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Thursday, 9 November 2000

The PRESIDENT (Senator the Hon. Margaret Reid) took the chair at 9.30 a.m., and read prayers.

PETITIONS

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

Aboriginals: Native Title

To the Senators assembled:

We, the undersigned, believe that Aboriginal culture enriches our society and that the respectful crafting of our laws to recognise and protect Aboriginal legal rights and culture is crucial to the achievement of reconciliation and co-existence. We believe that any legislation that takes away the rights of Aboriginal people is contrary to that spirit and prevents us creating a just and fair society to which we aspire.

The Western Australian acts of Parliament (passed under Section 43(a) of the Native Title Act 1993) dilute the rights of Aboriginal people to achieve native title in a just and reasonable manner.

We call upon the Senate to disallow the Western Australian acts when they ere presented to the Senate for ratification.

by Senator Chris Evans (from 952 citizens).

Veterans: Insurance Superannuation Industry

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

The petition of the undersigned shows:

The practice of certain Australian Insurance Companies indefinitely delaying or refusing to pay-out veterans of the Vietnam War in respect of lump sum monies owed to them following the veterans being made Totally and Permanently Incapacitated (T&PI), by the Commonwealth Department of Veterans’ Affairs, (DVA), Brisbane.

Veterans attending the Keith Payne, VC, Psychiatric Unit, Greenslopes, Queensland, have stated that after being made T&PI by DVA, for combat related Post Traumatic Stress Disorder, (PTSDP), their insurers have either simply refused to pay or have delayed indefinitely the payment of the veteran’s lump sum insurance contract pay-outs, connected to their superannuation entitlements. A number of veterans, (in excess of fifteen and rising) have been identified just in the Brisbane area and are owed in excess of $1.5M. The true number of veterans so affected is unknown.

Veterans are complaining that they have been singled out because of their disabilities, lack of resources and power base. They argue that workers from the banking sector, i.e., are paid out on PTSD claims whilst veterans’ claims are ignored even though they received their injuries in the service of their country.

Vietnam Veterans fear that unless something positive is done by the Government, insurers will continue their unethical practices and in the future disadvantage veterans of East Timor.

Your petitioners therefore request the Senate should:

Support a full Senate inquiry into the Australian Insurance Superannuation industry to ascertain the extent that insurers are discriminating against T&PI veterans suffering from PTSD.

Consider the best way to protect disadvantaged veteran’s from unscrupulous insurance company practices following veterans lawfully being made T&PI under the law by the Commonwealth.

by Senator Ian Macdonald (from 10 citizens).

Petitions received.

NOTICES

Presentation

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

That business of the Senate notices of motion nos 1 to 7 for today, relating to the disallowance of regulations, be called on and taken together when business of the Senate is reached in the routine of business, but be voted on separately.

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

That the Senate—

(a) notes:

(i) the reported decision of the Federal Government to keep Essendon Airport operational for another 47 years,

(ii) that the 1987 general aviation airport plan recommended 1 200 hectares as a safe size for an airport equivalent to Essendon Airport,

(iii) that Essendon Airport occupies approximately 305 hectares, almost 900 hectares short of the recommended area for an airport of its size,

(iv) that Essendon Airport has the worst safety record of any mainland airport,
(v) that Essendon residents have threatened to mount a class action against the Government should another crash occur,

(vi) that the air ambulance and commercial flights based at Essendon Airport can be accommodated at Tullamarine Airport,

(vii) that training flights, making up approximately 70 per cent of air traffic at Essendon Airport, could be moved to Mangalore Airport and other regional airports, and

(viii) that Essendon Airport is worth in excess of $50 million but made only $160 000 profit in 1999; and

(b) calls on the Government to make Essendon Airport safe, either by closing it or resuming 900 hectares of land around it to satisfy good design requirements.

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

That the Senate

(a) congratulates Ralph Nader, who has offered the United States (US) and the world honourable options to economic rationalism, to corporate override of democracy and to the two-party duopoly bedevilling western democracies;

(b) recognises Mr Nader’s integrity, which has won nearly 3 million US voters’ support;

(c) calls for an end to corporate donations to political parties in Australia; and

(d) endorses Mr Nader’s assertion that ‘the two parties need a jolt’.

Senator CAL VERT (Tasmania) (9.32 a.m.)—On behalf of Senator Coonan and the Standing Committee on Regulations and Ordinances, I give notice that, 15 sitting days after today, Senator Coonan will move that the following delegated legislation, a list of which I shall hand to the Clerk, be disallowed.

The list read as follows—


Senator CAL VERT—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—

A New Tax System (Goods and Services Tax) (Exempt Taxes, Fees and Charges) Determination 2000 (No. 2)

The Determination specifies the taxes, fees and charges that are excluded from the scope of the GST. Section 81-5 refers to a written determination of the Treasurer but the Minister for Finance and Administration appears to have made the Determination for the Treasurer. There is no indication whether the power to make this determination was delegated to the Minister and, if so, under what authority that delegation had been made.

Defence Portfolio Regulations Amendment (Aid to Civilian Authorities) Regulations 2000 (No. 1), Statutory Rules 2000 No. 263

New regulation 11A states that Part 3 of the Regulations (‘Aid to Civilian Authorities’) applies if the Defence Force is called out under “any lawful authority other than Part IIIAAA” of the Defence Act 1903. The Explanatory Statement adds only that Part 3 will apply where powers under Part IIIAAA are “not appropriate”. On the basis of the instrument and the Explanatory Statement it is difficult to determine under what situations the new regulations might apply.

New subregulation 11B(1) applies when the Defence Force is called out to protect “Commonwealth interests”. The regulation goes on to state that the Defence Force must be utilised in a way that is “reasonable and necessary to protect the Commonwealth interest”. This regulation appears to be modelled on section 51D of the Defence Act 1903.
tion 51D uses the expression “reasonable and necessary” to define the level at which the Defence Force is to be utilised. This expression may not be sufficiently precise and certain. Unlike section 51D, subregulation 11D(1) does not specify that “the Commonwealth interest” which it is reasonable and necessary to protect must be the same as the “Commonwealth interests” which have caused the Defence Force to be called out in the first place. That is, as the provision is currently worded, there is no necessary relationship between “Commonwealth interests” and “the Commonwealth interest”.

New subparagraph 11D(1)(b) provides that “a member of the police force” of a State or Territory may give a written request to the Chief of the Defence Force requesting that the Defence Force, which is being utilised in accordance with regulation 11B, be utilised for a particular task. This reflects a similar provision in paragraph 51F(1)(b) of the Act. It is not clear whether it is intended that any member of the police force might make such a written request.

**Radiocommunications (Third Party Users - Apparatus Licence) Amendment Determination 2000**

The Explanatory Statement refers to three errors in relation to this instrument. First, the preamble to the instrument refers to ‘section 115’ rather than ‘subsection 115(1)’. Second, section 3 makes an incorrect reference to the determination that is amended by this instrument. Third, section 1 of Schedule 1 contains a typographical error where it refers to the name of the Determination.

With regard to the third error just mentioned, it is not clear what error is being referred to. Both the heading to the instrument and section 1 of Schedule 1 refer to the Radiocommunications (Third Party Users – Apparatus Licence) Amendment Determination 2000. However, section 1 of the Determination, which specifies the name of the Determination, refers to “Apparatus Licences” (i.e. plural).

**Radiocommunications (Third Party Users - Apparatus Licence) Amendment Determination 2000 (No. 2)**

The purpose of this instrument appears to be to correct at least one of the errors referred to in relation to the Radiocommunications (Third Party Users – Apparatus Licence) Amendment Determination 2000. However, the instrument gives rise to some confusion about this. Section 3 of this instrument purports to amend the Radiocommunications (Third Party Users – Apparatus Licence) Amendment Determination 2000 which, the section says, was made on 13 December 1995 and notified in the Gazette on 20 December 1995. However, as the Explanatory Statement notes, the Radiocommunications (Third Party Users – Apparatus Licence) Amendment Determination 2000 was notified in the Gazette on 26 July 2000. It was made on 17 July 2000.

**Temporary Order No. 4 of 2000 made under subsection 43(8) of the Fisheries Management Act 1991**

The Order amends the Southern Bluefin Tuna Management Plan 1995 by defining Southern Bluefin Tuna only in terms of species *Thunnus maccocyii*. The Explanatory Statement refers to the similarities between the Southern and Northern Bluefin Tuna species, and notes the difficulty which fishers and compliance officers have had in differentiating between them. Because of this difficulty, the Management Plan had previously included both species within the definition of Southern Bluefin Tuna. The Explanatory Statement advises that with the development of genetic testing it is now possible to positively distinguish the two types of tuna, and therefore it is no longer necessary to include both species in the Management Plan. However, it is not clear how distinctions based on genetic testing can assist fishers and compliance officers in differentiating the two species.

**BUSINESS**

**General Business**

Motion (by Senator Ellison) agreed to:

That the order of general business for consideration today be as follows:

1. general business order of the day no. 88 — Auditor of Parliamentary Allowances and Entitlements Bill 2000; and
2. consideration of government documents.

Motion (by Senator Allison) agreed to:

That the Senate—

(a) notes:

(i) the Federal Government’s abolition of the $5.5 million Advanced English for Migrants Program (AEMP), effective January 2002;

(ii) that this Technical and Further Education (TAFE) program provides unemployed migrants and refugees with English for Specific Purposes and English for Further Studies to support other TAFE studies,
(iii) that the AEMP will be amalgamated with the Language Literacy and Numeracy Training (LLANT) Program but without additional funding, and that migrants and refugees formerly studying at TAFE are expected to take up places in LLANT;

(iv) that the tendering out of LLANT Program places to private, public and community organisations has led to a decline in accessibility and efficiency, with some English courses now only available through distance education, and

(v) that without this worthwhile and valuable program, the opportunities for migrants and refugees to become self-supporting through the use of skills they have brought with them from their countries of origin will be eroded; and

(b) urges the Federal Government to reverse this decision, on the basis that it will in the long run cost the community more if increasing numbers of migrants and refugees are not able to access English language instruction, particularly industry-specific language training.

COMMITTEES

Economic References Committee

Extension of Time

Motion (by Senator O’Brien, at the request of Senator Murphy) agreed to:

That the time for the presentation of the report of the Economics References Committee on the provisions of the Fair Prices and Better Access for All (Petroleum) Bill 1999 and the practice of multi-site franchising by oil companies be extended to 6 December 2000.

FORESTRY TASMANIA: TOURISM GRANTS

Motion (by Senator Brown) agreed to:

That the there be laid on the table by the Minister representing the Minister for Sport and Tourism (Senator Minchin), no later than immediately after question time on the next day of sitting, the following documents: the grant application by Forestry Tasmania and the documentation of the approval of the approval of the Dismal Swamp project, held by the Department of Industry, Science and Resources.
COMMITTEES
Publications Committee

Report

Senator CALVERT (Tasmania) (9.35 a.m.)—On behalf of Senator Lightfoot, I present the 20th report of the Publications Committee.

