it was dodged and ignored by this minister. We require the answer. We know the PM was not told until 8 May. We accept that. Was his staff told or was anyone in the Department of the Prime Minister and Cabinet told? Senator Ellison dodged the question by not even tackling it. We asked whether the documents of 8 and 23 September 1999 were ever passed on to Mr Reith. There was no answer given. He could have easily said no, he could have easily said yes, but he refused to tackle the question. He was asked to nominate when Mr Reith assisted DOFA with their inquiries about identifying the phone numbers. We were not told when Mr Reith did or whether his staff assisted and when. There was refusal to answer again. These are questions of process; it is not playing the man. These are questions of process that we think we are entitled to get an answer on. We also asked whether they got legal advice on Mr Reith’s liability to repay or not, and, if so, when and from whom. There was total refusal to address those questions and answer them here. Senator Ellison picks up one phrase, runs off his written brief that he has not been asked about and then sits down. This was question time, and on these questions where you have a direct ministerial responsibility we would have expected some response.

The senator from Queensland says that he does not know what is in the mind of Mr Reith. That is fair enough. If Mr Reith had copped the beating and paid up, he would have been in a better position, but he could not help himself. He is the reverse of a smorgasbord. He just had to do press. He just had to comment for those first few days, and that is where all the contradictions emerge from. He should have followed the advice of the great Homer Simpson, who once advised people: ‘If you’re drowning in excrement, don’t open your mouth,’ but he could not help himself. Everyone got the blame—the telephone receptionists, departmental officials, everyone else but him. That is why so many queries, so many unresolved matters, remain. It is not playing the man when you quote Mr Reith’s statement and ask for a justification of it—he is a public identity; of course he should. The final tragedy is that Minister Ellison should have informed the Prime Minister on 31 August 1999. We have never had an explanation as to why he did not. Mr Jull was sacked for not informing the Prime Minister over the Sharp and McGurran problems. Why should any minister sit on this for seven months? It is beyond me.

(Time expired)

Question resolved in the affirmative.

Members of Parliament: Entitlements

Senator MURRAY (Western Australia) (3.38 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 Murray today, relating to the administration of parliamentary entitlements.

This does refer to the issue previously discussed, but it is broader. The issue that has been debated so far specifically concerns Minister Reith, although I think Senator Mason did seek to broaden it and look at solutions. I have said elsewhere in the media that Minister Reith, in the broadest of meanings, has been accused of three crimes. The first crime he has been accused of is simply being Mr Reith, and that is a personal attack on him for the sort of person he is and the sorts of things he has done and for being politically driven. The second crime he has been accused of is that of telecard misuse and, by
any reckoning, Minister Reith has taken a fearsome battering over that and has received a considerable punishment. If he were to pay the $50,000 fine, because it is the equivalent of a fine, on after tax money he would probably have to have earned over $90,000. By anyone’s reckoning, that is fairly hefty. The other point to make of course is the immense dent his reputation has taken. The third crime he has been accused of, which is still very much running, is the crime of a political cover-up. The Labor Party, I think, will quite rightly pursue this at length, particularly during the estimates processes. As my leader has previously said, if that gets any murkier, then we as a party will have to reconsider our views so far on the matter.

However, we then have to move to the entitlements issue as a whole. Talkback radio in particular but also talk by the public in the various forums they have has indicated, once again, a tremendous aggression towards parliamentarians, a tremendous cynicism about them, a tremendous disaffection with parliamentarians and their standards. I make the point that parliamentarians are no worse and no better than the community as a whole. At large, I would expect that parliamentarians do indeed have high standards, but there will always be those who do not. Nevertheless, the community have been resurrecting those old statements about snouts in the trough and all the various attacks that they resort to when these issues are under discussion. That is why the Democrats are again saying—and we have been consistently saying for many years—firstly, that there should be a total review of all entitlements, including superannuation; secondly, that there should be a thorough and complete audit, which is regular and routine of all entitlements, which includes office administration and staffing costs; and, thirdly, that an independent body should administer and enforce those entitlements. On that basis, we have before the Senate the Democrats private member’s bill which I put up, entitled the Charter of Political Honesty Bill 2000, which I hope gets proper Senate review and proper consideration by the Senate processes.

The main point I want to come to in this assessment is that we ought to regard this as not a federal matter but a national matter. We have nine governments. In those nine parliaments are parliamentarians who all enjoy entitlements, allowances and expenditures, and those same three requirements are required for them too: a total review of all entitlements, a thorough audit of all entitlements; and an independent body administering and enforcing those entitlements. I think we should make sure that the standards are lifted for the entire parliamentary profession in all nine parliaments.

Question resolved in the affirmative.

PETITIONS

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

Great Barrier Reef: Prawn Trawling
To the Honourable President and Members of the Senate in the Parliament assembled.

The Petition of the undersigned shows strong disappointment in the Australian Government’s inadequate protection of the Great Barrier Reef World Heritage Area from the destructive practices of prawn trawling. Prawn trawling destroys up to 10 tonnes of other reef life for every one tonne of prawns while clearfelling the sea floor. There are 11 million square kilometres of Australia’s ocean territory of which the reef represents just 350,000 square kilometres.

Your Petitioners ask that the Senate support the phasing out of all prawn trawling on the Great Barrier Reef World Heritage Area by the year 2005.

by Senator Bartlett (from 20 citizens)

Child Abuse
To the Honourable the President and Members of the Senate in Parliament assembled.

The petition of certain citizens of Australia, draws the attention of the Senate to the following:
We ask that members of the Senate recognise the extent of childhood abuse, and the suffering of those so abused.

We humbly ask that the following steps be taken to alleviate this blight upon our citizens:
A national register of child sexual offenders be established forthwith.

That the Commonwealth Government seek the cooperation of the states in compiling this register.
That once an offender is placed on this register that the offender never again have access to any children.

That sexual assault of a child be a crime punishable by not less than 15 years of penal servitude in all states and territories of the Commonwealth.

We ask that a joint parliamentary committee be established to inquire into childhood abuse and make recommendations to combat sexual assault of children and adults.

And your petitioners, as in duty bound, will ever pray.

by Senator Jacinta Collins (from 9,306 citizens)

Artillery Barracks, Western Australia

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

The petition of the undersigned shows: our commitment to retaining the Artillery Barracks, Burt Street Fremantle, Western Australia, and all buildings pertaining thereof, as it now stands, together with the inclusion of the Army Museum of Western Australia as part of that site.

Your petitioners respectfully request that the Senate overturn any proposal to sell or lease the site for any purpose, other than its present use.

by Senator Sandy Macdonald (from 15 citizens)

Petitions received.

NOTICES

Presentation

Senator Woodley to move, on 28 November 2000:

That item 19 of Schedule 1 of the Dairy Structural Adjustment Program Scheme Amendment 2000 (No. 3), made under the Dairy Produce Act 1986, be disallowed.

Senator Jacinta Collins to move, on the next day of sitting:

That the following bill be introduced: A Bill for an Act to establish an authority to monitor the operations of the Job Network, and for related purposes. Job Network Monitoring Authority Bill 2000 (No. 2).

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

That on Wednesday, 1 November 2000, the Senate adjourn at 7 p.m. without any question being put.

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

That the Senate—

(a) condemns the Federal Government for pursuing a policy of logging in national parks and, in particular, the comments of the Minister for Forestry and Conservation (Mr Tuckey) in Shoalhaven in October 2000 that ‘We’re reducing resource opportunities by locking forests in national parks’, ‘I have been told by an academic botanist that forests have to have disturbance, either cut them down or burn them down. But we may as well get some economic gain in the process...’, and that ‘we can’t lock our forests away like a Rembrandt painting forever’; and

(b) strongly asserts that the nation’s national parks must be kept secure from logging, including woodchipping.

Senator CALVERT (Tasmania) (3.45 p.m.)—On behalf of Senator Coonan and 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. 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—


6. Customs (Prohibited Exports) Amendment Regulations 2000 (No. 2), as contained in Statu-
suitable person

Determination states that

Services for Approval and Continued Approval

Subsection 7(1) of the Eligibility of Child Care

gravity of the breach of a condition.

of the factors used to determine the degree of

consider whether to impose sanctions on a

are to be permanent arrangements.

However, subsection (4) is discretionary, while the

checks in subsection (3) are mandatory. Similar

comments can be made with regard to section 9,

dealing with family day care services.

Customs (Prohibited Imports) Amendment Regulations 2000 (No. 5), Statutory Rules 2000 No. 214

These Regulations prohibit the exportation from

and importation into Australia of toothfish without

written permission. These is no indication

whether these discretions are subject to independ-

ent merits review.

Customs (Prohibited Imports) Amendment Regulations 2000 (No. 4), Statutory Rules 2000 No. 213

Read together, these instruments permit the ex-

port and import of prohibited goods by sky mar-

shalls. According to the Explanatory Statements,

these amendments are necessitated by the Olym-

pic Games. The Explanatory Statement does not

indicate whether these arrangements will be re-

pealed after the Olympic Games, or whether these

are to be permanent arrangements.

Customs (Prohibited Imports) Amendment Regulations 2000 (No. 6), Statutory Rules 2000 No. 215

These Regulations permit the importation of

drugs and antibiotics for the treatment of animals

being imported into Australia. The Explanatory

Statement notes that these amendments will assist

Olympic and Paralympic teams and competitors

importing animals for competition or for personal

use. However, the Explanatory Statement does not

indicate whether these arrangements will be re-

pealed after the Paralympic Games, or whether these

are to be permanent arrangements.
Senator CALVERT (Tasmania) (3.46 p.m.)—On behalf of Senator Coonan and the Standing Committee on Regulations and Ordinances, I give notice that on the next day of sitting I shall withdraw five notices of motion to disallow, 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 — Notices of Motion Nos.

Eleven sitting days after today
Business of the Senate — Notices of Motion Nos.
3. Determination No. PB9 of 2000, made under subsection 99AAC(2) of the National Health Act 1953.

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

Leave granted.

The correspondence read as follows—

Electronic Transactions Amendment Regulations 2000 (No. 1), Statutory Rules 2000 No. 101

17 August 2000
The Hon Daryl Williams AM QC MP
Attorney-General
Parliament House
CANBERRA ACT 2600
Dear Attorney

I refer to the Electronic Transactions Amendment Regulations 2000 (No. 1), Statutory Rules 2000 No. 101, that prescribe various Commonwealth laws to which the Electronic Transactions Act 1999 will apply.

The Committee notes that Schedule 2 commences on 24 June 2000 while the remainder of the Amendment Regulations commence on gazettal. The Explanatory Statement provides no explanation for the different commencement dates.

The Committee would appreciate your advice on the reason for the different commencement dates as soon as possible to enable it to finalise its consideration of this matter.

Yours sincerely
Helen Coonan
Chair

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

Thank you for your letter of 17 August 2000 in which the Standing Committee sought my advice regarding the reasons why Schedule 2 of the Electronic Transactions Amendment Regulations 2000 (No. 1) commenced on 24 June 2000 while the remainder of the Amending Regulations commenced on gazettal.

The effect of Schedule 2 of the Amending Regulations is to apply the Electronic Transactions Act 1999 to the listed items administered by the Australian Quarantine Inspection Service. The Australian Quarantine Inspection Service requested that the Electronic Transactions Act 1999 apply to these three items from 24 June 2000. This was to ensure that they coincided with the commencement of the Quarantine Regulations 2000 on the same day. To allow them to be treated separately the three items were placed in a separate Schedule to commence by special gazettal on 24 June 2000. The remaining Amending Regulations commenced on routine gazettal, five working days after the Amending Regulations were made.

Yours sincerely
Daryl Williams

Federal Magistrates Regulations 2000, Statutory Rules 2000 No. 102

17 August 2000
The Hon Daryl Williams AM QC MP
Attorney-General
Parliament House
CANBERRA ACT 2600
Dear Attorney

I refer to the Federal Magistrates Regulations 2000, Statutory Rules 2000 No. 102, that prescribe matters relating to the fees payable in rela-
tion to proceedings in the Federal Magistrates Court.

The Explanatory Statement indicates that the basis for the prescribed fees is that “similar fee regimes” exist for Family Court proceedings and Federal Court proceedings. However, there is no comparative information concerning those other fee regimes, nor an explanation as to why the Family Court and the Federal Court are considered to be appropriate comparisons for fees in the Federal Magistrates Court. The Committee would appreciate your advice on this matter.

New regulation 13 specifies that decisions concerning waiver of fees under new regulation 9 are reviewable. The Committee notes, however, that a decision concerning the deferral of fees under new regulation 10 is not subject to review. The Committee would appreciate your advice as to whether such a decision should be subject to review.

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
5 October 2000
Senator Helen Coonan
Chair
Standing Committee on Regulations and Ordinances
The Senate
Parliament House
CANBERRA ACT 2600
Dear Senator Coonan

Thank you for your letter of 17 August 2000 regarding the Federal Magistrates Regulations 2000.

You have queried why the Family Court and the Federal Court are considered to be appropriate for a comparison of fees with the Federal Magistrates Service. This is because the jurisdiction of the Federal Magistrates Service is concurrent with that of the Family and Federal Courts, and the Federal Magistrates Service is dealing with matters which could have been dealt with previously only by those courts.

The Government’s intention is that less complex proceedings will be dealt with by the Federal Magistrates Service, and those which require the attention of a superior court judge will be dealt with by the Family Court or the Federal Court. Litigants can choose in which court to commence proceedings, and there are also provisions under the relevant legislation which allow proceedings to be transferred between the courts. A summary of the jurisdiction of the Federal Magistrates Service is Attachment A.

You also have asked how the fee regime prescribed under these Regulations is similar to that prescribed for proceedings in the Family Court and the Federal Court. Fees for Family Court proceedings are prescribed under the Family Law Regulations 1984 and those for Federal Court proceedings are prescribed under the Federal Court of Australia Regulations 1978. A table containing a comparison of the fees is Attachment B.

It was the intention that fees would be payable in the Federal Magistrates Service in the same types of proceedings in which fees are payable in the Family Court and the Federal Court. Due to an administrative oversight, there are some types of family law proceedings in which fees are currently payable under the Federal Magistrates Regulations 2000 where fees would not be payable in the Family Court, as set out Attachment B. My Department is currently drafting amendments to the Federal Magistrates Regulations 2000 to rectify this situation, and I expect that these amendments will be made in September. I have been advised that no proceedings of this type have actually been filed to date in the Federal Magistrates Service.

You also mention the issue of whether a decision regarding the deferral of fees under Regulation 10 should be subject to review by the Administrative Appeals Tribunal. This regulation allows a Registrar to defer the payment of a fee on the grounds of urgency and is based on subregulation 2(5) of the Federal Court of Australia Regulations 1978. Neither of these regulations allows for review of such a decision, since urgency is the only ground for deferring the fee.

I understand that deferral of fees usually arises in the Federal Court where an application needs to be made urgently but the litigant has not had an opportunity to make arrangements to pay the filing fee in time. This may be, for example, either because the limitation period for filing an application is about to expire, or where a litigant seeks an urgent injunction. I have been advised that applications for the deferral of fees rarely arise and are usually granted.

If a fee is not deferred because the Registrar assesses that the situation is not urgent, and the litigant can afford the fee, the litigant should be able to make arrangements to pay the fee and return at a later time. If a litigant cannot afford to pay the fee, then he or she can apply to have the fee waived on the grounds of financial hardship. It seems that little practical purpose would be
served by allowing a litigant to make an application to the Administrative Appeals Tribunal to review a decision not to defer a fee in these circumstances. However, I am happy to reconsider this issue should the Committee consider it to be of importance.

Yours sincerely,

DARYL WILLIAMS

Attachment A

**Jurisdiction concurrent with the Federal Court**

<table>
<thead>
<tr>
<th>Act</th>
<th>extent of FMS jurisdiction</th>
<th>Federal Court jurisdiction</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trade Practices Act 1974</td>
<td>Div 1 (unfair practices) and Div 1A (product safety and information) of Part V, being part of the consumer protection provisions, with power to award damages up to a maximum of $200,000</td>
<td>all civil matters arising under the Act</td>
</tr>
<tr>
<td>Bankruptcy Act 1966</td>
<td>any application arising under the Act</td>
<td>any application arising under the Act</td>
</tr>
<tr>
<td>Administrative Decisions (Judicial Review) Act 1977</td>
<td>any application arising under the Act, except those within portfolio legislation of the Minister for Immigration and Multicultural Affairs</td>
<td>any application arising under the Act</td>
</tr>
<tr>
<td>Administrative Appeals Tribunal Act 1976</td>
<td>appeals transferred from the Federal Court to the FMS, except those within portfolio legislation of the Minister for Immigration and Multicultural Affairs</td>
<td>all appeals from the AAT</td>
</tr>
<tr>
<td>Human Rights and Equal Opportunity Commission Act 1986</td>
<td>any application arising under the Act</td>
<td>any application arising under the Act</td>
</tr>
</tbody>
</table>

**Jurisdiction concurrent with the Family Court**

<table>
<thead>
<tr>
<th>Act</th>
<th>extent of FMS jurisdiction</th>
<th>jurisdiction of Family Court</th>
</tr>
</thead>
<tbody>
<tr>
<td>Child Support (Assessment) Act 1989</td>
<td>any application arising under the Act</td>
<td>Any application arising under the Act</td>
</tr>
<tr>
<td>Child Support (Registration and Collection) Act 1988</td>
<td>any application arising under the Act applications for a decree of dissolution of marriage (divorce)</td>
<td>Applications for a decree of dissolution of marriage, applications for a decree of nullity of marriage and applications for declarations regarding validity of marriage, or validity of a dissolution or annulment of a marriage</td>
</tr>
<tr>
<td>Family Law Act 1975</td>
<td>financial applications (including maintenance), but, where the property in dispute is worth more than $300,000, only with the consent of the parties</td>
<td>all financial applications</td>
</tr>
</tbody>
</table>
attachment B

FEES IN FEDERAL MAGISTRATES SERVICE COMPARED WITH THOSE IN THE FEDERAL COURT AND THE FAMILY COURT

<table>
<thead>
<tr>
<th>Item</th>
<th>Document or service</th>
<th>Federal Magistrates Service Fee</th>
<th>Federal Court fee</th>
<th>Family Court Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Filing a document by which a proceeding in the Federal Magistrates Court (other than a proceeding mentioned in item 2 or 3) is commenced: (a) if a corporation is liable to pay the fee</td>
<td>$500</td>
<td>$1,262</td>
<td>n/a</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(b) in any other case</td>
<td>$250</td>
<td>$526</td>
</tr>
<tr>
<td>2</td>
<td>Filing an application under section 46PO of the Human Rights and Equal Opportunity Commission Act 1986</td>
<td>$50</td>
<td>$50</td>
<td>n/a</td>
</tr>
<tr>
<td>3</td>
<td>Filing a document by which a proceeding in the Federal Magistrates Court under the Family Law Act 1975 about a financial matter or a matter under Part VII is commenced</td>
<td>$100</td>
<td>n/a</td>
<td>$158*</td>
</tr>
<tr>
<td>4</td>
<td>Filing a document seeking interlocutory, interim or procedural orders (other than a proceeding under the Family Law Act 1975 or a proceeding mentioned in item 2): (a) if a corporation is liable to pay the fee</td>
<td>$300</td>
<td>$258 (plus hearing fee of $420, totalling $678)</td>
<td>n/a</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(b) in any other case</td>
<td>$150</td>
<td>$129 (plus hearing fee of $210, totalling $339)</td>
</tr>
<tr>
<td>5</td>
<td>Setting down for hearing for final orders of a proceeding or an issue in question in a proceeding (other than an undefended proceeding under the Family Law Act 1975, a proceeding under the Bankruptcy Act 1966 or a proceeding mentioned in item 2):</td>
<td>$300</td>
<td>$258 (plus hearing fee of $420, totalling $678)</td>
<td>n/a</td>
</tr>
<tr>
<td>Item</td>
<td>Document or service</td>
<td>Federal Magistrates Service Fee</td>
<td>Federal Court fee</td>
<td>Family Court Fee</td>
</tr>
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</tr>
<tr>
<td></td>
<td>(a) if a corporation is liable to pay the fee</td>
<td>$600</td>
<td>$2,104 (plus $842 hearing fee per day after first day)</td>
<td>no setting down fee but one-off hearing fee of $315 for defended proceedings, payable when proceeding is fixed for hearing</td>
</tr>
<tr>
<td></td>
<td>(b) in any other case</td>
<td>$300</td>
<td>$1,052 (plus $420 hearing fee per day after first day)</td>
<td>no setting down fee but one-off hearing fee of $315 for defended proceedings, payable when proceeding is fixed for hearing</td>
</tr>
<tr>
<td>6</td>
<td>Filing, by a person other than the applicant, a document seeking the making of final orders different from those sought by the applicant (otherwise than in a proceeding under the Family Law Act 1975 or a proceeding mentioned in item 2):</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(a) if a corporation is liable to pay the fee</td>
<td>$500</td>
<td>$1,262</td>
<td>n/a</td>
</tr>
<tr>
<td></td>
<td>(b) in any other case</td>
<td>$250</td>
<td>$526</td>
<td>n/a</td>
</tr>
<tr>
<td>7</td>
<td>Filing, by a person other than the applicant, a document seeking the making of final orders different from those sought by the applicant in a proceeding under the Family Law Act 1975:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(a) if a corporation is liable to pay the fee</td>
<td>$200</td>
<td>n/a</td>
<td>$158</td>
</tr>
<tr>
<td></td>
<td>(b) in any other case</td>
<td>$100</td>
<td>n/a</td>
<td>$158</td>
</tr>
<tr>
<td>8</td>
<td>Mediation by a court officer of the Federal Magistrates Court (otherwise than in a proceeding under the Family Law Act 1975 or a proceeding mentioned in item 2)—for the first attendance at the mediation</td>
<td>$200</td>
<td>$263</td>
<td>n/a</td>
</tr>
</tbody>
</table>
### Table

<table>
<thead>
<tr>
<th>Item</th>
<th>Document or service</th>
<th>Federal Magistrates Service Fee</th>
<th>Federal Court fee</th>
<th>Family Court Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>9</td>
<td>Each service or execution, or attempted service or execution, or the process of the Federal Magistrates Court by an officer of the Court (in a proceeding other than a proceeding under the Family Law Act 1975 or a proceeding mentioned in item 2)</td>
<td>An amount equal to the amount of any expenses reasonably incurred in the service or execution, or attempted service or execution, of the process of the Court, together with a charge calculated at the hourly rate of salary payable to the officer of the Court</td>
<td>An amount equal to the amount of any expenses reasonably incurred by that officer in the service or execution, or attempted service or execution, of the process of the Court, together with a charge calculated at the hourly rate of salary payable to an officer of the Court involved</td>
<td>n/a</td>
</tr>
<tr>
<td>10</td>
<td>Seizure and sale of goods by an officer of the Federal Magistrates Court in the execution of the process of the Court (in a proceeding other than a proceeding under the Family Law Act 1975 or a proceeding mentioned in item 2)</td>
<td>$2 for each $100 of value of goods</td>
<td>$2 for each $100 of value of goods</td>
<td>n/a</td>
</tr>
</tbody>
</table>

* In the Family Court, this fee is only payable for applications regarding financial or Part VII (children’s) matters which require the use of a Form 7 or Form 7A application form under the Family Law Rules, which means that fees are payable in less types of proceedings than in the Federal Magistrates Service. The Federal Magistrates Regulations 2000 will be amended to rectify this, so that fees will only be payable in the same types of proceedings in which they are currently payable in the Family Court.

Senator the Hon Amanda Vanstone
Minister for Justice and Customs
Parliament House
CANBERRA ACT 2600

Dear Minister

I refer to the Australian Federal Police Amendment Regulations 2000 (No. 2), Statutory Rules 2000 No. 138, that 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 5 which provides that the Commissioner may suspend an AFP employee in certain defined instances. The operation of this regulation is complicated because it 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 Committee notes that 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. The Committee would appreciate your advice as to whether it would be more appropriate for these matters to be clarified in the new regulation and, indeed, whether the different types of suspension should be dealt with under separate subregulations.

Item 3 of Schedule 1 introduces a new regulation 13 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. The Committee would also appreciate your advice as to whether the subregulation should be amended to specify that the judgment debt is that of the person from whose salary deductions are to be made.

The Committee would be grateful for your advice as soon as possible but before 9 October 2000 when disallowance action may be initiated.

Yours sincerely
Helen Coonan
Chair

Our ref: 00/8949 LEC RG
Your ref. Cttee/117/2000
Senator Helen Coonan
Chair
Standing Committee on Regulations and Ordinances
Parliament House Canberra ACT 2600

Dear Senator Coonan

Thank you for your letter of 17 August 2000 seeking advice to the Standing Committee on Regulations and Ordinances on the Australian Federal Police Amendment Regulations 2000 (Statutory Rules 2000 No. 138). The Committee commented on two regulations, regulation 5 which provides for suspension from duties, and regulation 13 which provides for the attachment of salaries to satisfy judgment debts. I thank the Committee for its comments.

In respect of subregulation 5(1), that subregulation was inserted to cover suspensions that may be regarded, as noted by the Committee, as voluntary or involuntary. For the purpose of clarity, it is proposed to separate these different types of suspension so that they are dealt with under separate subregulations.

The Committee notes that the regulation 5 does not specify any process for a decision to suspend an AFP employee from duties in defined circumstances (including for a disciplinary offence or for a failure to comply with professional standards). You mention a requirement for notice and review of the decision. To address the former issue, it is proposed to amend the regulations to insert a notice requirement. The absence of the requirement for notice does not reflect AFP practice, rather, it arises from the fact that the involuntary suspension regulations largely replace provisions in the Australian Federal Police (Discipline) Regulations 1979 (regulation 20) which did not include a process for involuntary suspension.

In respect of the latter issue, review of a decision to suspend is available under the Administrative Decisions (Judicial Review) Act 1977, and reasons for the decision are available under section 13 of that Act.

With regard to suspension for a disciplinary offence, a failure to comply with professional standards, or suspension of an AFP employee charged with, or committed for trial on, a criminal offence, the Department will issue instructions for regulations to provide for the Commissioner to give a notice of suspension to an AFP employee as soon as practicable after the decision to suspend has been made. Grounds for suspension for a failure to comply with professional standards are detailed in Commissioner’s Order 2, clauses 5 and 6 (attached).

It is the nature of disciplinary suspension, suspensions in respect of a failure to comply with professional standards and suspensions for a criminal offence, that upon the Commissioner reaching a decision, the suspension will take effect immediately. However, if a suspension is without pay, the suspension of pay will not take place until the date of notice.

The Committee has stated that the reference to ‘an election to a non-parliamentary body’ is vague as a ground for suspension in regulation 5. This terminology has been used deliberately so as to increase the availability of AFP employee-initiated suspension by not limiting the bodies to which they may seek to be elected. It is envisaged that such non-parliamentary bodies could, for example, include the Aboriginal and Torres Strait Islander Commission.

The Committee has stated that regulation 13 appears to be drafted widely, covering the judgment debt of any person in the four named categories of person. This regulation is modelled directly on regulation 9.1 of the Public Service Regulations 1999. To rectify the ambiguity, drafting instructions will be issued to amend the regulation to provide that the person from whose salary deductions are to be made, is the person who has the judgment debt.

Yours sincerely
AMANDA VANSTONE

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

17 August 2000
The Hon Michael Wooldridge MP
Minister for Health and Aged Care
Parliament House
Dear Minister

I refer to the Determination No. PB 9 of 2000 made under subsection 98C(1)(b) of the National Health Act 1953, that 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 Committee would therefore appreciate your assurance that no person has been adversely affected by the retrospective nature of this instrument.

The Committee would be grateful for your advice as soon as possible but before 9 October 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. PB 9 of 2000 made under the National Health Act 1953 (the Act) in relation to the listing of drugs and medicinal preparations as pharmaceutical benefits.

Your references to this particular determination having been made under subsection 98C(1)(b) of the Act and having effect retrospectively to 1 January 2000 are not understood. In fact this determination was made on 7 July 2000 under subsection 99AAC(2) of the Act and its operation was made retrospective only to 1 July 2000.

The National Health Amendment Act (No. 1) 2000 amended the Act to give effect, as from 1 July 2000, to changes that had been agreed with the Pharmacy Guild of Australia and incorporated in the Third Community Pharmacy Agreement. One of those changes was to repeal section 99ZAA of the Act, which enabled the payment of a remote pharmacy allowance to certain approved pharmacists. As a consequence it was also necessary to repeal paragraph 99AAB(2)(d).

Subsection 99AAA(4) of the Act provides that an approved supplier is required to use the Claims Transmission System except as provided by section 99AAB. That section sets out the classes of approved supplier that are exempt from that requirement. Currently these are approved medical practitioners and approved suppliers in respect of whom a declaration under section 99AAC is in force. A declaration of an approved supplier by the Secretary under subsection 99AAC(1) is subject to the guidelines determined by the Minister under subsection 99AAC(2).

Before 1 July 2000, approved pharmacists who were receiving a remote pharmacy allowance were also exempt. With the repeal of paragraph 99AAB(2)(d) with effect from that date, it was necessary to amend the determination under subsection 99AAC(2) so that approved pharmacists in receipt of a remote pharmacy allowance who had been exercising an exemption from the use of the Claims Transmission System would not be disadvantaged. That there would be a need to make this determination was foreshadowed in the notes relating to item 5 in the explanatory memorandum to the amending Bill.

I wish to assure the Committee that my Department is cognisant of the restricted circumstances in which it is permissible to make legislation that operates retrospectively. In this case, far from having detrimental effect on any person (other than the Commonwealth), the determination was beneficial to the four approved pharmacists affected by the repeal of paragraph 99AAB(2)(d) of the Act.

Unless the determination had been made with retrospective effect to 1 July 2000, these four pharmacists would have been unable to make any further claims for payment for the supply of pharmaceutical benefits until 14 July 2000, the day on which the determination was published and appeared in the Commonwealth of Australia Gazette.

I hope this clarifies the issue.

With kind regards,
Yours sincerely
Dr Michael Wooldridge
9 October 2000

Quarantine Regulations 2000, Statutory Rules 2000 No. 129

17 August 2000

The Hon Warren Truss MP
Minister for Agriculture, Fisheries and Forestry
Parliament House
CANBERRA ACT 2600

Dear Minister
I refer to the Quarantine Regulations 2000, Statutory Rules 2000 No. 129, that 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. The Committee would appreciate your advice as to 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. If, on the other hand, it is intended that the reporting obligation applies only to animals that have been consigned for transportation, then the Committee suggests that this be clarified in the regulations.

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). The Committee would appreciate your advice as to whether subregulation 21(1) is intended to impose liability regardless of whether the person’s knowledge of the falsity or misleading nature of the information and, if so, whether this could be specified in the regulation.

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. The Committee would appreciate your advice as to whether it is intended that the quarantine officer should require the master’s permission before being able to deal with the stores etc after having secured them.

New subregulation 41(5) refers to a ‘communicable disease’. This term is not defined in the Regulations or in the Quarantine Act 1908. The Committee would appreciate your advice as to whether a definition is required for this term.

New subregulation 76 specifies that an officer who seizes an animal, plant or other goods must give a notice ‘as soon as practicable’. The Committee would appreciate your advice as to whether a time limit should be placed upon this requirement.

The Committee would be grateful for your advice as soon as possible but before 9 October 2000 when disallowance action may be initiated.

Yours sincerely
Helen Coonan
Chair

Senator Helen Coonan
Senator for New South Wales
Chair
Senate Standing Committee on Regulations and Ordinances
Parliament House CANBERRA ACT 2600

Dear Helen

Thank you for your letter of 17 August 2000 in which you sought advice regarding various provisions of the Quarantine Regulations 2000 (the Regulations). I appreciate the opportunity to address the Committee’s concerns.

The Committee seeks clarification regarding the scope of the information specified in the Regulations for the purposes of sections 27A, 27B and 28 of the Quarantine Act 1908 (the Act). In particular, you ask whether the reporting requirements apply to any live animal on board a vessel regardless of whether the animal’s presence on the vessel was actually known to the master, or only to those animals that have been consigned for transportation.

Sections 27A, 27B and 28 of the Act are important provisions because they enable quarantine officers to obtain information relevant to the protection of Australia’s quarantine security. The information specified in the Regulations is intended to apply to all animals on board the vessel or aircraft, not just to animals that have been consigned for transport. If the reporting requirements were limited to animals consigned for transportation, animals kept as pets on the vessels, such as cats, dogs, birds or monkeys, would be overlooked. Animals, dead or alive, on overseas vessels could introduce unwanted pests and diseases into Australia. It is therefore vital that quarantine officers be fully informed about the existence of
such quarantine risks so that appropriate measures can be taken.
Sections 27A, 27B and 28 do not place an obligation on the master (or commander in the case of aircraft) to provide information “regardless of whether the presence of the animal was actually known”. This view is supported by the fact that the offences in these sections are not offences of strict liability under the Criminal Code. Section 86G of the Act applies Chapter 2 of the Criminal Code to all offences against the Act.

However, the sections do contain offence provisions which apply if the master (or commander in the case of aircraft) knowingly or negligently gives false or misleading information in meeting these reporting requirements, or falls to correct information once he becomes aware that it is incorrect.

The Committee asks if the offence set out in subregulation 21(1) is intended to be an offence of strict liability.

The offence in subregulation 21(1) is not intended to be a strict liability offence and as a matter of policy the Australian Quarantine and Inspection Service will not seek to prosecute breaches of section 21(1) on a strict liability basis. Furthermore, it is unlikely that a court would accept that subregulation 21(1) is a strict liability offence because it imposes a higher penalty than the other offence in regulation 21 which specifies a mental element of negligence. If regulation 21 is read as a whole, the implication is that the offence in subregulation 21(1) will require a mental element demonstrating at least recklessness or knowledge.

However, if this explanation does not allay the Committee’s concerns, I will undertake to amend subregulation 21(1) to clarify its intended effect.

The Committee asks for clarification as to whether it is intended that a quarantine officer should be required to obtain the consent of the master of a vessel under subregulation 28(2) prior to interfering with stores or waste secured by that quarantine officer, or another quarantine officer, under subregulation 28(1).

It is not intended that a quarantine officer should be required to obtain the consent of the master of a vessel under subregulation 28(2). In general, throughout the Act and the Regulations the terms ‘quarantine officer’ and ‘person’ are used in a mutually exclusive way. Furthermore, it would be inconsistent with administrative arrangements set out in Part II of the Act and in subsection 8B(6) in particular to have a quarantine Officer subject to the authority of a master of a vessel rather than to a Chief Quarantine Officer or a Director of Quarantine.

In relation to the issue of whether a definition is required for the term ‘communicable disease’ in subregulation 41(5), this term concerns human quarantine. The human aspects of the Act are administered by my colleague the Hon Dr Michael Wooldridge MP, Minister for Health and Aged Care. Accordingly, I have referred this question to him for a response to your Committee. I understand that the use of this term, which occurs in section 35A of the Act as well as in the Regulations, is presently under consideration in a review of the human quarantine aspects of the Act by the Department of Health and Aged Care.

The Committee seeks my views as to whether a time limit should be placed on the requirement in subregulation 76. Subregulation 76 specifies that the importer, owner or person in control of the animal, plant or other goods that have been seized under section 69 of the Act must be given notice ‘as soon as practicable’.

The focus of section 69 is to empower officers to place potential quarantine risks under, or return them to, quarantine control without delay. A more specific time limit on the requirement for notification could defeat the intention of section 69. For example, if officers are obliged to meet a specific time for notification after seizure, they may be reluctant to act unless they are confident about identifying the ‘importer, owner or person in control of the animal, plant or other goods’ within the prescribed time. While notification is important, it is secondary to containing the quarantine risk. Under these circumstances, I believe the requirement in subregulation 76 that notice be given ‘as soon as practicable’ achieves an appropriate balance between recognising the right of people to know the location of their seized goods and allowing the flexibility necessary for the effective operation of section 69.

I trust that the Committee’s concerns have been fully addressed. I would be pleased to arrange for officers of the Australian Quarantine and Inspection Service to meet with the committee if it requires clarification on any of the matters raised in this letter.

Thank you for bringing your concerns to my attention.

Yours sincerely

WARREN TRUSS

Senator Brown to move, on 1 November:
That the Senate—

(a) notes the 2 to 1 judgement of the Supreme Court of India to allow the Sardar Sarovar project in the Narmada Valley to proceed to completion ‘at the earliest’, and that this will lead to
progressive increases in the height of the dam wall to 90 metres and beyond with the agreed consequences of displacing thousands of minority peoples from their ancient living areas against their will, without the promised rights to rehabilitation and despite the drowning of affected environments; and

(b) respectfully calls on the President (Mr Narayanan) and the Prime Minister (Mr Vajpayee) of India to implement the precautionary approach of the minority Judge J Bharuch recommending that further construction ceases until a committee of experts gives it an environmental clearance.

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

That the Senate requests the Auditor-General:

(a) to audit all parliamentarians’ allowances, expenditures and entitlements for the financial year 1999-2000, including the operational and staffing costs of electorate and parliamentary offices, with the audit to be completed by 30 June 2001;

(b) to consider matters, including:

(i) the identification of where the rules and guidelines on entitlements, allowances, and expenditures are unclear or imprecise,

(ii) whether the administration of such allowances, entitlements and expenditures is adequate, and whether the bureaucracy has sufficient resources and means to do the job required of them,

(iii) which line items should in future require regular audit,

(iv) which line items should be publicly reported singly or in the aggregate,

(v) which line items should be benchmarked to determine unusual or excessive expenditure, and

(vi) which line items should be subject to comparative assessment between parliamentarians; and

(c) to determine which allowances, expenditures and entitlements are potentially at risk of abuse and should be tightened up.

LEAVE OF ABSENCE

Motion (by Senator Calvert)—by leave—agreed to:

That leave of absence be granted to Senator Harradine for the period 30 October to 10 November 2000 on account of parliamentary business overseas.

NOTICES

Postponement

Items of business were postponed as follows:

Business of the Senate notices of motion nos 2 to 7 standing in the name of Senator Brown for 31 October 2000, relating to the disallowance of certain regulations under the Environment Protection and Biodiversity Conservation Act 1999, postponed till 8 November 2000.


General business notice of motion no. 717 standing in the name of the Leader of the Australian Democrats (Senator Lees) for today, relating to the introduction of the Australian Bill of Rights Bill 2000, postponed till 4 December 2000.

General business notice of motion no. 681 standing in the name of Senator Murray for 31 October 2000, relating to international financial transactions, postponed till 7 November 2000.

General business notice of motion no. 489 standing in the name of Senator Murray for 1 November 2000, proposing an order for the production of documents relating to lists of departmental and agency contracts, postponed till 7 November 2000.

DOCUMENTS

Department of the Parliamentary Library

The DEPUTY PRESIDENT—In accordance with the provisions of the Parliamentary Service Act 1999, I present the annual report of the Department of the Parliamentary Library for 1999-2000.

Department of the Parliamentary Reporting Staff

The DEPUTY PRESIDENT—In accordance with the provisions of the Parliamentary Service Act 1999, I present the annual
Parliamentary Service Commissioner

The DEPUTY PRESIDENT—In accordance with the provisions of the Parliamentary Service Act 1999, I present the annual report of the Parliamentary Service Commissioner for 1999-2000.

Tabling

The DEPUTY PRESIDENT—Pursuant to standing orders 38 and 166, I present documents listed on today’s Order of Business at item No. 12, which were presented to the President, the Deputy President and temporary chairmen of committees since the Senate last sat. In accordance with the terms of the standing orders, the publication of the documents was authorised.

The list read as follows—

GOVERNMENT DOCUMENTS PRESENTED TO THE PRESIDENT SINCE THE LAST SITTING OF THE SENATE

Administrative Appeals Tribunal—Report for 1999-2000. [Received 26 October 2000]


Anindilyakwa Land Council—Report for 1999-2000. [Received 19 October 2000]

Attorney-General’s Department—Report for 1999-2000. [Received 26 October 2000]

Australia New Zealand Food Authority—Report for 1999-2000. [Received 26 October 2000]

Australian Broadcasting Corporation—Report for 1999-2000. [Received 16 October 2000]

Australian Competition and Consumer Commission—Report for 1999-2000. [Received 27 October 2000]

Australian Dairy Corporation—Report for 1999-2000. [Received 26 October 2000]

Australian Dried Fruits Board—Report for 1999-2000. [Received 27 October 2000]

Australian Fisheries Management Authority—Report for 1999-2000. [Received 26 October 2000]


Australian Heritage Commission—Report for 1999-2000. [Received 27 October 2000]

Australian Horticultural Corporation—Report for 1999-2000. [Received 27 October 2000]

Australian Institute of Aboriginal and Torres Strait Islander Studies—Report for 1999-2000. [Received 16 October 2000]

Australian Institute of Criminology and Criminology Research Council—Reports for 1999-2000. [Received 27 October 2000]

Australian Institute of Family Studies—Report for 1999-2000. [Received 24 October 2000]


Australian Institute of Marine Science—Report for 1999-2000. [Received 26 October 2000]


Australian National Training Authority—

Australian vocational education and training system—Report for 1999—Volumes 1, 2 and 3. [Received 25 October 2000]


Australian Pork Corporation—Report for 1999-2000. [Received 26 October 2000]

Australian Radiation Protection and Nuclear Safety Agency—Report for 1999-2000. [Received 26 October 2000]

Australian Research Council—Report for 1999-2000. [Received 27 October 2000]

Australian Securities and Investments Commission—Report for 1999-2000. [Received 16 October 2000]


Australian Tourism Commission—Report for 1999-2000. [Received 12 October 2000]

Australian Trade Commission (AUSTRADE)—Report for 1999-2000. [Received 26 October 2000]
Australian Wine and Brandy Corporation—Report for 1999-2000. [Received 24 October 2000]

Australian Wool Research and Promotion Organisation—Report for 1999-2000. [Received 19 October 2000]


Coal Mining Industry (Long Service Leave Funding) Corporation—Report for 1999-2000. [Received 19 October 2000]

Comcare Australia—Report for 1999-2000, including the report of QWL Pty Limited. [Received 19 October 2000]

Commissioner for Superannuation—Report for 1999-2000, incorporating reports on the administration and operation of the Papua New Guinea (Staffing Assistance) Act 1973 and the Superannuation Act 1922. [Received 26 October 2000]


Commonwealth Scientific and Industrial Research Organisation (CSIRO)—Report for 1999-2000. [Received 26 October 2000]

Companies and Securities Advisory Committee—Report for 1999-2000. [Received 27 October 2000]

CSS Board—Commonwealth Superannuation Scheme—Report for 1999-2000. [Received 26 October 2000]

Dairy Research and Development Corporation—Report for 1999-2000. [Received 17 October 2000]

Defence Force Remuneration Tribunal—Report for 1999-2000. [Received 24 October 2000]

Department of Agriculture, Fisheries and Forestry—Report for 1999-2000—Volumes 1 and 2. [Received 26 October 2000]

Department of Education, Training and Youth Affairs—Report for 1999-2000. [Received 27 October 2000]

Department of Employment, Workplace Relations and Small Business—Report for 1999-2000. [Received 26 October 2000]

Department of Finance and Administration—Report for 1999-2000. [Received 26 October 2000]

Department of Foreign Affairs and Trade—Reports for 1999-2000—

Volume 1—Department of Foreign Affairs and Trade. [Received 25 October 2000]

Volume 2—Australian Agency for International Development (AusAID). [Received 25 October 2000]

Department of Immigration and Multicultural Affairs—Report for 1999-2000, including a report pursuant to the Immigration (Education) Act 1971. [Received 25 October 2000]

Department of the Environment and Heritage—Report for 1999-2000, including the report of the Supervising Scientist for the Alligator Rivers Region and reports on the operation of the Hazardous Waste (Regulation of Exports and Imports (Act) 1989 and the Ozone Protection Act 1989. [Received 12 October 2000]

Director of Public Prosecutions—Report for 1999-2000. [Received 26 October 2000]

Employment Services Regulatory Authority—Report for 1999-2000. [Received 27 October 2000]

Equal Opportunity for Women in the Workplace Agency—Report for the period 1 June 1999 to 31 May 2000. [Received 27 October 2000]

Equity and diversity program—Health Insurance Commission—Report for 1999-2000. [Received 27 October 2000]

Family Court of Australia—Report for 1999-2000. [Received 27 October 2000]

Federal Court of Australia—Report for 1999-2000. [Received 27 October 2000]

Federal Police Disciplinary Tribunal—Report for 1999-2000. [Received 26 October 2000]

Financial Reporting Council and Australian Accounting Standards Board—Reports for the period 1 January to 30 June 2000. [Received 26 October 2000]

Fisheries Research and Development Corporation—Report for 1999-2000. [Received 17 October 2000]
Forest and Wood Products Research and Development Corporation and Forest and Wood Products Research and Development Corporation Selection Committee—Reports for 1999-2000. [Received 26 October 2000]

Grains Research and Development Corporation and Grains Research and Development Corporation Selection Committee—Reports for 1999-2000. [Received 27 October 2000]

Grape and Wine Research and Development Corporation and Grape and Wine Research and Development Corporation Selection Committee—Report for 1999-2000. [Received 17 October 2000]

High Court of Australia—Report for 1999-2000. [Received 27 October 2000]


Inspector-General of Intelligence and Security—Report for 1999-2000. [Received 27 October 2000]

International Air Services Commission—Report for 1999-2000. [Received 26 October 2000]

Land and Water Resources Research and Development Corporation—Report for 1999-2000. [Received 17 October 2000]

National Archives of Australia and National Archives of Australia Advisory Council—Reports for 1999-2000. [Received 19 October 2000]

National Capital Authority—Report for 1999-2000. [Received 24 October 2000]

National Native Title Tribunal—Report for 1999-2000. [Received 26 October 2000]


National Oceans Office—Report for the period 22 December 1999 to 30 June 2000. [Received 19 October 2000]

National Road Transport Commission—Report for 1999-2000. [Received 26 October 2000]

Northern Land Council—Report for 1999-2000. [Received 12 October 2000]

Office of Film and Literature Classification—Classification Board and Classification Review Board—Reports for 1999-2000. [Received 26 October 2000]

Office of Parliamentary Counsel—Report for 1999-2000. [Received 26 October 2000]

Pig Research and Development Corporation and Pig Research and Development Corporation Selection Committee—Report for 1999-2000. [Received 19 October 2000]

Privacy Commissioner—Report for 1999-2000 on the operation of the Privacy Act 1988. [Received 26 October 2000]


Professional Services Review—Report for 1990-2000. [Received 12 October 2000]

PSS Board—Public Sector Superannuation Scheme—Report for 1999-2000. [Received 26 October 2000]

Public Service Commissioner—Report for 1999-2000, incorporating the report of the Merit Protection and Review Agency for the period 1 July to 4 December 1999 and the report of the Merit Protection Commission for the period 5 December 1999 to 30 June 2000. [Received 24 October 2000]

Remuneration Tribunal—Report for 1999-2000. [Received 26 October 2000]

Repatriation Commission, Department of Veterans’ Affairs and the National Treatment Monitoring Committee—Reports for 1999-2000, including reports pursuant to the Defence Service Homes Act 1918 and the War Graves Act 1980. [Received 27 October 2000]

Rural Industries Research and Development Corporation—Report for 1999-2000. [Received 17 October 2000]

Safety, Rehabilitation and Compensation Commission—Report for 1999-2000. [Received 19 October 2000]

Seafarers Safety, Rehabilitation and Compensation Authority—Report for 1999-2000. [Received 19 October 2000]

Snowy Mountains Hydro-electric Authority—Report for 1999-2000. [Received 26 October 2000]

Sugar Research and Development Corporation and Sugar Research and Development Corporation Selection Committee—Reports for 1999-2000. [Received 27 October 2000]
The DEPUTY PRESIDENT—I present
the Auditor-General’s report No. 14 of 2000-01:
Benchmarking the internal audit function. The report
was presented to the President on 26 October 2000 and, in accordance
with the terms of the standing orders, the publication of the document was authorised.

WOOL SERVICES PRIVATISATION BILL 2000

Report of the Rural and Regional Affairs
and Transport Legislation Committee

The DEPUTY PRESIDENT—I present
the report of the Rural and Regional Affairs
and Transport Legislation Committee on the
Wool Services Privatisation Bill 2000, which
was presented since the Senate last sat; the
Hansard record of the committee’s proceedings;
documents presented to the committee; and
submissions.

Ordered that the report be printed.

Senator FORSHAW (New South Wales)
(3.50 p.m.)—by leave—I move:

That the Senate take note of the report.

Ordinarily, one finds that a report on legislation
that comes before a Senate legislation committee does not require detailed debate
in this chamber, given that the legislation will be debated and considered subsequently
in committee. However, I believe it is important at this stage to make a few comments
about the report of the Senate Rural and Regional Affairs and Transport Legislation
Committee on the Wool Services Privatisation Bill 2000.

The legislation is part of an ongoing process that has been under consideration in the
wool industry itself; it also has been subject to ongoing debate and consideration by the
parliament. The process involves changes to the regulatory regime within the wool industry. This particular legislation will have the effect of privatising the Australian Wool Research and Promotion Organisation. Earlier legislation has been dealt with by this parliament, and the history of what has taken place both in the industry and in the parliament is detailed in the government report and in the dissenting report by Senator O’Brien, Senator Woodley and myself. I will not take up time by going through that. I invite senators to read the reports—both the government report and the dissenting report. Of course, we will come to consider those reports in more detail when dealing with the legislation in due course.

As everyone knows, the privatisation of the Australian Wool Research and Promotion Organisation follows a chequered history of the operations of that body and, in particular, the serious concern in the industry which ultimately led to the motion of no confidence in the AWRAP board on 30 November 1998. The then minister, Mr Vaile, asked for the resignation of all board members of AWRAP and then established the Wool Industry Future Directions Task Force, which was chaired by former minister Mr Ian McLachlan. Mr McLachlan brought down his report. It was released on 30 June 1999 and made a number of recommendations. This legislation, the subject of this Senate committee report, is in part a response to—and, if you like, a natural progression of—the issues that have been raised over time and which were dealt with in Mr McLachlan’s report.

I have to say at the outset that the opposition do not seek to delay this legislation unduly. Indeed, our position is that we have supported, and continue to support, the orderly restructuring of the wool industry. I believe that we have cooperated at all stages through that process, both at an industry level and also in the parliament when dealing with legislation. But we are concerned to ensure that the ultimate privatisation of AWRAP is done with the full knowledge of the facts, both for the industry itself and for the parliament. We want to see the new organisations, these new companies that will be established, start off on the right foot. It
has become clear that, during the consideration of this legislation by the Senate committee, there are a number of very important outstanding issues that have not yet been resolved.

One of those issues involves the finalisation of a payment to the South African company Cape Wools, which has an equity interest in the old organisation. There is a history to that matter which I am not in a position to go over today—firstly, because time does not permit and, secondly, because the committee took evidence in camera from representatives of AWRAP, from the Department of Agriculture, Fisheries and Forestry and also from representatives of the South African company Cape Wools. I have to say that nothing that we heard in camera has led the opposition—and, I believe, Senator Woodley, but no doubt he can speak for himself—to think other than that this is a serious matter that needs to be finalised; it certainly needs to be clarified before this legislation is ultimately debated and passed by this chamber, if that is the ultimate position.

It is public knowledge now that there is litigation. Litigation has been commenced both by AWRAP itself and by Cape Wools to settle the question of the value of the South African company’s interests. We believe that the minister is the one who should be getting involved—as we hope will be the case—in trying to bring about a resolution of that issue, based upon the agreed procedures that were entered into between AWRAP and the South African company when privatisation was first mooted and when the South African company indicated that it wished to withdraw its involvement from the company.

This is an issue that should be resolved, and it is an issue that goes ultimately to the liability that will be carried forward into the new company. I am concerned that wool growers’ representatives have been publicly criticising the opposition for its position, which has called for all of this to be resolved before the legislation is dealt with in this parliament, yet when they appeared before the committee, they certainly gave us a different impression. Mr Wolfenden the other day was quoted as saying, ‘Woolgrowers message to parliament is clear: pass the legislation and let us get on with the job.’ They were critical of our dissenting report.

My challenge to Mr Wolfenden is this: let us release all of the material that was put to the committee, both in camera and in public, and then let us find out what the real concerns of wool growers are. We know that they are concerned about the possible liability and the level of debt. That has been made known publicly. We are also concerned that there are a range of other issues that have not been resolved yet. We do not have the regulations. There are answers to questions and other material that we have requested that have not been provided to the committee. I am sure that when this legislation comes on for debate there will be a lot more to say about it. But I do want to make it very clear that the opposition are proposing to delay the final passage of this legislation until all these issues are resolved, because we believe that it is in the interests of the industry and wool growers to do so.

Senator SANDY MACDONALD (New South Wales) (4.01 p.m.)—In the absence of Senator Crane, who is the chair of the Senate Rural and Regional Affairs and Transport Legislation Committee, I think it is appropriate that I make some comments about the majority position of the committee. I have listened carefully to Senator Forshaw. I have also read the minority report of the Labor senators and Senator Woodley, and I understand their concerns. But I say that, whether or not the contingent liability of Cape Wools and the South Africans is resolved before 1 January, this is not the overriding consideration, in the committee’s view, with respect to this legislation. At this time, with an improvement in world wool prices and world production falling below demand, there should be no postponement or delay in the passage of this bill because of the changing economic circumstances of wool growers. In addition, the opportunity to develop better wool production and marketing methods for this industry must be followed up.

Subject to the three amendments that the committee put in its report, I think the legislation should proceed. The privatisation of the Australian Wool Research and Promotion Organisation is part of a much larger process...
to enable the wool industry to assume ownership of its service delivery body and to be accountable to levy payers, as the shareholders, as wool growers, will be. This is part of a process that has revolved around the privatisation of the stockpile through the wool stock legislation, which Senator Woodley was very involved in. Industry and government have worked closely together to produce that and to produce this important result for the wool industry.

The good work done by the Interim Advisory Board, headed up by Rod Price, and the Wool Growers Advisory Group, headed up by Robert Webster, has ensured that the process has run smoothly and in line with the recommendations of the McLachlan inquiry and the WoolPoll 2000, where all wool growers were, of course, polled. This legislation is the final step to deliver the privatisation of the wool industry service provider, the Australian Wool Research and Promotion Organisation, and its operating subsidiary, The Woolmark Co., which internationally is one of the most highly recognised symbols. The ownership of that symbol is what the current problem and the dispute with Cape Wools are about.

This legislation passes the ownership of the management of the wool industry services into the hands of wool growers and reduces the government’s involvement in oversighting statutory funding and accountability. The process to establish the most appropriate structure to replace AWRAP has been, as I said, comprehensive and very well supported by wool growers. It has been a strong example of government and industry working together to achieve a common goal. It has not been an easy task for wool growers over the last decade, but certainly this legislation and the privatisation of the stockpile in the form of the Woolstock company, which has been a great success and is continuing to reduce the stockpile substantially, have been a benefit to the wool market and to the industry as a whole.

I would like to put on the record some of the benefits of the proposed privatisation and why it is essential that it go ahead despite the question mark of the contingent liability. The process to privatise AWRAP is solely in response to industry calls for reform. The new arrangements differ from AWRAP in a number of key ways which address industry concerns. The government is responding to industry concerns. All taxpayers will be the owners of the new arrangements. There will be full contestability and transparency between the receipt and expenditure of the wool levy and matching R&D funds, which the government will continue to assist with. The government’s role will be limited to that required for accountability for the wool levy and matching R&D funds received and ensuring efficient and effective service delivery. Shareholders in The Woolmark Co., which is the company which will hold the Woolmark, will have the opportunity to realise future capital gains as a result of share trading, most probably on the Stock Exchange, and the new companies will operate as commercial entities under the Corporations Law. In the absence of Senator Crane, my view and that of the committee is that the legislation should proceed as the committee report has found. I look forward to the operation of the new wool services legislation and want to see it pass into law as soon as possible.

Senator WOODLEY (Queensland) (4.07 p.m.)—I want to thank the Senate for the opportunity to speak this afternoon to the report of the Rural and Regional Affairs and Transport Legislation Committee entitled The Wool Services Privatisation Bill 2000, given the absence of the chairman and given the importance of this particular issue. It is interesting that all parties actually support the eventual passing of the Wool Services Privatisation Bill 2000. That is not in doubt; it is not as if there were fundamental differences between members of this chamber over the legislation. Eventually, we all wish for the legislation to be supported and for the new companies to be established.

As members of the Senate would know, this process is one that has gone on for quite a few years. It followed a lot of unrest in the industry, particularly over the way in which the fixed release schedule was operating in terms of the wool stockpile, and led eventually to the sacking of the whole of the AWRAP board and a process which led to
this legislation, which will establish two new companies. So there is no doubt that all of us who have been involved in this debate for many years are committed to the establishment of the privatised companies, and we are certainly committed to seeing the wool industry get back on its feet—as it is beginning to do—and go ahead with control of its own industry through the new bodies.

However, there are still some problems. These problems are to do with the lack of information about something which has only surfaced in the last few weeks and which placed the future of those new companies in some jeopardy, and that is a continuing liability which will be carried over from the old AWRAp board and which will have to be picked up by somebody. At this stage, who that somebody is is not altogether certain. Certainly, the government has said that it has no financial liability—it is covered by both the old and the new legislation—but I am not sure about that. If the government itself has had a hand in signing off on the agreement which established the liability, I am not sure about that. No matter what other legislation says, at least in a moral and ethical sense, anyone who is party to an agreement which establishes a debt surely has some responsibility for payment of part of that debt. So there is one of the questions which remain.

We do not know the extent of the debt, we do not know who is going to pay it and there is no doubt that we would be legislating in a very irresponsible manner if we simply legislated and said, ‘Well, too bad. Somebody will have to pick it up, and maybe they will in the future.’ The debt, of course, is a continuing liability to Cape Wools of South Africa, who originally had around an eight per cent interest in the old AWRAp and associated bodies. While they have, I believe, received a percentage of the sale of the physical assets, there still remains the issue of the intellectual property and the value of that intellectual property. The question is: who is going to pay for that? I think there is no doubt in the government’s mind that the growers themselves will pay, and I have problems with that. There is no doubt that, when WoolPoll 2000 was put in place—a ballot was held—growers in the majority said that they were willing to pay a two per cent levy. We know that already this has been extended to three per cent for a period to cover some liabilities which continue, but are we going to extend that two per cent to three per cent for a much longer period in order to cover the debt which is obviously there? Nobody can answer that question. So those are the issues which remain with us.

I note that Mr Wolfenden from the Wool Council issued a press release when the Labor Party and the Democrats put out a minority report. It was not altogether a dissenting report in the sense that it was the total opposite of what the government was saying—we supported most of what the government had in its own report—but it added some caution. For this press release to state that opposition senators were trying to block the legislation was really a little bit over the fence. All Mr Wolfenden had to do was to pick up the phone and speak to Senator Forshaw, Senator O’Brien or me and he would have understood much better than he seems to have what our position is.

Senator Forshaw—He could have read the report.

Senator WOODLEY—And if he had read our report he also would have been a little clearer and perhaps would not have issued what I believe to be a silly press release. We have challenged him to allow on the public record the things that he told us in camera and that, in itself, would supply some of the information which we need. So these are the concerns that we have. The Democrats certainly do not want to in any sense block this legislation or the formation of these new bodies, but we do want answers to these questions. It would be irresponsible for us to simply say, ‘Here’s a blank cheque. The poor old growers will pay again, but that doesn’t really matter.’ At the end of the day, ordinary growers are not able either to speak or to vote in this place. As legislators, we need to vote and to speak responsibly in this debate, and there needs to be sufficient information to inform the debate so that the legislation itself is legislation in which we can have confidence.

There are a number of amendments and I would like to signal now that there are a
couple of issues which still need to be considered. One of those is what has happened to those properties—particularly in Victoria—where ovine Johne’s disease has been found and where, if we operate on the basis which is in the legislation, they will end up having no equity at all. Having had their properties destocked in the period where the equity is to be established, they have no income for that period and therefore—it would seem—no equity, and that is a grave injustice. So that needs to be addressed.

An issue which I know Senator Ferris, in particular, has been very concerned about—and she has said so publicly—is the transfer of AWRAP staff into the new bodies without any consideration as to whether or not the culture in AWRAP, which got us into the problems that we faced in the first place, will also be transferred with the transfer of staff. That will have to be addressed. Another issue I am concerned about is to make sure that funds from the two per cent levy, which are mainly to go to research and development, will not be used to fund any future representative bodies. These are some of the issues which will be addressed by legislation and by amendments. They are canvassed in the report which I am supporting today.

Question resolved in the affirmative.

NOTICES
Presentation
Senator Allison—by leave—to move, on the next day of sitting:

That the Senate requests the Government to set up a three person committee comprising experienced persons from the private, public and non-profit sector to:

(a) make recommendations on Federal parliamentarians’ superannuation, salaries, conditions, benefits and entitlements, taking into consideration community standards and international comparisons;

(b) take no longer than 1 year to report to the Government, which report to be confidential until the government response is tabled, which must be within a further 6 months; and

(c) consult extensively in preparing the report.

BUDGET 2000-01
Consideration by Legislation Committees
Additional Information

Senator COONAN (New South Wales)
(4.17 p.m.)—On behalf of Senator Mason, I present additional information received by the Finance and Public Administration Legislation Committee relating to hearings on the budget estimates for 2000-01 and the additional estimates for 1999-2000. On behalf of Senator Eggleston, I present additional information received by the Environment, Communications, Information Technology and the Arts Legislation Committee relating to hearings on the budget estimates for 2000-01. On behalf of Senator Knowles, I present additional information received by the Community Affairs Legislation Committee relating to hearings on the budget estimates for 2000-01.

COMMITTEES

Foreign Affairs, Defence and Trade Committee: Joint

Report

Senator GIBBS (Queensland) (4.18 p.m.)—On behalf of the Joint Standing Committee on Foreign Affairs, Defence and Trade, I present a report of the committee entitled Australian government loan to Papua New Guinea, together with the Hansard record of the committee’s proceedings, minutes of proceedings and submissions received by the committee. I seek leave to move a motion in relation to the report.

Leave granted.

Senator GIBBS—I move:

That the Senate take note of the report.

The report that I have just tabled is important for two reasons. Firstly, it represents some degree of parliamentary involvement in the scrutiny process. This is significant and something that the committee supports. That involvement is, however, heavily qualified, and I will return to this point. Secondly, the legislation that prompted this report and the timing of the tabling of the document about the loan have both caused some concern to committee members. Before dealing with those two related points and the information provided to us in this inquiry, I would like to
make some general comments on this loan to the PNG government.

This loan of $133.2 million was granted to PNG under the provisions of the International Monetary Agreement Act 1947 as amended in 1998. This enables the government to lend money to other countries provided at least one government or organisation intends to provide or has provided money to the proposed recipient. Further, when loans are made under this act, it prescribes that a national interest statement setting out the nature and terms of the loan is to be tabled in the parliament. The national interest statement is also to set out the reasons why the loan is in Australia’s national interest, having regard in particular to foreign policy, trade and economic interests. In this case, both the World Bank and the International Monetary Fund are working with PNG and lending it money to assist its reform agenda. There can be no doubt that making this loan to PNG is in Australia’s national interest, and it is supported by the committee. The historical and geographic ties between the two nations are such that it would be unthinkable not to assist the government of Sir Mekere Morauta to continue its reforming work.

The terms of this loan are strictly commercial. PNG’s record of repaying other loans is such that the committee is confident that this loan will be repaid in full and on time. Although the time to consider this matter was short, the Foreign Affairs Subcommittee of the joint committee carried out a standard inquiry process. A total of seven submissions were received from five organisations or individuals. A short public hearing was held on 12 September at which very useful evidence was taken from a range of witnesses, particularly from the Treasury, the DFAT portfolio and from a panel from the ANU. These witnesses all supported the loan and the efforts of the Morauta government to implement a program of reform in PNG. I believe that my colleagues would agree that, although many things remain to be done, the witnesses from the ANU were surprisingly optimistic about PNG’s prospects under the Morauta government. I am sure that all those with an interest in our closest northern neighbour hope that very recent events in PNG will not lead to a weakening of its government’s resolve to continue its reform program.

The next point I want to address is the timing of the referral of loans such as this to the joint committee for inquiry and report. Loans made under the International Monetary Agreements Act 1947 as amended stand automatically referred to the Joint Standing Committee on Foreign Affairs, Defence and Trade for inquiry and report within two months. Such a time frame does not encourage a long or detailed inquiry. Further, the legislation does not specify when, in the approval process, loans should be referred to the committee. Thus, the national interest statement was tabled some time after the loan was approved. It was granted on 21 June 2000, but the national interest statement was not tabled in the parliament until 28 August 2000. Committee members had some difficulty in understanding why the joint committee was included in the process at all. Parliamentary scrutiny is a good and desirable thing but, to be effective in the consideration of loans such as this, it must occur earlier in the approval process than it does under this legislation. It is possible to include such scrutiny in approval processes without causing delays. For example, the approvals of government projects over a specified cost have to include time for consideration by the Public Works Committee. This has been so since the early years of federation.

Since 1996, all treaties proposed for ratification must be examined by the Joint Standing Committee on Treaties. Only 15 sitting days are allowed for its processes. This period is often as short as five or six weeks—rather shorter than the two months specified in the legislation for these loans. As the report states, what we see in this case is a concession to parliamentary scrutiny in theory, but a denial of it in practice. We have recommended that the legislation be further amended to ensure that parliamentary scrutiny occurs before loans are executed under its provisions. We believe time can and should be made for scrutiny of these loans. Surely it is a waste of effort for all participants if there is no opportunity to make this
scrutiny both timely and effective or if the loan has already been granted. In supporting this loan, therefore, the committee has also recommended that the legislation be amended to ensure that parliamentary consideration of any future loans is included earlier in the approval process. The NIS refers to a further loan to PNG of $A30 million. The committee understands that negotiations for this loan are under way at present. Even if our recommendation is accepted, it is unlikely that the legislation will be amended in time for a change to the current process. It is likely, therefore, that the three payments making up this additional loan will be dealt with in the same unsatisfactory way as the larger loan that is the subject of this report.

The final point I would like to cover relates to some of the material given to us by the departments involved in the process of executing this loan. The act is quite specific about the matters to be covered in the national interest statement: the terms and conditions of the loan and, broadly, Australia’s national interests. The section in the national interest statement on the terms and conditions of the loan was not very helpful. It simply stated that the loan agreement contains standard commercial terms and conditions, including an indemnity clause designed to protect the Commonwealth’s interests. This brief statement was repeated at the hearing on 12 September.

Australia’s national interest—the other matter required to be covered by the legislation—was not given much more consideration than the loan itself in the national interest statement. It was brief and, as far as it went, satisfactory. Unfortunately, neither that statement nor the evidence at the public hearing gave any indication of how Australia’s national interest is defined or what factors are taken into account during the process. DFAT’s additional material provided little additional light on either issue, largely repeating with slight variations what had already been put forward. I would hope that the quality of the information provided by these organisations could improve if further loans are made under the provisions of this legislation. I commend this report to the Senate.

Question resolved in the affirmative.

BILLs RETURNED FROM THE HOUSE OF REPRESENTATIVES

Message received from the House of Representatives agreeing to the amendments made by the Senate to the following bill:

Commonwealth Electoral Amendment Bill (No. 1) 2000

CLASSIFICATION (PUBLICATIONS, FILMS AND COMPUTER GAMES) AMENDMENT BILL (No. 2) 2000

CRIMINAL CODE AMENDMENT (THEFT, FRAUD, BRIBERY AND RELATED OFFENCES) BILL 2000

First Reading

Bills returned from the House of Representatives.

Motion (by Senator Ian Campbell) agreed to:

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

Bills read a first time.

Second Reading

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (4.29 p.m.)—I table revised explanatory memoranda relating to each of the bills and move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

CLASSIFICATION (PUBLICATIONS, FILMS AND COMPUTER GAMES) AMENDMENT BILL (No. 2) 1999

The Classification (Publications, Films and Computer Games) Amendment Bill (No. 2) 1999 will make a number of procedural and other amendments to the Classification (Publications, Films and Computer Games) Act 1995 (the Act).

Following Government amendments to the bill in the House of Representatives which were supported by the Opposition, the bill no longer includes provisions to abolish the X classification
and to introduce a new NVE, or Non violent Erotica, classification.

The decision to retain the X classification reflects concerns that have been expressed that the title NVE did not accurately reflect the material contained in the category.

The Government remains concerned about some of the material currently permitted in the X classification. This material, which includes certain fetishes, the use of sexually aggressive language and the portrayal of persons over the age of 18 as minors, will not be permitted in the retained X classification.

As to the content to be expunged, the Office of Film and Literature Classification (OFLC) has reviewed classification records covering a six month period. The OFLC advises that, while it is not possible to be precise, approximately 15 - 20% of X classifications may be affected. This is a significant quantity, particularly given the culling of material from the X classification that has taken place over previous years.

The further restrictions on the content of the X classification have been effected by amendment of the National Classification Code and the classification guidelines with the agreement of Commonwealth, State and Territory Censorship Ministers and came into effect on 18 September 2000.

Censorship of what adults should be allowed to read, hear or see brings forth a wide divergence of views in the community. Where views in the community are divided, Government intervention in social issues is inherently difficult.

The Government is aware that some members of the community, who find the portrayal of sexually explicit material on videotape offensive, are unhappy with the Government’s decision not to ban this material. While the Government understands, and respects, these views, there is a need to approach this issue from a general community perspective.

For over two decades now, all Australian Governments, of both political persuasions, have subscribed to the principles that adults should be able to read, hear and see what they wish, that persons should be protected from unsolicited material that they find offensive and that children should be protected from material that is likely to harm or disturb them. To these the Act has added the need to take account of community concerns about depictions that condone or incite violence, particularly sexual violence, and the portrayal of persons in a demeaning manner.

In Australia, the X classification is primarily concerned with explicit depictions of sexual acts which are lawful between consenting adults without any sexualised violence or coercion of any kind. For this material, the question to be asked is not whether some individuals find the material offensive but whether the general community finds it so unacceptable that it justifies its banning. The Government does not consider the latter to be the case.