Ordered that the report be adopted.

Employment, Workplace Relations, Small Business and Education References Committee

Report

Senator JACINTA COLLINS (Victoria) (9.35 a.m.)—I present the report of the Employment, Workplace Relations, Small Business and Education References Committee entitled Aspiring to excellence: report into the quality of vocational education and training in Australia, together with an overview and recommendations, the Hansard record of the committee’s proceedings, submissions, and other documents presented to the committee.

Ordered that the report be printed.

Senator JACINTA COLLINS—I move:

That the Senate take note of the report.

The Aspiring to excellence report and its recommendations are the culmination of more than three years of close scrutiny of the vocational education and training sector by interested senators—particularly Senator Carr, who commenced this process through estimates.

When the Employment, Workplace Relations, Small Business and Education References Committee began its inquiry late last year it had much anecdotal evidence to draw on. Impressions, based on information arising from the estimates process, suggested a training system beset by quality control problems and unethical conduct by some training organisations—and much of the evidence to this inquiry has reinforced this to some extent. The inquiry also revealed that poor quality assurance processes, resulting from lax administration by some state training authorities—itself a consequence of the government’s refusal to meet the costs of increased demand for training—were entrenched in the VET system.

The 28 recommendations in this report draw to the government’s attention ways in which issues within the VET system can be addressed through a national framework for quality. A truly national VET system entails the Commonwealth exercising its powers to ensure that uniform standards and procedures apply to all aspects of the system: from registration of training organisations and their quality supervision through to the recognition and content of training packages.

In the view of the majority of the committee, the minister’s recent—but reluctant—initiatives simply do not go far enough. A solid legislative framework for a national VET system giving the Commonwealth overriding powers is essential to ensure the quality system across the country. The majority senators’ proposal for a national qualifications and quality assurance authority would see an administrative structure not only preserving current state functions but also ensuring Commonwealth powers to back state efforts, when required.

Growth funding is essential not only to support this quality assurance but also, more obviously, to allow states to deal with increased demand for training. From 1996 to 1999, participation in the VET sector increased by 22 per cent. The committee heard overwhelming evidence from state governments and others that there was no longer any scope to achieve growth through efficiencies. The committee notes that the ‘growth through efficiencies’ policy appears to be a major factor in the decline of quality within the VET system.

Industry representatives also do not accept that all is well within the VET sector in terms of quality. The Australian Industry Group has questioned the directions of Australia’s training efforts, and has expressed concern about the neglect of high-end technology training. Overall, the majority is left with an impression that Australian industry is not overly enthusiastic about recent efforts in the system—a system that allegedly is directed by them, and for them, through the Australian National Training Authority; nor does industry appear to be as fully engaged as it should be. Other stakeholders also feel
Many of these tensions within the VET system stem from this government’s introduction of the New Apprenticeships scheme. For example, it is New Apprenticeships which, in a climate of reduced funding, are putting most of the strain on the ability of TAFE institutes to deliver training. It is the New Apprenticeships area that has been the catalyst for growth of non-TAFE sector registered training organisations, a number of which have had their record for providing quality training called into question. It is the New Apprenticeships which have facilitated ‘wholly on-the-job training’, criticised in this report for its failure to provide broad generic training. It is the New Apprenticeships scheme where some unscrupulous employers, including some major companies, have abused incentive payments, taking on young employees but confining them to unskilled tasks in which the training component, if it exists at all, is minimal. This destroys the long-term benefits of the program and demoralises scheme participants. Also, the New Apprenticeships have caused some industry bodies to question the training priorities of the government; they are concerned that measures appear to be aimed at short-term alleviation of unemployment statistics rather than raising the general skills base for the purposes of rebuilding and enhancing the national economy.

The committee majority has not—and I stress ‘not’—recommended that New Apprenticeships be abolished. However, we want each of the unfortunate policy ramifications that I have noticed addressed according to the ways we recommend in our report. Related to New Apprenticeships is the issue of user choice as a mechanism for developing the training market. The committee has found that there are significant problems associated with the current training market which are affecting the quality of outcomes for the whole of VET. The benefits of user choice, rather than the ideological purity of the minister, have not been demonstrated in terms of quality training delivery. The committee has recommended a moratorium on its operation.

In the midst of this, the government is missing a vital opportunity to attract industry investment in training, and we make a number of recommendations on this point. It is imperative that we address skill shortages and have an adequate resourced agenda in partnership with industry, if VET is to facilitate a responsive and prosperous global economy—which must be its fundamental objective.

In conclusion, I extend my thanks to all of my committee colleagues for their hard work on this inquiry and to all those who have assisted throughout the course of the inquiry. On behalf of the committee, I would like to extend my particular thanks to Ms Gail Cummins, our consultant, for her outstanding work and to all members of the secretariat staff. I commend this report to the Senate.

Senator TIERNEY (New South Wales) (9.42 a.m.)—I would join with Senator Collins in thanking the secretariat for their work on this report—in particular, Mr John Carter, Geoff Dawson, Anne Dometrovic, Helen Winslade and Gail Cummins. This report has been a long time in the making. The government senators’ report states that it can be most accurately described as a description of a training system in the process of transition. The inquiry evaluated the success of the reforms in the vocational education and training sector—the most significant reforms that this sector has ever seen—and the judgment is that these reforms have been a success.

In particular, the report examined the new market driven approach to training and the advent of New Apprenticeships. That the overwhelming response of the participants in the reform process was encouraging is evidenced by the submissions received by the committee. The principal concern of the majority report is the issue of quality as relates to the Australian recognition framework; hence the report’s title. These concerns were raised when this inquiry was first initiated 18 months ago. The inquiry was conceived in circumstances of early difficulties being faced by the state regulatory bodies in carrying out their functions, and in the light of revelations of unethical practices by a small number of registered training organi-
sations. Initial teething problems were experienced some time ago in the early part of the reform process. What people must keep in mind is that this inquiry has been in process now for over 18 months. We have either addressed these problems or we are involved in a continuing reform process which will address them.

Since the Howard government came to power, there has been a revolution in the provision of vocational education and training in this country. The number of new apprenticeships has almost doubled since 1995. Young people’s participation in education and training has risen markedly, with 55 per cent of all 15- to 24-year-olds participating in education and training, a figure far higher than when Labor was in government. The number of clients over the last four years who have undertaken publicly funded vocational education and training in Australia has jumped from 300,000 to 1½ million. Australian businesses now have more choice than ever before when it comes to training provision. The reform process and its principles have been praised overseas, but there are still further reforms that need to be addressed and that is what the federal government is doing.

The majority report by the opposition members makes no recommendation that questions the broad framework of the VET policy. Senator Carr must be devastated by the evidence that came out of the inquiry, which clearly shows that both employers and people seeking training are happy with the new system. Senator Carr hoped this would be his free kick against the federal government, but the tables have certainly been turned, as the evidence shows. The facts are that the federal government has delivered a quality system and will keep the reform process going because the system works. What the majority report tends to focus on is the implementation of the VET system.

The Minister for Education, Training and Youth Affairs, Dr David Kemp, is addressing concerns over quality and national consistency which are, I would remind the Senate, largely a state responsibility. In July all state and territory ministers put another stage of the reform process into action by putting a national training system on the agenda. There are some concerns by employers about the inconsistencies between states in implementing training needs. Problems included far too much red tape at the state level and also that the states are providing different training programs so companies find it difficult when trying to operate and access training across state borders. In July this year the ministerial council met with the minister, Dr Kemp, and I am pleased to say that a number of areas were agreed on where the states must lift their game by the end of this year. There was also a decision, very significantly, to establish a National Training Quality Council. The council will ensure that quality is placed high on the training reform agenda and that industry has a leading role in quality assurance.

The main recommendation of the opposition is the establishment of a National Qualifications and Quality Assurance Authority as a Commonwealth statutory body to apply and administer compliance with a national code of standards. This recommendation is superfluous on the grounds that MINCO has already approved in principle the establishment of the National Training Quality Council, a body with enhanced powers to replace the current national training framework. The proposals from the opposition would cause a number of problems, particularly with that authority’s relationship with ANTA, and create potential difficulties for a minister in dealing with two bodies of equal status. It is also unlikely that the states would agree to an arrangement that would further diminish their administrative role in vocational education and training. So I wonder if Senator Carr has really checked this with his ministers in the Labor states of Australia.

The last thing that is needed in these VET reforms is a complicated system with even more bureaucracy and more red tape, and that is exactly what the opposition is proposing in its report. Business has been a major supporter of the new VET system and it is important to continue this important link between the employers and workers, MINCO and ANTA. Both MINCO and ANTA are currently addressing any concerns over implementation and the standards of registered training providers. State, territory and federal
education ministers will meet again next week to discuss vocational education and training. I believe that a nationally consistent industrial training law will be on the agenda again. I urge the states to agree to a national framework.

As Chair of the Senate Employment, Workplace Relations, Small Business and Education Legislation Committee, Deputy Chair of the Senate Employment, Workplace Relations, Small Business and Education References Committee and an educator all my life, I do understand the importance of good education and training. Through the new VET system, the skills that are needed for new or traditional industries can be met. This report has shown that the federal government is on track to providing the skills needed for today’s and tomorrow’s workforce.

Senator CARR (Victoria) (9.49 a.m.)—I do not have a copy of the opposition’s report of the Senate Employment, Workplace Relations, Small Business and Education References Committee, so it is very difficult to respond to that in the specifics. What I can say in response to the generalities of the statements made by Senator Tierney is that the Minister for Education, Training and Youth Affairs, Dr Kemp, has badly advised him in the things he has suggested today. This report has shown that the federal government is on track to providing the skills needed for today’s and tomorrow’s workforce.

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legislation, knowing full well that all the other agreements they have signed over the last five years have yet to be implemented. So we can expect that, for another five years, this proposition will not be addressed at all.

The government says that the frameworks are accepted. The truth of the matter is that the reform agenda was commenced by Labor. There is a need to ensure high quality qualifications. There is a need to ensure that people have access to vocational services—and in the past that was not always available—but on the condition that the services are high quality. It is no good accepting second best or running cheap and nasty training packages so that we get a massive increase in the number of people engaged in relatively low skilled enterprises or industry specific training when the industry at large goes wanting. It is no good accepting a situation where a skills shortage emerges because the more expensive training that is undertaken by people over a longer period of time is neglected, or where in Queensland recently it was discovered that one in five people being paid to undertake particular vocational education were not getting any training at all, or where Jenny Craig Kitchens attempted in 1998 to place all its existing staff—some of whom had been in their jobs for five years—on entry level traineeships in order to hold out for Commonwealth employer subsidies, or where Franklin’s supermarkets in Victoria attempted to put all their current delicatessen supervisors, not their junior staff, on entry level apprenticeships to attract Commonwealth subsidies.