In considering the issues relating to X-rated videos, the Government took into account the fact that X-rated videos have been available in Australia for over 15 years and that a large number are circulating within the community. Given the demand for these videos, banning them would inevitably drive the industry underground. The Government considers it is far better to maintain a strict regulatory regime to control the content and availability of videos containing sexually explicit material. By doing so, adequate protection can be provided to minors and those who may be offended by such material and the involvement of criminal elements in its production and distribution limited.

After carefully weighing the issues, it was decided that while the material was considered offensive by some members of the Australian community, there were not sufficient grounds, as a matter of public policy, to deny adults generally the freedom to access non-violent, sexually explicit videos if they so wished.

The original agreement of the States and Territories to the creation of the new NVE category did not mean that NVE classified videos would be more widely distributed.

Under the national classification scheme, it is the responsibility of individual States and Territories to determine what material can be legally sold or hired in their respective jurisdictions. State Censorship Ministers made it clear that agreement to the Commonwealth’s proposal did not imply any alteration to the ban on the sale of both X and NVE videos.

The Government has no wish to return to the repressive censorship practices of the past. Some of the features of the great liberal democracies, of which Australia is one, are the recognition given to individual rights and responsibilities, the importance of freedom of expression and thought and of tolerance of the views and rights of others. With appropriate safeguards, the right of adults to choose for themselves what they see, hear or read is fundamental to the maintenance of these traditions.

In any civilised society, individual rights must, of course, be tempered by the need to have regard to the common community good. That is why there is a classification scheme in place to ensure that certain material, about which there is a general
In the light of these concerns, the Attorney-General appointed Ernst and Young to review the proposed charges structure. Following their Review of Statutory Charges for the Classification of Publications, Films and Computer Games, the Government introduced amendments to the Act to expand the power of the Director of the Classification Board to waive fees and charges. The Attorney-General also raised with his State and Territory colleagues the need to expand the range of films that are exempt from classification. As a result, the bill proposes that the current exemptions in the Act, which cover films for business, accounting, professional, scientific or educational purposes, be expanded. Under the bill, current affairs, hobbyist, sporting, family, live performance, musical presentation and religious films will be exempt from classification.

Films within these categories are typically distributed to a fairly specialised market sector often in relatively small numbers. Removing the need for them to be classified, should ensure their continued availability and, thereby, contribute to product diversity in the Australian market.

Any expansion of the categories of exempt films involves a question of balance if the integrity of the classification scheme, and the benefits it bestows on the community, is to be maintained. To this end, the exemption will only apply to films that fall within in the G and PG categories.

Concern has also been expressed about the effect the level of classification fees might have on short films from new or emerging film makers, particularly in the light of the resurgence in such films in recent years. To address this, the bill extends the power to waive fees to encompass such films. This means that films of this kind, which would usually fall outside the exempt categories, will still need to be classified, but the fee for doing so can be waived or reduced.

The Government considers that its response to concerns expressed about the effect of the increase in classification fees and charges on certain industry sectors has been both timely and responsible and that it should address many of the issues that have been raised.

The other amendment to be mentioned briefly relates to the right under the Act for ‘a person aggrieved’ to seek a review by the Classification Review Board of a classification decision of the Classification Board.

While it is difficult to set down precise parameters, it is clear, in the light of judicial decisions, that ‘a person aggrieved’ must at least be a person with an interest in the decision concerned which...
is greater than that of an ordinary member of the public.

In a case earlier this year, the Review Board decided that the members of the community groups who sought a review of the decision concerned did not meet the 'person aggrieved' test as laid down by the courts.

There are precedents in other Commonwealth legislation, for example the Administrative Appeals Tribunal Act 1975, to expand legislatively the range of persons covered by the term 'a person aggrieved' and provisions of similar effect.

Accordingly, the bill provides that a 'person aggrieved' includes, with certain safeguards, organisations or persons with a particular interest and involvement in the contentious aspects of the subject matter or theme of the particular publication, film or computer game.

The Government believes that this amendment will, in relation to decisions where there is some community concern, introduce a greater degree of flexibility into the review process.

It is estimated that the broadening of the criteria for waiver of fees and the expansion of the range of films exempt from classification will result in a reduction in revenue for the Commonwealth of approximately $300,000 per annum.

CRIMINAL CODE AMENDMENT (THEFT, FRAUD, BRIBERY AND RELATED OFFENCES) BILL 2000

In 1825, British clergyman and writer, Charles Caleb Colton, observed:

"There are some frauds so well conducted that it would be stupidity not to be deceived by them".

I am sure many would consider this to be as true today as it ever was.

Fraudsters, thieves, blackmailers and corrupt officials are rapidly developing the means to deprive the Commonwealth Government and its public officials of vast sums of money.

This Bill introduces a wide range of modern offences to protect the Commonwealth Government and public officials from criminals who would cause them financial harm or seek to obstruct, threaten or harm them.

The Bill achieves many long standing goals of this Government:

- it replaces existing Crimes Act 1914 offences with a modern and transparent scheme for preventing and punishing theft, fraud, bribery, forgery and related offences;
- it provides a new scheme for the geographical jurisdiction of the Commonwealth criminal law by replacing the existing situation where the scope of offences is often uncertain;
- it provides additional protection for Commonwealth public officials from violence and harassment; and
- it simplifies and reduces the size of the Commonwealth statute book by repealing over 250 offences which cover conduct dealt with by the new offences.

It has been 10 years since the Review of Commonwealth Criminal Law was conducted by Sir Harry Gibbs, GCMG, AC, KBE, the Honourable Justice Ray Watson and the late Mr Andrew Menzies, AM, OBE.

That review recommended a complete overhaul of the theft, fraud and corruption offences in the Crimes Act 1914.

Significantly, that Review found that a number of offences in the legislation, including regular and usually straightforward offences such as 'stealing' and 'defrauding' were overly complex and reliant on obscure common law terminology.

For instance, the key fraud offence, section 29D, currently relies heavily on the meaning of the word "defraud" which can only be ascertained through reading a series of English and Australian cases on the related offence of conspiracy to defraud. As a result, the offence is uncertain, and subject to unpredictable interpretation by judges in a variety of jurisdictions.

This Bill updates these offences, reduces their complexity and introduces more certainty.

The Bill also gives Australia a system of offences ready to meet the criminal activities of the new Millennium. Significantly, it introduces a number of key amendments to cope with all the changes that technology has brought to criminal activity.

The language of the legislation will be brought into line with that of the new Electronic Transactions Act 1999. This is particularly important in relation to the fraud and forgery offences. The Government considers these new offences will go hand in hand with its commitment to conduct business electronically.

The Bill also brings about uniformity in penalties for key offences, which have long differed between State and Federal jurisdictions, and between different Acts. For instance, under the Crimes Act the offence of stealing carries a maximum penalty of 7 years, when State theft offences and the fraud offence have a maximum penalty of 10 years. There is no reason why stealing Commonwealth property should receive a lighter punishment than stealing from a business, a State Government or an individual.

The existing corruption offences raise even more concerns. The current bribery and secret commissions offences have maximum penalties of only 2 years imprisonment. You will recall that in June last year this Parliament passed legislation pro-
hbiting the bribery of foreign public officials. The maximum penalty was set at 10 years imprisonment - the same as that which applies to theft and fraud. It follows that the domestic bribery offence should have the same maximum penalty.

The Bill also addresses the use of violence and threatened violence in dealings with the Government. It covers robbery and burglary and deals with threats and attacks against those who work for the Commonwealth. These offences include an additional penalty where the threat or attack is against a law enforcement officer. At the moment the Crimes Act and other legislation only have obstruction offences with a maximum penalty of 2 years imprisonment. Under the Bill the maximum penalty will be 13 years imprisonment where the person assaulted is a law enforcement officer.

The Bill will also repeal many unnecessary and outdated offences. Schedule 2 to the Bill indicates our concerted effort to prune down some of the unacceptable duplication which exists in the Commonwealth statute book. This will contribute to delivery on the Government’s commitment when it was elected to conduct a ‘statute stock-take’ with the aim of reducing the number of offences and making Commonwealth law less complex.

The opportunity has also been taken to provide clarity on the fundamental issue of who is included within the definition of ‘Commonwealth public official’. It may surprise you, but the Crimes Act 1914 definition of ‘Commonwealth official’ does not indicate clearly whether Ministers are covered by the definition. The new definition ensures all Federal members of Parliament, Ministers, judges, employees and consultants are covered by the proposed offences. This is particularly important in relation to the corruption offences. Another important overdue change is the proposed regime which will govern the application of Commonwealth laws overseas. New Part 2.7 deals with geographical jurisdiction, that is when jurisdiction will be exercised over offences against Commonwealth law occurring overseas.

Until recently, the general rule in common law countries, such as Australia, has been that criminal laws apply to conduct in the territory of that country. However in recent years, that rule has been subject to variation for a number of reasons. International treaties now recognise that many kinds of personal or business transactions take place across national boundaries. They call for member countries to exercise jurisdiction even though the conduct in question has occurred beyond their boundaries. This enables these countries to effectively deal with serious transnational crime.

A problem can arise when particular conduct for the purpose of committing an offence in jurisdiction X takes place or is set in train in jurisdiction Y, where the organising or inciting of the offence, or a conspiracy to commit the offence, takes place. This raises issues about appropriate rules to govern the application of the general criminal law, which have been sought to be addressed by legislation in various jurisdictions, including some of the Australian States. The matter of drafting general principles that can be readily applied by the courts is under consideration by the Model Criminal Code Officers Committee at the direction of the Standing Committee of Attorneys-General.

Turning to Commonwealth legislation we find a rather different requirement. Commonwealth legislation does not deal with the general criminal law (except where it needs to be applied for specific Commonwealth situations) but with particular interests and concerns that, being of a national character, fall within the Commonwealth sphere. The practice has been for the application of Commonwealth offence provisions to be addressed case by case, depending on the purpose of the legislation.

Sometimes a formulation has been used to the effect that a Commonwealth statute ‘applies within and outside Australia’. From such a formulation it might be assumed, and sometimes is, that offence provisions in the Act apply to any conduct by any person anywhere in the world. When such a provision was introduced in the Crimes Act 1914 in 1960 it was certainly intended to assert jurisdiction over some conduct beyond Australia. In the parliamentary debate, although it was suggested that some limitations applied, these were only indicated rather vaguely by some illustrations.

Another example might be found in the Proceeds of Crime Act 1987, which applies throughout the whole of Australia and also outside Australia, and thus, some might think, to the laundering of the proceeds of a foreign offence entirely outside Australia. Such lack of precision is undesirable, and can cause confusion when the question arises in the courts, as shown by the case of McDonald v Bajkovic [1987] VR 387.

For all those reasons, there is a need for Part 2.7. The Code’s aims of achieving clarity and consistency of principle will not be met without workable provisions on geographical jurisdiction. The Part sets out five different kinds of geographical jurisdiction that might apply to Commonwealth offences. One of these is called ‘standard geo-
graphical jurisdiction’ and will apply by way of default unless one of the other specified kinds of jurisdiction, or perhaps yet another kind of jurisdiction, is designated by statute.

Naturally, it is intended that extended forms of jurisdiction will only be applied where there is justification for this, having regard to considerations of international law, comity and practice. Moreover, where an offence is alleged to have been committed wholly in a foreign country by a person who is not an Australian citizen, consent to a prosecution by the Attorney-General will be required.

The proposed Bill is not only needed - it is essential for the proper administration of the government of the Commonwealth.

I am also pleased to note that by enacting this Bill the Government will implement a significant segment of the Model Criminal Code which has been developed by State, Territory and Commonwealth officials over the past decade. The proposed offences will eventually dovetail with equivalent offences at the State and Territory level when other jurisdictions implement the model.

I wish to give credit to Mr Justice Rod Howie QC of the Supreme Court of New South Wales who has chaired the Model Criminal Code Officers Committee for most of its existence, Dr David Neal who was the main author of the Theft, Fraud and Bribery Chapter of the Model Criminal Code, the late Mr Andrew Menzies AM OBE (who was also a member of the Gibbs Committee) and other representatives on the Committee who have been participants in what has been a most exciting and ambitious criminal law reform project which is now recognised for its work throughout the common law world.

Also deserving congratulations is the House of Representatives Standing Committee on Legal and Constitutional Affairs, which under the Chairmanship of the Member for Menzies, Mr Kevin Andrews MP, reviewed the Bill and tabled an advisory report on 26 June 2000 containing a number of important recommendations taken up by the Government in the House of Representatives. These include the preparation of draft prosecution guidelines concerning charging under the proposed general dishonesty offence (section 135.1); the repeal of the proposed organised fraud offence (section 135.3); provision for a defence to the proposed false or misleading information offence where the reasonable steps have not been taken to advise the defendant of the existence of the offence (proposed section 137.1); adding the fault element of dishonesty to the proposed offence of giving information derived from false or misleading documents (proposed section 145.5); and improving the proposed burglary offence to ensure that it is not effectively restricted to those who burgle Commonwealth buildings with the aim of specifically stealing Commonwealth property (section 132.4). The Government has also agreed to amendments proposed by the Opposition in the House of Representatives which provide clarification that the proposed impersonation offence does not extend to conduct engaged in solely for satirical purposes (sections 148.1 and 148.2). These were all sensible proposals which reflect well on those who proposed them.

This Bill is proof that the Federal system can work well when expert resources across the country, and not just those of the Commonwealth, can be applied to work for the improvement of laws that are important to all Australians.

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.

TELECOMMUNICATIONS (CONSUMER PROTECTION AND SERVICE STANDARDS) AMENDMENT BILL (No. 2) 2000

TELECOMMUNICATIONS (UNIVERSAL SERVICE LEVY) AMENDMENT BILL 2000

Second Reading

Debate resumed.

The ACTING DEPUTY PRESIDENT (Senator Knowles)—The question is that the amendment moved by Senator Bishop be agreed to.

Senator MARK BISHOP (Western Australia) (4.30 p.m.)—Before calling a division, I wonder if the Democrats might give an indication of how they will be voting. It might save some time.

Senator Allison—I thought I had already indicated that we will not support the opposition amendment.

The ACTING DEPUTY PRESIDENT—Senator Bishop, do you wish to proceed with the division?

Senator MARK BISHOP—No.

Amendment not agreed to.

Original question resolved in the affirmative.
Bills read a second time.

In Committee

TELECOMMUNICATIONS (CONSUMER PROTECTION AND SERVICE STANDARDS) AMENDMENT BILL (No. 2) 2000

The bill.

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (4.31 p.m.)—I table a supplementary explanatory memorandum relating to the government amendments to be moved to this bill. The memorandum was circulated on 27 October.

Senator MARK BISHOP (Western Australia) (4.32 p.m.)—Madam Chairman, can I make a procedural suggestion to the government. Government amendments Nos 1 and 2 and opposition amendments Nos 1 and 2 go to similar matters. I think it is fair to say that opposition amendments Nos 1 and 2 are more wide-ranging and far reaching than government amendments Nos 1 and 2. It might be better when we have the debate and the amendments are put that opposition amendments Nos 1 and 2 be put prior to government amendments Nos 1 and 2, because if the opposition amendments get up it will be an indicator to the chamber as to how to proceed on the outstanding matter. I seek leave to move opposition amendments Nos 1 and 2 together first.

Leave granted.

Senator MARK BISHOP—I move:

(1) Schedule 1, item 1, page 22 (line 27), omit “The Minister”, substitute “Subject to subsections (4) and (5), the Minister”.

(2) Schedule 1, item 1, page 23 (after line 2), at the end of section 11C, add:

(4) After making the first 2 determinations under subsections (1), the Minister may not make a further determination unless the Minister has received a comprehensive report, following a public inquiry by the ACA, on whether a net public benefit has accrued from the operation, for a period of not less than 12 months, of the standard contestability arrangements set out in Division 6 in each of the areas covered by the first 2 determinations.

(5) The Minister must cause a copy of any report received under subsection (4) to be tabled in each House of the Parliament within 10 sitting days of that House after the Minister receives the report.

Opposition amendments Nos 1 and 2 implement recommendation No. 2 of the Labor senators’ report on the bill. They require the minister to obtain and table a report from the ACA on whether a net public benefit has accrued from the operation for a period of not less than 12 months of the USO contestability arrangements in the two trial areas.

Speaking in a little bit more detail, these amendments to the Telecommunications (Consumer Protection and Service Standards) Amendment Bill (No. 2) 2000 provide for a public and independent review of the two trials of competitive tendering of the universal service obligation. The amendments require the review to report to parliament before further USO contestability decisions are considered. The government’s political agenda behind the bill necessitates these amendments. The government is continuing to push for the full privatisation of Telstra and, understandably, faces considerable opposition from regional and remote Australians. Full privatisation will inevitably result in a decline in services to rural and regional areas, and this is why the government is now seeking to portray competitive tendering of the USO as the solution to these declining services. Competitive tendering, the opposition believes, is being used in this way as an argument for full privatisation.

The government has admitted the limited scope of its policy for competitive tendering of the USO by requiring Telstra to remain as the primary universal service provider or carrier of last resort in the two pilot project areas. Labor acknowledges that contestability in provision of the USO may provide better service to customers in USO areas and reduce the USO levy. However, Labor also recognises that contestability may not have this outcome. The government is venturing into unknown territory, and it is therefore critical that the results of the two trials are thoroughly and properly evaluated before
further moves towards USO contestability are contemplated.

These amendments address Labor’s concern that the government will not properly analyse the results of the trials prior to implementing full—or at least further—contestability. It is vital that this evaluation review and report on the pilot projects takes place and that Australians living in rural and remote Australia do not end up with reduced or inadequate telecommunications services. As Telstra noted in its submission to the inquiry into this bill, it is a matter of public policy due diligence to ensure that a reasonable assessment of the contestability pilots is required by the legislation ahead of the concept being extended beyond the pilot areas. Telstra advocated that the results of the experiment be assessed rigorously and transparently. These amendments require thorough analysis of the results of the pilot programs, with transparency in this analysis to be achieved by requiring the independent and public review to report to the parliament.

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (4.35 p.m.)—I would like to put the government’s view on these amendments because, as Senator Bishop said when he was giving us some procedural assistance, the amendments are in conflict in some respects, and I think if the parties can put their positions on the record then we can take the votes. The issues in relation to this matter are very much that the government does not want to be restricted as to the extension of the contestability pilots. As I understand it, the opposition amendments would require that we are not allowed to even review until 12 months. We do not disagree that there should be a review, but we do not think it is good practice to determine the shape of that review in legislation. We also believe strongly that it would be silly to restrict the government, or any future government, from the extension of the contestability pilot areas for that period.

I say that for the reason—and it is potentially something that is not before the opposition or even the Democrat senators—that there are communities on the edges of the pilot zones. I will give you some examples. In Queensland you find that there is a boundary between the districts of Warwick, Tenterfield and Stanthorpe, and many people from Stanthorpe have made it very clear that they would like to be in the pilot zone. Similarly a range of communities on the northern boundary of the pilot zone—known as the Greater Green Triangle—have vigorously lobbied the government, both before and after the announcement of the location of the boundaries, to be included in the pilot area. This is very much a community where people have got themselves across these issues and got themselves an understanding of what we are doing. I have to say that they certainly need to do some research because this is not the sort of policy that gets onto the front page of the local newspaper. Research is very important in these areas, as I think most of us would know. They are very keen to have contestability pilots already.

I suggest to all honourable senators that if—after six months, nine months or some other period—it became quite clear that there were a community benefit, the government would want to instigate a review against many of the tests that Senator Bishop has laid out before us and, subject to the outcome of that review, announce further pilots or further extensions. I think it would be unfair to say to the consumers in those adjoining areas, and in fact to consumers in other parts of Australia, who saw benefit both to the consumers within the area and the nation and, most importantly, to extending the benefits of information technology and telecommunications progress through this sort of scheme. ‘Sorry, the parliament said that you cannot even cause a review to be conducted until after 12 months.’ And then of course the review would take time after that, and then further time.

Can I suggest to the Senate that the extension of the pilots is already a disallowable instrument. I think that is the appropriate process. If the parliament in its wisdom decides that the pilots are not working very well, it can disallow them—it has the power to stop them without having to be locked in by legislation that limits when you can expand them. All of us could look at these pro-
grams and see them as a great success, but the Australian Labor Party, who said that we should wait for 12 months, may decide that they made a mistake. None of us can tell how successful these programs are going to be.

Can I also say that we on the government side do not see the contestability pilots or the extended zone tender as a panacea for regional telecommunications; we never have. I think our political opponents from time to time have said that this is the government’s only solution. I think that is not a fair reflection of what the government have been doing. In fact the government have invested more money in regional telecommunications in the past 18 months than any government in the history of Australia. A recent research project which I undertook has shown that, outside the government’s own expenditure in this area, through the Networking the Nation program and a whole range of other programs the telecommunications industry as a whole will be investing somewhere in the vicinity of $3.5 billion in regional and remote Australia in just the next 12 months.

The spend across Australia will be in excess of $10 billion and the spend in regional and remote Australia will be in excess of $3 billion in the next 12 months. This is a massive investment coming into regional and remote areas because of a whole range of policy decisions that have been taken and of course because of changing technology. So we do not see this relatively small pilot, quite frankly, as being the only solution. It is part of a whole range of solutions the government are putting in place to ensure that people who live a long way from metropolitan areas, a long way from a telephone exchange, can get the benefit of improved telecommunications technologies as soon as they possibly can. We would like them to get the best technology faster than anyone else in the world and we also want to ensure that they get it at very reasonable, sensible and affordable prices. We believe this is just one part of that policy.

I would not like, in a period of technological change within an industry where that change is taking place at a faster rate than in almost any other industry on the globe and when you are talking about the roll-out of people’s access to the Internet—particularly with the launch just a couple of days ago by the minister of a wireless local loop trial on King Island, where, with just that one technology, you are going to have massive potential to get high bandwidth to people who live a long way from an exchange—to limit the potential to see these technologies rolled out by a one-year moratorium, effectively, on further expansion of these pilots. When people talk in Internet years, limiting the application of these technologies by a year really does not make a lot of sense. The Senate and the House of Representatives already have the power, if we are not happy as parliamentarians with any further expansion of the pilots, to say they should stop—we can disallow that instrument anyway. So the power is there. To give an arbitrary moratorium on expansion of the pilots was, I think, unnecessary.

The government are happy to have a review take place. We of course, for very sensible political reasons, will want to expand the pilots only if they are incredibly successful. We like the idea of being well regarded in the regions and we like the idea of giving access to telecommunications at higher speeds and better quality at lower prices to people in regional and remote Australia. We see this as a way of delivering that. But we will be hoping, as will all honourable senators, that this gets implemented successfully and in a manner that sees the benefits roll out quickly. We would love to see expansion of it if it is a success. But if it is not a success, then clearly for our own political reasons we will need to reassess and readjust it and apply it successfully.

Senator ALLISON (Victoria) (4.44 p.m.)—I indicate to the government that the Democrats do support the ALP amendments. We think they are superior to the government amendments. Senator Campbell did mention this question of flexibility and somebody just across the boundary being interested in having the same opportunity. But I think, on reflection, that a 12-month period is not a long time in which to assess whether these pilots are working. So, on balance, there are other aspects of the ALP amendments that we fa-
We think that a 12-month period is probably about right. You might be able to pull it back to nine months, but I think a 12-month time frame is about the minimum that you would be looking for in order to make a reasonable assessment of whether the pilot was working or not. I would argue that just because someone across the boundary thinks that might be a nice idea, at the extremities of their own US0 region it may be quite a different story. We think it is important not to have a knee-jerk reaction, if you like, to these pilots and to just assume that they will be suitable without that time frame in which to properly consider them.

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (4.45 p.m.)—I will not prolong the debate because the decision has been made, and I do not have the numbers here, but if the Democrats are genuinely attracted to nine months then that would be less objectionable to the government. It is easy to say that a year is not very long, but in this age of rapid roll-out of technology, a year is an eternity. It is an enormous amount of time. I am not just talking about people across the fence or across the boundary. There will be people out there, if these things are successful, who will see new technologies, new pricing structures and new products come into the towns near them, and they will say, ‘Why can’t we have it?’ I am the one who is going to have to go around and explain that the parliament has passed this moratorium on the expansion of telephony into regional areas, even though it is a raging success, and that, ‘Sorry, but you will have to wait for 18 months.’ Nine months is much better than 12 months. The government will ultimately have to make a decision in the other place as to whether we can proceed on the basis of having a moratorium on the expansion of telecommunications services into the bush, and wise heads will prevail on that, but I would imagine that nine months will be far less objectionable to the government than 12 months.

Senator Allison—Would the ALP be amenable to that notion?

Senator Mark Bishop—At this stage, the opposition will remain with its initial position and is not at this stage attracted to the suggestions made by the government.

Amendments agreed to.

Senator MARK BISHOP (Western Australia) (4.47 p.m.)—I move:

(3) Schedule 1, item 1, page 24 (lines 2 to 27), omit section 12A, substitute:

12A Primary universal service providers

The primary universal service provider is Telstra.

The argument is the same. I support opposition amendment (3) for the same reasons as outlined earlier in relation to opposition amendments (1) and (2).

Senator ALLISON (Victoria) (4.49 p.m.)—This amendment, together with amendments (4), (5) and (6), will be opposed by the Democrats. These amendments have the effect of removing the minister’s ability to declare someone other than Telstra to be the primary universal service provider. In its current form the bill permits the minister to declare a carrier other than Telstra to be the primary universal service provider. That determination by the minister is disallowable. The Democrats are happy to give this flexibility to the government subject to the parliament’s power to disallow a decision. This is not a power that we envisage would be used at any time in the near future. However, if at some stage it appears that a non-Telstra carrier has become the dominant carrier in a region and that carrier has the capacity to take on the role of provider of last resort, then we think there will be a case for that carrier to bear the responsibility of the primary universal service provider.

Question put:

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

The committee divided. [4.56 p.m.]

(The Chairman—Senator S.M. West)

Ayes ..........  26
Noes ..........  40
Majority ......  14

AYES
Senator MARK BISHOP (Western Australia) (4.59 p.m.)—We oppose schedule 1, item 1, in the following terms:

(4) Schedule 1, item 1, page 24 (line 28) to page 25 (line 10), on section 12B, TO BE OPPOSED.

(5) Schedule 1, item 1, page 26 (lines 6 to 23), section 12D, TO BE OPPOSED.

(6) Schedule 1, item 1, page 26 (line 24) to page 28 (line 17), section 12E, TO BE OPPOSED.

These amendments go to the effect of determination in section 12B, transitional arrangements in 12D and the Telstra agreements in 12E. Amendment (6) implements recommendation No. 4 of the Labor senators’ report on the bill. The amendment opposes the proposed section 12E of the bill, ensuring that Telstra continues to be the primary universal service provider even if an arrangement is entered into with a carrier other than Telstra under sections 56 or 57 of the Telstra Corporation Act 1991. The proposed $150 million untimed local call tender is such a proposed arrangement, the government will argue.

It should be noted that the increased costs of the universal service subsidy will be met through the universal service levy which is paid for by the industry and not government. Even with the proposed changes to the collection of the universal service levy, Telstra will continue to pay more than 80 per cent of any increased costs. If Telstra does not win the proposed tender, only Labor’s amendment will ensure that people living in the extended outer zones will have a choice of universal service provider. If Telstra does not win the proposed tender, Labor’s amendment will provide people living in the extended outer zones with a carrier of last resort should the successful tenderer for any reason fail to carry out its responsibilities. The government’s model for the $150 million tender to provide local call access in the extended outer zones is inconsistent with the model being trialled in the two USO contestability trials, both of which require Telstra to remain as the primary universal service provider. The government has not yet explained why this inconsistency should exist, and Labor’s amendment is likely to increase the commercial attractiveness of the tender because, if a carrier other than Telstra wins the tender, the $150 million subsidy will not necessarily require it to service all 40,000 customers in the outer extended zone. This will lead to cost savings in implementing the tender requirements.

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (5.02 p.m.)—For the record, the government is strongly opposed to these proposals. I think any objective analysis of the proposals would show that what Labor is suggesting here would lead to increased costs for regional and rural users and duplication of infrastructure across...
some of the toughest and most remote telecommunications service zones on the globe. We are talking about 40,000-odd people, give or take a few services, across 80 per cent of the Australian landmass, and what Labor is proposing here is effectively that, in the event that Telstra does not win the tender, there would have to be a duplication of infrastructure. You could say that the carriers would carry the additional cost of this, as Senator Bishop has led us to believe, but of course the USO is funded by only one source, and that source is the very consumers who pay the telephone bill. So it is very much a tax on consumers, and it would have to significantly increase the cost of calls.

This government is very much about improving the quality of service, the speed of connections, the speed of access and the access speeds themselves, and it is about reducing the costs. This provision would achieve quite the opposite of that. I encourage anyone who seeks to look inside the Labor Party’s mind on telecommunications issues and see how muddle-headed they are to look very closely at this proposal because it really is a silly one. The Australian Labor Party should spend some time on a telecommunications policy. What they are really saying is, ‘We’ll have a tender out there. We’ll spend $150 million but, if someone else wins it, we’ll force Telstra to stay there anyway.’ It is an absurd proposition. People out there in the regions understand that it is absurd. You will not find a single member of any of the rural based organisations, let alone a member of any of the executives, who thinks this is anything other than stupid. People have theories as to why Labor are coming up with this stupidity. I hope the mainstream press and commentators of Australia look clearly at this proposal and seek to find what is inside the Australian Labor Party’s head, because there is not much when it comes to this.

Senator ALLISON (Victoria) (5.05 p.m.)—The Democrats will not be supporting the ALP’s amendments for the reasons that Senator Ian Campbell has already expressed, but I think it would be useful to have a response from the government about what they think will happen in the event that a carrier does, for one reason or another, fail to honour its contract to provide services. I think we all agree that it would be an unnecessary duplication to have two lots of service providers in the same area where these services are extremely expensive. We understand why the ALP has put this up. It is reasonable to ask the government what, in their view, would happen in those circumstances.

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (5.06 p.m.)—The process is designed very much to ensure that that will not occur. The alternative is to say that this may occur and therefore we cannot do it, which I presume is what the Australian Labor Party and some of their supporters would have you believe, that something might fail, therefore do not change the system that has been in place. We accept the loud chorus coming from regional and remote Australia that change is necessary. We need to move to a situation where the government puts up $150 million to help the infrastructure costs and then designs a process to ensure that the best bids come forward—it from Telstra or from one of the other half dozen or so tenderers who can demonstrate that they can provide the best services. To demonstrate through a tender process that they have the financial capacity and the practical capacity to deliver over the term of the contract with strict contractual obligations is the best way to determine that. Of course those obligations are quite onerous, as the honourable senator would understand.

Question put:
That schedule 1, item 1, sections 12B, 12D and 12E stand as printed.

(The Chairman—Senator S.M. West) Ay es………… 39
Noes………… 26
Majority…… 13

AYES
Abetz, E. Allison, L.F.
Bartlett, A.J.J. Boswell, R.L.D.
I move government amendment No. 4:

(4) Schedule 1, item 1, page 28 (after line 17), at the end of Subdivision B of Division 5, add:

12EA Exclusive access to universal service subsidy

(1) If a person is a primary universal service provider for a universal service area in respect of a service obligation because of subsection 12E(2):

(a) the Minister must not determine any other person to be a primary universal service provider; and

(b) the ACA must not approve any other person as a competing universal service provider;

for that area in respect of that service obligation.

(2) Subsection (1) applies while the agreement referred to in subsection 12E(2) remains in force in relation to that area but no longer than 3 years after the commencement date for the area.

(3) This section applies despite anything else in this Part.

This amendment puts into law the requirement that the winner of the untimed local call tender will have exclusive access to universal service subsidies for a period of three years.

Senator MARK BISHOP (Western Australia) (5.15 p.m.)—I will address government amendment No. 4 and also comment on opposition amendments Nos 8 to 10 and 12 to 16 because the issues are similar. Government amendment No. 4 ensures that whichever carrier wins the $150 million local call access tender will be the sole universal service provider in the affected area. Opposition amendments Nos 8 to 10 and 13 to 15 implement recommendation 6 of the Labor senators’ report on the bill. The amendments require a universal service provider to consult on marketing plans when an ATS is materially different from an ATS that was approved previously. It is obviously a consumer protection issue.

The bill provides that a competing or primary universal service provider will be able to supply alternative telecommunications services in fulfilment of the universal service obligation. To do so, the provider must submit a marketing plan for the service to the Australian Communications Authority for approval. The bill provides that primary and competing universal service providers may be required to consult publicly on their marketing plans, but it contains no guidance to the ACA as to the circumstances under which this consultation should occur. This amendment seeks to clarify the provision in the bill so that a primary or competing universal service provider is required to consult publicly on initial and subsequent marketing plans when an alternative telecommunic-
tions service is materially different from an alternative telecommunications service that has been previously approved. Opposition amendments Nos 8 to 10 and 12 to 16 go somewhat further than government amendment No. 4. However, if opposition amendments Nos 8 to 10 and 12 to 16 are defeated, we will support government amendment No. 4.

Senator ALLISON (Victoria) (5.17 p.m.)—The Australian Democrats also support this amendment, which will give the successful bidder for the $150 million tender in the outer extended zones exclusivity of service provision in those areas for a maximum of three years. Whilst it may seem a little ironic that, on the one hand, this bill deals with opening up USO areas to contestability and in fact gives a single carrier the exclusive right to provide USO services for up to three years, we acknowledge the unique circumstances of the 40,000 consumers who reside in the outer extended zones. Providing three years of exclusivity for universal service provision will make those 40,000 customers a more attractive proposition for the carriers considering tendering and will hopefully result in a better offer to those customers.

Amendment agreed to.

Senator MARK BISHOP (Western Australia) (5.17 p.m.)—by leave—I move opposition amendments Nos 8, 9 and 10 and Nos 12 to 16: (8) Schedule 1, item 1, page 34 (line 12), omit “may be”. (9) Schedule 1, item 1, page 34 (line 15), omit “may”, substitute “must”. (10) Schedule 1, item 1, page 34 (after line 23), at the end of section 12S, add: (2) Subsection (1) applies only if a draft ATS marketing plan is materially different from an ATS marketing plan previously approved by the ACA.

(12) Schedule 1, item 1, page 35 (line 14), at the end of subsection 12T(2), add: ; and (g) the requirements of section 12S have been met.

(13) Schedule 1, item 1, page 48 (line 19), omit “may be”. (14) Schedule 1, item 1, page 48 (line 22), omit “may”, substitute “must”. (15) Schedule 1, item 1, page 48 (after line 30), at the end of section 13P, add: (2) Subsection (1) applies only if a draft ATS marketing plan is materially different from an ATS marketing plan previously approved by the ACA.

(16) Schedule 1, item 1, page 49 (line 28), at the end of subsection (2), add: ; and (g) the requirements of section 13P have been met.

Senator ALLISON (Victoria) (5.17 p.m.)—The Democrats will support opposition amendments Nos 8, 9 and 10 and Nos 12 to 16. They have the effect of requiring the ACA to conduct a process of consultation before approving a draft ATS marketing plan. The Democrats rarely oppose an amendment that will result in public consultation, and we see no substantial reason to diverge from that philosophy in respect of these amendments.

Amendments agreed to.

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (5.19 p.m.)—by leave—I move government amendments Nos 5 and 6: (5) Schedule 1, item 1, page 35 (after line 10), after paragraph (e), insert: (ea) the draft includes a requirement that, before supplying a person with alternative telecommunications services, the provider make available to the person information about the substantive differences between: (i) what is to be supplied under the draft in fulfilment of the service obligation concerned, so far as it relates to the area concerned; and (ii) what would be supplied under the provider’s draft standard marketing plan or approved standard marketing plan in fulfilment of the same service obligation, so far as it relates to the same area; and (6) Schedule 1, item 1, page 49 (after line 20), after paragraph (e), insert: (ea) the draft includes a requirement that, before supplying a person with alternative telecommunications services, the provider make available to
the person information about the substantive differences between:

(i) what is to be supplied under the draft in fulfilment of the service obligation concerned, so far as it relates to the area concerned; and

(ii) what would be supplied under the approved standard marketing plan of the relevant primary universal service provider in fulfilment of the same service obligation, so far as it relates to the same area; and

These amendments are basically designed to ensure that there is further information available about what are known in the business as ATSSs but known to us mere mortals as ‘alternative telecommunications services’. The Australian Communications Authority is unlikely to approve a plan that does not require the provider to supply adequate information to customers, including how the service compares with the standard service offered in fulfilment of the universal service obligation. Nevertheless, as the Senate considers it appropriate, the government has prepared some amendments to ensure that, in considering an alternative telecommunications service marketing plan of either a primary universal service provider or a competing universal service provider, the ACA must be satisfied that the draft includes the following requirement: before supplying a person with a service, the ATS provider must make available to that person information about the substantive differences between the ATS and the standard telephone service.

Senator ALLISON (Victoria) (5.21 p.m.)—by leave—I indicate our support for the government amendments, but I move Democrats amendments Nos 1 to 4, which will amend them:

(1) Paragraph 12T(2)(ea), omit “supplying”, substitute “entering into an agreement to supply”.
(2) Paragraph 12T(2)(ea), omit “make available”, substitute “must give”.
(3) Paragraph 13Q(2)(ea), omit “supplying”, substitute “entering into an agreement to supply”.
(4) Paragraph 13Q(2)(ea), omit “make available”, substitute “must give”.

These government amendments have the effect of requiring a service provider to highlight how the service it is offering differs from the standard telephone service. This is an issue that I raised in my minority report to the Senate committee’s inquiry into the bill, and I am happy to see this amendment before us. What my amendments do is have the effect of requiring the provider to give the information to the customer rather than merely making the information available. That is a more onerous obligation, but it will mean that the customer will have the information in his or her hands before he or she agrees to take up the new service.

Senator MARK BISHOP (Western Australia) (5.22 p.m.)—The opposition is prepared to support Democrat amendments Nos 1 to 4 on sheet 1979, as discussed by Senator Allison. Accordingly, the opposition will not have to move its amendments Nos 11 and 17.

The TEMPORARY CHAIRMAN (Senator Sherry)—The question is that Democrat amendments Nos 1 to 4 be agreed to.

Question resolved in the affirmative.

The TEMPORARY CHAIRMAN—The question now is that government amendments Nos 5 and 6, as amended, be agreed to.

Question resolved in the affirmative.

Senator MARK BISHOP (Western Australia) (5.23 p.m.)—I move opposition amendment No. 7 on sheet 1964:

(7) Schedule 1, item 1, page 63 (after line 15), at the end of section 16, add:

(7) The subsidy to be determined by the Minister under subsection (1) for the provision of an alternative telecommunications service in accordance with a plan approved by the ACA under section 12T or 13Q, or such a plan as varied under section 12W or 13T, must, where that service is of a lesser quality than the service that a primary universal service provider is obliged to provide under section 12C, be proportionately less than the subsidy otherwise determined by the Minister to be payable.

This amendment implements recommendation No. 7 of the Labor senators’ report on...
the bill. The amendment ensures that competing universal service providers generate their returns by providing an STS or an ATS efficiently rather than by merely deriving their profit from the differential in cost between the STS and the ATS of a lower standard. This amendment provides that the level of the USO subsidy received by a primary or competing universal service provider be proportionately lower if the standard of service provided under an alternative telecommunications service, or ATS, is lower than the standard of service available under the standard telephone service, or STS. The bill requires primary universal service providers to provide the standard telephone service. However, competing universal service providers are not required to offer the standard telephone service but may do so if they so desire. Both primary and competing universal service providers may offer an alternative telecommunications service, or ATS, in fulfilment of the USO, subject to approval by the Australian Communications Authority. The provision of an ATS could cost less than the provision of an STS but would attract the same level of subsidy. This breaches the principle of competitive neutrality.

Telstra proposed in its submission to the Senate committee inquiry that the level of subsidy be reduced in proportion to the degree to which an ATS falls below the standard of the STS. The opposition agrees that this would reduce the obvious market incentive for primary and competing universal service providers to push customers to accept an ATS of a lower standard than the STS as a means of generating profit. Instead, this amendment would encourage providers to devise means of delivering the STS or an ATS in a more efficient way rather than use the subsidy to achieve profits from lower levels of service.

Senator ALLISON (Victoria) (5.25 p.m.)—The Democrats will oppose this opposition amendment. The effect of the amendment would be to reduce the subsidy payable to a provider in respect of the provision of a budgeted price service. The Democrats have at least two significant problems with this amendment. The first problem is a practical one. It would be incredibly difficult, we think, for the ACA to give effect to this amendment. The amendment talks about the reduction in the subsidy being proportional to the lesser quality of service. Just how someone would determine that you were being provided with a service that is, say, 80 per cent or 60 per cent of the standard telephone service is difficult to imagine.

Putting aside that practical issue, the second concern we have is that one of the benefits of providers being able to offer alternative telecommunications services is that they can offer budget priced services. If the subsidy that the provider receives remains constant, the price for the service to the consumer will be lower and that will reflect the lower level of service. If the subsidy is necessarily reduced, in accordance with the ALP amendment, the price for that lower service will not fall to reflect the lower level of service, because the customer will need to contribute more because of the lower subsidy.

It is true that the amendment might result in a slight lowering of the overall cost of the USO but, in our view, it would not result in any benefit and is likely to act to the detriment of individual consumers. For that reason, the Democrats will not be supporting this amendment.

Amendment not agreed to.

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (5.27 p.m.)—I move government amendment No. 7:

(7) Schedule 2, page 98 (after line 23), after item 6, insert:

6A ACA advice under section 16A

If, before 31 December 2000, the ACA has given an advice relating to universal service subsidies to the Minister, the advice is taken to have been given to the Minister in accordance with section 16A.

We regard this as a transitional issue. It requires the minister to obtain advice from the ACA before making a USO subsidy determination. Proposed section 16A, as amended
by the House of Representatives, requires the minister to seek the advice of the ACA before determining or varying USO subsidies. On 11 April this year, the minister asked the ACA to provide advice on appropriate USO subsidies for 2001-02 and 2002-03, with a view to expediting the government’s USO reforms. The minister recently received the ACA’s advice and released it for public comment on 5 October. Further advice pursuant to the request was expected in November; if it has not arrived by now, we would certainly hope to receive it in the next few days. Having already sought the ACA’s advice, it would be unnecessary and administratively wasteful to seek the ACA’s advice a second time. Accordingly, this amendment addresses this by providing that, if before 31 December this year the ACA has given advice relating to the USO subsidies, the advice will be taken to have been given to the minister in accordance with this section.

Senator MARK BISHOP (Western Australia) (5.29 p.m.)—This is a technical amendment relating to the date of advice to be received from the ACA in determining universal service subsidies, as outlined by the parliamentary secretary. The opposition supports the amendment.

Amendment agreed to.

Senator ALLISON (Victoria) (5.29 p.m.)—by leave—I move Democrats amendments (1) and (2) on sheet 1980 together:

(1) Schedule 3, item 15, page 107 (after line 26), after subsection (1), insert:

(1A) The review must include an opportunity for the public to make written submissions.

(2) Schedule 3, item 15, page 107 (after line 31), after paragraph (b), insert:

(ba) whether the contestability regime, and the ability of providers to offer alternative telecommunications services, has resulted in an improvement in technologies and services available to people in rural and remote Australia compared with what is on offer to people in metropolitan Australia; and

The first amendment relates to the review that is to be conducted of the operation of parts 2 and 5 of the Telecommunications (Consumer Protection and Service Standards) Act 1999. Parts 2 and 5 are the parts dealing with the universal service obligation and the customer service guarantee. Our first amendment is a simple one. It requires that the review include an opportunity for the public to make written submissions. As for amendment No. 2, under this bill in its current form the review must consider the operation of parts 2 and 5 and whether those parts best promote the object of the act. In addition to those two matters, we would like to see the review specifically consider whether the contestability regime and the ability to offer alternative telecommunications services have resulted in an improvement in technologies and services available to people in rural and remote Australia. I mentioned this issue briefly in my speech in the second reading debate. We think the review should look at what people in rural and remote Australia are being offered and what people in metropolitan Australia are being offered and consider whether the USO regime is helping to reduce the gap between the two.

Amendments agreed to.

Bill, as amended, agreed to.

TELECOMMUNICATIONS (UNIVERSAL SERVICE LEVY) AMENDMENT BILL 2000

Bill—by leave—taken as a whole, and agreed to.

Telecommunications (Consumer Protection and Service Standards) Amendment Bill (No. 2) 2000 reported with amendments; Telecommunications (Universal Service Levy) Amendment Bill 2000 reported without requests; report adopted.

Third Reading

Bills (on motion by Senator Ian Campbell) read a third time.

HIGHER EDUCATION FUNDING AMENDMENT BILL (No. 1) 2000

In Committee

Consideration resumed from 11 October.

The bill.

(Quorum formed)
Senator CARR (Victoria) (5.36 p.m.)—
The Higher Education Funding Amendment Bill (No. 1) 2000, which is before us and which I spoke to in the second reading debate, goes to the issues concerning financial assistance payable to universities for 2002; makes a number of commitments with regard to price movements; seeks to provide for funding for various scholarships, research infrastructure, equipment, facilities and strategic partnerships with industry; and makes a number of other technical changes. The Senate considered a second reading amendment, which was in fact carried, which pointed out some of the concerns that the opposition has with the bill. In the committee stage of this bill, I have a few questions I would like to ask the minister with regard to clarification.

I would particularly like to turn to the issue of the Australian National University. The minister would be aware that I am a member of the council at the ANU as a nominee of the parliament. The issue of the Noel Butlin Archives Centre was canvassed at the last meeting and the matters that related to the university administration’s attempts to reduce the level of access to the Noel Butlin Archives Centre have concerned a very large number of people across this country. This is because the Noel Butlin Archives Centre is a national asset of enormous value insofar as it is an archive of the records of a very large number of Australian companies and workers’ organisations. It provides quite an extraordinary, rich tapestry of Australia’s economic life from both a union and a business perspective. It is of profound significance to this country and it is a body of records which is all the more valuable because many of the organisations that provided those records are no longer in existence.

I am particularly concerned about the national role of the National University. The minister would be aware that I am a member of the council at the ANU as a nominee of the parliament. The issue of the Noel Butlin Archives Centre was canvassed at the last meeting and the matters that related to the university administration’s attempts to reduce the level of access to the Noel Butlin Archives Centre have concerned a very large number of people across this country. This is because the Noel Butlin Archives Centre is a national asset of enormous value insofar as it is an archive of the records of a very large number of Australian companies and workers’ organisations. It provides quite an extraordinary, rich tapestry of Australia’s economic life from both a union and a business perspective. It is of profound significance to this country and it is a body of records which is all the more valuable because many of the organisations that provided those records are no longer in existence.

I would ask, Minister: is it the case that this parliament currently appropriates some $155 million to the ANU for these particular functions? Minister, are you aware of the vice-chancellor’s Plan for growth, which recently attracted some media attention and which is a document that proposes—among other things—that the Commonwealth government ‘provides a block grant to us’ to support the particular statutory functions of the university? The vice-chancellor goes on in this report to say:

Our future growth is linked to how well we take up this challenge of directing our research and postgraduate training and teaching to subjects of national importance, and how seriously we take our national role.

I would ask the minister whether he is aware of the claim that is being made by the Vice-Chancellor of the ANU, who states:

... our only true difference from other universities looking to attract the same student base and the same research dollars, is the statutory charter we have to play this national role in research and postgraduate teaching.

That distinguishes the ANU from any other university insofar as this block grant is provided. Is the minister aware that the university claims to provide national leadership in teaching, postgraduate training and research? The report states:

... we define what it is that we offer that other institutions do not. We are, as a national academic institution, central to the understanding of Australia’s place in a new globalised, technological, economic, political and cultural world.

I further ask the minister whether he is aware of the vice-chancellor’s claim that:

A vital key to success in pursuing our national role is how well we engage with the broad community, and how openly and truly we acknowledge that our national role, and the nation’s investment in us amounts to our being, to all intents and purposes, publicly owned.

If that is the case, is the minister aware that there is a shortfall—according to the ANU management—of $150,000 and that this is the cause for them to restrict access to the Noel Butlin Archives Centre to the level that they are proposing? Minister, in a budget of $155 million that this parliament appropriates to the ANU, do you think it is reasonable that $150,000 extra be found for the Noel Butlin Archives Centre?
Senator ELLISON (Western Australia—Special Minister of State) (5.41 p.m.)—Senator Carr has raised an issue which I am not actually aware of. The advisers have just arrived and I will take that question on notice.

Senator Carr—Do you want to do it all again?

Senator ELLISON—It might be handy!

The TEMPORARY CHAIRMAN (Senator Sherry)—Standing orders: no tedious repetition, Senator Carr!

Senator ELLISON—Senator Carr has touched on research and development in higher education. From 1996-97 to 1998-99, the expenditure on R&D in higher education rose from $2.3 billion to $2.6 billion in current prices. The expenditure on R&D in higher education in 1998-99 accounted for 29 per cent of Australia’s growth expenditure on research and development compared with 26 per cent in the previous year, 1996-97. This demonstrates the government is committed to supporting Australia’s higher education research effort. But I have taken up the particular question Senator Carr asked with the department, and we will have to take that on notice. Senator Carr, through the chair, I will endeavour to get that information to you as soon as I can.

Senator CARR (Victoria) (5.43 p.m.)—Can you confirm that the block grant to the ANU from the Commonwealth parliament is $155 million? Are you able to provide that advice?

Senator ELLISON (Western Australia—Special Minister of State) (5.43 p.m.)—I cannot be specific on that, but I understand it is in that vicinity.

Senator CARR (Victoria) (5.43 p.m.)—I am asking specifically whether or not the case has been put by the university for additional moneys to meet its statutory functions. I raise this because in the Plan for growth the vice-chancellor places a great deal of emphasis on the unique roles of the university. The document says:

"We provide national leadership in teaching, postgraduate training and research and in that role we define what it is that we offer that other institutions do not."

A legitimate claim may well be made that that is the purpose of the ANU. I think it plays a very valuable role in this country’s academic and cultural life. But, equally, if it is the case that these functions ought to be undertaken, have you had any representations from the ANU that its statutory functions—one of which it says is ‘encouraging and providing facilities for research and postgraduate study both generally and in re-
lation to subjects of national importance to Australia”—are not being met and that additional moneys are required so that it can fulfil these particular functions?

Senator ELLISON (Western Australia—Special Minister of State) (5.47 p.m.)—I am not aware of any approach from the university in relation to that extra funding that Senator Carr talks about, and the officials here are of the same view. Therefore, I will have to take that on notice.

Senator CARR (Victoria) (5.47 p.m.)—The question of the funding of universities is obviously a matter that attracts considerable public discussion and debate. I wonder whether or not the minister is aware of a report in the Sydney Morning Herald on 24 August this year which draws attention to the fact that a number of the commercial arms of publicly funded universities have made losses of millions of dollars over the last few years. I wonder if the minister is aware that Unisearch Ltd, which is a wholly owned company of the University of New South Wales, received a loan of $10 million from the university last year in order to keep afloat.

Senator ELLISON (Western Australia—Special Minister of State) (5.48 p.m.)—I am not aware of the article mentioned by Senator Carr. I am also not aware of the last issue that Senator Carr mentioned and will have to take that on notice. But I will seek instructions generally as to the commercial arms of universities.

Opposition senators interjecting—

The TEMPORARY CHAIRMAN (Senator Sherry)—Order! You have not prepared anything. There is a lot of discussion going on.

Senator ELLISON—Senator Carr was asking questions about matters that are germane to the running of universities themselves and how they administer the commercial arms of those universities. Really, it is a matter for those universities. One of the officials here from the department is aware of the article. It is a question of the universities having to work within those frameworks. The government believes that this is something which goes to the autonomy of the university concerned; it is their affair.

Senator CARR (Victoria) (5.50 p.m.)—On that point, Minister, this is a funding bill for universities. I think it is well within the province of the chamber to consider the funding policies of the government in regard to universities. I asked a question that specifically related to the University of New South Wales and a $10 million loss which appeared to have developed at that particular university. Minister, are you aware that four of the six so-called sandstone universities that have private commercial arms have had serious financial troubles? Given that these are publicly funded institutions being bailed out with public money, surely this is a matter of direct interest to this chamber and to this government. Are you able to give an assurance, Minister, that there are no public moneys involved in the bailout of any of these so-called sandstone universities with private arms, four of which are reported to have had serious financial trouble over the last year or so?

Senator ELLISON (Western Australia—Special Minister of State) (5.51 p.m.)—We have been through this before with Senator Carr at estimates. We as a government have to be very careful about what we say about the financial plight or otherwise of universities because there is an aspect of commerciality there. I think the funding has to be looked at in the light that, excluding HECS, 50 per cent of funding is government and 50 per cent is not. If we were to say, ‘Here is funding and it has strings attached,’ I dare say the opposition and in particular Senator Carr would be the first ones to jump up and down and say, ‘The government should not be limiting the autonomy of universities in this way.’

I think the very question that Senator Carr asked about the ANU goes towards that question of autonomy—that is, that the ANU has its own council and charter and within that it makes its own decisions. If the government were to try to impose its will one way or another on the ANU, I am sure Senator Carr would be very upset. Similarly, with these universities here the government is not going to comment one way or another
publicly about the financial aspects or details of a university. I think people have to remember that the universities have a degree of autonomy whereby they have private funding available; it is not total government funding. Therefore, it would be unreasonable for the government to just march in and tell the universities how to run their own affairs, and I am sure they would be the first to complain if we did.

Senator CARR (Victoria) (5.53 p.m.)—The issue at stake here is the question of the nature of government policy and whether or not universities are obliged to follow these particularly destructive policies in the operations of these commercial arms. Minister, I understand your point about the need for commercial confidentiality, but I am asking you a question about the expenditure of public moneys, and I have asked you a specific question as to whether or not you can assure this chamber that no public moneys have been used to bail out any of these private arms. While you are seeking advice I ask you whether or not the fact that there have been so many reports of failure in the financial operations of these commercial arms is of itself a commentary upon the failure of government policy in higher education.

What troubles me is whether or not the approach that is being taken here by this government in imposing a series of quite severe—in fact, draconian—cuts on universities means that many of our universities have, using their ‘autonomy’, as you put it, sought to come to terms with these cuts by embarking on what would now appear on the surface to be a prima facie case of some rather dodgy and questionable commercial ventures, all in the name of financial autonomy. The other concern I have, Minister, is whether government policy is encouraging universities to take this action and to seek through these private arms vehicles by which they can avoid public scrutiny. But the situation now is that, if a series of university administrations are seeking to privatisate their profits but to socialise their losses, there is quite clearly an issue for this parliament. So I ask you again, Minister: are you able to advise me as to whether or not any public moneys have gone to any of these commercial arms which have faced serious financial difficulties over the last two years?

Senator ELLISON (Western Australia—Special Minister of State) (5.55 p.m.)—The funding I have mentioned does not go to those commercial arms. It is not funding which is earmarked or specified for those commercial arms. I reiterate that total university revenues are at an all-time record—I think just a tad over $9 billion. The government’s funding, including HECS, makes up $6 billion of this, which relies on some $3 billion coming from other sources. That money is essential for the growth of the tertiary education sector. The government encourages the private sector to become involved in research and development and other aspects of university endeavour, but the funding that is put in by government is not funding which goes to prop up some commercial arm of the university; it goes to university funding. In addition to that, universities have their commercial arms.

So, Minister, I can take it from that that no public moneys have gone to these private arms? Is that the assurance that you are prepared to give the chamber at the moment?

Senator ELLISON (Western Australia—Special Minister of State) (5.57 p.m.)—On the advice I have, and to the best of my knowledge, that is the case.

Senator CARR (Victoria) (5.56 p.m.)—I appreciate your answer, Minister. A Senate inquiry is about to commence hearings on these particular matters. I look forward to testing your assurances against the evidence that comes forward, and I thank you very much for your time.

Bill agreed to.

Bill reported without amendment; report adopted.

Third Reading

Bill (on motion by Senator Ellison) read a third time.
SOCIAL SECURITY AND VETERANS' ENTITLEMENTS LEGISLATION AMENDMENT (PRIVATE TRUSTS AND PRIVATE COMPANIES—INTEGRITY OF MEANS TESTING) BILL 2000

Second Reading

Debate resumed from 3 October, on motion by Senator Patterson:

That this bill be now read a second time.

Senator BARTLETT (Queensland) (5.59 p.m.)—The Social Security and Veterans' Entitlements Legislation Amendment (Private Trusts and Private Companies—Integrity of Means Testing) Bill 2000, as its title implies, relates to the means testing of private trusts and private companies in relation to social security and veterans' entitlements. This issue goes to what has become a fundamental component of our social security system—that is, means testing arrangements, particularly assets tests in relation to this issue.

Certainly there has been a growth in recent times in the use of trusts and other mechanisms to hide assets and to distort income—but particularly in relation to assets—and that can give a distorted outcome in terms of the intent of the Social Security Act, which is structured now so that only people who come underneath certain assets tests are entitled to payments. It is reasonably clear that a number of people are using trusts and other arrangements to create an incorrect impression of their assets and thus gain entitlements that they might otherwise not be able to gain. There are similar issues in relation to the taxation system, which obviously are not dealt with in this legislation. These have also been the subject of some debate through the political and policy process in recent years, and this is also an area where some action is pending.

The Democrats support the thrust and the intent of what the government is doing here. It clearly is aimed at saving a significant amount of money over a period of time. That is something that is always a bonus. Whenever we are amending social security legislation it is always a concern of the Democrats, as I think I have said many times before in this place, to look at whether or not people’s entitlements and assistance are being taken away. Clearly this is a bill that seeks to take away some people’s entitlement and access to social security payments. That is normally a cause for concern for the Democrats, because we are always concerned about people who are not well off having their entitlements further reduced. However, in this case we are talking about people who are reasonably well off in terms of assets and, given the nature of our social security system, it is appropriate that people who are well off in terms of assets should have those assets taken into account in determining their social security entitlement.

The thrust of this legislation is something the Democrats are supportive of. I am not sure whether or not the opposition have any amendments. I have not seen any circulated in relation to this, but if there are any then I am sure they will be explained and elaborated on clearly and cogently by the opposition, and we will consider any arguments they put forward at that time. But at this stage, in the second reading debate on this bill, I think it is appropriate to indicate the Democrats’ support for the thrust of the legislation.

This is not legislation about which we have received particularly significant concerns from the community. Certainly in social security areas I try to as much as possible ensure that I consult with members of the community and people who are potentially affected to make sure that they are aware of the changes and to identify any potential concerns. These proposed changes were flagged by the government some time back, so people have already had some notice about the desirability of them restructuring their affairs or identifying what the potential impact on them is going to be. If this legislation is passed there will be some time still before the measures come into effect. This obviously will provide people with more time again to assess whether or not they will be affected by these changes.

There are some specific arrangements in relation to farmers and farming families, recognising the special nature of that type of activity and the relationship that trusts have in terms of the normal operations of farms.
This bill aims to identify people who are artificially structuring their affairs through the use of trusts and other mechanisms to create a false impression of their assets—to deflate the amount of their assets—for social security purposes, and that intent is one the Democrats share. As I said, any amendments that may be put forward we are willing to consider when we get to the committee stage of the debate, but at this point in time I think it is appropriate to indicate our support for the intent, the thrust and content of the legislation as it stands. Certainly at this second reading stage the Democrats indicate our support for this legislation.

Senator CHRIS EVANS (Western Australia) (6.04 p.m.)—I rise to speak on the Social Security and Veterans’ Entitlements Legislation Amendment (Private Trusts and Private Companies—Integrity of Means Testing) Bill 2000, a complex title if ever there was one. This bill aims to tighten the treatment of assets and income held by social security and veterans affairs recipients through their involvement in private trusts and private companies. Labor, like the Democrats, will be supporting the bill, but we will be seeking to move an amendment to address what we see as an overly long implementation period.

The bill serves to demonstrate the now familiar double standards that the coalition applies to different sections of our community. The government can never move quickly enough when it comes to imposing penalties on ordinary families struggling to get ahead. It can never move quickly enough when it comes to breaching unemployed persons doing their level best to clear even higher hurdles; yet when it comes to addressing the ability of wealthy individuals to draw on social security benefits the government seems rather more sluggish, and that is the central concern we have with this bill. Our primary concern is the lengthy delay before the means testing provisions contained in the bill will come into force. For Labor, 2002 seems to be Sunday too far away. We were bemused and concerned that, in the second reading debate in the House of Representatives, the Minister for Community Services said:

The measure was announced on budget night, so individuals and financial advisers will have sufficient time to acquaint themselves with the content and operation of the legislation prior to the commencement of the measure on 1 January 2002.

This statement serves to invite those under scrutiny to rearrange their affairs before the new rules commence. We accept that there needed to be some warning for people to take into consideration those changes in legislation, but these people will continue to collect social security benefits while they restructure their affairs. If the restructuring is successful, they will be able to receive benefits ad infinitum. It seems to me that this is an overly generous approach by the government and one, as I say, not provided to other persons in the social security area.

Broadly speaking, the bill aims to ensure that customers who hold their assets in private companies or private trusts receive comparable treatment under the means test to those customers who hold their assets directly. Existing provisions in the Social Security Act provide for income and assets held in a trust or private company to be attributed to an individual but only when transparent arrangements exist. As noted in the minister’s discussion paper released in November last year, trust structures have developed considerably since the original asset testing provisions were introduced in the mid-1980s. Since this time some have sought to use increasingly complex structures to hide income and assets that would otherwise be attributed to them. Under this bill the assets and income of the structure will be attributed to the person or persons who control the company or trust or to the person or persons who were the source of the capital or corpus of the company or trust.

The opposition support moves to act on wealthy individuals who seek to rort the system—individuals with the means to circumvent the income and assets test which will apply to other social security applicants who cannot conceal their assets in a web of remote trusts or companies. Australians need to feel confident that the social security safety net which they value and fund is used to support only those in genuine need. It is pleasing to see the government making some
moves to achieve that end. It seems the coalition has travelled a long way since 1984 in its bitter opposition to the introduction of the assets test by the Hawke government. As my colleague Wayne Swan pointed out in the other place, the coalition so opposed the assets test legislation at that time that it moved a private member’s bill in March 1985 to abolish it completely. That does give us some cause for concern about the government’s commitment and sincerity on some of these issues.

As I have indicated, our major concern is that the bill, as it is drafted, will give wealthy individuals a break from accountability by failing to implement the means testing provisions until the start of 2002. A second fatal flaw is restricting the application of the source test to contributions made after the budget night this year. The purpose of the source test—one of the two major tests designed to give effect to the provisions of the bill—is to determine the original contributor to assets held in trust. Once again I think the timing provisions serve to undermine the government’s rationale for introducing legislation to treat individuals in like circumstances equally. By applying the source test to post-budget contributions only, individuals will be treated differently depending on whether their assets were diverted into trusts or companies before or after the Treasurer’s budget night address. This strikes me as having no foundation in logic or good public policy. I would be interested in hearing from the minister why that is occurring and what the thinking behind it was.

Labor is far from convinced that the government are serious about tackling inequities in the application of income and asset tests. One of the most damaging legacies of four years of a coalition government has been their determination to brand all social security recipients as rorters, bludgers or welfare cheats—this is their language, not mine. On previous occasions when Labor has made this claim the minister has dismissed its validity; yet the minister is part of this government and the cabinet has carefully crafted the rort card as a key coalition campaign theme.

During the last election voters received a letter from the Prime Minister with an attachment headed ‘250,000 welfare cheats caught’. It is disingenuous to argue that the minister would not have been party to such a release or would not have been fully aware that more than 240,000 of these individuals were not welfare cheats but persons who had debts raised against them due to Centrelink payment errors. If the minister and the government were honest, I think they would acknowledge that few people rort the system. Only 0.1 per cent of those audited are convicted. This rate has barely budged from the levels recorded under the former Labor government in the early nineties. Indeed it was Labor who implemented most of the compliance activities that the current government pursues.

Given the focus of this debate I think it is timely to draw on the Commonwealth Ombudsman’s latest annual report. The Ombudsman states that, while there is much rhetoric in the media about overpayments resulting from welfare fraud, the majority of complaints they receive about overpayments are from:

... customers who have done their best to comply with their obligations to report earnings or who find they have been overpaid through no fault of their own.

The Ombudsman continues:

On investigation we often find that in these cases the error has resulted from Centrelink’s computer programming or from the complex legislative design of the payments themselves.

The FACS annual report provides further evidence of the government’s policy priorities and administrative errors. Since 1997-98 the number of breach penalties applied by Centrelink has increased by 175 per cent. However, of the 474,000 breaches imposed on job seekers last financial year, 172,000 were overturned on appeal. Nearly 40 per cent of all breaches applied by Centrelink are now overturned following investigation.

While the exposure of the baseless nature of the government’s claims is to be welcomed, the coalition is not easily deterred. I understand the 2000-01 budget has allocated in excess of $8 million for an advertising blitz on welfare fraud. Undoubtedly we will see the products of this expenditure in the next
election campaign, just as we saw it in the last.

The government’s campaign against low income individuals and families stands in sharp contrast to their preparedness to watch the grass grow when it comes to cracking down on wealthy individuals milking the system. I think this approach is offensive in its intent and, as I say, Labor is most concerned. In order to plug the apparent loopholes Labor will be seeking to bring forward the means testing provisions from 1 January 2002 to 1 March 2001. By doing so, we hope to stop the rot that the Minister for Community Services alluded to in his second reading speech. We do not wish to invite those operating trusts and private companies, armed with a bevy of accountants, lawyers and financial planners, to examine the legislation detail and rearrange their affairs to undermine its intent. As I say, I am also interested to hear the minister’s explanation of the rules regarding the source test and why it will apply only to those who have dispersed assets into trusts and companies after 9 May this year.

But, as I say, our major concern with the bill is the commencement date. We have not been convinced by the government’s rationale as to why we have an excessive delay in implementing the tightening of the system for those who have been using private trusts and private companies to increase their access to social security benefits to which ordinarily they would not be entitled. Labor are keen to bring that tightening measure forward. As I say, we support the thrust of the measure, but we see no reason why the delay should be so lengthy as to not see this being implemented, following the budget decision, until at least the start of 2000.

Senator Newman (Tasmania—Minister for Family and Community Services and Minister Assisting the Prime Minister for the Status of Women) (6.14 p.m.)—I thank senators for their contribution to the debate. I look forward to the committee stage.

Question resolved in the affirmative.

Bill read a second time.

In Committee

The bill.
vice I have received, would convince anybody that it is not practicable. I notice that in the other place Mr Swan asked why these measures cannot take effect immediately, with debt recovery action initiated on all benefits paid from now and not from January 2002, as soon as the full details of a trust or company arrangement are exposed, and that the opposition would consider amending this ‘deliberate loophole’. There is no such thing as a deliberate loophole on this matter. If that is the thinking of the opposition, then it is very ill-informed. I will try to spell out some of the reasons why I say that.

In his concluding remarks, Senator Evans referred to the long lead time already. It is perfectly true that there has been a long lead time. This has been on the public agenda, certainly, for a long time. A big consultative process went around Australia with a discussion paper a long time before the government worked on the fine detail of how such a proposition could be put into effect. It is important to understand that the department and Centrelink could not presume passage through the parliament until such time as that had actually taken effect. Senator Evans, I will give you an opportunity to have a chat if you like. I will sit down until you are ready.

Senator Chris Evans—I am sorry if the minister feels distracted, but it is not uncommon for people to seek advice while others are speaking in the chamber. Unless we are going to apply new rules, I suggest she just get on with it.

Senator Newman—Madam Temporary Chair, I am not at all distracted. My only concern was that Senator Evans, for the opposition, was distracted when I was trying to explain to him why this was not a sensible move from the opposition. I think it is important that he understand. No action could be taken on assessing people’s circumstances now for a variety of reasons, one of which was that the legislation is not yet passed. Secondly, once it is passed, it will take a long time to implement because many of these people are those whom Centrelink has no records or few records for. It has not been against the law to have your assets in trusts or companies for social security means test purposes. If you are going to change the social security legislation to see to it that these assets are taken into account, it is a very major exercise. We are talking about something like 100,000 people. Many of these people have established these structures for reasons other than the social security means test and certainly not necessarily for social security means test avoidance. Therefore, it was considered fair to them to allow them a reasonable length of time after the passage of the legislation to consider the implications of the legislation for them.

People could then decide if it was appropriate for them to rearrange their affairs; for example, if they needed to close down the structure and reinvest in higher earning investments to provide for their own retirement, to hand over actual control to younger members in the family, to call in outstanding loans to the family, and so on. The time allowed is not about giving people an opportunity to develop other schemes or to rort the system. It will take considerable time to review the circumstances of some 100,000 customers. It means allowing accountants time to review their clients’ holdings, which are not necessarily, as I said, known by Centrelink. It involves making the necessary system changes, which will be a big exercise. It will mean recruiting and training more than 300 specialist staff. It will mean educating the financial industry. Overall, Centrelink will require most of the coming calendar year to ensure that, on 1 January 2002, all those customers with affecting interests in private trusts and private companies are reassessed from the same date.

If you were to do otherwise, it would be totally unfair. You would have some people who, by the date of start-up, as proposed by the opposition, would be caught in the new system and some people whose assets had not yet been disclosed to Centrelink and who had no ability to do so in the time available would be treated differently. If people in the same financial circumstances are treated differently, that can be the grossest form of inequity for a means tested social security system. I cannot believe that the opposition would intend that to be a consequence of their amendments. I urge you to reconsider. Mr Swan said that, if the government cannot
provide a credible explanation, the opposition would consider amending the legislation. That is why I was so keen, Senator Evans, to have you here. I believe I have given you a credible explanation of why that long lead time is necessary, and it is certainly important for providing equity for people in similar circumstances.

I hope that Senator Bartlett in his office has been able to hear some of the explanation, because I cannot believe that, in such a major change being implemented by this legislation, all parties in this chamber would not want to see a fair thing done by the people who currently are not breaking any law. They have their assets in trusts and companies. They may have advertisements directed to them in the financial industry to be a millionaire and still have a pension. None of us, I think, would endorse those sorts of advertisements; they are not in the national interest; they are not fair to other people who are funding the social security system. But, nevertheless, people need a reasonable time to arrange their future finances. They may, for instance, to put some of their assets into some of the income streams that were recognised in the social security system a year or so ago to encourage people to provide better for their own long-term retirement.