Another example is where the training company Support Base Solutions acted together with another employer, Westgate Transport, in 1999 to apparently exploit 46 trainees. The trainees were placed in warehouses and told to do exactly the same work as the Labour Hire employees employed in the warehouse and were given little, if any, training. Another example is where an apprentice in the newspaper publishing industry, formally enrolled for four years for an Electronic Composition Certificate, received on-the-job training for only one year and was responsible for the management of the newspaper office, writing articles, taking photographs, advertising, hiring and firing of staff—the full range of responsibilities—as a trainee. The young woman was aged 20 when she commenced the so-called apprenticeship and worked 50 to 60 hours a week in return for a training wage. Another woman on a fisheries apprenticeship with Woolworths was required to work a 12-hour day, seven-day shifts for lengthy periods gaining a training wage of $100 a week. So substantial problems are being identified which directly affect the capacity of ordinary workers to enjoy the benefits that they have a right to expect from quality training.

This report’s recommendations say that the legal foundations for the current arrangements are basically flawed, that there is no national consistency in the legal framework, that recalcitrant providers cannot be disciplined under the current laws, and that it is almost impossible to demonstrate fraud in a situation that is so flexible that anything goes—that no matter how low you get in the system anything goes. National providers are shopping around the jurisdictions to get the lowest possible standards which then de facto become the national standards. Essentially, the confidence in the vocational education system is being undermined by a government that freezes funding and attempts to demonstrate that the market is the best allocative mechanism. When it comes to quality, that is the first thing that goes because it is easier and cheaper to go for the second best option.

We are proposing a model that says there has to be growth funding, there has to be Commonwealth support for the industry but, in return, the states can work with the Commonwealth—and this is the model being proposed—to provide a sound legal framework to ensure quality, to ensure that Australians get a fair go, to ensure that nationally we have qualifications which actually mean something so that we can compete internationally on a proper basis. If people want access to the Commonwealth dollar, there ought be conditions applied to that, and the ultimate condition has to be that quality outcomes will be produced. If they are not produced, then people are not entitled to get public subsidies. That is the essence of it. It
suggests that there is a need to distinguish a qualifications and quality assurance role from the general policy roles of ANTA. There has to be a separation. This is the situation in many countries. This is the situation that is crying out in this country. We cannot accept what is going on at the moment because it is not producing the quality outcomes that people have a right to expect and a right to enjoy. The promise of reform in vocational education has not been delivered by this government. We have massive growth but a decline in quality. It cannot go on. There has to be proper funding of the system. My suggestion is that, in return for proper funding, there has to be some commitment to quality. \(\text{(Time expired)}\)

Senator STOTT DESPOJA (South Australia—Deputy Leader of the Australian Democrats) (10.00 a.m.)—It is a pleasure to be speaking to the tabling of this report today, which concludes a comprehensive and much needed inquiry into the quality of vocational education and training in Australia. With this inquiry having finished, the Democrats look forward to the next inquiry that will be conducted by this committee—the one that we have initiated into public higher education. This report provides a series of recommendations supported by the Australian Democrats. The Democrats have had a long commitment—perhaps one of the strongest histories—of support for investment in education and training. We do not consider a well-resourced VET system to be a cost, and clearly this report shows where investment is needed in the VET sector, in conjunction with structural reform.

The capacity of VET to serve Australia’s future social and economic needs is largely reliant on its ability to meet demand for training across the community and of course to ensure equity of access. With the first post Olympic Games unemployment figures due out today, the onus on this government to develop real answers to structural unemployment may intensify. The growth in casual and part-time employment and the diminution of entry level jobs has meant that more and more Australians are having to develop portable skills, reskill and upskill to remain competitive in a tightening labour market. It is the ability of the VET sector to accommodate the needs of young people, who are at the coalface of many of the changes in the Australian labour market and at the most risk of suffering continuing labour market disadvantage as a consequence of those changes, that the Democrats believe must be secured as a matter of priority. Insufficient access to VET by young people is the clearest threat to the development of an adequate future skills base. In the context of an international trend towards skilled and information based economic development, Australia runs a real risk of being left behind if the current regime of growth through efficiencies is maintained.

The federal government has achieved its budgetary surplus on the basis of deep cuts to social and education expenditure. This short-term strategy is already beginning to have negative effects. If this regime is allowed to continue, not only will the damage already done not be repaired but the sector faces no prospect of being able to meet the growing demand for skill development in the Australian community. The goal of a flexible, skilled work force serving value added industry is unlikely to be realised unless Australia’s VET funding is increased to provide the skills development and training such visions require.

It is the view of the Democrats that the current government’s regime of growth through efficiencies has delivered the opposite, and of course there has been much debate on this not only in the earlier speakers’ remarks but in the second reading and committee stage debates of the Vocational Education and Training Funding Amendment Bill 2000 that we dealt with the other day. We believe that growth through efficiencies is a concept that has not worked. The VET sector has actually been asked to do more with less, leading to a contraction in services it can offer and inefficiencies in delivery of training and vocational education. Of particular concern to my party is the effect this contraction and the introduction of barriers to VET, such as fees and charges, have on young people.

Young Australians today, we know, are more exposed to job insecurity, casual and
part-time work and low wages than older workers. They spend more time in education and training than previous generations, enter a labour market of declining entry level opportunities and face a lifetime of job change and reskilling. The capacity of young Australians to take advantage of the flexibility these changes in the Australian labour market may offer is largely dependent on their access to quality education and training. Institutional training, such as that provided by TAFE, is a key measure by which young people may enhance their labour market competitiveness. Workplace training may also be a valuable source of VET. However, the retention of junior wage rates without the accompanying training provisions in many awards has meant many young people are trading off wage levels for little return.

Australia has a relatively low expenditure on education and training compared with other OECD nations, particularly European countries, which tend to have higher levels of public expenditure. Modelling conducted by Gerald Burke of the Monash University-ACER Centre for the Economics of Education and Training—and I have referred to this report on a number of occasions, but I reiterate—has shown that an increase in the proportion of 20- to 24-year-olds in education or training from 61 per cent to 70 per cent would actually involve additional public expenditure of approximately $1 billion. That is what we are talking about; that is what is required if we are to get the education and training system these young people deserve. This figure does not include additional income support costs for the transfer of young people from Newstart to Youth Allowance.

It is the view of the Democrats that increasing access to VET is crucial in assisting young people with managing that transition from education to work. While the costs of increasing access for young people to VET may be high, the alternative is continued high costs of providing income support to young people who are unable to manage that transition in an increasingly competitive labour market. The Democrats, as I have said many times in this place, also believe the imposition of fees and charges on the provision of training has compromised the equity of access to training, particularly for many of those who are most in need—particularly those who are from traditionally disadvantaged backgrounds. We are concerned by anecdotal evidence from employment service providers in the Job Network that these fees and charges have greatly compromised their capacity to facilitate the participation of Intensive Assistance job search candidates in VET. As the experience of Intensive Assistance clearly demonstrates, the costs associated with providing accessible education and training to those needing to improve their employment prospects are far less than the costs of providing long-term income support. Where barriers to accessing TAFE training exist, many young people—and others—are forced to seek alternatives or face continuing disadvantage in the labour market. However, the training opportunities for those most in need of training and upskilling—the long-term unemployed people in our community—are particularly scant. We know the federal government continues to redirect funding away from the targeted assistance and training provided through Intensive Assistance to Work for the Dole. Certainly the Democrats view the high level of funding for Work for the Dole as an unacceptable diversion of much needed funding from appropriate training, such as that provided by the VET sector, and funding for Work for the Dole should be immediately reviewed in this context, as we have called for before and most recently in the voc. ed. debate that occurred this week.

Quality workplace training is also becoming increasingly difficult to access. Aside from criticisms levelled at current apprenticeship and traineeship arrangements, young people are especially disadvantaged by the retention of junior rates of pay in federal awards. Again, that is something the Democrats have placed on record a number of times, as we have in relation to the complexity of the causes of youth unemployment. This report proposes a means of increasing quality, access and efficiency in the VET system, with recommendations the Democrats endorse. Greater investment in VET is vital if the potential of this report is to be realised and if we are to have a sector that aspires to excellence, as the title of the
I seek leave to continue my remarks at a later date.
Leaves granted; debate adjourned.

Information Technologies Committee Report

Senator FERRIS (South Australia) (10.08 a.m.—I present the report of the Select Committee on Information Technologies on e-privacy, together with the Hansard record of the committee’s proceedings, submissions, and other documents presented to the committee.

Ordered that the report be printed.

Senator FERRIS—I move:
That the Senate take note of the report.

On behalf of the Senate Select Committee on Information Technologies I present the committee’s report entitled Cookie monsters? Privacy in the information society. The report represents a crucial step in protecting the privacy of consumers in today’s information society. New technologies and the increased uptake of the Internet are posing fresh challenges to our ability to control the way in which our personal information is collected and disclosed. In this report, the committee addresses these challenges and recommends a number of what we believe are technology-savvy privacy safeguards that empower consumers to provide the first line of defence in protecting their privacy.

Our inquiry was established on 11 May 2000 to examine the following: the protection of consumer information obtained through electronic transactions, including browsing on the Internet and EFTPOS transactions; the privacy and disclosure obligations of organisations that have access to consumer databases; and, importantly, the access by consumers to personal information held in consumer databases. Public hearings were held in Canberra and Sydney, and a total of 41 witnesses gave evidence.

Privacy in the information age is an issue that affects everyone. For the first time, detailed information is being collected about children who use the World Wide Web. Database technology has brought a new level of exposure to information that was previously stored offline. Surreptitious technologies not only record details about the magazines we purchase but also identify the articles we read. No sooner does a person enrol in prenatal classes than she receives catalogues for baby products. Similarly, lodging a building application with a local government council can result in volumes of unwanted junk mail from building supply companies. Increasingly, it is the private sector that is collecting consumer information. Driven by the need to compete in a global market, detailed records about the purchasing preferences of consumers provide a valuable competitive advantage. In fact, increasingly, what we used to call ‘Big Brother’ is no longer a government agency but a commercial corporation seeking to effectively market its commodities.

The threats to privacy are real and are having a negative impact on the Australian community. Several surveys have indicated that community concern about safeguards for their personal information has impeded the uptake of e-commerce. The privacy of consumers in the information age is at a crossroads, and with this report the committee will guide consumers down a path that provides considerable privacy safeguards. The principal means by which this will be achieved is through what we have called a ‘privacy web seal’, which the federal Privacy Commissioner will develop and authorise for display. The web seal will assure consumers at a glance that the privacy credentials of a particular organisation are available to consumers. It will offer the following information and services: enable consumers to opt out of any direct marketing communication from the outset of the customer relationship; provide advice on how to obtain access to, and correct, one’s individual records on personal choices that are available to that company; facilitate the complaints process by identifying the code adjudicator and providing either a complaints form or advice about how complaints should be submitted; provide details on the industry privacy code, if any, that applies to the organisation; provide the complaints statistics of the applicable code, including information about the average time taken to process complaints, and details of the number, nature and outcome of the complaints; provide clear and unambiguous advice about the information handling practices
of the organisation; and provide a link to the web site of the federal Privacy Commissioner—a very important recommendation.