So, to be consistent, we would give them the opportunity to change some of their investments, if that is what they wish to do, or to have them recognise that they will no longer be eligible for social security and that they therefore should look to maximise their own income in retirement. These are all things that are fair to the people concerned. We certainly do not want to treat one group of them differently from another by not being able to get the assessments done in the time that is going to be necessary. It is also unfair to those in Centrelink and to those people who will have to be recruited and trained in order to get them to a level of expertise where they can do the job properly and not make inaccurate decisions which would lead to appeals and further complications. It is just not reasonable to expect that this can be done in the time frame provided for in the opposition’s amendments. I have explained probably as much as necessary and I think repeated myself once or twice. The government just simply could not accept these amendments on the basis that they are not practicable for introducing what will be for some people and for Centrelink a very substantial change.

Senator BARTLETT (Queensland) (6.27 p.m.)—In relation to the amendments moved by the opposition, on behalf of the Democrats I am quite willing to consider any amendments put forward and to listen to the arguments, both in favour and against, that are put forward in the chamber. I do not have a predetermined position on these particular amendments. I apologise for being briefly not here when they were first moved. I was in a whips meeting, trying to assist in organising the running of this place, which is always an interesting task. The argument, as I understand from the opposition, is basically that the five months for implementation would be an adequate time frame and lead time to bring in this measure and to enable the savings that are accompanying this measure to kick in earlier. Obviously the minister is indicating that a significant amount of information needs to be collected and needs to be reviewed.

My understanding is that at least 90,000— it may well be more—Centrelink customers have some active involvement in private companies or trusts and all of their records will need to be examined in detail to apply the control and source test that exists under the Social Security and Veterans’ Entitlements Legislation Amendment (Private Trusts and Private Companies—Integrity of Means Testing) Bill 2000. I also understand that Centrelink presently does not hold sufficient details to enable a quick assessment, and therefore the major data collection of at least 90,000, and possibly more, people is required by the department in that context. It obviously sounds like a major operation, and, given the other stresses and strains that Centrelink staff and the public servants involved are already under in terms of their workload, I think that is something that needs to be taken into account. The burden on staff implementing measures whether or
not they personally support them is something that needs to be acknowledged.

It is a difficult task. There are many and frequent changes that happen to social security entitlements, as we in this place probably know more than anybody else, having to debate them so frequently. Staff need as much assistance and time as possible to get their own heads around those changes, let alone to get all the information available to make those determinations in relation to any changes. There are savings, as I understand it, of up to $146 million per annum once this measure comes fully into force in a few years time. That is of significant value, and we need to make sure that we get all of those evaluations in place.

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

Senator BARTLETT—Before we were interrupted by dinner, I was elaborating on the Democrats’ view on the amendments moved by the opposition. As I think I indicated in my speech during the second reading debate, we did not have a specified view on the amendments before they were moved and we were quite willing to listen to the arguments put forward by both the opposition and the coalition in relation to the matter at hand, which is basically when this measure will come into force. I think all of us support the thrust and the intent of the measure; it is simply a matter of how soon it should come in. That is basically the amendments we are talking about.

It is probably worth re-emphasising that what we are talking about particularly will be the impact in terms of people’s assets tests. The assets test cut-out points—that is, where people have no pension or allowance payable—are $264,000 for a single home owner and almost $360,000 for a single non-home owner. They are reasonably significant amounts of money in terms of an asset. Obviously, once people’s assets drop below that level, they become entitled to some pension or allowance. The aim of the bill—which, as I have said, the Democrats support—is to ensure that people who structure their arrangements in a way which uses private trusts and companies are not able to avoid the intent of that limit. There are many valid reasons for the use of private trusts and companies. A discretionary trust can distribute income to those most in need. A private company can limit the liabilities of businesses. The use of these mechanisms has often been driven by tax minimisation and access to social security benefits. It is those sorts of things that this legislation seeks to prevent—that is, an inappropriate use of trusts and private companies.

The amendments before us seek to bring in these measures earlier than the government intends. As I was saying before we were interrupted by the dinner break, the argument put forward by the opposition is that, if this is such a good measure and is going to save us lots of money, we should start it reasonably soon. The government’s position is that, before we bring the measure into play, a lot of information needs to be collected and analysed and people’s entitlements need to be assessed in what can be a fairly complicated area. It is probably worth emphasising that most of the comments made by senators, including me, have been in terms of the savings available from this measure and the overall intent of ensuring that people’s proper assets are recognised and that they are not getting payments they are not entitled to. There are likely to be some people, although not a large number, who will benefit from this measure—those people who currently have money loaned to a trust which is equated as an asset. Once this measure is implemented, if a person is designated as a controller of that trust, any liabilities of a trust or company can be offset against its asset value. So you cannot loan money to yourself, in effect. Therefore, you will be measuring your net assets only and you will be better off. Whilst the measure overall will mean that a significant number of people—it is estimated it will affect about 35,000 people to the tune of $146 million in dollar terms—will lose all or part of their allowance or benefits, a potentially much smaller number of people will be better off. That is probably sightly to one side of the amendments at hand, but I think it is appropriate to mention it in the context of the discussion.
I think the valid political point behind the opposition’s amendments is that many times in this place we have seen the government attempt to put forward measures to eliminate anomalies, to create consistency across the board, et cetera, which have the effect of taking entitlements away from people who are not particularly well off. Those sorts of measures tend to be brought in incredibly quickly. We have quite frequently been forced to very quickly debate and vote on social security and other measures that are meant to come in in the next few weeks and months. I think that is a valid point to make, and I have made it myself many times. Measures come in, people may lose entitlements and they have little time to adjust. We should consider whether we need a better lead-in time.

Going back to the point I was making before the dinner break, this impacts on the public servants themselves in that they need enough time to become aware of the nature of these measures, to be able to explain them to people at the counter or over the phone—which is very important—and to be able to implement them. They need time to get their heads around them. They need time to process them. They need time for the customers to get a full understanding of what is going to happen to them. That is an important principle. In that sense, I think a fair point to make is that, with measures where people’s entitlements are being potentially reduced when they are not necessarily seen as well off, whether it is through assets or income, we tend to always be in a situation where we are trying to rush them through very quickly. Yet in this situation, where it is a measure obviously aimed at targeting people who have a lot of assets and who have just structured their affairs in a particular way, we are giving them quite a long lead time. It is a fair political point to make that there seems to be a discrepancy. The difficulty I have is translating a quite reasonable political point into a legislative change which will force this measure to be implemented reasonably quickly when it is a major measure gathering all that information, when a large number of people are going to be affected and when, even if it does involve people who have a significant amount of assets, they are still people who have budgets and they are still people who have to structure their affairs in terms of how much income they get. When you are going to change people’s income, it is desirable to do it in a measured way and with as long enough lead time as possible.

In that context, the message I would like to give to the government is that we should take the same principle on board when we look at changing people’s entitlements in other areas of social security legislation. People’s income may change for good reasons, or for good policy reasons. Nonetheless, their income will change and it may drop. Give them time to adjust. Give them time to restructure their affairs. Give them time to be aware that it is even going to happen. All of us know how difficult it is to make people aware of change, to let people know what is happening, to get ready for it, to realise it, to acknowledge it. I think it is appropriate to give people a long lead time. Having complained about not giving people long enough lead times in the past, it would be perhaps a bit churlish to restrict people’s lead time in this context. For that reason, I am strongly persuaded to back the government’s position in this area. But it is a reasonable principle to make. I hope, in supporting the principle the minister stated tonight before the dinner break—that we need more time, that the department needs more time, that the people who are affected need more time to be aware of it—that that will be extended to other cases and other circumstances where the same thing happens. I make that particular plea to the minister and the government for future reference in relation to these sorts of changes.

Having said all that, I am willing to listen to the arguments put forward. Perhaps Senator Evans, on behalf of the opposition, can come up with the incisive comment that will slice through everything I have said for the last 10 minutes, in which case I will listen to that. Unless he does so, I am strongly minded to support the government on this occasion.

Senator CHRIS EVANS (Western Australia) (7.39 p.m.)—What a challenge, to draw Senator Bartlett back from the precipice and reform him! Maybe I should take
him back to the debate on CDEP and Aboriginal women who were affected by the government demonising them by calling them double dippers and ensuring that their payments were brought down to the lowest common denominator because it was unfair that they were getting a slight advantage over some other Newstart recipients by getting about $40 a week more and how atrocious, unfair and inappropriate it was for them to be treated in that way and how they had to be brought to heel and sent back to the field immediately. We had to pass that legislation urgently so that those people who were living on a pittance in remote Aboriginal communities, with no prospect of employment in any mainstream full-time jobs, were impacted. I do not think they got the benefit of almost two years notice, a consultative process, a discussion about their needs, time for them to discuss with their accountants, lawyers and financial planners their needs as they tried to eke out an existence in remote Aboriginal communities. That is the point I make—the contrast in how we treat two different groups of people.

Senator Newman did not convince me that all that time was necessary. The opposition shares Senator Bartlett’s main point, which is that we ought to allow time for people to plan and respond to legislative changes. That is why we have suggested that, rather than arguing for the date of November 1999 when the government first flagged the move, rather than arguing for the date of May 2000 when the government announced the move, March next year is a reasonable proposition. It would then be almost a year since the government made the announcement, and it would have allowed people to respond to those social security changes. I think that is being overly generous and taking the point about notice and planning much further than is reasonable. I think this is a measure that would allow the Commonwealth to save some money which could be used for better social purposes—purposes that Senator Bartlett and I have argued for in the past in this chamber.

The other thing that really galls me is the difference in the use of language with these two different classifications of people. We have heard nothing about the bludging, the double dipping and the welfare frauds of this group of people. It has purely been about the need to provide them with time to educate themselves, to rearrange their affairs, to talk to their accountants et cetera. As I say, when you compare it with the language that the government used to demonise ordinary Australian men and women who may have run foul of some of the onerous Centrelink compliance regulations, it really is a very stark contrast.

I suspect I am not going to win over Senator Bartlett in the sense that I concede that we are making a political point: we are treating people quite differently in this piece of legislation from others and we do not think the government has made out the case why these people should be provided with that extra consideration. We support the principle that people should get notice. We support the principle that they should be allowed to rearrange their affairs and respond to changed legislative circumstances. But I think our amendments will give them more
than a fair opportunity to do that. Senator Bartlett, I think your hope that the government will allow the same extension of time to other social security recipients in future legislation is a naive and vain hope that you do not really hold.

Senator NEWMAN (Tasmania—Minister for Family and Community Services and Minister Assisting the Prime Minister for the Status of Women) (7.45 p.m.)—For the record, I do not think I have ever in my life talked about people bludging. I certainly did not refer to people on CDEP who were getting better treatment than the rest of the CDEP participants. I did say that they were double dipping, because that was what they were lawfully able to do. In this case, we are talking about people who are lawfully receiving assistance from the taxpayer that most of us obviously do not—

Senator Chris Evans—So did the CDEP people get it lawfully?

Senator NEWMAN—I said it was lawful; you did not listen.

The TEMPORARY CHAIRMAN (Senator George Campbell) —Order!

Senator Chris Evans interjecting—

The TEMPORARY CHAIRMAN—Order!

Senator NEWMAN—Please let me continue; I listened to you quietly. I point out to the chamber that this bill that Labor now support—and with which I think they are now playing rather hypocritical games—could have been introduced at any time during Labor’s 13 years in government. They should have done that but they did not, despite lobbying from the welfare sector to do something about people accessing social security through a defect in the means test. At any time in 13 years the previous government could have fixed the means test. Similarly, the Labor government had many years in which to do something about the inequitable treatment of people on CDEP as between various community members. That situation was quite unfair and was viewed as such by Aborigines in the community.

Moving briefly to the issue of lead time, when systems have to be introduced to implement changes to the social security system it usually means a long lead time. Regardless of whether one wants to introduce something quickly, it is usually very difficult to do that. If systems are introduced in a rush, we have problems with them—as we saw with some of the changes two years ago when the Newstart common platform, the Youth Allowance and the Job Network started at the same time, partly because of delays in the Senate. Surely no-one would want to revisit that time if we could avoid it.

Most people do not have very complicated financial arrangements—certainly not the usual customers of Centrelink. But the people involved in this case have complicated financial arrangements, which means that it will take skilled people some time to carry out assessments. When I spoke earlier in committee I said that we could not lawfully seek the information that we needed or take action under the more equitable means test in this bill unless the legislation was passed. Despite Senator Evans telling a long story about how people have had masses of notice, the fact is that there is a long lead time for not just introducing new systems but getting information. For example, I understand that more than 60,000 people will be assessed and will turn out not to be affected. They are not wealthy but they will have to provide their 1999-2000 tax returns before we can be sure of their situation. The 1999-2000 returns will not be available until at least March 2001. So we are constrained by some of these realities.

I also remind the chamber—I am now relying on my memory—that people had at least 12 months notification that Youth Allowance would be introduced and that parents would be means tested for their financially dependent children, up to the age of 21 if they were unemployed and up to the age of 25 if they were students. That was beneficial to some and it was difficult for others. But that change also had a long lead time. People had a lot of time to find out how they would be affected and no doubt some made arrangements as to their assets in that time. So there is nothing odd—in fact, there is a great deal of commonsense—in the fact that this introduction must take longer. I again point
out to the chamber: this could have been done 13 years before we came to government. These savings could have been found almost 20 years ago. These people who are well to do—

Senator Chris Evans—You were voting against the assets test at the time.

The TEMPORARY CHAIRMAN—Order! Senator Evans. Please continue, Minister.

Senator Chris Evans—Don’t lecture me about the assets test.

The TEMPORARY CHAIRMAN—Order!

Senator NEWMAN—At any time while Labor were in government they could have listened to the welfare sector and done something about the effect of the means test on people who have substantial income and assets. I find it extraordinary that Labor are now prepared to say that they support this change but want it introduced in a very short space of time. If they have any institutional knowledge or memory of their time in government they will know that it will take a long time.

Senator Chris Evans—we have the memory of your form: you go soft on your mates.

The TEMPORARY CHAIRMAN—Order!

Senator NEWMAN—It had to take a long time to introduce the Youth Allowance. When people do not have complicated financial arrangements implementation can occur more quickly. Nevertheless, there is still the constraint of new systems and of training people in the skills to deal with complicated financial arrangements.

Senator Chris Evans interjecting—

Senator NEWMAN—Senator Evans obviously did not listen when I said that the 1999-2000 returns will not be available until after March next year. For all those very good reasons, this measure—it is a savings measure and I would be very pleased if it could come in earlier—cannot be implemented earlier. I would bring it forward sooner if I could.

Senator BARTLETT (Queensland) (7.52 p.m.)—Having listened carefully to the arguments put forward by Senator Evans—and I congratulate him on his extremely good argument in relation to his amendments—I agree with almost everything he said, except in relation to the value of his amendments. My position is that, whilst I am not willing to support his amendments—and I am sure all my other eight Democrat colleagues will cast an informed conscience vote along the lines that I am suggesting—I do agree with a large amount of what he has said.

I think it is worth emphasising—far be it from me to defend the ALP—one point about the assets test. A lot of changes have been made since Labor first came to power in 1983, and I think a lot of changes have occurred in the area of the assets test itself—and I am not even saying whether that is a good or a bad thing. But we have had deeming, which I think the Democrats opposed at the time. There have been lots of other changes in terms of means testing overall—a huge number of changes. As with any area of law, this is an evolutionary thing. So I think to suggest that the ALP should have introduced this particular measure back in 1984 is slightly inaccurate. As I understand it, the use of trusts and such related measures has really only become popular in the last five or so years, so it was not really a problem that needed to be addressed. I am sure the reason why it has become more popular has been that, as things have got tighter and tighter in this area, people have looked for ways to get around it. This is an appropriate measure for now. As I said in my speech in the second reading debate, we support the principle and the intent of the government in taking this action. It may or may not have been appropriate five years ago, let alone 15 years ago. That is just to answer that particular point.

I note the minister’s comments in terms of lead time and being able to get enough information, and I do note that this particular measure is a bit different from others in some respects in that it is somewhat more complicated. The whole concept of attributable stakeholders, things being controlled and those sorts of things and who controls trusts is a bit more complicated than other areas.
From my personal experience, almost as long ago as when Labor came into power initially, I know that in some of those areas in the social security department, with people who are self-employed or who have other assets, it can get pretty messy. This area is a bit messy, so you do need to make sure that it is clearly done.

Obviously we want people to have an assessment that is made accurately and to not have inaccurate payments. That is another area I have spoken about in this place a number of times. People’s determinations can be calculated incorrectly and they can receive payments which they are entitled to, or they can even be paid too much and then have to pay it back, which can be highly inconvenient, or the reverse. We want to make sure that we get it right.

I think the specifics behind why the government believes these are not acceptable amendments are correct. It is a reasonably complicated measure. A lot of information needs to be collected. A number of Centrelink staff need to be trained and further skilled, in terms of how these things should be assessed, and the information itself needs to be collected. My understanding is—which may or may not be correct—that even the material in terms of sending out the forms is not fully finished yet. The forms are not all printed. One could, in that context, go back to Senator Evans’s quite reasonable point that oftentimes, when the Senate is considering changing a government proposal, we are told, ‘Well, all the information has already gone out, the forms are all printed. We’ve got everything, we’re ready to roll and, if you change this, it will stuff everything up.’

In this context, obviously the information has not gone out, the forms have not gone out and we are all waiting for the bill to come to pass. There may be reasons for that. I know that the minister put forward a reason for that—that we could not legally ask for some of this information. But it is quite a contrast in terms of the approach there. There may be some valid legal reasons for it but, again, I would emphasise the benefit of perhaps reconsidering the rush and some of these other changes. At the risk of being called naive by Senator Evans, and as I myself have said a number of times, I try to actually maintain a tiny bit of naivety, otherwise I will just become a hollow-shelled person with a little, shrunken, black, cold heart—which I would not suggest Senator Evans is either. But a little bit of naivety and a little bit of trust in human nature occasionally are worth trying to retain.

**Senator Chris Evans**—If you retain that, you should vote for the amendments.

**Senator BARTLETT**—If I retain some naivety, I should vote for your amendments. These are naive amendments that you are putting forward. I think they are well-argued amendments that Senator Evans has fought for quite cogently. Given the immense amount of other legislation we have to deal with before the end of the year, I will not go on any further. But, on balance, given the potential administrative problems with having to compress the time frame for dealing with this issue, the Democrats will not be supporting the opposition amendments on this occasion.

**Question put:**
That the amendments (Senator Chris Evans’s) be agreed to.

The committee divided. [8.02 p.m.]

(The Chairman—Senator S.M. West)

<table>
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<tr>
<th>Ayes</th>
<th>Noes</th>
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**AYES**

Bishop, T.M.  
Buckland, G.  
Carr, K.J.  
Conroy, S.M.  
Crossin, P.M.  
Denman, K.J  
Forshaw, M.G.  
Hogg, J.J.  
Ludwig, J.W.  
McKiernan, J.P.  
Murphy, S.M.  
Ray, R.F.  
West, S.M.  
Brown, B.J.  
Campbell, G.  
Collins, J.M.A.  
Cooney, B.C.  
Crowley, R.A.  
Evans, C.V.  
Gibbs, B.  
Hutchins, S.P.  
Mackay, S.M.  
McLucas, J.E.  
O’Brien, K.W.K.  
Sherry, N.J.

**NOES**

Abetz, E.  
Bartlett, A.J.J.  
Brandis, G.H.  
Allison, L.F.  
Bourne, V.W.  
Calvert, P.H.
Question so resolved in the negative.
Bill agreed to.

Bill reported without amendment; report adopted.

Third Reading
Bill (on motion by Senator Newman) read a third time.

HEALTH LEGISLATION AMENDMENT BILL (No. 4) 1999
HEALTH INSURANCE (APPROVED PATHOLOGY SPECIMEN COLLECTION CENTRES) Tax Bill 2000

Second Reading
Debate resumed from 9 May, on motion by Senator Ian Campbell:

That these bills be now read a second time.

Senator CHRIS EVANS (Western Australia) (8.06 p.m.)—The Health Legislation Amendment Bill (No. 4) 1999 contains a wide range of unrelated amendments to the one bill. The two main issues at stake are the repeal of the sunset clause on existing arrangements for graduate doctors to access Medicare provider numbers and the introduction of new arrangements for pathology specimen centres. Because the changes to the pathology collection arrangements require the introduction of a new fee that is a tax, there is an accompanying bill to implement the necessary financial measures. This second bill is the Health Insurance (Approved Pathology Specimen Collection Centres) Tax Bill 1999. There are various other changes that refine the definition of various matters in the Health Insurance Act to make enforcement more easily achievable and to bring the procedures for registering overseas doctors on permanent and temporary visas into line. These do not raise significant policy issues, and the opposition has no objection to these amendments. I will therefore confine my comments today to the opposition’s position on each of the major two issues.

Items 7 and 9 of this bill seek to remove the sunset clause in the Health Insurance Act 1973, which relates to the arrangements for issuing provider numbers to young doctors in training. The opposition does not support the early removal of this sunset clause. The young doctors affected by this policy object to both the thrust of the current arrangements and the way they were imposed in 1996. The opposition supports the board principle that graduate trainees should be in a different category to fully registered doctors who have completed their training. It is not appropriate for young doctors to have unrestricted Medicare provider numbers, as they are still going through paid training to acquire the full range of skills that they require as a specialist or as a general practitioner. The doctors in training that the opposition has consulted agree with this.

The sunset clause was inserted by the opposition and the Democrats in order to get the government to examine how well these arrangements were working. In addition, a report was required after three years to examine the impact of the new scheme. A review was undertaken by former Liberal New South Wales Minister for Health Ron Phillips and was tabled just before the deadline in December 1999. It made few clear-cut recommendations and referred all the critical issues off for further study. However, it did recommend the repeal of the sunset clause to give certainty to young doctors about the arrangements that will apply in future. The opposition does not support this recommendation and will be opposing the removal of the sunset clause for a number of reasons.
Firstly, there is no clear-cut evidence that the new arrangements are working. The maldistribution of doctors in rural Australia is as bad as it was in 1996. More than anything, rural Australians need the facts and some way to measure whether the government is living up to its rhetoric. The government has refused to provide the latest figures for full-time equivalent doctors in rural Australia. The minister has been using the figure of an increase of 11 per cent over four years for the total number of doctors billing Medicare from rural areas, but he has publicly acknowledged that these are misleading figures because they include a large number of temporary placements occurring for short periods. The only meaningful data is the number of full-time equivalent doctors practising in these areas, and this data should be tabled so that we can see what impact the government policies are having. In addition, the minister should reveal how much of the recent improvement has been because of the use of overseas temporary resident doctors to plug gaps. Rural Australia needs long-term solutions and, to date, we have only seen short-term stopgaps that have alienated young doctors and exacerbated the problem.

Secondly, the government has introduced a succession of changes, including those currently being discussed for bonded rural scholarships and the changes to GP training. Several key elements are still being negotiated behind closed doors. For more than a year, the government has been promising an overall strategy, which was being prepared by Dr John Best. Unfortunately, his report called *Rural stocktake* was unhelpful and failed to deliver any solutions, despite costing over $300,000. The government policy on training has lacked coherence and there has been instability caused by the succession of proposals to tackle the major issue of rural doctor shortages. This year’s budget measures, including a former bonded scholarship, have brought the government position closer to that of Labor.

There is no doubt that Australia needs to address the long-term imbalance in the distribution of doctors between urban and rural Australia. A solution depends on a well-thought-out strategy that starts with the recruitment of doctors into medical schools and goes right through to the allocation of resources for fully trained doctors. We cannot continue to rely on trainee doctors in their pre-vocational years and newly arrived overseas trained doctors as stopgaps without seeing a dramatic decline in the standard of rural health services. I think that most young doctors now accept that Australia will not go back to the days when graduates could get unrestricted provider numbers. What the junior doctors objected to, and what they still object to, is the artificially rigid rules that the government adopted back in 1996, which have given rise to various anomalies and problems for young doctors making decisions about which area of medicine they wish to practise in for the main part of their careers.

The government has not listened to the arguments that young doctors have put forward through their representatives in the AMA, the Association for Salaried Medical Officers and the Health and Research Employees Association. Perhaps if the minister were paying his own dues he might be listening more attentively. There is a huge problem with the medical work force, particularly for ensuring adequate numbers of doctors in rural areas and in some less popular specialities. The minister has made a series of adjustments on the run, changing the rules to use partially trained graduates to plug gaps.

The minister has also failed to provide any evidence at all for his claim that failure to remove this sunset clause will result in 150 young doctors deserting rural Australia almost overnight at a cost of $248 million. There is no sign at all that doctors training in the bush will march into the cities if the sunset clause remains. They are all currently occupying positions and working towards their career plans. The maintenance of the sunset clause gives them some hope that there will be a proper re-examination of the current arrangements by 2002. The sunset clause is in place now and, unless the government gets its way, it will be in place for the next 2½ years. There is no reason for any young doctor to change their plans. The claim that there is support for repeal of the sunset clause on the grounds it would pro-
vide certainty has been strongly rejected by the young doctors who point out the lack of justification for this conclusion in the Phillips report. Removing the sunset clause would create further uncertainty.

The final reason that Labor will not support the removal of the sunset clause is that the minister’s policies are just simply unsafe. Students are being sent to remote locations to practise far from support and supervision. One young doctor has spoken of being sent to a particular country town with a list of six phone numbers of doctors who might be able to help. It turned out that these doctors were often not available and the young doctor was very apprehensive about being confronted with the responsibility for a medical emergency which they were not yet ready to manage unassisted. Ron Phillips highlighted the contradiction in the minister’s position that trainee doctors are not suitable to be allowed to practise in a supervised situation as part of a GP practice yet they are suitable to be sent to remote places to work without supervision. For all these reasons, the opposition is firmly of the belief that the sunset clause should stay until stability has been given to the training program. The government needs to work through the agenda of grievances raised by the students, and it needs to learn how to listen if it is to have any more success with its rural health initiatives.

I now turn to the reforms proposed for the pathology collection centre arrangements. In the year to June 1999 there were some 55 million pathology services delivered at a cost of over $1 billion and 80 per cent of these services were bulk-billed. Generally the opposition supports these measures which have their roots in actions commenced in the early 1990s when Labor was in government. The objectives of the measures are to encourage more judicious use of pathology, to improve the quality of services and to improve communication. The industry has matured since its early days when sharp practices and overservicing were not uncommon. The industry has stabilised around the public sector laboratories in hospitals and the private sector providers who have coalesced into half a dozen major groups.

The two pathology funding agreements have added further stability to the environment with predictable budget outlays for government. There is a need to now focus on the quality of service delivery and education of doctors and pathology providers to ensure appropriate ordering and utilisation of services. I note that the government announced an initiative in this area as part of last year’s budget, but no progress has since been made. The pendulum has swung perhaps too far in favour of centralisation of the industry and there is a risk that standards will decline if there is not healthy competition in the private sector and if a strong public sector network of pathology laboratories is not maintained.

I note in this year’s budget that it is proposed to change the funding for urban public practices from the health program grants into the Medicare benefits schedule under the pathology agreement. The impact of this will need to be carefully considered. The specific effect of the changes in this bill will be to bring the system applying to approvals for licensing of public and private collection centres more into alignment. This will have some competitive neutrality advantages, but there are some issues concerning the impact of the arrangements on public pathology laboratories particularly in hospitals in regional centres. It is understood that a lot of behind the scenes discussions have been taking place about the allocations of quota between the public and the private sectors and that agreement has now been reached.

The minister should be careful that his boundless enthusiasm for the private sector does not blind him to the critical role that the public sector laboratories provide. The private sector has specialised in high volumes and a strong network of collection centres in urban Australia. The public sector undertakes many of the more specialised tests that are not profitable for the private sector to tackle. In fact there is a strong flow of samples collected in the private system being directed to public laboratories for specialised analysis. Importantly, the small public laboratories attached to many rural hospitals are the only service providers that exist in many areas. The private sector has been loath to replicate its collection network outside of
major cities despite the three-for-one collection centre incentive offered by the government.

The opposition will be moving two amendments to this bill in relation to the arrangements for pathology providers. The first major concern the opposition has is that the bill will threaten the viability of small pathology services in rural areas. Many of the rural parts of Australia are dependent on public hospital based services. Private pathology is dependent on samples being couriered to larger laboratories in metropolitan areas with a consequential loss of time and service delivery. I am very conscious of the Prime Minister’s declaration in Nyngan that his government had seen the red light flashing about the anger in rural Australia over the impact his government’s policies have had on rural areas. The message does not seem to have got through to the architects of this bill. If there is a red light flashing in the minister’s office, he is obviously not paying attention, because he has put no safeguards in this legislation to ensure that rural pathology collection centres are not lost. The opposition will be moving an amendment to require the reporting of the numbers of public and private collection centres for each major statistical division so that the community can see the impact of this legislation and whether it results in a further shrinking of public provision of pathology services and a loss of services in rural Australia.

The second major concern is that the proposed arrangements for the issuing of new licences are biased against new entrants and will further entrench the domination of the industry by a few larger players. The backbone of the industry will remain the large groups but it would be anticompetitive if the barriers to new entrants were allowed to remain as steep as they currently are. The second amendment to be moved by the opposition will simply require the minister to ensure that the approval principles will promote fair competition and the entry of new players. It is important that the minister sets the rules so that they do not squash competition and encourage further centralisation of this industry.

I recognise that there is a wider review under way at the moment looking at the legislation, but the government has been unable to provide a commitment that this will adequately deal with the application of the national competition policy to this sector. Originally the government said that this bill was urgent but it has taken more than six months to be brought on for debate. The opposition can have no confidence that the next stage of reform will be given any higher priority, and hence it would be wrong for this bill to proceed in its current—and, we believe, anticompetitive—form. I hope that the government recognises this weakness in its scheme and agrees to the opposition amendments. I look forward to that debate when we move to the committee stage.

Senator LEES (South Australia—Leader of the Australian Democrats) (8.20 p.m.)—I will start where Senator Chris Evans left off, looking at the sections of the health bills which deal with pathology. We do support the legislative framework for new arrangements under the Medicare benefits schedule for collection centres. In recent years, pathology services have become an increasingly large component of Medicare expenditure. In 1998-99 Medicare paid out over $1 billion in pathology benefits. This government and previous governments have been concerned for some time about the increase in the costs to the community of pathology services. Indeed, for almost 20 years governments have been attempting to introduce, through regulatory measures, various processes that would slow down the growth and the blow-out in the budget.

There is, unfortunately, potential in areas such as pathology for unscrupulous operators to take advantage of government subsidies and to overservice. I have been through, on a number of occasions, a very interesting exercise with the providers of pathology services who are very concerned about this trend. They described how they were able to chart government measures which slowed down the growth only to see it take off again before another measure slowed it down. This is something the previous Labor government was tackling and now this government is tackling. Of course the various claims that
have been made over the years about overservicing and kickbacks are unfortunately well known.

But this now has prompted the government to reach an agreement with the pathology profession to cap outlays on pathology services over the course of the three-year agreement. This agreement was very successful. In May 1999, the government and the pathology profession entered a second agreement, called the Pathology Quality and Outcomes Agreement, which is due to run until 2002. I would like to congratulate the government and particularly the pathology profession on this agreement. Basically, they have agreed to restrict to five per cent the average rate of growth of pathology outlays under the medical benefits scheme. A very important part of this agreement is what we are dealing with now; that is, the change to the licensing agreements for pathology collection centres. In order to claim a Medicare benefit for pathology services, the specimens must currently be collected in a licensed collection centre or by an employee of the approved pathology authority, which is the proprietor of the relevant laboratory. Under these amendments, such collection will be undertaken at an approved collection centre. The amendments also replace the present arrangements relating to licensed collection centres with simplified arrangements for approved collection centres. The restriction that prevents approved pathology authorities constituted by a state or territory from operating licensed collection centres will not apply to approved collection centres. As I said, we support these amendments. We have looked with interest at some of the changes the opposition are proposing, particularly other reporting, which seems eminently sensible.

Another section of this legislation relates to overseas trained doctors. Basically, we still cannot get sufficient doctors in rural and remote areas and also in some difficult to staff positions in our cities—particularly in public hospitals. Therefore, temporary resident doctors have become a fact of life in many communities. They play a very important role. Unfortunately, looking at some of the letters that have crossed my desk, the situation has got to the point where no sooner has the doctor settled in and the community begun identifying with the doctor than that particular person finds difficulties with their visa. The recruitment process for temporary resident doctors seems to be overly complex. It can be considerably cumbersome and time consuming and often involves a large number of government departments and other authorities. The problems with the recruitment process mean that, when a doctor’s visa expires, if the doctor wants to stay and the community in which they work want them to stay, there is a considerable lapse of time and dislocation in order to get the difficulties sorted out. In many cases the community faces yet another long period of being without a doctor before this doctor returns or another temporary resident doctor is in his or her place. I am pleased to say that this legislation came about as a result of an agreement with Australia’s health ministers in August last year and is a new framework for the recruitment of overseas trained doctors.

We support this legislation and welcome the fact that this bill brings it into effect. It gives the medical boards greater flexibility, and should make the process much simpler for those overseas trained doctors that are being recruited here to work on a temporary basis to fill the vacancies that we simply cannot find Australian doctors to fill. I also support the introduction of a process to ensure that existing permanent residents who trained as doctors overseas are considered before new temporary resident doctors are recruited. This gives greater opportunity to those who are already permanent residents to have their qualifications recognised. Doctors who have made a commitment to come to Australia and who have worked here successfully for a period of time should be given priority consideration before others are recruited.

This brings me to the final issue in this legislation; that is, the removal of the sunset clause. We do not believe that the time is right to get rid of the sunset clause. It is a very useful tool in assisting us to monitor progress, particularly in rural and remote health, with the various incentives. We are seeking to split the bill to separate out the
sections that need to be dealt with tonight and the section that relates to the sunset clause. We acknowledge that the government has addressed some of the concerns of doctors, particularly young doctors and doctors who are in training. In relation to private emergency services, I think we now need some time to see if they are going to work. But we thank the minister for the attention he has paid to this matter. We hope that it will be shown over the coming months that the services do work. We have some concerns about the training of general practitioners, in particular pre-vocational experience and training, and they are still to be addressed. There is no real urgency: we have got until the end of December next year—that is, 2001—before the sunset clause comes into play. I think the most appropriate course of action is not to defeat it, because we want it to stay there. We do not want to send a message that we are likely to eventually walk away from it. But at this point in time we simply should put it to one side and deal with it in six or eight months time when we have had a better opportunity to see how the various concerns of doctors have been met. Looking to the legislation we have to deal with in the next week or so as far as the rural health initiatives relating to bonded scholarships are concerned and the measures that have been put in place for allied health, particularly the additional amount of money to be spent in that area, we will have a better idea in six or eight months time as to how it is all shaping up and coming together.

Senator WEST (New South Wales) (8.28 p.m.)—The Health Legislation Amendment Bill (No. 4) 1999 and the related bill that we are debating tonight are two very important bills. They relate very much to an issue in an area that I have great concerns about. I will start by declaring an interest. I am a member of the two colleges of nursing in this country and I am going to quote some of their material. I am also a member of the Health and Research Employees Association, which has concerns about the abolition of the sunset clause. So, up-front, I state my interest in and association with several of the organisations that have concerns about these bills. What these bills boil down to is the government looking at the issue of the provision of doctor services to rural areas. This government talk about a shortage of doctors in the country areas, but they cannot get through their heads that it is not a shortage of doctors in rural areas. There is, in fact, no shortage of doctors in this country; it is a maldistribution of where they practise. They would prefer to practise in the city areas rather than in the country areas, so there is an oversupply of doctors in city areas and a shortage in rural areas.

But if you look at the other health professions, you will see there is a shortage of them across the board. There is a big shortage of nurses in the ACT, in New South Wales, in every state and territory in this country. There is a big shortage of registered nurses in just about all of the developed countries in the world. But what are the federal government doing to address that problem? Nothing, not a thing. They have chosen to ignore this problem. A health system does not run with just doctors; a health system requires a multidisciplinary team approach. It requires doctors, but it also requires nurses—be they enrolled nurses or registered nurses. It requires physiotherapists, speech therapists, podiatrists, social workers, occupational therapists, dietitians—to name but some. That is where this legislation and all of the legislation on health and the medical work force that this government have put through in recent times or will be putting through is deficient. The government are failing to address the issues, the real concerns and the real needs of the people of Australia, and particularly the people of rural Australia. That is the issue I want to pursue and have been pursuing for a number of years.

I have some questions and some issues that I would like the minister to address in his summing up or in the committee stage of the bill. They relate to the pathology specimen collection centres. In base hospitals in rural areas we have very good pathology systems—networks and units. What, I ask the minister, is going to happen to those? In many of those cases the hospital is not in the main street of town, which is easily accessible to everybody; the hospital is up on the hill, away from the doctors’ surgeries in lots
of cases and not as easily accessible for people when they go to the doctor, go to the chemist to get their prescription and go to have their blood taken. Base hospitals have put the collection centres down in the centre of town, which actually is a service to the people of those communities. It is providing a service for them so they can actually get the specimens collected at a place that is accessible.

The first elementary principle in the provision of a health service is accessibility. These collection centres are accessible, but they are outreaches of the main pathology centre which is up in the base hospital. How are they going to be affected by this legislation? We are now seeing the private sector move out to some of these areas of collection centres and outposts. I would be very upset if the private sector got an open slather and the public sector were restricted. With pathology services in the base hospitals, we are talking of level 4 types of hospitals, the ones that are just below the major teaching hospitals in the capital cities. They provide just about every service short of cardiac transplant and extremely complex neurosurgery. It is important for them to have a pathology service that is not actually costing them money and being a drain upon the public purse.

By them actually being able to provide this service down in the town, if someone has to go and have surgery they can go down to town, have their preoperative blood samples collected and the results will be up at the hospital when that person is admitted. I want to know how the government thinks this legislation will impact upon that group of collection services, because historically they have provided an excellent service that is not actually costing them money and being a drain upon the public purse.

I now turn back to the Health Legislation Amendment Bill (No. 4) 1999, because this is the bill that has the sunset clause in it. This is the one that is bringing into line procedures for registering overseas doctors on permanent and temporary visas. That is not a problem, because overseas trained doctors are providing almost the backbone in some areas of medical practitioner presence. The sunset clause is giving us some concerns, because this relates to some hasty legislation in 1996 which we had some concerns about. The opposition is very keen to see that doctors do continue to practise and do actually undertake training to become expert general practitioners and build up their skills there. That is not a problem.

The sunset clause was inserted by the opposition and the Democrats in 1996 to get the government to examine how well these arrangements were working. In addition, a report was required after three years to examine the impact of this new scheme. That review was undertaken by former Liberal New South Wales Minister for Health, Ron Phillips, who tabled it just before the deadline in December of last year. The report made few clear-cut recommendations and referred all of the critical areas for further study, which indicates that the opposition and the Democrats were correct in 1996 when we said there needed to be a review. This is a failure on the part of the government.

The opposition do not support the recommendation, and we are opposed to the removal of the sunset clause for a number of reasons. There is no clear-cut evidence that the new arrangements are working. The maldistribution of doctors in this country is as bad as it ever was—as bad as it was in 1996—but the government is getting fast, free and fancy with giving us statistics and information.

It is very hard to discern the number of full-time equivalents who are actually out there practising. When we were given the figure on this a couple of years ago it was very interesting. What I discovered through the estimates processes when I asked a question on this was that, while they might have been saying things like, ‘There has been an
increase of so many per cent over however many years of doctors in rural areas”—this is done through billing though Medicare—when we did the hard work and found out the number of full-time equivalents there was no increase in the number of bodies out there.

It is fine for the minister to say, ‘There has been an increase of 11 per cent over four years in the total number of doctors billing Medicare from rural areas”—you can play with those figures any way you like—but I will tell you that there has been no improvement in the number of doctors out there in full-time positions. The government are now in a position where they are not going to give us those figures. Maybe the minister will give us those figures tonight; maybe the minister, through his department, can tonight give us a table indicating the number of full-time equivalents that have been billed under Medicare over the last five or six years. They have not done so up to now, so it will be very interesting to see if they will do so after this.

Of course one of the reasons they do not want to do that is that we have seen the feminisation of medicine. With the feminisation of medicine we have seen many female doctors choosing not to take on full-time loads. They are taking on part-time loads. While this is increasing the number of doctors out there, it is not increasing the number of full-time people. There is no increase in the number of actual hours being devoted to the practice of medicine. So it is a pea and thimble—smoke and mirrors—trick. The minister should also reveal how much of the recent improvement in percentages is due to overseas temporary resident doctors filling the gap. Australia does not need temporary residents coming in from overseas, coming in from anywhere, to fill the gap. We want long-term permanent solutions. We do not want trainees who feel compelled to go out there and we do not want temporary people. We want some continuity; we want some permanency. The government do not seem to be keen to go about encouraging that.

The government has introduced many changes, including bonded rural scholarships and changes to GP training. The key elements of these have been negotiated behind closed doors, so goodness knows what is going on out there. For more than a year the government has been promising an overall strategy, which was being prepared by Dr Best. His report, Rural Stocktake, was unhelpful and failed to deliver any solutions. The only thing it delivered was over $300,000 to Dr Best. It did not deliver any solutions or any assistance in terms of what we need to do to get doctors—let alone the rest of the health profession—to come and stay in rural areas. As I said before, we cannot continue to rely on trainee doctors in their pre-vocational years or on newly arrived overseas trained doctors. This government and this minister have to do more than resort to smoke and mirrors.

The government has not listened to the arguments put forward by the young doctors through their representatives on the AMA, the Association of Salaried Medical Officers and the Health and Research Employees Association. There is a huge problem with the medical work force and the health work force, particularly in ensuring adequate numbers of doctors, nurses, physios, speech therapists, OTs and all of the other health professionals in rural areas. The minister has made a series of adjustments on the run, changing the rules to use partially trained graduates to plug the gaps. This is not adequate in the least.

One has to wonder if the minister is doing the bidding of some of his doctor and medical organisation colleagues. I am prompted to look at the 48th annual New South Wales College of Nursing oration, given this year on 13 October by Mrs Betty Mitchell, MCN (NSW), titled ‘Rural and remote nurses: third world practitioners or saviours of the bush?’ Betty Mitchell has been involved in a lot of work in the development of the proposal for nurse practitioners—that is:...

She goes on to say: The work of the rural nurse can be marginalised by the dominance of the medical model and the public’s continuing belief that a doctor is the health service. Hegney, a professor of rural nursing in Queensland, makes reference to this when
she argues that in the presence of a continuing inability to recruit and retain a medical presence, rural nurses have successfully maintained a formal health service for many years.

While nurses in metropolitan areas phone nursing agencies to access relief staff in an emergency or during peak periods, their counterparts in rural and remote locations are relying on a nurse who may also be a farmer, station cook, or schoolteacher to their children. Nursing staff from agencies are in many cases 800 kilometres or two days drive away—if they are available at all.

That goes back to my first point about the national and international shortage of nurses. She goes on:

It is not unusual for Health Service Managers to be found working the night shift as they attempt to ensure their facility is adequately staffed.

That is what is happening in health in this country. This government says that all of the health services, apart from doctors, are the responsibility of the states. It is quite clear from these eminent people I have quoted that health is not just about doctors and acute hospital beds; it is about a multidisciplinary team. If you do not have that team, you do not have a health system. The Commonwealth does have a role in the work force issues of the other health professions, because it is the Commonwealth that pays the money to the universities to educate them. This government has made big cuts in higher education, and this is obviously one of the things impacting upon the rest of the health service provision. But this government is not caring about that at all. I urge people to read the New South Wales College of Nursing’s 48th Annual Oration by Mrs Betty Mitchell, a woman who has made a major contribution to nursing and health services in western New South Wales. She said:

Nurses are the largest single occupational group within the health services in Australia. Where for many years each small community had a resident or visiting general practitioner, now the most senior health professionals in residence are often registered nurses.

The ongoing opposition from the medical profession to the role of the nurse practitioner is yet another example of the undervaluing of the expertise of the rural and remote nurse. The Australian Medical Association, along with the Royal College of General Practitioners stated in the Medical Observer of June 2000 that they were conjointly discussing a ‘War Plan’.

Mrs Mitchell went on to say:

On hearing these words from my colleagues, I first thought that finally doctors were getting serious about health care in the bush. What aspects of the appalling rural health statistics were they planning war against?

She quoted Humphreys referring to the state of health of rural Australia being in crisis, with poorer outcomes: a higher death rate for indigenous people in this country and higher incidence of cervical cancer, diabetes and respiratory disease. She thought that maybe they were talking about injury rates, she thought maybe they were talking about the war on drugs and alcohol in rural areas, but she discovered that the ‘war’ was about impeding the implementation of the nurse practitioner so as to preserve the monopoly status of medical practitioners rather than exploring with an open mind other models of primary health care. That was the ‘war plan’ that was being talked about. Later she talked about the need for all health professionals in rural areas to work together and not to feel that they are at war with one another. She said:

All health professionals are under siege in rural areas, doctors as well as nurses. Yet the Commonwealth Government has recognised the problem in regard to medical staff, and is actively working to alleviate it. The last Federal budget included a number of incentives for medical graduates, aimed at enticing them down to the bush. However, as Mahnken makes clear, large financial enticements and other incentives have not made more doctors want to go to rural areas and provide services. Most of the challenges facing nurses in these areas remain largely unsolved, and yes, ignored by the Commonwealth government.

I think the words of Betty Mitchell are well worth pondering, because this government has failed to address adequately the issue of the health work force—not the medical work force but the health work force. The government is not answering the call for the provision of health services to all of Australia. By health services, I mean all of the health professionals. (Time expired)

Senator CROWLEY (South Australia) (8.48 p.m.)—I rise to speak on this Health
By way of opening I would like to simply say, as I have said a number of times in this Senate over past years, that titles like that of the Health Legislation Amendment Bill (No. 4) 1999 are not really helpful because they do not give you much clue as to what the bill is about. I take the opportunity to make the point yet again that information—for example, the title of the second bill is Health Insurance (Approved Pathology Specimen Collection Centres) Tax Bill 1999—certainly goes a long way to assisting me with some understanding. If, on behalf of the citizens out there, I were looking at the latest health legislation before the Senate, this would be just another amendment bill. The title does not give a clue as to what the legislation is about. I put that on the record yet again. I think it is something I learned from my years on the Scrutiny of Bills Committee when we were looking to make sure that legislation was at least nominally accessible to the community. One of the great rights of people is to know the law that will affect them. There are a number of points that my colleague Senator West has made, and I would like to try to come back to those.

Senator West interjecting—

Senator CROWLEY—I could do it firstly, but I think I will try to get back to it secondly, Senator West. I want to pick up on some of the points that you were making particularly about the amendment to remove the sunset clause in this bill. It is extremely interesting that this is the government’s proposal.

The doctors who were affected in 1996—and the doctors who are still affected—object to it. I think it is particularly important that, while we gave them very short shrift in 1996, we take different notice of them now when we have the opportunity to. I am pretty sure I spoke back then about the very unfair and arbitrary the way the changes to access to vocational registration provider numbers—or Medicare provider numbers—fell very unfairly on some medical graduates. Down came the crunch! There was not a period of a year or two to phase it in; it just fell. I remember Senator Cooney and me both speaking against the arbitrary unfairness of it. I should say—as I suspect Senator Cooney did at the time—that we both had a conflict of interest in that somebody close—a remote or close family relative—was experiencing the sort of restriction that fell as a result of that legislation.

I certainly believed that it was important to oppose it then, and I certainly believe it is important that we argue tonight against the removal of the sunset clause so that an on-going review of this provision is maintained in legislation to ensure that we do follow up and review whether it has been effective. An advantage of having been in government before this government came in is that I remember well Senator Herron being one of those who constantly castigated the Labor government because we failed to reduce the number of foreign medical graduates servicing rural Australia. I am sure you will remember saying all those words, Senator Herron.

Senator Jacinta Collins—He didn’t like late sitting hours either.

Senator CROWLEY—He did not, but refrain from telling him that I said all of that 20 years earlier, so never mind. Senator Herron was one of those who railed against the Labor government for its failure to reduce the number of foreign doctors in Australia who were working in country areas, and then what did they do when they got into government? Goodness me, they actually increased the numbers of doctors coming from overseas into this country. My objection all along has been that this government’s proposal was actually to restrict the number of medical school places for young Australian graduates and increase the number of doctors coming from overseas. I still believe that that is something we should oppose very strenuously. It is my view that young Australians should have an opportunity to go through medical school if they are competent and selected to win a place in such medical schools, and we should be working to make sure that it is young Australians who graduate and it is those people who are then encouraged to work in rural areas in Australia. What we need is innovative, creative and imaginative ways of training our young graduates so that they feel competent and
confident to go and work in rural areas where they are remote from the support and fall back assistance that they would get from working in a city close to large hospitals or other medical colleagues.

This is called remembrance of times past—I will not try to do it in French—and Proust prompts my recollection at this point because I actually also chaired a Senate select committee inquiring into vocational registration of doctors, and I am pleased to note that at the time the deputy chair was the then Senator Peter Baume. We had an extremely fruitful inquiry at that time. We certainly came down in favour of vocational registration for doctors, but we had the assistance of the very interesting deliberations of the then Senator Glen Shiel, who also was a medical practitioner and who used to say such lovely things as, ‘When I was a student’ or ‘Back then, we’. Senator Herron is smiling with recollection at this point, or, if not recollection, then at least with sympathy for that view. There was a time when doctors who went through medical schools in this country felt confident to go and practise medicine in rural and regional areas of Australia. But the evidence coming to us during the vocational registration inquiry, which really shook and shocked Senator Shiel, was that lots of doctors said that, when they had finished their training, they did not feel confident to go and practise in rural and remote Australia. I think that is one of the very important areas where some steps are being taken, but more need to be taken to provide that kind of training for doctors so that they have that kind of competence and confidence. I believe that that is very much a matter for curriculums within our medical schools, but also experience during the undergraduate and immediate postgraduate years, so that young doctors feel that they can pick up and cope with most of the situations that present in rural and remote areas of Australia. I think it would be much better to be developing our courses, our curriculum and our funding assistance for medical practitioners in this country rather than bringing in graduates from overseas and then providing ways in which the training for short-term and long-term foreign medical graduates can be adjusted so as to assist more of the foreign doctors to stay.

It requires more money, more imagination and more persistence, and it requires long-term planning. We do not really have that. We have arbitrary changes, and we have some words to the effect that we would like to see improvement for young Australian graduates going to rural and remote areas, but we have not seen the change on the ground. As Senator West pointed out, the data is not available to show whether there has been a real increase in the numbers of doctors practising or whether they indeed are foreign graduates or whether they are cumulative figures that do not allow the distinctions to be drawn that Senator West was highlighting. Certainly I think those points are matters of major concern.

I had the pleasure of being visited this morning by the Rural Health Alliance, and some of the points that they made are very pertinent to this legislation. They are particularly concerned about the maintenance of suitable infrastructure in rural and regional areas in Australia. I asked them to say exactly what they meant by ‘infrastructure’—and certainly it means facilities like banks and so on—and in particular they were concerned that infrastructure be understood to mean the people living in rural and regional areas and that those people have an opinion and are asked about what is best for them in terms of their health care. At the moment, we still simply do not talk enough to rural and regional Australia about what services and facilities would best suit them and in particular how best to get them. There have been some interesting changes, I know, to try to take some graduates into medical school from rural areas in the hope that they will then prefer to return to rural and regional areas to practise their health care.

I think there are some interesting winds of change blowing in that area. In my own state of South Australia there are places where, despite considerable financial inducements—increased salaries, nominal rental, if any at all, free housing near enough, practice assistance and all of that—doctors are not ready to go and serve in the rural areas of South Australia. So clearly we have a challenge. I
believe that this proposal to remove this sunset clause about the arrangements for issuing provider numbers to young doctors is just jumping the gun. It is far too early for us to be complacent that the arrangements put in place will deliver and that seems to be a concern that is certainly strongly felt by the Labor opposition, but I think it is a concern that the Democrats have to some extent, and it is certainly something that we should be concerned about in terms of the reports that the government have done. We have heard mention of the inquiry done by a former Liberal New South Wales health minister, Ron Phillips, which came in before the requirement in December 1999. It made a few recommendations, and one of those was to give certainty to young doctors about arrangements that will apply in the future. Leaving the sunset clause there does not in any way take away the decisions that young doctors will be taking about how they will continue to practise their medicine, or at least I cannot imagine what the arguments for it are. I will be very pleased if the minister might like to try to give us some decent argument about what that recommendation really means. What is the uncertainty that young doctors are labouring under at the moment? It is nothing compared to the uncertainty that happened when the changes to Medicare numbers were popped on them—bang, dropped from a great height. That was certain, unfair, unkind and arbitrary—certain, but not satisfactory.

I do not have any understanding from looking at this proposal that doctors will be in a state of anxiety or insufficiency if this sunset clause is not removed. There is no evidence that those doctors who are practising in rural Australia will say, ‘Well, that’s it. If they’re not going to remove that sunset clause, I’m packing up and leaving.’ Of course they are not. They are practising their health care in rural and regional Australia because they have made the choice to go there, because they are remarkably dedicated, because they are being supported and because they are genuinely trying to choose general practice in rural Australia as their career path. A clause in this legislation is not going to change that commitment by most of those doctors.

I also note, as Senator West said, that the report of former minister Ron Phillips referred to the critical issues of further study. That highlights the point I was making earlier: that there is still the need for further imagination and creative alternatives in this area. We admit there is a problem. Even though Minister Herron will not want to say that we were doing some of the right things when we were in government, we were. If he were genuine and generous—

Senator Herron—I did say that.

Senator CROWLEY—He has just found the words. Minister Herron, I very much appreciate that interjection. He was generous and genuine, and he did acknowledge that we were doing some good things.

Senator Herron—I called it a drop in the bedpan.

Senator CROWLEY—He was vulgar and dismissive about it, but he was generous. What we do know though is that the Labor government were trying to address this problem. They knew it and they recognised it, just as the current government knows there is a problem. There is a major problem about getting appropriate and sufficient health services to rural and regional Australia. The maldistribution of doctors, despite the steps that this government has taken to this point, continues. There are claims by the government that it is better, but there is no substantial data to prove that. I would only echo Senator West’s request that, if you have not got the evidence over there, please pass it through to us and we will tick off on it. If you have not got it, you will understand why we do not believe there is really any significant change.

Senator Tambling—$562 million over four years.

Senator CROWLEY—I do not care how much you are paying. If there are no doctors out there, Senator, it is not making any difference. We appreciate that you are trying to put some funding out there. We tried to put funding out there, too. As I said, in South Australia there were arrangements, and there still are, for a huge financial incentive for doctors to go to rural areas, but they are not going. Secondly, Senator Glen Sheil put his
finger on one of the important questions, which is that doctors might be able to go but they feel unsure and they lack the confidence that they would know what to do in the face of many of the emergencies that would confront them. They have not been trained to be independent of public hospital backup, of pathology services, of blood supplies, of good pathology and so on. Even if you have made a difference with all those dollars that Senator Tambling mentioned in his interjection, there is still a major maldistribution of doctors in this country. Most of them are in the cities and very few of them are in rural and regional areas.

As I have said before, I think it is very disappointing that we are still encouraging, and increasingly encouraging, foreign medical graduates to come to Australia and then stay, rather than looking at encouraging Australian graduates through our medical schools. I think it can be done. I note that eight Aboriginal medical practitioners graduated from the University of Newcastle’s medical school last year, and I will be very interested to see where those young graduates finish practising their medical care. I hope that they, like non-Aboriginal medical graduates, will choose to go into a variety of areas rather than expecting that all Aboriginal doctors will work in Aboriginal communities. Some will, some may not, but I am interested to see the outcome of that program. I think it is a clear indication of what can be done if you have a medical school with imagination. I was told today that I must start including James Cook University in that area, and I will of course include my own South Australian Flinders Medical Centre. I think Newcastle and Flinders have been very imaginative in their choice of students to take into medical undergraduate programs for a number of years. They have provided the lead to the rest of the country, and I am told that James Cook now deserves to be included in that trio. There is nothing like a bit of Queensland self-promotion. So we thank you, Senator Herron, for that little tick off on James Cook. I think it may be worthy of that tick.

Senator Herron—There’s more good news soon.

Senator CROWLEY—But there’s more. There is more than a drop in a bedpan, and we are pleased to see that. I want to talk about a couple of other areas, and the first is the changes in pathology. I do not want to go into the full detail of that, but in terms of infrastructure in rural areas, you are far more likely to find a small rural hospital that does a lot of medicine and health care in the rural areas. That is the point Senator West was making that I strongly reinforce—that is, in many areas it is the nurse who is the primary health care provider, the first port of call. You are far more likely to find a nurse than a doctor in many rural areas, and quite often the assistance that those small, publicly funded hospitals in rural areas provide is critical—in particular, the pathology service associated with those hospitals. I sincerely hope that the changes proposed in rural pathology do not actually undercut that critical infrastructure in rural and regional areas of Australia.

In closing, I have had a number of letters into my office of recent times about the importance of providing ongoing antenatal care, particularly by midwives or double certificate nurses as we used to call them—that is, they could be trained as midwives or they could be nurses who have done midwifery training as well. Some pilot programs that received funding for 12 months are beginning to make a considerable difference to the antenatal visits, for example, of Aboriginal folk in those areas, only to find that the funding is under threat after the 12 months because it is a pilot project and funding is not continuing any longer. I have certainly written to the minister and I hope that we can find some satisfaction, because worse than no health service is some health service for a bit which then goes away. I have urged the local communities in those areas to take up the fight on their own behalf, but I will certainly stand here and fight for them. If we have got services that are making a difference in an area, I think it is terribly important that one way or another we maintain those services. If people thought it was worth while to do a pilot project in the first place, then I believe it is very important that we give that pilot project time to be properly tested. Then if it seems to be making a dif-
ference—and on any of the evidence these projects are making a considerable difference—I would like to see us find the funding to sustain and maintain that program so that there is the ongoing continuity of better health care in the area. I do not believe that this amendment to the legislation to remove the sunset clause is going to change the state of rural health at all. I think it is very important that we keep it there so that we can keep an eye on what is actually happening with doctors, in particular, in rural areas and give young doctors the assurance that this parliament will continue to keep a close eye on the sorts of support for their presence in rural and regional Australia and on training to get them there and to sustain and maintain them there. (Time expired)

Senator GIBBS (Queensland) (9.08 p.m.)—The Health Legislation Amendment Bill (No. 4) 1999 contains a wide range of separate amendments to the Health Insurance Act 1973. While the opposition is supporting the majority of changes that would come into effect under this bill, there are several issues that do cause us concern. These matters are quite important, and they are particularly important on two fronts—on the issue of how much we spend on health services in Australia and, more importantly, on the issue of how well we provide services across the whole of the nation. The first and most substantial of these concerns is the removal of the sunset clause on the policy that currently limits the access of graduate doctors to Medicare provider numbers.

At the end of 1996, parliament passed the Health Insurance Amendment Act. That act was put in place to implement a part of the 1996-97 budget. The legislation restricted access to Medicare provider numbers for graduate doctors unless they had completed extra training to become either a specialist or a general practitioner. This policy was vehemently opposed by young doctors, who were, understandably, concerned about restrictions placed on the direction of their career in the future. The measure was passed with several amendments—the most important of which was the insertion of a sunset clause. On a broad perspective, the opposition supports the notion that graduates should be in a different category from fully trained doctors who have completed their training. It would not be appropriate for young doctors to have full and unrestricted access to Medicare provider numbers while they were still undertaking training.

When the relevant legislation passed in 1996, the Senate imposed two conditions. The first was for a report to be made to parliament before December last year on the effectiveness of the new arrangements. The second, as mentioned, was to place a sunset clause to remove the restrictions after 1 January 2002. The report was conducted by former New South Wales Liberal health minister Ron Phillips and was delivered last year. It made few recommendations and referred the critical issues off for further investigation. The study did recommend, however, that the sunset clause be repealed to provide certainty to young doctors about future arrangements. Young doctors rejected that view, wanting more time to examine other options.

The Senate introduced the sunset clause to ensure the government could demonstrate that the new arrangements were working before they were made permanent. The government has failed to show that these measures have worked. Indeed, there is evidence that the arrangements are failing to achieve their objectives at all. It is obvious that there needs to be some limitation to the provision of Medicare provider numbers. The opposition knows, as I think do student doctors, that we cannot go back to open slather entitlement to provider numbers. The opposition would like to see the long-term issues addressed.

There is a tendency for graduates to be used to fill gaps in rural Australia where they are not properly supervised and allowed to do work they are not fully trained for. The December 1999 Phillips report recommended the repeal of a number of regulations instituted by the Minister for Health and Aged Care, Dr Wooldridge, that allow students to work unsupervised doing night locum work. Obviously, many students are keen to get any general practice work, but it is inappropriate that insufficiently trained graduates be put to work in this manner.
There are still a number of issues facing young doctors that need further investigation. The government has failed to show that these measures are working. Until it does and until it comes up with a long-term plan to tackle the problems, the sunset clause should remain in place.

Another major impact of this legislation is the changes to the operation and regulation of pathology collection centres. It is important that those changes are made, but it is important they are made in a sensible manner. During the 1998-99 financial year, the Commonwealth paid out over $1 billion worth of benefits for pathology services under the Medicare Benefits Schedule. A total of 55 million pathology services were provided over the same period, of which 80 per cent were bulk-billed. The previous Labor government first took steps to control costs in this sector early in the 1990s. Changes in 1992 have managed to reduce the rate at which pathology outlays were increasing from about 13 per cent every year in 1990-91 to an average yearly growth of six per cent in 1998-99.

As the pathology industry is currently structured, relatively few providers operate the bigger laboratories and a network of smaller collection centres takes samples. The right to operate a collection centre is allocated by a quota system. Since 1992, the total number of collection centres has been reduced from 2,246 to about 1,300. Public hospitals are not currently included in the quota system. However, some privatised hospitals have recently extended their collection base outside the hospitals to attract work ordered by general practitioners. The majority of public hospitals have pathology laboratories that often provide specialist services that the larger companies do not. The larger companies do not tend to provide specialist analytical services because they concentrate on high-volume tests that are more profitable. As the situation currently stands, public laboratories are not able to access the same fee structure as private laboratories. In particular, they are not entitled to receive the $15 patient initiation fee that is paid to private laboratories for every new customer.

In response to the need for new technology that allows higher throughput, public hospital collection centres have expanded their catchment areas. This has caused some concern in the highly competitive private sector. The main effect of this bill as far as pathology collection centres are concerned is to move both public and private centres under the same quota rules. This may have some advantages in increasing competition, but there is a legitimate concern that the changes could weaken the public system and possibly force the closure of regional pathology services.

In Queensland pathology services are provided by a network of laboratories, both private and public. The public network consists of 30 laboratories based at public hospitals throughout the state, including Atherton, Charleville, Dalby, Kingaroy, Longreach, Thursday Island and Roma as well as more populous areas. Services provided at the centres include specimen collection, analytical testing, results interpretation, clinical consultation, teaching and research. The public sector conducts many of the particularly specialised tests that are not profitable for the private sector. There are numerous instances where samples collected by the private sector collection centres are sent to public laboratories for specialist analysis. The new rules that apply to the public system need to be fair, and we need to ensure that we are not increasing the barriers they face. The new rules should allow public hospitals to collect samples outside hospital premises so that they can remain competitive with the private sector.

Our proposed amendments would give force to the Prime Minister’s promise that there will be no further closures of services in regional areas. These amendments would require that existing services in rural towns not be closed unless an equivalent service replaced them. It is essential that existing pathology services in smaller towns remain open and viable. My concern is that these regulations could mean that the publicly provided pathology services in the regional areas of Queensland that I mentioned could be forced to close. Rural and regional Australia is already doing it tough enough. This par-
liament should make sure that it does not do anything that would further jeopardise the viability of small towns. It would also be advantageous if the levelling of the playing field were to work in both directions. This would include reviewing the quota rules and funding arrangements that exclude public providers from payment of the patient initiation fee.

Another major part of this bill is designed to simplify the process whereby doctors from overseas are given short-term registration to practise medicine in this country. Overseas doctors work alongside Australian-trained doctors and the differing arrangements for medical registration can sometimes cause problems. Owing to a shortage of doctors able or willing to work in rural areas, there is much pressure to keep temporary resident doctors for extended periods in rural areas where they settle. The process for recruiting temporary resident doctors is very complex. It involves consultation with the state or territory government health department, the medical board from the relevant state or territory, the Department of Immigration and Multicultural Affairs, the Commonwealth Department of Health and Aged Care and finally the Health Insurance Commission. The issues are further complicated when a temporary resident doctor’s visa expires.

The measures in this bill seek to resolve the problems by aligning the registration requirements for temporary and permanent resident overseas-trained doctors. However, the opposition has some reservations that these measures will simply increase the reliance by rural Australia on overseas-trained doctors. This government needs to work harder to find a solution to the ongoing shortage of doctors in rural and regional Australia. The government needs to look to the longer term and plan a system that serves all of Australia and is viable into the future. In this year’s budget the government did provide a firm commitment to rural health. Only time will tell whether the government’s efforts prove worth while.

In the meantime, the government needs to provide solutions that are more than just a short-term fix. It is difficult to overstate the importance of getting this right. There is too much at stake: the health of the nation and the viability of rural and regional towns in Australia. The right of young doctors to enter the profession with a degree of certainty about their future is also at stake. We need to ensure that we do not adopt measures that are little more than short-term solutions. While supporting most of this bill, the opposition has real concerns that some aspects of this legislation will undermine all of those goals.

**Senator TAMBLING** (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (9.23 p.m.)—We are addressing the Health Legislation Amendment Bill (No. 4) 1999 and a related bill. At the outset, let me just provide some answers to the concerns expressed by Senator West, particularly about an impact on the public hospital system’s capacity to collect specimens. Recognised public hospitals will not be affected adversely by these new arrangements. The new pathology specimen collection centre arrangements open up what was previously a private sector based arrangement under Medicare to a uniform system applicable to both the public and the private sectors for Medicare eligible pathology services. The restriction that prevents approved pathology authorities constituted by a state or territory from operating as licensed collection centres will not apply under the new arrangements. The new pathology specimen collection centre arrangements open up what was previously a private sector based arrangement under Medicare to a uniform system applicable to both the public and the private sectors for Medicare eligible pathology services. The restriction that prevents approved pathology authorities constituted by a state or territory from operating as licensed collection centres will not apply under the new arrangements. Recognised public hospitals will continue to operate specimen collection centres on premises at which they provide their core business—that is, hospital treatment to patients, be they inpatients or outpatients.

The regulation of collection centres, particularly community based ones, is aimed at ensuring quality centres and a uniform approach, be they operated by the public or the private sector. The definition of a recognised hospital has become less clear in recent years, as hospitals have changed the way they deliver their services and where they deliver them. This has made it more difficult to define what is part of a recognised hospital and what is not. For the purposes of these new arrangements, the definition of a recognised hospital has been redefined as being the premises of the hospital where hospital
treatment is provided—that is, where accommodation and nursing care is provided. Some parties are claiming that this requires overnight stays. This is not the case, and it may include premises that provide day surgery or other treatments, such as renal dialysis units.

Senator West also asked towards the end of her speech that the government make available a statistical table. I would indicate that it is not convenient to make that table available now, but we will certainly take that matter on notice. I am sure it will be provided and I am sure that Senator West will pursue it at estimates or at other times and places. We are keen to always ensure that training, particularly for overseas doctors, is an issue that must be incorporated.

Senator West also raised a series of questions with regard to female participation in the Australian workforce. It was quite coincidental that at that time my colleague Senator Herron was sitting here and amongst the correspondence he had before him was some very interesting information that I think would be of interest to Senator West. In fact, in information that was made available from the AMA Women in Medicine Committee, there was information specifically extracted from data from the Australian Medical Workforce Advisory Committee report which was entitled *Female participation in the Australian medical workforce*. The report states that in 1994 25.9 per cent of all working medical practitioners were female. The report also states:

In general, due to lower average hours of family commitments, female lifetime contribution is estimated to be 68 per cent of male lifetime contribution. For specialties this is high at 75 per cent of male lifetime contribution.

In regard to general practitioners, 31 per cent of the GP workforce in Australia is female. The percentage of rural and remote female GPs is around 25 per cent. Of interest are participation rates per 100,000 population in higher education medical courses: 101.2 per 100,000 in capital cities and 12 per 100,000 in remote places. I am sure that Senator West will also be indebted to Senator Herron for making that information available. I am surprised that she did not have it. I presume that it would have been available to her through her extensive consultation with the AMA Women in Medicine Committee.

There are two main parts to the legislation that is before us this evening, the *Health Legislation Amendment Bill (No. 4) 1999* and the *Health Insurance (Approved Pathology Specimen Collection Centres) Tax Bill 1999*. The first part is the new arrangements for pathology specimen collection centres. As part of the 1999-2000 budget, the government announced a second three-year agreement with the two peak pathology professional bodies—the Australian Association of Pathology Practices, the AAPP; and the Royal College of Pathologists of Australasia, the RCPA—to cap pathology expenditure under the Medicare benefits arrangement. The agreement provides a framework for managing growth in pathology expenditure under Medicare at an average of five per cent per year, facilitating further structural reform in the pathology sector and improving the quality in pathology testing use and practice.

On the issue of structural reform of the pathology sector, the agreement contains an outline of new arrangements for pathology specimen collection centres and an agreement to review the Commonwealth legislation that relates to pathology. The new collection centre arrangements have been agreed for pathology specimen collection centres to replace the licensed collection centres scheme. They will commence on proclamation and will be open to eligible public and private sector approved pathology authorities—that is, APAs with a GX or GY category, category 1 and 2, prior to 1 January 2000.

Under these new arrangements, the number of collection centres an APA can operate for Medicare benefit purposes is determined on the basis of its Medicare and Department of Veterans’ Affairs pathology activity and on the basis of its satisfying quality guidelines on collection centres, facilities and services. Under the LCC scheme, the number of LCCs that an APA could operate was based on a global entitlement and was relative to the number of participants in the market rather than individual activity. These arrangements reflect a major shift. They re-
place the artificial constraints imposed by a fixed pool of licences with a system based on individual APA performance. This will open up the section to more competition by allowing more entrants without putting at risk the quality of facilities for patients and access to services.