The privacy web seal will benefit both consumers and online businesses. It will assist customers to protect their own privacy by informing them of their privacy rights and empowering them to take action to protect them. Online businesses will be able to demonstrate their commitment to consumer privacy, providing them with a valuable market advantage. There are plenty of companies out there willing to provide this privacy service. WebTrust, for example, provides businesses with an independently verified privacy seal to resolve any consumer concerns about privacy issues. Another company, BBB Online, offers a service to help web users to identify companies that stand behind their privacy policies. Another important product now on offer is the Platform for Privacy Preferences, known as 3P3, which provides a simple and automated way for users to gain greater control over the use of their personal information on the web sites that they visit.

Other measures for the empowerment of consumers have also been recommended by the committee. For example, the Privacy Amendment (Private Sector) Bill 2000 should be amended so that consumers can access and, if appropriate, correct personal information held by media organisations. In addition, the committee recommends that media organisations be prevented from displaying large databases containing personal information about Australians. These measures will provide safeguards for consumers but I do not believe they will undermine the freedom of the press. The committee also recommends that the existing privacy regime be extended so that information collected through new technologies such as cookies, which may indirectly identify consumers, is subject to regulation by the Privacy Act 1988. This could be achieved by clarifying the definition of ‘personal information’ in that act.

The committee recognises the importance of e-commerce to the Australian economy, and has recommended a number of measures that will enable both online retailers and consumers to conduct their businesses with greater confidence. The committee recommends that, where a business accepts payment for goods and services over the Net, it be subject to regulation by the federal Privacy Commissioner. This will enable retailers to assure consumers of their privacy credentials. The committee has also recommended that measures be taken to ensure that Australian privacy standards are equal to those established by the European Union, therefore facilitating e-commerce transactions on the global market. The recommendations also include the need for adequate risk assessment in the current IT outsourcing climate. As agencies contract external service providers to handle large amounts of personal information, measures must be implemented to ensure that the information is adequately protected. For this reason, the committee has recommended that the federal Privacy Commissioner review the 1994 guidelines for outsourcing and that particular emphasis be placed on procedures for monitoring the privacy compliance of external service providers. In addition, we have recommended that the scope to monitor the privacy practices of the business sector be increased by giving the federal Privacy Commissioner the power to conduct random privacy audits.

In conclusion, this report empowers consumers to be citizens rather than victims of the information age. It introduces a range of measures and a number of incentives that will help both business and consumers work towards a common goal of better privacy in the future. I thank everybody who contributed to the inquiry, particularly members of our secretariat Andrea Griffiths and George Kosmas. I commend the report to the Senate.

Senator LUNDY (Australian Capital Territory) (10.16 a.m.)—I, too, would like to address some remarks to the report just tabled in the Senate, Cookie monsters? Privacy in the information society. I do so on the basis that this report arrives here at a very important time: in the midst of the debate on the Privacy Amendment (Private Sector) Bill 2000 that is before us. The report accompanies two other reports, one by the House of Representatives Joint Committee of Public Accounts and one by the Senate Legal and
Constitutional Affairs Legislation Committee. The three reports all provide useful input to the debate taking place in this parliament. E-privacy was a fascinating issue to explore because, for the first time, it put quite a broad focus on what has changed in the political handling of the privacy issue over the last decade or two. By focusing on electronic privacy, the committee was able to explore in great detail the impact of new technology on how citizens and consumers perceive their privacy and, indeed, how businesses manage their direct marketing campaigns and other technologies that are perceived by some as being invasive of privacy.

I would like to make some comment about the philosophical debate surrounding privacy. As far as the history of our establishment of national privacy principles is concerned, it is very clear that it has come from a corporate perspective, juxtaposed with the perspective of the consumer. What I have introduced into this subject—my additional comments on this report were, I know, considered by the committee—is a shift in the debate to find an underlying philosophical base to include the citizen. There is also the human rights concern that we all have about the level of privacy concerning our identity. The issue of how we manage our personal identity in the information age is becoming more and more a concern of citizens in their relationship with government and a concern of citizens, as consumers, in their relationship with corporations. Concerns about the way in which we manage our identity in the information society are gaining momentum amongst the community, and there is public concern that we legislate responsibly to address those concerns.

We know by virtue of a range of surveys and studies—including that done by the Australian Bureau of Statistics—that, both at business and citizen level, privacy and security issues with new electronic technologies, particularly the Internet, are proving to be substantial barriers to take-up rates of those technologies. Many small businesses cite privacy and security issues as reasons not to go online and engage in e-commerce. We also know that, from the perspective of families and individuals—whilst the socio-economic barriers are very real: that is, the richer you are, the more likely you are to be online; the poorer you are, the more likely you are to be on the wrong side of the digital divide—privacy issues represent a very serious barrier to people participating in the information age, including the Internet. If you subscribe to the view that we need to close the digital divide so everyone has the opportunity to participate in the digital economy, we need to address the privacy issues. We also have to look at the underlying philosophical debate about managing our identity in the information age, otherwise the legislation will not hit the spot that satisfies those concerns of the community. It is my hope that this report will contribute greatly to understanding not only the traditional privacy issues that we know and understand but also the specific new challenges, particularly the Internet.

Many witnesses who participated in the inquiry—and I would like to acknowledge that and thank them for their participation—went to great lengths to explain how these issues affect them in their businesses. They explained what direct marketing in the information age, with tools like the Internet and massive data warehouses with quite extraordinary applications which gather and mine data in some very creative and innovative ways, actually means to an individual. The committee also discussed at length the concept of permission based marketing and whether an opt-in arrangement or an opt-out arrangement was the most suitable. There was also discussion around whether, if someone is managing their own identity, they can choose to pass on personal information to become part of a marketing campaign. The main message of this report is that they should have a choice in whether or not they share their identity in that way.

Opting out means that consumers or citizens must be given a choice when they first engage in dialogue with a company as to whether or not they want to receive any more information or want their personal information to be used in a way that the company wants to use it. An opting in arrangement is a further ramping up of the level of permission that people give, in that you have to say,
‘Yes, please, put me on that list to participate in your internal and external marketing campaigns,’ as opposed to, ‘Please take me off the list that I know you’re building behind the scenes.’ So there are a lot of issues about how this exactly is managed. The privacy web seal that Senator Ferris spoke of in her comments in speaking to the report is one example of how consumers can be assisted in their awareness being raised about the options like opt in and opt out in relation to privacy and how they manage their personal identity. The web seal is one solution, and I know there are many circulating out there about how we could go about raising the awareness of consumers and citizens in managing their privacy in an information age.

That was obviously a primary focus of the report, but there was another area of the report which is quite pertinent to discuss today, and that relates to IT outsourcing. Senator Ferris mentioned the recommendation in relation to IT outsourcing, but I would just like to make a further reference to that, and I have also mentioned this in my additional comments to this report. I have said in my report that investigating this in detail follows on from the work of the Australian National Audit Office in their report titled The implementation of whole-of-government information technology and infrastructure consolidation and outsourcing initiative. That was a performance audit tabled in parliament earlier this year relating to IT outsourcing, as I said. This became an issue because for the first time the ANAO report provided factual information to the Senate about the state of privacy treatment of information that was gathered, collated and managed by the Commonwealth government but, by virtue of the IT outsourcing program, management of the information was transferred via a contract arrangement to an external service provider, a private company or corporation for the purposes of doing that work. The issue was highlighted on page 235 of the ANAO report:

The Privacy Act 1988 ... places specific obligations on agencies to protect the privacy of personal information held or collected by them. Currently, the private sector is not subject to the same statutory privacy obligations as apply in the public sector. Accordingly, the only mechanism for obliging the ESP to ensure privacy obligations are met is through contractual requirements. The Agreements set out a separate obligation requiring the ESP to comply with the Privacy Act as if it were included in the definition of ‘agency’ within that Act.

9.79 The Privacy Commissioner’s Guidelines in relation to outsourcing contracts provide that monitoring by agencies of ESP’s compliance with privacy requirements should be undertaken on a regular basis.

The report goes on to say that in fact those reports were not completed:

Group 5 and Cluster 3 were yet to undertake audits or reviews of the relevant ESP’s compliance with its privacy obligations, or develop a strategy for monitoring that compliance.

That demonstrates the depth of issues that this report has explored. It has gone beyond what I have mentioned is the philosophical issues relating to the managing of one’s personal identity in the information age and looked at the very real and structural issues about privacy that affect a citizen’s relationship with the government and the trust that is placed in the government by the citizen in managing privacy. I was very pleased to see the report follow up that range of issues. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

TAXATION LAWS AMENDMENT BILL (NO. 8) 2000

First Reading

Bill received from the House of Representatives.

Motion (by Senator Ian Campbell) agreed to:

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

Bill read a first time.

Second Reading

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (10.28 a.m.)—I table a revised explanatory memorandum relating to the bill and move:

That this bill be now read a second time.

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

The speech read as follows—

This bill contains minor and technical changes to improve the operation of the *A New Tax System (Goods and Services Tax) Act 1999* (‘the GST Act’) and related legislation. As well as giving effect to the measures announced in the Treasurer’s press release No. 90, of 14 September 2000, these changes address other issues that have been raised by tax practitioners, industry representatives, the Australian Taxation Office and some States and Territories.

Under the New Tax System we now have around 3.2 million businesses and other entities registered with an Australian Business Number. We have over 2.1 million of these entities also registered for GST.

These registrations far exceed initial expectations and provide an early indication that businesses, community bodies, government bodies and the charitable sector are actively addressing their responsibilities under the new system.

The Government too is continuing to monitor the implementation of the new system and the measures in this bill demonstrate our credentials in making sure the system is fine-tuned to increase administrative simplicity and compliance whilst ensuring protection of the revenue.

Under the *Intergovernmental Agreement on the Reform of Commonwealth-State Financial Relations* many of the changes required the approval of the States and Territories. I am advised that approvals are being processed expeditiously by Ministerial Council members and the Government expects there to be no difficulties in receiving all the appropriate approvals prior to the passage of this bill.

The bill contains no substantive policy issues, but there are several measures that will be welcomed by business.

The main measures in the bill provide for:

- increased flexibility to cancel GST registrations;
- changes to the way debts are offset against Business Activity Statement (BAS) refunds;
- increased flexibility to revoke monthly tax period elections;
- fine-tuning the treatment of financial services;
- changes to the GST treatment of representatives of incapacitated entities;
- fine-tuning the treatment of re-importations and temporary importations; and
- better interaction of the Fringe Benefits Tax (FBT) and the GST.

The changes to the refunding of BAS amounts is an important measure that will ensure businesses benefit from receiving BAS refunds without having them offset against other debts that are due but not yet payable.

Some entities may lodge income tax returns and have assessments made early in the lodgment cycle, resulting in a gap of several months between the establishment of the tax debt and the date when the tax is due for payment. If these entities are GST registered and lodge a BAS claiming a net credit, the expected refund cannot be issued as the Commissioner of Taxation is required to offset the amount against the assessed income tax debt (even though this may not be payable for several months).

This bill will give the Commissioner the discretion to be able to refund a running account balance surplus or credit rather than apply it against a tax debt (other than a BAS amount) that is due but not yet payable.

Under the GST Act, an entity can choose to register for GST if it carries on an enterprise but its annual turnover is below the registration turnover threshold. Once an entity is registered for the GST, it must apply to the Commissioner if it wishes to have its registration cancelled. However, the Commissioner cannot cancel an entity’s GST registration unless the entity has been registered for at least 12 months at the time of application. The Commissioner currently has no discretion to reduce this period.

This bill will allow the Commissioner, in certain circumstances, to cancel the GST registration of an entity where an application to cancel its registration has been made before the entity has been registered for 12 months. The Commissioner will be able to decide on a cancellation date that is on or after Royal Assent of this bill. This measure will avoid increased compliance costs for small businesses and non-profit bodies.

Entities will generally lodge GST returns on a quarterly basis, although some entities are required to lodge monthly. Entities that are not required to account for GST monthly may still elect to account monthly by applying to the Commissioner. This choice could be made by ticking the relevant box on the ABN application form. Once this choice is made, an entity may revert to using quarterly tax periods by applying to the Commissioner. However, the entity must use monthly tax periods for at least 12 months before it can revert to using quarterly tax periods. The Commissioner currently has no discretion to reduce this period.
This bill will allow the Commissioner, in certain circumstances, to revoke the monthly tax period election of an entity before 12 months after the election came into effect, if the entity so requests. The Commissioner may backdate the effect of the revocation to 1 July 2000. This measure will substantially reduce the compliance costs of affected businesses and non-profit bodies by reducing the frequency with which these entities are required to account for GST.

Some of the other fine-tuning measures relate to:
- providing for the GST-free treatment of travel agents fees for arranging overseas supplies;
- providing that the sale of residential premises that have been used as rental accommodation for at least 5 years will be input taxed; and
- ensuring that the associates provisions operate in relation to non-profit sub-entities.

The changes in this bill demonstrate that the Government is responding to minor problems identified by business and is prepared to make changes necessary to ensure that the Government’s original policy is maintained and that the revenue is protected.

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

I commend the bill.

Ordered that further consideration of this bill be adjourned to the first day of the 2001 autumn sittings, in accordance with standing order 111.

BILLS RETURNED FROM THE HOUSE OF REPRESENTATIVES

Message received from the House of Representatives returning the following bill without amendment:

National Crime Authority Amendment Bill 2000

NATIVE TITLE (RIGHT TO NEGOTIATE—ALTERNATIVE PROVISIONS) (WESTERN AUSTRALIA LAWS ABOUT ALTERNATIVE PROVISION AREAS) DETERMINATION 2000

Senator BOLKUS (South Australia) (10.29 a.m.)—I move:

That the Native Title (Right to negotiate—Alternative Provisions) (Western Australia Laws about Alternative Provision Areas) Determination 2000, made under paragraph 43A(1)(b) of the Native Title Act 1993, be disallowed.

Yet again we are faced with flawed legislation brought about because of the government’s botched native title legislation of 1998. Yet again the Senate is being asked to pass legislation that takes away people’s rights unnecessarily just because a government refused to sit down with them and to negotiate with all the stakeholders on lasting agreements to native title. We are presented once again with the results of the failure of the Howard-Minchin plan of just a few years ago to address the issue of native title. The original Native Title Act 1993 was an honourable and decent attempt to begin to deal with what was socially and legally a new concept—a new concept of native title following the Mabo decision of 1992. That decision found the self-evident fact that indigenous people had a form of land ownership in Australia. To deal with that decision, Labor in government sat down and negotiated in good faith with all the stakeholders and then drafted Australia’s first native title legislation. This was legislation which validated all past tenures and associated rights granted since European settlement and which acknowledged our international undertakings under the Convention on the Elimination of all Forms of Racial Discrimination, which led to the enactment of the Racial Discrimination Act in 1975.

In doing so, we set out to provide a decent, non-discriminatory means of identifying, protecting and recognising native title into the future and a means by which governments could approve grants or rights to non-indigenous Australians in places where native title might still exist, while continuing to respect and protect indigenous rights. A critical part of the trade-off at that time was the right to negotiate. The right to negotiate was the product of this broad consultation. It was the most critical aspect of the trade-off and it was the centrepiece of the legislation. The right to negotiate, we must remember, is the only substantial protective instrument available to native title claimants under the original Native Title Act 1993. If they did not exercise that, they had the right to go back to court and frustrate the process for years if they so desired. But the right to negotiate, with the time limits in the legislation,
provided an effective mechanism and an effective trade-off.

During this time of negotiation in good faith, we aimed at making a lasting agreement with indigenous people in Australia. At that particular time, throughout the process, the then opposition, the now government, purposely used the Native Title Act to feed social and racial division. When they came to government, they purposely aimed at dismantling the rights of indigenous people. They took away hard-won rights in the Wik debate without consent in an atmosphere of fear and division, fuelled of course by the Hanson factor.

The flawed legislation arising from the so-called Howard 10-point plan has not been sustainable or defensible either at home or abroad. It has been investigated on three occasions by relevant UN committees and found to be inconsistent with our international undertakings. Some might say, ‘So what?’ Given that ministers go off all the time trying to persuade the rest of the world that rights are important—and where Australia shows the way quite often—this leaves a very important flank open to criticism. Not only is it indefensible in terms of our international undertakings; we are dealing here with legislation which is unjust, which is unworkable, which is widely open to legal challenge and which has led to accusations internationally about the way we deal with race relations in this country.

The core problem in this legislation is section 43A, a section designed to eliminate the effects of the High Court’s decision in the Wik case. The effect was to strip away that right to negotiate. It is still not only discriminatory in intent and effect; it is also based on a view of the law that has yet to be endorsed by the High Court. What we have here before us today is the Court government in Western Australia using a backdoor mechanism provided by the Howard-Minchin plan just a couple of years ago to basically strip away the right to negotiate and to take away indigenous rights by allowing states to run state based native title regimes which in effect trample all over native title. This Western Australian section 43A scheme replaces the right to negotiate over pastoral leases and other crown land such as national parks and replaces it with a weak consultation process.

In essence there are policy issues and issues of principle which led us to make the decision to attempt to disallow section 43A. We took the same approach in respect of the Northern Territory’s section 43A regime when it sought to strip away the right to negotiate. We took the same position in respect of Queensland, and that is what we are seeking to do in respect of Western Australia. Let there be no confusion about this. Consistently through those regimes—the Northern Territory, Queensland and now Western Australia—it is the same point that has led us to make a decision to disallow the regimes, because the three regimes have sought to strip away the right to negotiate. We feel that it fails the test of fairness and we also feel that, to be consistent, we need to disallow the regime produced by the Court government.

This regime has been developed without informed consent. It is a regime that has been developed by trampling, once again, over the rights of indigenous Australians and not taking them into bona fide consultations and discussions. When are governments in this country going to learn that you cannot get away with that? When it is WMC or the big mining companies, this government sits down with them and has bona fide conversations and discussions. But the history of discussions with indigenous Australians has been one littered with discussions that have not been bona fide. It is not just us saying that; courts, on a number of occasions, have also come to the same conclusion.

We are also dealing here with unique circumstances. There are unique circumstances in WA. The right to negotiate afforded by the federal legislation is critical because of the lack statutory protection of Aboriginal people’s rights and interests in Western Australia. WA is the only Australian state or territory that does not have land rights legislation. WA, Aboriginal reserve land covering some 12 per cent of the state is owned by the Crown. It is an anachronistic and paternalistic arrangement, with the minister determining mining access to Aboriginal land.

We also have here a government that have form. The WA government’s form on native
title is something that this country ought to be ashamed of. In 1993 the WA government passed legislation purporting to abolish native title in Western Australia. They must have known that that would be struck down as inconsistent with federal legislation but they dragged it out through the court process until they were totally and comprehensively dumped by the High Court. Having lost the High Court case, they then developed a sustained political campaign to diminish Aboriginal rights with bad faith dealings and a refusal to recognise native title and by attempting to make future act regimes unworkable by refusing to actually put in the mechanism for them to work. They even refused to work with the National Native Title Tribunal about an appropriate notification agreement process to address mining tenement applications. This continues to go on. So we have had bad faith in consultation. We have had bad faith from that government all along. We have bad legislation produced by them, and it is bad legislation produced by them in a situation where there is another route, an alternate way that they should be going.

New South Wales and Victoria have shown the way, and in the future Queensland will show the way, but the Western Australian government will not adopt this course because for them there is much more joy in having a campaign for the forthcoming elections in Western Australia based on division and racial division. There is absolutely no need for the state government to be doing what they are doing. Recent events—for instance, the recent Nganawonga and Spinifex decisions—demonstrate that governments can recognise native title as the basis of an agreement, and they can do this without a state native title regime. So if you can do it there, why not seek to do it in Kalgoorlie? Why don’t they seek to do it in Kalgoorlie? Because for them Kalgoorlie is a marginal seat, and what this is about for the WA government—as for the federal Howard government—is a capacity to play the politics of race and division in that seat. They are trying to hold us over a barrel in terms of trying to push us into making a decision which they think will be born out of fear of the political consequences. I ask the Senate this morning to make the right decision, and the right decision is to disallow legislation which is unfair, unjust and unnecessary. It is legislation which is basically born out of the 10-point plan that Howard and Minchin put together that has really not worked.

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (10.39 a.m.)—by leave—I move:

That the debate be adjourned.

I so move because of a very clear undertaking which I gave on behalf of the government, and ultimately on behalf of some other parties in the Senate, to Senator Brian Harradine, who, as you know, is absent on parliamentary business overseas. It is a very rare occurrence for Senator Harradine to be so detained. I did discuss this matter yesterday with both the Manager of Opposition Business and Senator John Woodley from Queensland, who is the Democrat spokesperson on this matter. I said to both of those people that we regard it as outside a range of agreements and discussions that took place in relation to managing government business during this period, and also that it is in direct contravention of a very solemn undertaking I had given to Senator Harradine in relation to what business would be done in his absence. I foreshadow that, if the motion for the adjournment of the debate is
successful, I will move that the resumption of the debate be made an order of the day for Tuesday, 28 November. So the matter will be dealt with within two parliamentary sitting days of now, it will be dealt with in a timely fashion, and it will certainly allow Senator Harradine to be here. As all honourable senators know, he takes a very close interest in this issue.