The three-for-one incentive will remain, whereby an APA can convert one of its metropolitan collection centres to three collection centres in designated rural and remote areas of Australia. The existing licence fee will be retained in the form of an annual tax of $1,000 per approved collection centre. At the same time, the phase-in arrangements introduce a responsible management approach to not put at risk the cap on growth in pathology outlays that applies under the pathology agreement. These transitional arrangements have been negotiated with interested parties and will occur over four years to allow time for the pathology sector to adjust to a less regulated environment. The Health Insurance Commission will administer the new arrangements and implement programs to inspect and audit approved collection centres against business practices and the quality guidelines developed by the National Pathology Accreditation Advisory Council and the profession. In the consideration in detail stage, the government will be moving amendments related to the start date to make it from the date of proclamation.

The second main part of this bill is related to work force issues. The provider number legislation provides a vital platform from which a range of measures have been established both to improve the quality of health care delivery and to ensure that rural communities have adequate access to doctors. The sunset clause was inserted into the legislation in 1996 to provide a safeguard against concerns that there would be inadequate training positions for graduates and that doctors would be unemployed. The following data indicate that there is no basis for either concern. There are 1,525 training positions in 2000, which is more than adequate for the 1,200 doctors who graduate each year. There are continuing vacancies in training programs, psychiatry, rehabilitation medicine, geriatrics, obstetrics and gynaecology. There are continuing shortages of doctors in public hospitals. No doctor is involuntarily unemployed.

The review of the provider number legislation undertaken by the Hon. Ron Phillips in 1999 did not find a single graduate who was unable to secure a training position and recommended that the sunset clause be repealed to give certainty to medical students and doctors in training. If the sunset clause is not repealed, the benefits that I have just outlined will be lost. The number of graduates entering training programs will decrease as they choose to enter the oversupplied general practice work force in metropolitan areas. Rural areas will have reduced access to doctors, and the savings to government will cease.

Repealing the sunset clause in the provider number legislation is also fundamental to maintaining current support structures for a number of initiatives the government has introduced to address these quality and distribution issues. Rolling section 3J of the act into proposed section 19AB will eliminate the double processing of temporary resident medical practitioners who commit to remain permanently in Australia to fill a medical or work force strategy. Senator Lees has raised the Democrats proposal to split the bill. We will accommodate this request and continue to discuss the important matter of the sunset clause with the Democrats to address their concerns. I commend the bill to the Senate.

Question resolved in the affirmative.

Bills read a second time.

Motion (by Senator Lees) agreed to:

That it be an instruction to the committee of the whole that:

(a) the committee divide the Health Legislation Amendment Bill (No. 4) 1999 to incorporate in a separate bill items 7 and 9 of Schedule 1; and

(b) the committee add to that bill enacting words and provisions for titles and commencement.

In Committee

HEALTH LEGISLATION AMENDMENT BILL (No. 4) 1999

The bill.
Senator LEES (South Australia—Leader of the Australian Democrats) (9.35 p.m.)—I move Democrats amendments Nos 1 and 2 on sheet 1960 together:

(1) That Schedule 1, item 7, page 4 (lines 22 and 23) and item 9, page 5 (lines 1 and 2) be incorporated in a schedule to a separate bill and re-numbered as items 1 and 2, respectively.

(2) That the separate bill be amended by inserting at the beginning of the bill:

A Bill for an Act to amend the Health Insurance Act 1973 to remove the sunset on the operation of section 19AA

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the Health Legislation Amendment (Minimum Proficiency Requirements for Medical Practitioners) Act 2000.

2 Commencement

This Act commences on the day on which it receives the Royal Assent.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments

Health Insurance Amendment Act 1973

I would like to explain again why the Democrats wish to separate out this section of the bill rather than simply agree to vote against it. We basically have two reasons for this. Firstly, we think it should be dealt with legitimately as a separate issue and debated as a separate issue. Secondly, we would like it to be dealt with at a later date. We do not want to send the message that we are likely to step away from this legislation. However, as Senator Tambling has said, they could not find any medical graduates who wanted a training place who were not able to get one. However, it has come to our attention—from a number of different concerns expressed and from complaints from various people who have come to see us—that there are a number of unfilled training places in areas where there are shortages because of the nature of that training.

It certainly has been said on more than one occasion that some specialty areas still require unsafe and unrealistic work practices, and people are voting with their feet. They are simply not going into these areas, and we are going to have significant shortages in the not too distant future unless this issue is addressed. I will make some further comments about the possibility of AMWAC looking into the issue of what is actually required, specialty by specialty. I asked some questions way back—I think it was around 1993 or 1994—on the number of part-time places, and some of that detail is coming through. But when you actually look at some of the working hours required of those trying to graduate from, and qualify in, these particular specialties and at the extraordinary level of inflexibility that is involved in these specialties, you can understand why young doctors are simply saying that they are not
going to have a bar of that and why they are going off to their second or third preferences.

Since the legislation was passed, a number of issues keep coming up as difficulties. Basically, there are three: the lack of opportunity for pre-vocational GP training, the shortage of doctors available to work in 24-hour clinics—particularly in private emergency departments and also in deputising services—and the need for better data on medical training pathways and future medical workforce requirements. Two of these are being addressed by the government. I certainly acknowledge the work that has been done relating to AMWAC, the Australian Medical Workforce Advisory Committee, and the commitment for them to undertake a longitudinal study of medical graduates and workforce issues. In that, I hope they look at the actual training requirements, particularly in some of those specialties. I would also like to ask Senator Tambling, as we are dealing with this legislation, whether or not AMWAC will get any additional funding for this project and whether or not the previous levels of funding have been increased—in fact, really been restored. Our concern is that, unless we have adequate funding, we may yet again come back with gaps in our knowledge, a lack of understanding of what we need and an inability to plan properly for the future.

I also acknowledge the government’s proposal to address the concerns of young doctors in relation to private emergency services and deputising services, but I think we do need to give this some time to see if it is actually working. Finally, that leaves us just with the issue of GP pre-vocational training. I have spoken to a number of doctors in training who have made very convincing arguments that young doctors need to experience GP training even if they are not eventually going to become GPs. Even if they are going to specialise or go elsewhere—perhaps even into research—they still need a basic understanding of what general practice is all about. Particularly if they are specialists, they are going to be receiving referrals and working closely with general practitioners.

I acknowledge the government have created a range of opportunities for doctors wishing to gain extra experience in general practice and I would like to congratulate the government for their efforts in this area—for example, they have provided $3 million to the Australian College of Rural and Remote Medicine to pilot a placement program for doctors in rural general practice. This program is still in its initial stages and is expected to expand to take advantage of the additional funding. Again, this is something that needs watching and this is why we need to put this issue off to one side in a separate bill, to give it five or six months and to look down the track at what we have actually achieved. I hope that the program will be successful in providing young doctors with this general practice experience.

I also acknowledge the government have taken action to set up special programs to address specific workforce needs. I would be interested in obtaining from the government further information about the schemes and the funding that have been made available. I think we also need to look at the maldistribution of general practitioners and the continuing shortage in rural and remote areas. It has been a concern of mine for quite some time that specific initiatives have not been taken. In fact, I looked back through some of my old speeches, and I argued in 1994 that we should be looking at some sort ‘of Commonwealth program that will either offer scholarships or some other level of support for rural students who have the qualifications but not the finance to study medicine’.

I am pleased to see that, probably in about a week, we will be dealing with the bonded scholarships legislation and that will be a further part of the picture as we deal with the issue of at least doctors in rural and remote areas. I support some comments made earlier tonight by Senator West. Indeed, I would like to go further than those comments about support for the nursing and allied workforce in that we should be looking at some sort of a scholarship program for nurses—and a lot more than 100 in rural and remote areas. We are not going to get doctors out
there unless we have nurses who are out
there prepared to work beside them.

It would be good to see this government
think again about the provision of scholar-
ships to encourage students into nursing in
all states and it would also be good to see
those nurses required to do a period in rural
and remote areas. I think there is still a high
level of concern in the medical profession
about aspects of this legislation, and leaving
it a few more months—as I said, five or six
months—before we deal specifically with the
sunset clause will give the opportunity for
people to see whether or not this really is
working and to address this couple of out-
standing issues, particularly as far as the
ability for doctors to get some experience in
general practice is concerned.

Senator TAMBLING (Northern Terri-
tory—Parliamentary Secretary to the Minis-
ter for Health and Aged Care) (9.44 p.m.)—I
thank Senator Lees for her comments and we
note those. As I indicated earlier, the gov-
ernment at this stage is quite happy to nego-
tiate and discuss further with the Democrats
a number of the issues that have been raised.
Senator Lees raised the question of costs and
funding. I can confirm that Dr Wooldridge
wrote to Senator Lees on a number of mat-
ters in connection with this. In a letter dated
30 May this year under the heading ‘Better
data on medical training pathways’, Dr
Wooldridge said:

Adequacy of data was a key concern at the time
the legislation was first introduced and it contin-
uues to be a focus of work to develop a better pic-
ture of the Australian medical workforce training
pathways by such bodies as the Medical Training
Review Panel and the Australian Medical
Workforce Advisory Committee, AMWAC. I can
confirm that funding has been made available to
AMWAC to conduct a longitudinal study this
year on medical graduates to ascertain attitudes to
training and career choices.

I hope that information is helpful to Senator
Lees. I will ensure that any further detail that
is required on that matter is made available
as we continue to discuss these issues.

Senator CHRIS EVANS (Western Aus-
tralia) (9.45 p.m.)—It all now becomes clear.
I was a bit perplexed about all this, but now I
know at the heart of it again is the Wooldridge letters. I think there is going to
be more than one volume when they are
published in future years; there is going to be
a bound set of at least three or four volumes.
I am glad the parliamentary secretary at least
made it clear that there had been some ex-
change of correspondence and undertakings
given. It would have been helpful if they had
been tabled so that people both in the Senate
and in the wider community who are inter-
ested in these matters could have been aware
of what undertakings had been given.

I was a bit perplexed because, as I under-
stood it, we had a proposal from the govern-
ment to remove the sunset clause. The Labor
Party indicated they would be opposing that.
The Democrats have now split the bill and
have effectively ducked the issue so we do
not vote on that. The community and those
interested in this matter are still left in the
dark as to what is going to happen. I under-
stand Senator Lees has now said that in five
or six months time it might come back on
again. Given that we have been waiting five
or six months for this to come on, I think that
time has probably passed.

I now understand from what Senator
Tambling said that there was a letter dated 30
May. That has obviously been around for
some time and that has perhaps informed
those discussions. I do not raise any objec-
tions—it is perfectly proper for people to
write to the minister and receive replies. But,
as I say, I have been a bit perplexed as to
what the great tactical manoeuvre here was
and what the purpose of it was because it
seems to me all we are doing is putting off
debate and putting off a decision on the sun-
set clause. The government for some reason
has decided to acquiesce to that. So those
who have an interest in the matter are still in
the dark about what will happen. It is no
clearer and now there are suggestions about
correspondence exchanges, undertakings, et
cetera. It would be useful if that was made a
bit more public so all those with an interest
might know.

Obviously the Labor Party opposes this
move, but I will not prolong the debate by
labouring the point. We think there would
have been more impetus for the government
to deal fairly and openly with the doctors if
in fact the sunset clause had been defeated
rather than just deferred in this way. As I say, we have been waiting some months for this whole thing to come on, so the sort of delay Senator Lees alluded to to allow more time has in fact occurred. I am still not sure from what she said what process is to follow from here. I think people would be interested to know what process will follow. Senator Lees made some favourable comments about what the government had been doing, but it is still not clear to me what is intended to happen in terms of the sunset clause. I think people are looking for an indication of where we are going with all this. I think people thought this bill would resolve that.

As I have said, I am perplexed. I think some people out there who are interested in the matter will remain perplexed. It would be useful, if the government thought it appropriate, to have that piece of correspondence tabled and to get some clearer indication from the government and the Democrats about where we go from here rather than leaving it up in the air. Obviously support is there for that proposal so I will not labour the point.

Senator LEES (South Australia—Leader of the Australian Democrats) (9.49 p.m.)—Just to respond to some comments from Senator Chris Evans, we have made it very clear that the section in this bill relating to pathology should be passed—indeed should have been passed months ago. The section relating to overseas trained doctors also needed to be passed. However, as I have just explained in my previous comments, we want to keep alive the sunset clause.

As I have said, I am perplexed. I think some people out there who are interested in the matter will remain perplexed. It would be useful, if the government thought it appropriate, to have that piece of correspondence tabled and to get some clearer indication from the government and the Democrats about where we go from here rather than leaving it up in the air. Obviously support is there for that proposal so I will not labour the point.

The PRESIDENT—Order! It being 9.50 p.m., I propose the question:

That the Senate do now adjourn.

Mandatory Sentencing

Senator EGGLESTON (Western Australia) (9.50 p.m.)—Today when I read the press clippings I found an article in the Sydney Morning Herald headlined ‘UN call on mandatory sentencing’. It referred to the fact that the United Nations special investigator into the independence of judges and lawyers had called for Australia’s mandatory sentencing laws to be repealed. He said they were a breach of the rights of every individual to a fair trial. The interesting thing about that was that it came from Malaysia’s Dato Param Cumaraswamy. He was speaking at a seminar held in Sydney over the weekend on Australia’s mandatory sentencing laws. It is interesting that somebody from Malaysia made those comments and somebody from Malaysia is the United Nations special investigator into the independence of judges and lawyers, especially when we take into account recent events in Malaysia in relation to the former Deputy Prime Minister Anwar Ibrahim, who as we all know over the last year has been taken through the courts in Malaysia in a trial which some people feel perhaps was not a good example of the independence of judges and lawyers.

His wife, Dr Wan Azizah, was recently in Australia. Far from being critical of Australia, Dr Wan Azizah expressed great thanks for the support which the Australian people and government in general have shown for the plight of her husband. On the Channel 9 Sunday program on 30 October 2000, Dr Wan Azizah said:

Australia is seen by Malaysians as a partner, I mean as a neighbour—it’s very important in this region, a stabilising factor ...

And she said:
I will seek further support from (the Australian government) whatever they’ve been giving so far, and continuing to help propagate the message because the fight for Anwar’s freedom is to fight for democracy, for justice, for truth.

I thought they were interesting comments that she should make. And it was interesting that this Malaysian individual Dato Param Cumaraswamy should have been the United Nations special investigator into the independence of judges and lawyers and that he was so critical of Australia.

The same article in the Sydney Morning Herald this morning reported that the chair of Oxfam—a British aid organisation which, over the years, has largely provided aid to Africa—a Ms Hedy D’Ancona, who is a Dutch national, in a report to the United Nations called for the federal government to legislate to invalidate the mandatory sentencing laws in both the Northern Territory
Susanna Lobez asked: 

So in England, when are the judge’s hands tied?

Professor Freiberg replied:

Well the legislation affects offenders convicted for a third time of certain drug offences, and they’re liable to a minimum of seven years, and there are also automatic life sentences for certain repeat serious offenders and there are ‘third strike and you’re out’ for serious burglary offences.

On the subject of the abuse of human rights the US laws represented, Professor Freiberg, speaking in reference to the automatic sentence of 25 years to life for a third-time felony, however minor, added:

I think that is such a gross breach of human rights, that is such a violation of human rights, and I’m surprised that this indignation is not turned on the United States.

The indignation he is referring to is the indignation against Australia. He went on to say:

I see a fairly wide range of media internationally, but I haven’t seen the United States being hauled before the United Nations committees ...

Very interesting, when both the UK and the United States have much more severe and draconian mandatory sentencing laws which really do impair civil rights, isn’t it? Then there is the question of our general treatment of laws compared to those in other developed common law countries. Professor’s Freiberg’s reply was, ‘Very minor, very minor.’ In other words, he was saying that, compared to other common law countries, the mandatory sentencing laws in place in Australia were quite trivial. When he was asked to give an international perspective to the debate on Australian mandatory sentencing, Professor Freiberg said:
of Aborigines. This year’s budget papers show that the Howard government will spend a record $2.3 billion on indigenous specific initiatives, covering housing, education, health and employment. In Australia we recognise that the problems of our indigenous people need special attention, and we are meeting the challenge to the best of our ability. The chairperson of the United Nations Human Rights Committee, which has been so critical of Australia, is from Chile. I must say when it comes to questions of respect for human rights I know which country I would prefer to live in. I wonder how much money the government of Chile spends on programs for its indigenous people. I have to say it seems to me that the UN Human Rights Committee and their special investigator on the independence of judges are both being unfairly critical of Australia. (Time expired)

Rural and Regional Australia: Services

Senator O'BRIEN (Tasmania) (10.00 p.m.)—Last week I had the pleasure of visiting Flinders Island, which is part of the electorate of Bass, where I had a dinner with some of the community leaders and a morning tea with residents of the island. With the federal member for Bass, Michelle O’Byrne, I also attended public gatherings at Scottsdale and Lilydale in that electorate. The Flinders Island visit and the meetings in Scottsdale and Lilydale provided me with the opportunity to find out first-hand some of the key issues affecting people living in regional Australia. The Peter Reith affair was a key point of conversation wherever we went. People considered that Mr Reith was being given special treatment because of his position, treatment that ordinary working men and women would never get.

Fuel prices was also a very big issue in regional Australia, and the reasons are obvious. People living in regional and rural Australia have been forced to live with high transport costs for some time by virtue of their isolation. Most expect to have to pay a little more for their fuel, but fuel prices and transport costs in the bush are now well and truly out of hand. For example, diesel prices on Flinders Island have topped $1.20 a litre. There is confusion on Flinders and elsewhere as to how diesel fuel costs can be higher than the cost of petrol.

People are not only very unhappy about excessive fuel costs but also doubly unhappy because during the last election the Prime Minister created the perception—quite deliberately—that the new tax system would give them cheaper fuel. As I recall it, there were to be savings in transport costs to the tune of hundreds of millions of dollars. In contrast to that pre-election rhetoric the cost of fuel has skyrocketed. I note that this increase in fuel costs is not all of the government’s making, but the government has been an important contributor. Further, it has the opportunity to provide some relief from what are crippling costs for some people but has chosen to not do so.

On Flinders Island, transport continues to be a key issue. It is clear that the island is still suffering from the economic shock created by the Mobil fuel contamination fiasco. Mobil executives appeared before the Rural and Regional Affairs and Transport Legislation Committee on 11 October to give further evidence on this matter. Those executives acknowledged that the dependence of the Flinders Island economy on air services made the island a special case in terms of the impact of the fuel contamination. They acknowledged that island businesses suffered economic hardship as a result but flatly refused to consider compensation claims from businesses that have clearly suffered financial loss. The company confirmed that it still in discussion with the Flinders Island Council about the provision of some financial aid unrelated to compensation.

It is useful to put this legitimate claim by these businesses in context. I asked the company what the Exxon Mobil profit was for the previous 12 months. The executives at the table did not have an annual figure to hand but told the committee that profit for the first quarter of this year was $4 billion. The total value of these claims made by small businesses on Flinders Island to date have been just under $40,000. So they are not asking for some outrageous amount of money. They are not looking for a windfall gain; they are looking for compensation that reflects lost income flowing from the con-
taminated fuel supplied by Mobil Australia and the grounding of avgas fuelled aviation services. I point out that Flinders Island was totally dependent on avgas fuelled aviation and, to a great extent, still is.

The Peter Reith affair also featured at the Scottsdale gathering, as did the road between Scottsdale and Launceston. This has been a matter of some concern for that committee for some considerable time. It is a key corridor for the economy in the north-east of the state. There are also significant safety concerns by people who are forced to share a substandard road with heavy vehicles. I have travelled that road on many occasions, and I can say that I agree with their concerns.

In Lilydale, which is on the road between Scottsdale and Launceston, there were three main issues. There was, of course, the Peter Reith affair, there was the ongoing saga with the lack of the most basic television signal, and there was the issue of bank fees. Despite repeated commitments from the government going back to 1997 that there would be provision of an adequate television signal, that matter remains unresolved. The problem was given clarity by one resident at the gathering who said she followed the Sydney 2000 Games the same way as she followed the Melbourne games in 1956—that is, listening to the radio by candlelight, because there was a power blackout. I understand that the latest hold-up relates to some concerns about the construction of the television signal tower or repeater tower itself. Whatever the current problem, the fact remains that the federal government has given ongoing commitments to the Lilydale community that it would get an acceptable television reception and to date it has failed to deliver.

The other issue in Lilydale was bank fees. In October the Commonwealth Bank released details of its profit. Over the year it made a profit of $2.7 billion. Its income from fees over the same period increased by a staggering 17 per cent. This is on top of an increase in income from fees of 12 per cent in the previous year. And on the day that Australia switched on to the best ever Olympic Games, the Commonwealth Bank announced its intention to increase the fee for withdrawing cash from depositors’ accounts from $2 to $3. That is right: the bank will now charge you $3 for the privilege of withdrawing your own money.

We on this side of the chamber have been calling on the government to direct the Australian Competition and Consumer Commission to formally monitor bank fees and charges. We have also called on the banks to enter into a social charter with their customers to ensure that an adequate standard of service is provided, in regional areas in particular, at a reasonable price. To date the government has failed to act, and again regional centres like Lilydale and Scottsdale suffer as a result. Regional Australia is continuing to suffer as a result of both this government’s actions on matters such as fuel prices and its inaction on matters like escalating bank fees.

Employment Assistance for People with Disabilities: Esperance

Senator MURRAY (Western Australia) (10.08 p.m.)—I have been assisted in compiling the facts in this speech by Employment Esperance, whom I visited in September. I became concerned about some missed opportunities and some unnecessary policy outcomes, which I think could be fixed with a little more flexibility and a little more money. Esperance is a very isolated, very pretty, well-kept town of 14,000 people. It is one of our most isolated large settlements, situated on the south-eastern coast of Western Australia over 770 kilometres from Perth, 400 kilometres from Kalgoorlie and 500 kilometres from Albany. The Esperance region has recently been documented for its extremely high suicide rate—more than three times the national average.

Career Contact began in Kalgoorlie in Western Australia in 1989 as a private organisation funded by the Commonwealth to provide open employment assistance to people with disabilities in the goldfields region. An outreach office was established in Esperance in 1993 on a budget of $50,000 for five consumers with disabilities. The Department of Family and Community Services granted the Esperance agency of Career Contact autonomy as Employment Esperance on 1 January 2000. With regard to funding, I understand that the block grant funding levels
for the Esperance agency had been negotiated through the Kalgoorlie board of management with the Department of Family and Community Services without any direct input from the Esperance steering committee, Esperance staff or Esperance consumers. That funding amounted to $129,000 for 45 consumers in 1999-2000.

Employment Esperance is a specialist employment agency that assists job seekers between the ages of 15 to 64 with disabilities to find and maintain open employment at award wages in the Esperance region. The Esperance agency has steadily increased its services to consumers, building from five clients at its inception in 1993 to 45 clients in 1999-2000, with additional resources provided by the Lotteries Commission of Western Australia for equipment and vehicles, as well as post-school options funding for employment, which is no longer available. In 1996 the agency employed one full-time staff member and two part-time workers to provide employment assistance to 17 consumers. The management component was provided by Career Contact in Kalgoorlie, and the Esperance staff allocation of 78 hours per week was spent almost entirely on direct employment assistance to people with disabilities.

After autonomy was granted in January 2000 it became necessary to revise the annual targets with the Department of Family and Community Services in Western Australia to incorporate the management component within the annual block grant funding, as growth funds for disability employment services had been earmarked for case based funding trials. Eligible job seekers with disabilities in the Esperance region have been greatly disadvantaged by the subsequent reduction in direct employment assistance hours available to them from 78 hours per week to an estimated 45 hours per week at present.

In effect the 45 hours per week of direct employment assistance is providing on-the-job support for 20 consumers and job seeking assistance for seven consumers. There are also currently 13 applicants on the waiting list. The remainder of the consumers are not work ready but all consumers have identified Employment Esperance as their preferred employment agency. Between them, the consumers who are currently workers are accumulating a total of 424.5 hours per week of open employment at award wages or above. The Esperance agency have not received any increase in their block grant funding for four years, despite significant increases in client numbers, administration expenses and employment outcomes. They believe that the present nonavailability of growth funds has significantly disadvantaged job seekers with disabilities in the Esperance region.

The one per cent Commonwealth efficiency dividend is applied to this agency. The principle of an efficiency dividend is unassailable. But has anyone in government thought through whether it is remotely relevant to a very low budget operation already stretched to its limits? All the one per cent efficiency dividend does in these circumstances is cut the budget and reduce the services—it does nothing for efficiency.

Employment Esperance believes that it, in partnership with other local providers, plays a crucial role in this region for people with barriers to employment, many of whom are also receiving assistance from the local mental health team.

There is an ongoing significant increase in demand for specialist employment services to people with mental illness in this region. In 1999-2000, 13 students graduated from the Esperance Senior High School Education Support Centre, where students have an identified IQ of 70 or below. In 1999 the management of Career Contact in Kalgoorlie lodged a tender application for the second round of Job Network funding. However, during a change in management the decision was made by the board of management in Kalgoorlie not to accept the Job Network offer. At that stage all avenues available to increase service provision to consumers with disabilities in Esperance had been exhausted.

Employment Esperance was approached in April 2000 by the Western Australian Department of Training to trial the Mature Employment Program, ‘Profit from Experience’. This was largely due to the excellent reputation the agency had established in the region...
for providing employment assistance to people facing barriers to employment and the excellent networks established between existing service providers and employers. Employment Esperance regarded the trial offer as an opportunity to gain extra resources for the agency, the community and consumers due to the waiting list already established for specialist employment services.

The opportunity to provide this service on trial has allowed part-time staff to increase their paid hours, which in turn has assisted in securing their services for the agency and increasing the employment outcomes achieved for eligible consumers. The community reaction at all levels to this program has apparently been very good. According to statistics from the Western Australian Department of Training outreach officer in Kalgoorlie, the Esperance agency has established one of the most successful outcomes for Western Australia, including the Perth metropolitan area. This reflects well on the commitment by staff and the Esperance community to provide employment assistance to people with barriers to employment.

The additional opportunity for part-time staff generated extra funds for Employment Esperance to provide additional placements for people with disabilities. The Western Australian Department of Training, through Goldfields Joblink, has offered Employment Esperance a further 12-month contract to continue the mature employment program, Profit from Experience. This may provide an additional opportunity for employment assistance for any consumers aged over 45 with a disability to access a service which would otherwise not be available. Staff and board members appear to have been resourceful and innovative and have been consistently providing in excess of 100 hours per month of volunteer time outside their paid hours of employment. Additional volunteers have been resourced through the local volunteer resource centre to provide extra assistance.

Employment Esperance understands first-hand the complexities involved in finding and maintaining open employment assistance to people with disabilities. There are grave concerns that people with disabilities in the Esperance region will be further disadvantaged unless funding increases can provide additional resources to the specialist disability agencies preferred and nominated by consumers with disabilities and with barriers to employment. In my view, Employment Esperance urgently needs immediate intervention by the federal government to remove the one per cent efficiency dividend. It should be obvious that it is inapplicable in this situation. The additional $1,290—that is all it is—that this will provide to this agency may mean a reintroduction of a bimonthly service to the outlying rural communities of Ravensthorpe and Salmon Gums, which have eligible job seekers who now depend on their families to transport them from between 120 kilometres to 200 kilometres into Esperance for employment assistance. That is a practical low-cost start to a funding problem. Other funding assistance should be examined as well.

Paralympic Games

Senator COONAN (New South Wales) (10.17 p.m.)—I would not want the adjournment debate to conclude tonight without paying tribute to the Paralympians of the 11th Paralympic Summer Games. Designated at the closing ceremony last night as ‘the best ever’, these Paralympic Games saw Australia achieve not only a record number of medals in the overall competition but also its rightful place as a promoter of Paralympic achievement and excellence. But above all, the success of the Paralympic Games is to be found in the triumph of the human spirit.

As Convenor of the Parliamentarians for Paralympics, I visited the Olympic Park precinct over the period of the games to experience everything from ‘death ball’, better known as wheelchair rugby, through to wheelchair basketball and athletics. The aggressiveness and competitiveness of wheelchair rugby, to my mind at least, made able bodied rugby look a bit like little league. Whether they were throwing each other out of their chairs or playing smash-up derbies, the game was energetic to say the least. On one of my visits to Olympic Park, I was privileged to present a certificate to gold medal winners at the nightly Ceremony of Success. Hosted in the Ansett Australia team
house marquee, the ceremony was an opportunity for both the families and the athletes to reunite and to celebrate the achievements of the day. I was also able to visit the athletes village as guest of Sarina Bratton, the deputy mayor. The facilities provided to both the athletes and officials were second to none, ranging from the international bands on arrival in the amphitheatre through to a full global telecommunications store with access to ISD phones, Internet facilities, fax and mobile phone services.

But we do have to ask ourselves: what made these games so great? Was it David Hall’s nail-biting game when he bounced back after losing the first set to beat American Steve Welch in the men’s wheelchair singles tennis final? Or was it perhaps the swimming finals, where a race involving limbless athletes moved a grandstand of spectators to tears? Every athlete has an inspirational story of success, devastation, challenges, failures and victories. And behind the story is a very clear message—don’t look at what we cannot do but rather at what we can.

The people of Sydney provided the athletes with facilities, crowds, professionalism and publicity that ensured they had an environment of the highest calibre. For 11 days, the city showed off to the world, and Australians once again rewarded heroism in the best way they know how—by being there and cheering. Over the period of the games, 1.2 million tickets were sold—the highest ticket sales ever for the Paralympics. Although the ticket sales to the general public were impressive, we can gain no greater inspiration than from the 320,000 school children who travelled thousands of kilometres to attend the games of the 11th Paralympiad. From Bourke to Broome, from Darwin to Deniliquin and from Perth to Putney, school kids came in droves and witnessed the highest form of personal achievement in disabled sport. This was the true marketing genius behind the games to involve school children and their teachers in an Olympic experience at an affordable price. I congratulate each and every one of them for making the effort and for giving the teams of the world the support and encouragement that they did. This clearly would have to be an educational achievement that will live on in the hearts and minds of those children forever.

One of the clearest messages of what the Paralympic Games achieved was highlighted in a letter to the editor in last week’s Sydney Morning Herald. A woman wrote to say that her son, on seeing a young man in a wheelchair, instead of asking what was wrong with him, asked whether he was a basketballer. Wanting to know what someone can do rather than what they cannot do represents the mind shift that has taken place in the public consciousness about people with disabilities.

During the course of the games we had our fair share of anxiety when Hamish MacDonald was unable to compete following a reclassification and Louise Sauvage did not succeed in winning a rematch in her pet event against Chantal Petitclerc. However devastating these defeats may have been, they are setbacks that are part and parcel of elite sporting events. The nation felt for Hamish in particular as the years of focused training appeared to be wasted at the eleventh hour. Louise went on to glory in other events as we all expected her to do. However, to win in excess of 130 medals and close the competition as victors was a spectacular feat.

On Wednesday night the Parliamentarians for Paralympics will host the Australian team in Old Parliament House for a dinner to celebrate and honour their outstanding achievements. This multiparty function will give the opportunity for parliamentarians to meet face to face with David Hall, Louise Sauvage and Lynette Nixon. We will also be privileged to have Mike Brady perform his opening ceremony song, Rise to the moment. We must recognise the efforts of Chief Executive Lois Appleby and the Sydney Paralympic Organising Committee along with Greg Hartung and the Australian Paralympic Committee. These two bodies ensured that Australia experienced the best games ever—a task that Athens will have to match, let alone beat.

Congratulations to the 17,000 volunteers who made the games happen. This nation will never forget the contribution that you all
made. The smooth functioning of the games would never have been possible without your contribution. I would also wish to recognise my colleagues who joined the Parliamentarians for Paralympics to ensure the team had support at the parliamentary level. Without the Commonwealth government’s $43 million injection, the games would never have achieved what they did.

The enduring lesson from the games is the realisation that elite sport is not just for those gifted and able-bodied athletes who enthralled us during the Olympic Games. The Paralympics united Australians as never before. Contestants participated for the sheer thrill of achievement. Quite simply, the national Paralympic torch relay reignited community spirit. I saw this for myself when carrying the torch for a stretch at Baulkham Hills in Sydney. It was impossible not to be caught up in the excitement, although I did have the great privilege of handing the torch to the wonderful Susie O’Neill.

This sense of community participation continued right through the 11 days of competition. Australians have received a great legacy from staging the Olympic and Paralympic Games that goes beyond excitement and goodwill. We have a new crop of role models for our youth to emulate and a new edition of Aussie heroes to inspire us. We need to harness this new confidence in our ability to achieve as a nation and to plan for the future. There is much to achieve and many competing priorities with strategic decisions required for defence, welfare reform, development of infrastructure, restoration of the environment and reshaping innovation policy, to mention but a few. The lesson to be learnt is that Australians can achieve whatever we as a nation set our collective minds to achieve. The success of the Paralympic Games proves that.

Queensland: Firefighters

Senator BARTLETT (Queensland) (10.25 p.m.)—I would like to speak tonight on some issues relating to firefighters and community safety, particularly in relation to my home state of Queensland, although I think many of the points that I will raise are applicable nationally. Firefighters in Queensland have been calling on successive state governments for 20 years to commit to a consistent policy of maintaining safe levels of staffing for fire crews within the Queensland Fire and Rescue Authority and its predecessors—without success. The nationally and indeed internationally recognised standard for staffing of fire pumps—that is, fire trucks and appliances—is four firefighters per pump. This generally comprises one incident commander and three firefighters. ‘The crew of four’ is the terminology that is most well known. That is required from an operational standpoint to ensure that firefighter and community safety is maximised when attending fire incidents, and it is the standard crewing level under the Queensland Fire and Rescue Authority training regime.

All training of firefighters is conducted using this level of staffing, but unfortunately we have a situation where that level of staffing is not always guaranteed when crews attend a fire. The level of staffing is not about people just feeling it is nice to have a lot of people joining them when they go out to fight a fire; it is a crucial component of safety. That is why it is a basic part of how training is conducted. It is necessary for firefighters when they may need to enter burning structures to extinguish fires or, even more crucially on occasions, to effect rescues. Firefighters wearing breathing apparatus must work in pairs. There is no situation where a firefighter should enter a structure without a buddy. It is similar to scuba divers or others working in pairs so that, if one person runs into trouble in whatever way for whatever reason, the other is right there beside them, to assist, to be aware and to try to prevent a tragedy.

The usual scenario with the crew of four who arrive at a house fire or other fire is that they are informed that there may be people inside, the station officer becomes the overall incident commander and coordinates the operation, two firefighters don the breathing apparatus to make an entry, and the remaining firefighter prepares hoses for the crew to take inside and becomes the pump controller and the breathing apparatus controller. Indeed, a dedicated breathing apparatus controller was a specific recommendation from a coronial inquiry that followed the death of
two firefighters in Southport on the Gold Coast around 10 years ago. That person has to calculate, record and monitor the safe working time for the firefighters to remain inside—obviously a crucial role again. This is obviously an important and major workload which generally takes place within the first few minutes of a crew arriving at a location.

Unfortunately at present in many locations across Queensland fire crews are responding to incidents at times with crews of only three, placing the safety of firefighters and the community in jeopardy. In such a scenario where the crew would arrive at a house fire or other fire and be told that there is a person trapped inside, the station officer would be required to call for backup, which could be anything up to 20 minutes or possibly even longer. If you are talking about a regional area or location, you could have a wait of that much or more. The incident commander and one firefighter then become the breathing apparatus crew and the sole remaining firefighter has to prepare the hoses and becomes the breathing apparatus controller as well. There is no other qualified person outside to act as controller and incident commander until a backup crew arrives.