Senator Hill—He is the architect of the provision.

Senator IAN CAMPBELL—I have described him as the father of this provision. The Leader of the House, by way of interjection, describes him as the architect of this provision. Having made a solemn undertaking to Senator Harradine, I feel I must move this motion. I thank the Democrats for indicating that they will support a brief adjournment of this matter.

I might raise very briefly a related issue regarding why I believe the matter should be adjourned. The determination that Senator Bolkus is seeking to disallow was tabled in this place only two sitting days ago. He is seeking to disallow it literally without any consultation with or discussion between senators or stakeholders. Of course, this is contrary to Senator Bolkus’ pleadings for consultation on these matters. Clearly, to allow this matter to be discussed with the government and other senators or stakeholders, you certainly would expect more than two days to be allowed. Indeed, the Senate standing orders envisage that disallowances can take 14 sitting days. I remind all honourable senators, and particularly the honourable senator from the great state of Queensland representing the Australian Democrats, that the provisions brought forward by the Beattie government to this place were originally tabled on 5 June and, obviously after enormous discussion and consultation between a whole range of stakeholders, this Senate finally decided those matters on 30 August.

I put it to you that that shows one standard on behalf of the Labor Party, who are obviously very keen, for their own political reasons, to see this matter dealt with very quickly, Senator Bolkus referred to political matters in the seat of Kalgoorlie, which I know you are familiar with, Mr Acting Deputy President Lightfoot. Quite frankly, the Labor Party could be accused of hypocrisy if they want to say that this is all about politics. The government are saying that there should be a sensible amount of time to deal with this. It is certainly obscene to deal with it in the absence of Senator Brian Harradine, but the hypocrisy will become clear if Labor oppose this motion for the adjournment. When it came to a Labor administration in Queensland proposing their regime, the matter was before this chamber for all of June, all of July and all of August. Yet the proposal from Western Australia would be allowed to lie before this chamber for literally only two sitting days. It is only fair to Senator Harradine, only fair to all senators and only fair to all stakeholders that we adjourn this matter.

In relation to managing the government’s program, there was a clear understanding that we would seek to deal with the states grants legislation at this time. We made an undertaking that we would commence the debate as early as possible yesterday afternoon with a view to concluding it by tomorrow afternoon. When I suggested to the opposition that there may be some time in which the renewable energy legislation could come back before us—and Senator Bolkus would be aware of this—the Manager of Opposition Business said that that would be a breach of the agreement to seek to conclude those bills and, in fact, implored us to put off consideration of the renewable energy legislation until after the consideration of the states grants legislation.

To agree to bring on a contentious debate on disallowing a native title regime in Western Australia when there was an agreement to be handling the states grants legislation is a clear and unmitigated breach of an agreement and an understanding—between the opposition and the government, at least; it certainly did not include Senator Brown and the Democrats—that we would seek to get that legislation dealt with prior to Friday’s adjournment. I particularly implore my friend and colleague Senator John Woodley to uphold the undertaking he gave to me yesterday, for very good reasons, and to join
with us in adjourning this debate until 28 November 2000.

Senator BOLKUS (South Australia) (10.48 a.m.)—by leave—We have here a stunt from the Manager of Government Business—purely a stunt and nothing more than a stunt. He claims to have given assurances to Senator Harradine and that Senator Harradine made a request. He says to us that the commitment was that the chamber would not tackle this business in his absence. Senator Harradine is the main person who knows that, to get those assurances, one has to talk to all parties. He may have spoken to the Manager of Government Business but, if Senator Harradine were here in any other context, he would be saying that it is up to the chamber to decide what it deliberates and when. I find it quite curious that we on this side of the chamber have not had a request from Senator Harradine in respect of this.

Senator Campbell then claims that Senator Harradine has some sort of fatherhood over the legislation and, as a consequence, should be here when we tackle it. If we applied that principle consistently, Senator Campbell, you would never get anything done in this place. Over the years, we all could have claimed some sort of fatherhood and some sort of proprietary right over legislation. This is a stunt, because the government wants to prolong this issue so that campaigns can be run in Western Australia—campaigns based on the basest of motives and campaigns based on the basest of tactics.

You say that we have had this legislation for only two days. This legislation was passed in Western Australia some months ago. Your side of the chamber knows what is in it; everyone in this place knows what is in it. People have been consulted along the way. So don’t try and pull the furphy that this legislation has just been dropped on our doorstep. We were all there through the period of the development of the legislation. You say that we are seeking to bring on a contentious debate. You know full well, Senator, that agreement had been reached to limit this debate to about an hour. That agreement was reached between our side and you personally. This was not going to derail debate on the states grants legislation for a long time. Your stunt right now might delay debate on the states grants legislation a bit longer.

The ACTING DEPUTY PRESIDENT (Senator Lightfoot)—Senator Bolkus, you should direct your remarks through the chair.

Senator BOLKUS—It may delay things by an extra 15 minutes. But the agreement was reached across the parliament that we would manage this debate in the way that we often manage debate so that a contentious debate could be handled within an hour and then we could move on to consideration of the states grants legislation. That is where I think a few porkies are coming into this debate, Senator Campbell. That is why we would rather press on with this legislation, given the fact that people have had notice of it for quite some time.

Senator Ian Campbell—You can’t do renewable energy but you can do this.

Senator BOLKUS—I could debate the renewable energy legislation today; I can do it right now, if you want me to. But the way these things operate is that we do come to an agreement. Senator Campbell came to an agreement with us, outside the chamber, to go ahead with this this morning, and that is the agreement that we want to maintain.

Senator BROWN (Tasmania) (10.51 a.m.)—by leave—I oppose the adjournment. I would very much support a special opportunity for Senator Harradine to make his views felt when he comes back. There are very important constituencies waiting on a resolution of this matter. The outcome, I believe, is not going to be different in two weeks from what it will be now, and I think we should clear the air. As far as the debate is concerned, I will be making a very brief statement. I believe we should resolve this matter today.

Senator WOODLEY (Queensland) (10.52 a.m.)—by leave—Obviously, I need to respond to my friend and colleague Senator Campbell. Whether we remain friends is, of course, a matter for the future. Senator Campbell is quite correct in saying that we discussed the matter of Senator Harradine’s
wish to be involved in this debate, and I certainly acceded to that. I do believe that he has played an important part in this debate, whether I agree with him or not. Nobody can deny the importance of his contribution. The fact that we are having the debate at all is based on the amendment which Senator Harradine himself moved in negotiations with the government over the Wik amendments.

I was certainly very conscious of that when I was talking to Senator Campbell. I did say to him that I would talk to the ALP, which I did. The ALP were not of a mind to accede to the request of Senator Harradine and someone else—I cannot remember who it is; I have spoken to so many people—whether it was Senator Bolkus or the Hon. Bob McMullan in the other place. They pointed out that the ALP had not been approached by Senator Harradine to do this. I then indicated to somebody that I would put it to the Democrats party room this morning. However, there was an intervention yesterday afternoon that concerns me very deeply, and that was a dorothy dixer question to Senator Minchin, who engaged this debate immediately. I do not want to cast aspersions on Senator Minchin, but I found it a very offensive question and answer, given that this is the appropriate time to debate that issue. I found the way in which it was used yesterday afternoon extremely offensive. I felt the information that he conveyed by way of an answer to a question yesterday afternoon was very much out of order. That placed me in a very difficult position, because I felt that the debate had already begun and it was obvious that, for the next two weeks, the debate was going to be conducted outside of this place.

Let me say that this is what offended me the last time we had this debate, and the offence that time was on the part of Premier Beattie, who is also engaged in this debate outside of this chamber. Hours before the Senate decided what it would do, Premier Beattie indicated what the result would be. I found that to be offensive as well. I certainly apologise to Senator Campbell, because he and I certainly had that conversation and I made some commitment to him. If this debate is going to be continued outside this chamber as it was last time and people outside this chamber are going to indicate what the chamber is doing even before the chamber has voted, I have come to the conclusion that we had better have the debate now and continue with it. That is the only way to resolve the issue, and we are all ready for the debate, so I would indicate that the Democrats will not support the adjournment at this time.

Question put:
That the motion (Senator Ian Campbell’s) be agreed to.

The Senate divided. [11.00 a.m.]
(The President—Senator the Hon. Margaret Reid)

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

AYES
Brandis, G.H. Calvert, P.H.
Campbell, I.G. Chapman, H.G.P.
Coonan, H.L. * Eggleston, A.
Ellison, C.M. Ferris, J.M.
Gibson, B.F. Heffernan, W.
Herron, J.J. Hill, R.M.
Kemp, C.R. Knowles, S.C.
Lightfoot, P.R. Macdonald, I.
Macdonald, J.A.L. Mason, B.J.
Minchin, N.H. Newman, J.M.
Patterson, K.C. Payne, M.A.
Reid, M.E. Tamblyn, G.E.
Tchen, T. Tierney, J.W.
Troeth, J.M. Vanstone, A.E.
Watson, J.O.W.

NOES
Allison, L.F. Bartlett, A.J.J.
Bishop, T.M. Bolkus, N.
 Bourne, V.W. Brown, B.J.
Buckland, G. Campbell, G.
Carr, K.J. Collins, J.M.A.
Conroy, S.M. Cooney, B.C.
Crossin, P.M. Crowley, R.A.
Denman, K.J. Evans, C.V.
Faulkner, J.P. Forshaw, M.G.
Gibbs, B. Greig, B.
Hogg, J.J. Hutchins, S.P.
Lees, M.H. Lundy, K.A.
McKiernan, J.P. McLucas, J.E.
Murray, A.J.M. O’Brien, K.W.K *
Ray, R.F. Ridgeway, A.D.
Schacht, C.C. Stott Despoja, N.
Woodley, J.

PAIRS
Abetz, E. Ludwig, J.W.
Alston, R.K.R. West, S.M.
Boswell, R.L.D. Sherry, N.J.
Question so resolved in the negative.

**Senator HILL** (South Australia—Minister for the Environment and Heritage) (11.04 a.m.)—We are debating disallowing the right to negotiate alternative provisions scheme developed under Western Australian legislation. One might wonder why the Australian Labor Party supported an alternative scheme in Queensland and is supporting a similar scheme in New South Wales but opposes it in the case of Western Australia. What is the distinction?

The distinction that most Australians will understand is that Queensland and New South Wales have Labor governments but Western Australia has a Liberal government. How subtle! The Australian Labor Party opposes this measure because the legislation has been passed by a Liberal government in Western Australia. It is simply base politics: the Labor Party will not allow the Western Australian alternative rights scheme to progress because it believes it will benefit a Liberal Premier and a Liberal government. What a disgrace! Senator Woodley said that we must get rid of this scheme today because otherwise there will be public debate on the issue. What an extraordinary position: all of a sudden, public debate on this issue is apparently unacceptable.