It is obviously against not just their better judgment but all of their training for firefighters to operate in such a condition, but if you are arriving at an incident where there is a prospect of someone being trapped within a fire and you may have other people outside pleading for help, or where you can see that a fire is at such a crucial stage that, if it is not addressed straightaway, the structure may be destroyed, then in those circumstances it is obviously pretty difficult for firefighters to just stand around saying, ‘Hang on a bit. We’ll make a call and someone else will come as backup in 20 minutes or so.’ Naturally enough, firefighters in those situations are often compelled to enter an unsafe situation and indeed place their lives at risk to attempt a rescue. Their willingness to do this in no way should be seen as supporting a policy of not maintaining adequate crewing levels or the crew of four.

It has been stated by the Chief Commissioner of the Queensland Fire and Rescue Authority that the authority provides funding for enough staff to maintain a crew of four at all locations in Queensland that are 24-hour full-time services and any shortage of staff is as a result of excessive absenteeism within firefighter ranks. This is despite the fact that firefighters have been identified as having the lowest level of absenteeism across the entire public sector in Queensland. Unfortunately, at the moment the authority will only pay overtime for up to seven replacements per month per pump at each location. In regional areas where you do not have the luxury of large numbers of staff and vehicles, this makes it impossible to shuffle crews around to maintain safe levels of crewing.

Unfortunately, the attitude of the state government has been that this is a matter of an internal arrangement within the authority, not a matter of funding. The situation was so serious that the firefighters union agreed to be paid single rate overtime for six months earlier this year in an act of good faith to allow the government and the authority breathing space to fund a definite policy. I am sure all senators would be aware that a union agreeing to work at below award wages—that is, overtime at single rate—is a fairly significant sacrifice, and I think it is a clear indication of the goodwill that has been involved to date and of the fact that this is not some sort of industrial campaign to get extra conditions. This is about basic attempts to ensure not just safe working conditions for the firefighters but to ensure that the Queensland public can rely on a firefighting service and on firefighters arriving with a properly crewed operation to ensure the best prospects of rescuing people if they are in a difficult situation. Unfortunately, that act of good faith has not produced any result in regard to any commitment by the government to a policy of providing extra funding to maintain safe crewing levels.

It is appropriate to acknowledge that the existing state Labor government increased the fire levy by 14.5 per cent last year, which raised an extra $22½ million. Whilst obviously welcome, that still only filled the debt that had existed since the amalgamation of the fire boards some years earlier and all additional funding was directed into fire edu-
cation programs. That is obviously important, but no extra funding out of that increase in levy was provided for increased staffing, which in terms of those basic levels of adequate safety is obviously a crucial matter. In this year’s budget, again there was lots of fanfare about a record $20.3 million for community fire safety programs—which is a good thing and I praise and welcome that—and funding for new vehicles, new fire stations, new station construction, refurbishment and training facilities. All of that is very welcome and supported, but there was no funding for extra staffing to ensure that that basic requirement of a crew of four is maintained.

I believe a clear commitment is required from the state government in Queensland to maintain a minimum crew of four at all 24-hour full-time locations at all times. Alleged excessive absenteeism should not determine whether or not the lives of firefighters and members of the community are placed in jeopardy. If there is misuse of sick leave, then deal with that as a case in itself; do not put the safety of firefighters and the public at risk. Not only is the replacement figure of seven shifts per month below the average level of sick leave across the public sector, but it also needs to be emphasised that the nature of firefighting demands that firefighters have to be pretty close to 100 per cent fit when they turn up for work. If you are an office worker and you have a twisted ankle or a sprained wrist, you can usually still turn up for work—you can still answer a phone, you can still type, and you can do other things. But if you are a firefighter and you have what might be seen as a minor injury, then you are not able to safely report for duty. From that perspective, I think it is fair to suggest that, if anything, you would expect a higher degree of sick leave with firefighters than with others. But that is not the case.

It is a clear situation that we need a stronger commitment to those basic safety issues. It may be that it is an issue that should be enforced across the board nationally. I am not sure of all states, but I think there is a lack of guarantees in terms of meeting, ensuring and requiring basic minimum standards in areas such as firefighting across the country. It is worth noting that the USA recently changed their federal occupational health and safety legislation to ensure that firefighters operate with a minimum number to ensure safety, and the required number is the same there—a crew of four. That is something I believe we should aspire to in Australia, particularly in Queensland.

**Senate adjourned at 10.36 p.m.**

**DOCUMENTS**

**Tabling**

The following documents were tabled by the Clerk:

- Australian National University Act—Statute No. 259.
- Broadcasting Services Act—Regional Equalisation Plan.
- Civil Aviation Act—Civil Aviation Regulations—Civil Aviation Orders—Civil Aviation Amendment Order (No. 15) 2000.
- Civil Aviation Amendment Order (No. 16) 2000.
- Instruments Nos CASA 447/00, CASA 451/00, CASA 452/00 and CASA 458/00-CASA 460/00.
- Commonwealth Authorities and Companies Act—Notice pursuant to paragraph 45(1)(c)—Membership of the National Breast Cancer Centre.
- Currency (Perth Mint) Determination 2000 (No. 5).
- Currency (Perth Mint) Determination 2000 (No. 6).
- Currency (Perth Mint) Determination 2000 (No. 8).
Fisheries Management Act—Australian Fisheries Management Authority Temporary Order No. 5 of 2000.
Health Insurance Act—
   Health Insurance (Prescribed Pathology Services) Determination 2000.
Lands Acquisition Act—Statements describing property acquired by agreement under sections 40 and 125 for specified public purposes [2].
Migration Act—
   Certificates under section 502, dated 11, 12 and 26 October 2000.
Native Title Act—
   Recognition of Representative Aboriginal/Torres Strait Islander Body 2000 (No. 13).
Quarantine Act—Quarantine Amendment Proclamation 2000 (No. 2).
Taxation Determinations TD 93/146 (Addendum) and TD 2000/46-TD2000/49.
Taxation Ruling TR 1999/19 (Addendum) and TR 2000/14.
Telecommunications Act—
   Telecommunications (Types of Cabling) Amendment Declaration 2000 (No. 1).

Indexed Lists of Files

The following documents were tabled pursuant to the order of the Senate of 30 May 1996 as amended 3 December 1998:
   Attorney-General’s portfolio.
   Commonwealth Ombudsman.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Aboriginal and Torres Strait Islander Commission: Programs and Grants to the Kalgoorlie Electorate
(Question No. 2435)

Senator O’Brien asked the Minister for Aboriginal and Torres Strait Islander Affairs, upon notice, on 27 June 2000:

(1) What programs and/or grants administered by the department provide assistance to people living in the federal electorate of Kalgoorlie.

(2) What was the level of funding provided through these programs and/or grants for the 1996-97, 1997-98, 1998-99 and 1999-2000 financial years.

(3) What level of funding provided through these programs and/or grants has been appropriated for the 2000-01 financial year.

Senator Herron—The answer to the honourable senator’s question is as follows:

The Aboriginal and Torres Strait Islander Commission has provided the following information in response:

(1) Grants are made from the following major programs administered by ATSIC in the federal electorate of Kalgoorlie:

Commercial

Heritage, Environment and Culture

Legal Aid and Human Rights

Community Housing and Infrastructure Program (CHIP)

Planning, Service Agreements and Local Government

Community Development Employment Projects (CDEP)

(2) and (3) Program Funds for Federal Electorate of Kalgoorlie:

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Aboriginal and Torres Strait Islander Commission: Programs and Grants to the Eden-Monaro Electorate
(Question No. 2454)

Senator O’Brien asked the Minister for Aboriginal and Torres Strait Islander Affairs, upon notice, on 27 June 2000:

(1) What programs and/or grants administered by the department provide assistance to people living in the federal electorate of Eden-Monaro.

(2) What was the level of funding provided through these programs and/or grants for the 1996-97, 1997-98, 1998-99 and 1999-2000 financial years.

(3) What level of funding provided through these programs and/or grants has been appropriated for the 2000-2001 financial year.

Senator Herron—The answer to the honourable senator’s question is as follows:

The Aboriginal and Torres Strait Islander Commission has provided the following additional information:

Although outside the time frame of the honourable senator’s question, 1995/96 funding to the Eden Keeping place is culturally relevant and of high significance to the Aboriginal community at Eden.

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Note 1 - the Community & youth Support Program did not operate past the 1996/97 year.
Note 2 - NAHS expenditure ranges over 3 financial years
Note 3 - Aboriginal & Torres Strait Islander people residing in the Eden-Monaro electorate have access to legal services provided by the South Eastern Aboriginal Legal Service based in Nowra.
Note 4 - Aboriginal & Torres Strait Islander people residing in the Eden-Monaro electorate have access to funding for sport and recreation through the Aboriginal Corporation for Sport & Recreation based in Queanbeyan.
Senator Brown asked the Minister representing the Minister for Forestry and Conservation, upon notice, on 27 June 2000:

Given that the Meander Valley Council has called for urgent action under the Regional Forest Agreement for the purchase of all or part of 160 hectares of native forest owned by Mr Bruce Hill on the slopes of Stephens Hill at Parkham, because of the importance of its conservation value:

(a) What is the evaluation of the block; and

(b) What is being done to ensure that it is not ‘extensively logged’ as feared by the council.

Senator Hill—The Minister for Forestry and Conservation has provided the following answer to the honourable senator’s question:

Environment Australia has provided the following information.

(a) The block has been surveyed by the Regional Forest Agreement Private Land Reserve Program to determine its values. A report on the block was presented to the Comprehensive Adequate and Representative Scientific Advisory Group (CARSAG). The block in question contains both target and non-target vegetation communities.

The target communities are 10 ha of black gum (Eucalyptus ovata) and 40-60 ha of damp sclerophyll forest. The rest of the forest on the block consists of about 110 ha of Eucalyptus obliqua, a forest community that is not a target community for the RFA Private Forest Reserve Program.

The CARSAG determined that the block is of medium priority; and that the RFA Private Forest Reserve Program should attempt to negotiate for a covenant with the landowner.

The determination was reviewed by CARSAG for a second time to determine whether the conservation values of the block had been under-valued, and whether the Program should re-consider purchasing the block. The review found that examples of the forest types present on the block are well represented in existing CAR (Comprehensive, Adequate and Representative) reserves in the area. CARSAG confirmed their earlier conclusion that the block has “desirable values but alternative areas are available and a substantial percentage of communities are already included in CAR reserves”; and that it is not a high priority for the Program.

(b) While the area is not a priority for the Program a range of options were discussed with the landholder, including covenant arrangements and purchase, however, the Program and the landholder could not agree to terms.

The landowner has agreed to protect the 10 ha of Eucalyptus ovata under the approved Forest Practices Harvesting Plan for the block. The other areas of the block are available for harvesting in accordance with the Plan.

Senator Faulkner asked the Minister for Employment, Workplace Relations and Small Business, upon notice, on 7 July 2000:

As a dollar amount and as a percentage of the department’s total outlay on salaries, what was the cost of: (a) staff training; (b) consultants; and (c) performance pay, in the 1999-2000 financial year.

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

(a) The cost of staff training throughout the 1999-2000 financial year was $6 931 772 or 5.53 per cent of the total outlay on salaries of $125 255 200.
(b) The cost of training consultants in 1999-2000 was $5,333,781, which is 4.26 per cent of the total outlay on salaries.

(c) The cost of performance pay for the department for 1999–2000 was $1,180,255, which was 0.95 per cent of the total outlay on salaries.

Department of Agriculture, Fisheries and Forestry: Salaries

(Question No. 2575)

Senator Faulkner asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, 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 Alston—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

The department’s total outlay on salaries for the 1999-2000 financial year was $186,054,000.

(a) The cost of staff training for this period was: $3,984,000, or 2.14% of the department’s total outlay on salaries.

(b) The cost of consultants for this period was: $11,746,000, or 6.31% of the department’s total outlay on salaries.

(c) The cost of performance pay for this period was: $358,000, or 0.19% of the department’s total outlay on salaries.

Department of Agriculture, Fisheries and Forestry: Secretary’s Travel Costs

(Question No. 2584)

Senator O’Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 19 July 2000:

(1) How many trips to Melbourne paid for by the department, has Mr Michael Taylor made for family reasons since his appointment as Secretary of the department.

(2) What is the total cost to date of the above travel.

(3) What other costs or expenses have been incurred as a result of the above travel.

(4) Can a detailed breakdown be provided of the above costs and expenses including the nature of each cost or expense since Mr Taylor’s appointment.

Senator Alston—The Minister for Agriculture Fisheries and Forestry has provided the following answer to the honourable senator’s question:

(1) Mr Taylor’s contract contains a clause that provides a maximum allowance of $6,600 a year for reunion travel. This is in accordance with the PS Determination 1998/5. As at 3 August 2000 Mr Taylor had undertaken six reunion trips since his appointment on 17 January 2000.

(2) $3,284.00

(3) Nil

(4) The detailed breakdown is as follows:

Air fares $2,564.00
Taxi fares $720.00

Australia Week: Venue Hire, London

(Questions Nos 2600 and 2601)

Senator Faulkner asked the Minister representing the Minister for Foreign Affairs, upon notice, on 25 July 2000:
(1) Did the Australian Government make any payments for the venue hire for Australia Week functions held at Westminster Abbey or the Guildhall, London; if so (a) how much was paid in each case; (b) to whom was the payment made; and (c) who gave final approval for the functions to be held in each of those venues.

Senator Hill—The answer to the honourable senator’s question is as follows:

(1) There were no venue hire costs to the Australian Government in regard to the function held at the Guildhall.

Costs associated with the venue hire for Westminster Abbey were passed directly to the National Council for the Centenary of Federation. The National Council for the Centenary of Federation is the appropriate institution to respond to items (a), (b) and (c).

South Korea: Saemangum Mudflats
(Question No. 2626)

Senator Brown asked the Minister for the Environment and Heritage, upon notice, on 27 July 2000:

In relation to the South Korean Government’s project to obliterate the vast Saemangum mudflats:

(1) What area of mudflats will be lost.

(2) What species of migratory birds that fly to Australia or New Zealand visit Saemangum.

(3) Which migratory species from Australia do not visit Saemangum.

(4) What number or percentage of these species use the Saemangum mudflats or other Korean wetlands.

(5) What impact will the loss of the Saemangum mudflats have on migratory bird species.

(6) What negotiation has Australia had with South Korea about Saemangum and what future negotiations are planned.

(7) Has Australia objected to the Saemangum project and, if not, does it plan to do so.

Senator Hill—The answer to the honourable senator’s question is as follows:

(1) The best advice available at present indicates that approximately 40,000 hectares of mostly mudflat habitat will be lost due to the construction of a sea wall at this site.

(2) and (3) Of the migratory shorebirds which traverse the East Asian Australasian Flyway (the migration pathway), 50 species are known to migrate to and from Australia. Of these, there are records which confirm that twelve species have been observed using the Saemangum mudflats as a stop-over point during migration to or from their northern breeding grounds. These species are: Bar-tailed Godwit, Terek Sandpiper, Great Knot, Grey Plover, Eastern Curlew, Black-tailed Godwit, Red-necked Stint, Sharp-tailed Sandpiper, Sanderling, Broad-billed Sandpiper, Red Knot and Whimbrel. In addition, the following four species are also known to use a migratory path over South Korea and it is therefore possible they may also use this site at times; Ruddy Turnstone, Curlew Sandpiper, Grey-tailed Tattler and Marsh Sandpiper.


(4) Of the 50 species referred to in the response to Questions (2) and (3), twelve species (24%) are known to use the wetlands of South Korea, including Saemangum.
(5) Surveys suggest this site is an important stop-over location for several species; however, it is not possible on available information to specify the precise impacts which would result from the destruction of the Saemangum mudflats.

(6) and (7) No, Australia has not objected to the Saemangum project and has not entered into any negotiations with South Korea about the future of the site. It is proposed that officials from Environment Australia will raise the matter and seek further information from South Korean counterparts at an upcoming conference under the Asia-Pacific Migratory Waterbird Conservation Strategy in Okinawa, Japan, in October this year. Through this initiative Australia has been active in promoting increased conservation efforts for migratory waterbird sites along the East Asian Australasian flyway, including in South Korea. On the basis of these discussions I will consider future representations on this matter to the government of South Korea.

Australian Broadcasting Corporation: Managing Director

(Question No. 2629)

Senator Brown asked the Minister for Communications, Information Technology and the Arts, upon notice, on 3 August 2000:

(1) What are the pay and conditions for the position of general manager.

(2) What due diligence was used in selecting the incumbent general manager, in particular, were full details of Mr Shier’s work experience and history, including that with the French company, Canal Plus, known to the Board prior to his appointment.

(3) What check with Canal Plus was carried out.

(4) (a) Since Mr Shier’s appointment, which ABC staff at managerial level have been dismissed and, in each case, why (b) who has replaced these people; and (c) what was the selection process.

(5) What were the grounds for dismissing Mr Paul Williams.

(6) What is the current salary of the directors of News and Current Affairs in television and radio.

Senator Alston—The answer to the honourable senator’s question is as follows:

(1) The chief executive position in the ABC has, since the enactment of the Australian Broadcasting Corporation Act 1983 (the ABC Act), been titled Managing Director. Section 14 of the ABC Act provides that the Managing Director is paid by the Corporation such remuneration as is determined by the Remuneration Tribunal (Determinations 1999/05 and 2000/06) and, subject to the Remuneration Tribunal Act 1973, such allowances as may be determined by the ABC Board (by reason of the definition of remuneration in the Remuneration Tribunal Act 1973, such allowances do not include annual allowances).

(2) As announced by the ABC Board on 1 July 1999, consultants Russell Reynolds Associates were appointed by the Board to assist it in carrying out an extensive international selection process for this position. This selection process included careful consideration of the work experience of candidates. In relation to Mr Shier, as his published curriculum vitae indicates, his employment with Nethold from 1994-97 ended when the company was acquired by Canal+. Mr Shier did not work for Canal+.

(3) See (2) above.

(4) The term ‘dismissal’ applies to cases involving misconduct rather than cases of resignation or redundancy where an existing position is abolished in the restructuring of job functions and responsibilities. The answers provided below comprehend termination of employment based on all possible reasons, but as specified in each case:

(a) to (c)

- Mr Andy Lloyd-James, Head National Networks. Position abolished in restructuring - not replaced - redundancy.
- Mr Paul Williams, Head News & Current Affairs. Retrenched. Mr Max Uechtritz, was appointed by the Managing Director after consideration of a range of candidates, to the new position of Director News & Current Affairs.
- Mr Ron Saunders, GM Network Television. Position abolished in restructuring - not replaced - redundancy.
- Mr Ian McGarrity, Head ABC Development. Position abolished in restructuring - not replaced - redundancy.
- Mr Hugh McGowan, Television Network Programmer - resigned.
- Ms Lindy Magoffin, Head Current Affairs - Position abolished in restructuring - not replaced - redundancy.
- Mr Norm Taylor, Head News - Position abolished in restructuring - not replaced - redundancy.
- Ms Pat Heaslip, GM Marketing - Position abolished in restructuring - not replaced - redundancy.
- Ms Sandra Hart, National Manager Research - Position abolished in restructuring - not replaced - redundancy.
- Dr Julianne Schultz, GM Corporate Strategy & Communications - Position abolished in restructuring - not replaced - redundancy.

(5) Mr Williams was retrenched as part of a restructuring of News and Current Affairs divisional management.

(6) There is a single position of Director of News & Current Affairs. The current salary is $233,128pa.

Department of Immigration and Multicultural Affairs: Public Opinion Research
(Question No. 2664)

Senator Faulkner asked the Minister representing the Minister for Immigration and Multicultural Affairs, upon notice, on 9 August 2000:

(1) Since 1 July 1999, has the department, or any agency in the portfolio, commissioned or participated in any way in public opinion research in non-metropolitan areas; if so, which agency or which functional area of the department.

(2) What was the purpose of this research and what were the objectives as set out for the research company or body when commissioned.

(3) Was any of this research designed to test the reaction of rural and regional constituents to Federal Government decisions, policies or potential policies, in any way similar to the research described in the Sunday Telegraph, 23 July 2000, page 81.

(4) (a) Which company or other body carried out the research; (b) what were the research methods to be used; and (c) what was the expected timetable for this research.

(5) Was any of the work sub-contracted to any other company or body; if so, why, and to which company or body.

(6) What were the results of this research.

(7) Who made the request that this research be undertaken, and who authorised the expenditure.

(8) What was the estimated cost of this research, and what was the total cost.

(9) How will the results of this research be used.

Senator Vanstone—The Minister for Immigration and Multicultural Affairs has provided the following answer to the honourable senator’s question:

(1) No

(2) to (9) Not applicable.
Department of Education, Training and Youth Affairs: Market Testing of Corporate Services
(Question No. 2680)

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

(1) Has the department and/or any agency in the portfolio set a timeframe to market test any of its corporate services; if so which agency, which functions, and what is the timeframe.

(2) In relation to each agency which has or will, move to market test corporate services, what arrangements have been made to consult with affected employees and their representatives; if such arrangements have not been made, when will these consultations be undertaken.

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

(1) Yes. In July 1999, the Department of Education, Training and Youth Affairs (DETYA) commenced a review of its corporate services to determine the most cost effective means of delivering those services. As part of this review, DETYA is progressively market testing its corporate services commencing with legal services in April/May 2000, office and financial services in August 2000. DETYA intends to market test its human resources services this financial year. Market testing of DETYA’s trans- actional banking is scheduled to commence in September/October 2000.

DETYA already has a wide range of its corporate services provided through external arrangements including travel, property management, security printing and related services, photocopying, training, staff counselling and legal services.

The Australian National Training Authority (ANTA) currently contracts out some of its corporate services including internal audit and legal services and advice, and part of IT requirements. These services are subject to market testing on completion of the contracts as part of a formal tender process.

(2) The Department’s existing Certified Agreement provides for the establishment of a communication framework for effective consultation with employees on matters affecting them. Initiatives are in place to provide staff with regular information about the review and market testing processes and includes consultative mechanisms with all affected staff.

ANTA procedures provide for consultation with staff affected by any proposed change.

Department of Education, Training and Youth Affairs: Market Testing of Functions
(Question No. 2699)

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

(1) Has the department, and/or any agency in the portfolio, set a timeframe to market test any of its functions other than corporate services; if so, which agency, which functions, what is the state and city or town location of staff currently undertaking that function, and what is the timeframe.

(2) In relation to each agency which has or will move to market test these functions, what arrangements have been made to consult with effected employees and their representatives; if such arrangements have not been made, when will these consultations be undertaken.

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

(1) No. At this stage the Department of Education, Training & Youth Affairs’ (DETYA) programme for market testing functions does not extend beyond corporate services (refer answer to Question on Notice No. 2680 for details of market testing of corporate service functions).

(2) In relation to DETYA, the existing Certified Agreement provides for the establishment of a communication framework for effective consultation with employees on matters affecting them.
Ocalan, Mr Abdullah: Incarceration
(Question No. 2728)

Senator Bourne asked the Minister for Foreign Affairs, upon notice, on 15 August 2000:
(1) If the Minister was aware of any mistreatment of Mr Abdullah Ocalan, during his incarceration by Turkish authorities.
(2) If so, what steps is the Government taking to stress to the Turkish government their rights and responsibilities to prisoners under international law and United Nations conventions.

Mr Downer—The answer to the honourable senator’s question is as follows:

No, the Government is not aware of any mistreatment of Mr Ocalan during his incarceration on the Turkish island of Imrali.

Mr Ocalan’s trial was conducted in an open and orderly manner. He was found guilty of treason and of establishing and commanding a terrorist organisation and was sentenced to death on 29 June 1999. The Turkish Grand National Assembly would need to vote in support of that sentence for it to be carried out. The sentence is currently under appeal at the European Court of Human Rights in Strasbourg, France.

On 15 August 2000, Turkey signed two important UN covenants on human rights: the agreements on political and civil rights and on economic, social and cultural rights.

Tasmania: Mount McCall Road
(Question No. 2729)

Senator Brown asked the Minister for the Environment and Heritage, upon notice, on 14 August 2000:
(1) For each of the past 5 financial years, including the 1999-2000 financial year, how many people have used the Mt McCall Road in Tasmania.
(2) For the same period, how many people have rafted the Franklin River: (a) Finishing on the Gordon River; and (b) Leaving the river via the Mt McCall Road.

Senator Hill—The answer to the honourable senator’s question is as follows:

(1) In the last five financial years, 3273 people have used the Mt McCall Road in a private or commercial capacity. A break down of the figures for the last five financial years has been provided in the table below.

<table>
<thead>
<tr>
<th>FINANCIAL YEAR</th>
<th>PRIVATE</th>
<th>COMMERCIAL</th>
<th>TOTAL</th>
</tr>
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<tbody>
<tr>
<td>1999-2000</td>
<td>254</td>
<td>235</td>
<td>489</td>
</tr>
<tr>
<td>1998-1999</td>
<td>316</td>
<td>166</td>
<td>482</td>
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<tr>
<td>1997-1998</td>
<td>573</td>
<td>251</td>
<td>824</td>
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<td>775</td>
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</tr>
<tr>
<td>1995-1996</td>
<td>142</td>
<td>174</td>
<td>316</td>
</tr>
<tr>
<td>TOTAL</td>
<td>2060</td>
<td>1213</td>
<td>3273</td>
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</tbody>
</table>

(2) (a) It is important to note that data for rafting numbers is supplied by rafting companies. (a) In the last five financial years, 943 people have rafted the Franklin River and finished on the Gordon River. A breakdown of the number of private or commercial rafters in the last five financial years has been provided in the table below.

<table>
<thead>
<tr>
<th>FINANCIAL YEAR</th>
<th>PRIVATE</th>
<th>COMMERCIAL</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>1999-2000</td>
<td>58</td>
<td>120</td>
<td>178</td>
</tr>
<tr>
<td>1998-1999</td>
<td>53</td>
<td>107</td>
<td>160</td>
</tr>
</tbody>
</table>
In the last five financial years, 485 people have chosen to raft the Franklin River and leave via the Mt McCall Road. A breakdown of the number of private or commercial rafters for the last five financial years has been provided in the table below.

<table>
<thead>
<tr>
<th>FINANCIAL YEAR</th>
<th>PRIVATE</th>
<th>COMMERCIAL</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>1999-2000</td>
<td>17</td>
<td>102</td>
<td>119</td>
</tr>
<tr>
<td>1998-1999</td>
<td>8</td>
<td>58</td>
<td>66</td>
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<td>1997-1998</td>
<td>0</td>
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<td>8</td>
</tr>
<tr>
<td>1996-1997</td>
<td></td>
<td>154</td>
<td>154</td>
</tr>
<tr>
<td>1995-1996</td>
<td>138</td>
<td></td>
<td>138</td>
</tr>
<tr>
<td>TOTAL</td>
<td>25</td>
<td>460</td>
<td>485</td>
</tr>
</tbody>
</table>

Dairy Regional Assistance Program: Procedure Development
(Question No. 2747)

Senator O’Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 16 August 2000:

Has the development of procedures for application and funding through the Dairy Regional Assistance Program been completed:

(a) if so: (i) what are the procedures to be followed in applying for assistance through this program, and (ii) how will funding be provided; and

(b) if not, when will the procedures for application and funding be announced.

Senator Alston—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

Yes, procedures for the lodging of applications and funding have been finalised for the Dairy Regional Assistance Program.

(a)(i) Prospective project proponents can access application forms, programme guidelines and other information on the Internet at http://www.acc.gov.au/Dairy/RAP/ or by contacting their local Area Consultative Committee (ACC). Completed applications should be lodged with local ACCs, who will endorse suitable projects and make recommendations for funding to the Department of Employment, Workplace Relations and Small Business (DEWRSB). Final assessment and approval of projects will be undertaken by DEWRSB.

(ii) Projects will be funded that facilitate employment solutions for communities and maximize opportunities for affected dairy regions. Successful projects will be announced regularly and project proponents will enter into funding contract arrangements with DEWRSB.

(b) Not applicable

Dairy Industry Adjustment Package: Eligibility
(Question No. 2748)

Senator O’Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 16 August 2000:

(1) What is the estimated number of dairy operators eligible for assistance through the Dairy Industry Adjustment package.
(2) How many applications for assistance were there through the Dairy Structural Adjustment Program (DSAP) by the 17 August 2000 deadline.

(3) Can dairy farmers who failed to lodge an application for assistance through the DSAP by the above deadline still access assistance; if so, what assistance is available to these farmers.

(4) How many applications have been received for assistance through the Dairy Exit Program since 1 July 2000.

Senator Alston—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

(1) The Dairy Industry Adjustment Package consists of three components. The largest of these, the Dairy Structural Adjustment Program (DSAP), will provide financial assistance to dairy producers from over 13,000 dairy farms Australia-wide. It was estimated that at least 30,000 individual dairy producers would apply for assistance. As an alternative to the DSAP, dairy producers wishing to exit may apply for tax-free grants of up to $45,000. No reliable estimates are available at this time on how many dairy producers will choose to use this program. Finally, the Dairy Regional Assistance Program will support dairy dependent communities that are affected by deregulation.

(2) The Dairy Adjustment Authority received 14,473 applications for the DSAP by close of business on 17 August 2000. Additional applications postmarked on or before this date have been received bringing the total to 14,837 applications covering 45,791 individual applicants as at 25 August 2000.

(3) Under the DSAP scheme legislation, the claim period for applications closed on 17 August 2000. However, applications postmarked on or before this date are valid and will be accepted by the DAA. A firm cut-off date was necessary to provide legal certainty and to minimise any delays in payments to farmers. Mechanisms to assist farmers complete their applications on time included use of a 3 month claim period, allowing applications to be submitted by persons on behalf of the applicant, and acceptance of farm business assessment declaration forms for a period up to six months after the close of the claim period.

(4) In order to apply for assistance through the Dairy Exit Program (DEP), farmers must first qualify for assistance under the DSAP. Applications under DSAP are in the assessment phase until 16 September 2000 and no notifications of entitlement have been issued. Consequently no applications for assistance under the DEP have yet been received.

Aboriginals: Pyrton Riverland, Western Australia, Sacred Site
(Question No. 2753)

Senator Brown asked the Minister for the Environment and Heritage, upon notice, on 17 August 2000:

(1) Has the Western Australian Attorney-General, Peter Foss, given an undertaking to the Minister not to do any work whatsoever on the sacred Pyrton riverland in Bassendean, Perth, Western Australia; if so, what is the undertaking and will the Minister table it in Parliament.

(2) What action will be taken concerning the “Marks Report”, commissioned by the Minister, which recommended a declaration be made by the Minister with regards to the registered sacred site at Pyrton (Swan River).

(3) Will the Minister allow Mr Foss to proceed with the building of a prison on sacred ground, thereby increasing the risk of deaths in custody for Aboriginal women prisoners.

(4) Does the Minister agree that the Aboriginal Heritage Act 1972, as administered by the Western Australian Government, is ineffective in protecting the registered site at Pyrton.

(5) Is it correct to say that there is no state law that completely protects Aboriginal sites in Western Australia.

Senator Hill—The answer to the honourable senator’s question is as follows:
(1) The Western Australian Attorney General, Peter Foss, has given an undertaking that no further work will be undertaken on the Pyrton site for the purposes of a prison to allow me to consider Mr Marks' report, and other relevant matters before making my decision. I am not required to table this undertaking in Parliament.

(2) An application for protection under s.10 of the Aboriginal and Torres Strait Islander Heritage Protection Act 1984 (the Act) has been made by Aboriginal persons over the site of a proposed women's detention centre at Pyrton in the Swan Valley. Under the provisions of s.10 (1)(c) of the Act I requested Mr Peter Marks to call for representations from the public and to prepare a report to me on the matters prescribed in the Act. I am currently considering Mr Marks' report, and the attached representations, and such other matters that I consider relevant in reaching my decision in relation to the application.

(3) I am currently considering whether to make a declaration which would prevent the former Disability Services' buildings at Pyrton from being used as a women's pre-release facility. Any such declaration will be tabled in Parliament.

(4) and (5) These matters are dealt with in Mr Marks' report, which I am considering.

**China: Human Rights**

(Question No. 2759)

Senator Brown asked the Minister representing the Minister for Foreign Affairs, upon notice, on 17 August 2000:

With reference to the Fourth Bilateral Dialogue between Australia and China on human rights:

(1) What steps does the Minister of the Australian delegation to those talks propose to take to inform the Australian public of their content and outcome.

(2) What steps does the Minister intend to take to inform the Parliament of the content and outcome of the talks.

(3) In answer to Senator Brown's question on notice no. 2108 (Hansard, 12 April 2000, p.13990) the Minister responded that after previous dialogues, his department gave "a detailed debrief to NGOs with an international human rights focus, including Amnesty International and the Australian Tibet Council".

Does the Minister stand by these comments given that, in an open letter to the Minister, both Amnesty International and the Australian Tibet Council stated their surprise at the statement and indicated that their organisations 'do not feel that we received "a detailed debrief" from you or your department following previous Bilateral Dialogues'.

(4) Does the Government agree with the assessment of Amnesty International and other human rights organisations that there has been a serious deterioration in the human rights situation in China.

Senator Hill—The Minister for Foreign Affairs has provided the following answer to the honourable senator’s question:

(1) The leader of the Australian delegation gave a press conference on the dialogue on 18 August. Information on the Technical Cooperation program agreed during the dialogue will be posted on DFAT website as soon as practicable. The Department of Foreign Affairs and Trade will provide a detailed debrief to relevant NGOs at the next biannual consultations due in October. Officials from the Department of Foreign Affairs and Trade are available to brief Members of Parliament on request and has already provided a briefing to the Government Members' Committee of the Joint Standing Committee on Foreign Affairs, Defence and Trade on 29 August 2000.

(2) Reports of discussions between officials, such as the bilateral human rights dialogue with China, are not normally tabled in Parliament.

(3) Yes.

(4) The Government agrees that there have been negative developments in the human rights situation in China over the past two years, such as the treatment of Falungong, the China Democracy Party, and unofficial church groups. At the same time, progress in areas such as legal reform has continued.
Quarantine: Overseas Posts  
(Question No. 2777)

Senator O’Brien asked the Minister representing the Minister for Foreign Affairs, upon notice, on 23 August 2000:

(1) How many officers with specialist quarantine skills are employed in overseas posts.

(2)(a) In which posts are these specialist officers located;

(b) how long has each position been in place; and

(c) what is the annual cost of providing specialist quarantine skills in overseas posts.

Senator Alston—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

(1) The Department of Agriculture, Fisheries and Forestry has four specialist officers located at overseas posts who deal with quarantine and technical market access issues.

(2)(a) The four outposted officers are located in Seoul, Tokyo, Brussels and Washington. The officer located in Tokyo is a plant health specialist, and the others are veterinarians.

(b) The Seoul and Tokyo positions have been in place since July 1997, Brussels since 1979 and Washington since 1968.

(c) The annual cost of maintaining these positions varies according to currency fluctuations, rental charges and other factors.

Taking into account staff expenses, travel expenses, consultancies and contractors, property expenses, administrative expenses, financial expenses and overheads, the cost of maintaining the four overseas posts has averaged $2.16m a year over the past three years.