This is a very serious issue before the Senate today. The Western Australian government has developed an alternative scheme to the Commonwealth’s right to negotiate scheme pursuant to the provisions of the Commonwealth legislation. The Commonwealth legislation provides for that. Furthermore, it sets benchmarks and requires the Commonwealth Attorney-General to certify that the state scheme complies with those benchmarks. In this instance, I think everyone who looks objectively at the Western Australian scheme will see that it goes beyond those benchmarks.

So why would Labor senators vote down the scheme? The only rational explanation is because it has been put up by a Liberal government in Western Australia. The people of Western Australia should understand what is occurring today: federal Labor, in collusion with Labor in Western Australia, is determined not to allow the Western Australian alternative rights scheme to proceed, notwithstanding the fact that it is compliant with the Commonwealth legislation. The consequences of that action will be dire for Western Australia in terms of its development.

One must wonder why this Labor Party wishes to hinder and obstruct mining development in a state in which mining is such a critically important part of the economy. Mining is about jobs. It is about providing employment, particularly in regional areas. It is about providing jobs for indigenous people. It is about opportunity for growth and expansion. But federal Labor is opposed to that in Western Australia. Just look at the Western Australian profile. As of 27 October, there were 6,736 applications for mining tenements in a backlog in relation to which the right to negotiate process has not commenced, and a further 3,653 applications for which the right to negotiate process has been commenced but not finalised. In other words, the Commonwealth scheme has not worked in Western Australia, and a huge backlog of mining applications has built up as a result of that. So enormous economic opportunity—and, more importantly, the opportunity to create jobs—is being lost because the Western Australian system does not readily accommodate the Commonwealth system. It is not surprising that it is difficult from Canberra to manage lands. Most of us thought in this country that our constitutional structure gave a responsibility to the states to manage land. But federal Labor—because it serves its political advantage, or so it believes—is not prepared to allow the state of Western Australia to put in place an alternative system that would meet the state requirements and allow this huge backlog to be dealt with.

This is, I hope I am making clear, a very important issue in terms of federal Labor’s decision that will result in such a huge economic loss to Western Australia and the people of Western Australia. The people of Western Australia should understand that. They know that Western Australia is a long way from Canberra. I suspect that you would
know that, Mr Acting Deputy President Lightfoot, and you would know as a Western Australian how difficult it is for Canberra to provide the detail in relation to land management for Western Australia. So what is the objection to the Western Australian alternative scheme, developed and passed by the Western Australian parliament—the representatives of the Western Australian people?

Senator Bolkus interjecting—

Senator HILL—What is the objection to it? It has been developed in accordance with the Commonwealth legislation, which provides for an alternative scheme. It meets the benchmarks set out in the Commonwealth legislation. As I said, it is being certified by the Commonwealth Attorney-General. In fact, it goes beyond the benchmarks in the Commonwealth legislation. So why won’t federal Labor allow the Western Australian parliament scheme to go ahead? The answer of course is that it is just simply an ideological blockage. Federal Labor has, and has always had, an ideological blockage on this issue. It hates the prospect of the states being able to develop alternative schemes. Within the Commonwealth legislation, it has just one method by which it can block a state’s intention—and that is through this disallowance process. No-one envisaged that the disallowance process would be used simply for ideological reasons. When Senator Woodley contributes to this debate, I will be interested to hear from him what is wrong with the Western Australian scheme; what is wrong with the scheme that has been passed by the Western Australian parliament.

Why shouldn’t the Western Australian people have their scheme implemented when it meets the Commonwealth benchmarks and can contribute to getting mining working again in Western Australia, tackling this huge backlog of mining applications and giving the opportunity for economic growth and the creation of jobs? I will be interested to hear why the Australian Democrats are opposed to job creation in Western Australia, I hope they come up with something better than the Labor Party, which has purely a political objection.

As I have said, this is a very important debate today. It could be bogged down in the legal complexities of the issues, or it could be reduced to the simple political facts that the Labor Party supports its mates in New South Wales but it opposes this scheme, because it has been brought forward by a Liberal government. At this last moment, I hope the Labor Party—but I know it will not occur—and the Democrats—and I just think there is the slightest chance that they will listen to reason—will come in here today and, whether or not they like the concept of alternative schemes, say ‘This was passed by this parliament.’ The option for a state to develop its scheme was passed into law by this parliament. I hope the Australian Democrats at this last minute will respect that fact—the fact that the Western Australian government has operated pursuant to the Commonwealth legislation, has met the standards of the Commonwealth legislation, has put in place its scheme, can get the mining applications moving again and can get the jobs created. I hope at this last moment the Australian Democrats will respect that fact and will not join with the Labor Party today in voting down the Western Australian alternative scheme.

Senator Bolkus—Ten minutes and you haven’t addressed the issue. Why don’t you address the issue?

Senator HILL—I am addressing the issue.

The ACTING DEPUTY PRESIDENT (Senator Lightfoot)—Senator Bolkus, you are disorderly.

Senator HILL—Federal Labor has, and has always had, an ideological blockage on this issue. It hates the prospect of the states being able to develop alternative schemes. Within the Commonwealth legislation, it has just one method by which it can block a state’s intention—and that is through this disallowance process. No-one envisaged that the disallowance process would be used simply for ideological reasons. When Senator Woodley contributes to this debate, I will be interested to hear from him what is wrong with the Western Australian scheme; what is wrong with the scheme that has been passed by the Western Australian parliament.

Why shouldn’t the Western Australian people have their scheme implemented when it meets the Commonwealth benchmarks and can contribute to getting mining working again in Western Australia, tackling this huge backlog of mining applications and giving the opportunity for economic growth and the creation of jobs? I will be interested to hear why the Australian Democrats are opposed to job creation in Western Australia, I hope they come up with something better than the Labor Party, which has purely a political objection.
feat the Western Australian alternative scheme that can create economic growth and jobs. It is as simple as that. But it is not too late for the Australian Democrats to realise what will be the consequences of what I fear is their proposed action.

Senator WOODLEY (Queensland) (11.15 a.m.)—That was a very poor contribution from Senator Hill in his speech on the disallowance of native title determinations. I do not often make that kind of aspersion because his contributions are usually well reasoned and worth listening to, but he said nothing then except to cast aspersions on the Democrats and the Labor Party. He really should have addressed the issue. In my contribution I ought to answer a couple of the things he said, particularly at the beginning of his speech. I do not know how long it is since he has visited his doctor, but syringing of the ears is available and that may be useful to him, because he said that I said that the public debate should not occur. Senator Hill, the public debate has been going on right throughout Australia and certainly in Western Australia for more than 12 months. I am sorry if you were not aware of this, but perhaps it would help now if I let you know that it has been going on. It has been going on in the public arena, it has also been going on in the media—and I am contacted regularly by the Western Australian media for comment—and it has certainly been going on in terms of the path that has been worn in my carpet from people on both sides of the debate from Western Australia, and I certainly congratulate those from both sides who have very succinctly put their position on this legislation. Senator Hill, the public debate has certainly been going on for quite a long time. It was not the point I was making this morning, and I certainly do not want to cut off public debate. What we were discussing was when that debate should occur in this chamber; that is what we were debating earlier with Senator Ian Campbell’s motion. My reference was to the fact that the debate, although we had discussed the adjournment of it, was certainly engaged in yesterday in this chamber by the Minister for Industry, Science and Resources, Senator Minchin. So that was the point I was making.

Now let me address the substance of the disallowance motion. We have before us a state regime based only on section 43A. This is different to both the Northern Territory and the Queensland propositions, both of which the Democrats have voted against. In fact it could be said that, of the three propositions that have come thus far to this chamber, this one is the least deserving of our support. It is an attempt under section 43A to implement one of the cornerstones of the Howard-Harradine deal in 1997-98. These determinations apply to mining leases, mining claims, high impact exploration and mineral development licences. They apply to any land ever covered by non-exclusive leases and reserves—that is, vast areas of Western Australia and vast areas of interest to Aboriginal people. The Attorney-General has determined that the proposals meet the minimum standards in the Native Title Act. The Democrats believe that these rights are not enough in any case, but I would make the additional comment that any rights above the minimum standards provided in the Native Title Act can be taken away in the future. There is absolutely nothing this chamber could do about it and the Democrats are not prepared to take that gamble or trust Premier Court, given some of his conduct over the past year on this whole issue.

In relation to exploration, the comments I have made also apply when we are talking about bulk sampling and dozing grid lines. For the reasons I have outlined and will outline, the Democrats believe these determinations by the Attorney-General should be disallowed. I turn now to the Western Australian scheme and the press release on the determination by the Attorney-General, in which he said:

I made the determination after lengthy negotiations with the WA Government and after giving careful consideration to the views of Aboriginal representative bodies. The determination provides certainty and efficiency for all Western Australians and provides proper recognition for the position of those who may hold native title.

At that point, immediately, I have to say that that is simply not believable. I now turn to a very lengthy submission of the Western Australian Aboriginal Native Title Working Group, which represents most of the bodies
in Australia who have some interest in native title. This is the policy position of that working group and the Western Australian representative bodies:

The Working Group has maintained it’s support for the position of the National Indigenous Working Group as put in the document Coexistence-Negotiation and Certainty published in April 1997. In particular that document outlined the following key principles:

(1) The principles of non-discrimination set out in the Racial Discrimination Act, 1975 and binding on Australia under CERD and under international law must be fully respected.

One of the intervening things in that period has been the debate in this place and the publication of a report by the Joint Native Title and the Aboriginal and Torres Strait Islander Land Fund Committee, which looked exhaustively at the CERD criticism of Australia’s position. I am convinced that, having done that and having got very extensive legal advice, the dissenting report of the Labor Party and the Democrats shows very clearly that the native title amendments which were passed in 1998 are invalid and, when eventually they are challenged, will fall over. So one of the fundamental principles that the Democrats base their support for this disallowance motion on is the fact that the state regimes are based on legislation which, at the end of the day, will not hold up.

The second point that the working group makes is:

(2) No extinguishment of native title by the Commonwealth, States or Territories without the informed consent of native title holders.

(3) Native Title holders have a right to negotiate over development on native title land.

With respect to the issue of the right to negotiate, the working group said:

The current amendments severely limit the right to negotiate and, in some cases remove it all together. This contravenes the agreement embodied in the Native Title Act negotiated between indigenous people and the Commonwealth Government. They contradict previous agreements with Australia’s indigenous peoples and international human rights principles and obligations.

The changes significantly reduce the rights of indigenous people to control activity on their land, undermines common law principles of native title and go well beyond any requirements for workability—despite what Senator Hill said before. To continue:

The right to negotiate principles in the Act have provided many Aboriginal people with a real right for the first time to directly control the protection of their culture, to be involved in economic activity through agreements which deliver employment and wealth generation opportunities and allowing them to control negative social impacts related to these developments. The Act has therefore provided an incentive for indigenous people to constructively engage in economic development proposals.

As I have said previously in this place, one of the problems with reducing the right to negotiate to a right to consult is that native title claimants, indigenous people, without that right to negotiate are locked outside the door. They wait outside in the corridor. They may be able to shout some objections through the wall—and perhaps they will be heard. But most likely, unless they are at the table, no notice will be taken of them. That is the problem with any reduction in the right to negotiate, which the current legislation seeks to do. The working group also said:

It must be recognised that the Native Title Act 1993 was a modest statutory outcome for indigenous people as a consequence of the recognition of native title at common law. Indigenous negotiators accepted past validations in return for a limited right to negotiate in dealing with the grant of future acts on-shore where native title had not been extinguished.

So we are not talking about some great right of veto, as it is usually described; we are talking about a very limited right to be present at negotiations. This government seems unable to accept that the High Court in Mabo did establish that the old terra nullius doctrine was discredited and no longer applied. It is a fact that everybody in Australia now has to deal with a new situation. Unless we can accept that, then we are going to have these debates forever. We are in a new situation. We have done away with the discredited terra nullius doctrine. We do have to deal with the existence of indigenous people, and it is about time that not only in law but also in attitude we recognised that fact. The working group continued:
The Right to Negotiate provisions were never a veto but still formed an essential ingredient in ensuring that the legislation provided legal certainty as it made the legislation beneficial and therefore constitutionally valid.

Its inclusion was fundamental to providing justice to Native Title holders, as the Act facilitated the extinguishment of Native Title in certain circumstances.

And so I could go on. The Western Australian Aboriginal Native Title Working Group has contradicted the claim of the Attorney-General in his statement that he has given 'careful consideration to the views of Aboriginal representative bodies'. If he had done that, then certainly his determination would have reflected that much more than it has. The working group further said:

The issue of the consent of native title holders is critical to the Attorney’s consideration in our view. That is, these alternative provisions should not proceed without the consent of the native title holders of Western Australia. The State laws do not have any such consent and this position has been put both publicly and privately to the Government of Western Australia and to the Federal Government. Most recently the WAANTWG informed the Federal Attorney at a meeting in Broome on Wednesday 23rd August 2000 that the WA 43A scheme was totally unacceptable and should not be the subject of a positive determination by him.

So that is part of the background to the debate we are having. Although the Attorney-General has said that the Western Australian native title regime meets the requirements, as he understands it, of the 1998 amended Native Title Act, the Democrats believe that there are many holes not only in his determination but also in the whole basis on which that determination is founded.

I want to now turn to a letter from the Goldfields Land Council Aboriginal Corporation. In the letter they deal with some of the issues that confront them in their attempts to come to terms with mining on their lands. If we want a resolution of these issues and we want mining to proceed in these areas, then there are ways in which that can happen, but it will not happen by passing this Western Australian state regime because in fact that would be a recipe for further dispute, dissent and delay. The Goldfields Land Council said in their letter that they have entered into four regional agreements with mining companies, five specific tenement agreements, mining lease operations for productive mining and facilitated more than 500 exploration and prospecting licences. The Goldfields Land Council is also in the process of negotiating regional agreements with two shire councils within the Goldfields region.

So there are ways in which, if indigenous people are treated as equal partners, are treated fairly and are given some credit for their ability to enter into agreements, mining can proceed. Indigenous people are not opposed to mining, but they are opposed to simply being hit over the head with a hammer and told to go home and be quiet. It is possible mining can proceed—this is the same experience, which I have spoken about before, that we had in Queensland, where indigenous people themselves have facilitated the processing of mining applications. The reason there is a hold-up in mining applications in Western Australia, the Northern Territory and Queensland is because of the actions of state governments. It has nothing to do with the Native Title Act; it has nothing to do with indigenous people. It has everything to do with state governments who have been playing fast and loose with the truth in terms of what the hold-up is really about.

When we are talking about jobs for indigenous people and others in the mining industry, if there has been proper negotiation those jobs certainly have flowed and mining has proceeded. If there has been the kind of action by the Western Australian government that we have seen so often in the past which has thwarted and frustrated proper agreements being made, then jobs have not flowed. That is really the reason why Senator Hill asked a short time ago in his address to the chamber: ‘Aren’t the Democrats interested in jobs?’ Of course we are: we are interested in indigenous people finding jobs in the mining industry. When there is proper negotiation, when the sledgehammer is put away and when people meet face to face on the ground and work out what is beneficial to all the stakeholders, then both jobs and mining can proceed. I appeal to the chamber to support this disallowance so that some com-
monsense in this debate can ensue, and we can then proceed on the basis of proper negotiation to resolve these questions which are certainly exercising the mind of the Senate.

Senator EGGLESTON (Western Australia) (11.34 a.m.)—The posing of this disallowance motion today marks a sad day for the Senate. It is a very sad day because the Keating native title legislation was seriously flawed legislation, and the Western Australian native title legislation regime, which is before the Senate today to be allowed or disallowed, provides for certainty for all the stakeholders and particularly provides certainty for legitimate indigenous people who wish to make native title claims. One of the great flaws of the Keating 1993 legislation has been that the threshold for the right to negotiate was set so low that a great number of spurious native title claims have been made by individuals and groups who sought to corrupt the process and corruptly receive benefits at the expense of legitimate claimants.

Another undesirable effect of the 1993 legislation in Western Australia has been the devastating impact on the mining industry. According to the Association of Mining Exploration Companies, some 11,000 Western Australian prospecting exploration mining and mining infrastructure tenement applications remain stalled, awaiting determination, in the state Department of Minerals and Energy due to difficulties associated with native title claims.

The legislation has also had a devastating effect on the pastoral industry of Western Australia because pastoralists no longer have any certainty about their ownership of these leaseholds and the value of pastoral properties has dropped considerably. There has also been a devastating impact on development projects in Western Australia, and I refer specifically to great projects like the extension of the Ord River Scheme, which would have created many jobs for indigenous people in the north of the state, development projects in the Burrup Peninsula in the Pilbara and tourist developments all over Western Australia.

As I said before, most importantly, the 1993 legislation led to very corrupt practices among indigenous groups who made spurious claims for native title, which, I have to say, Senator Woodley, in his naivety, has failed to acknowledge. And he has failed to acknowledge the key point: those corrupt Aboriginal claims—those spurious native title claims—need to be no longer permissible under the law; and the answer to that is, quite simply, to raise the threshold for native title claims so that, unless there is real legitimacy in a claim, no claim can be made or entertained.

Senator Bolkus sought to make the point that the flaws in the native title legislation as it is today were related to the 1998 legislation introduced by the Howard government—the so-called Wik legislation. Of course, while the Howard government accepted the validity of the concept of native title, the Wik legislation was designed to establish a new legislative structure with the object of providing an orderly mechanism for the expeditious resolution of native title claims. It was designed to bring certainty and it was designed to provide a mechanism which would suit the needs of all stakeholders—not only the miners, developers and pastoralists but also, most importantly, the indigenous people who wished to make legitimate native title claims. In reality, the problems arose from the 1993 legislation, and include the fact that there was no adequate threshold for the right to negotiate, no limitation on the number of claims that could be made and no time limit on the lodgment of those claims.

I attended a dinner at the Novotel Hotel in Perth in 1997 when none other than Gareth Evans conceded that, right from the beginning, senior ALP officials and figures had anticipated that the 1993 Native Title Act would not work and that the processes it provided would have to be changed. This is, in fact, what occurred. It did not work and the chairman of the Native Title Tribunal, Mr Robert French, confirmed the unworkability of the legislation when he said in 1997:

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

It was to address those problems that the Wik
legislation was introduced, and the Western
Australian native title legislation which is
before the Senate today is the Western Aus-
tralian regime designed to overcome those
problems.

I would like to make a few points about
what the Western Australian legislation will
provide. It returns land management to the
state, which is where it belongs; it complies
with section 43A; and it was developed after
extensive consultation with indigenous peo-
ple, and that is a very important factor. The
key point about the Western Australian leg-
islation is that it does provide ... all
stakeholders with certainty. It will do that, if
it is passed—and I hope it is allowed today
because that is a very important point. The
disallowance of the Western Australian leg-
islation would be unjustified and it would be
an abuse of the power of the Senate. In par-
ticular, I call the attention of the Senate to
the fact that there are senators on the other
side of this House—Senator Cook, Senator
Bishop and Senator Murray—who claim to
have an interest in promoting the Western
Australian economy and the general interests
of industry and business in Australia. For
them to vote for disallowance of this legisla-
tion would be an appalling act of treachery to
their home state of Western Australia. I urge
senators to vote against the disallowance
motion today.

The ACTING DEPUTY PRESIDEN-
(Teacher Hogg) Senator Eggleston, I ask
you to withdraw those comments as they are
a reflection on the senators.

Senator EGGLESTON—I would find it
very difficult to do that because if these
senators do vote for the disallowance of this
motion they will be voting against the inter-
ests of Western Australia—and I do regard
them as traitors to Western Australia if they
do proceed to do that.

The ACTING DEPUTY PRESIDEN-
(Teacher Hogg) The words you used were a reflection
on the senators, and I am asking you to with-
draw them, please.

Senator EGGLESTON As I said, if
these people voted—

The ACTING DEPUTY PRESIDEN-
(Teacher Hogg) I am asking you to withdraw the form
of words that you used.

Senator EGGLESTON Instead, I will
say that they are voting—

The ACTING DEPUTY PRESIDEN-
(Teacher Hogg) I am not asking you what you will
say instead; I am asking you to withdraw.

Senator EGGLESTON I am saying
that, if they vote for this disallowance, they
are voting contrary to the interests of West-
ern Australia.

The ACTING DEPUTY PRESIDEN-
(Teacher Hogg) I am not debating the issue, Senator
Eggleston; I am asking you to withdraw.

Senator EGGLESTON And I regard
that as an act of treachery to Western Aus-
tralia.

The ACTING DEPUTY PRESIDEN-
(Teacher Hogg) Senator Eggleston, I am asking you
to withdraw the form of words used. I am not
asking you to debate the issue.

Senator KEMP Mr Acting Deputy
President, I raise a point of order. I put a
view to you for you to consider. I am always
one to ultimately accept the chair’s ruling
and I am always supportive of the chair but,
as one who stands up in question time and
listens to the general abuse and reflections
which often come from the other side but
which are very rarely asked to be withdrawn,
I just wonder whether you are not applying a
standard which is not typically applied in this
chamber, and I suggest that consistency is
important in this matter. In the light of my
submission, I ask you to reconsider your po-
sition.

The ACTING DEPUTY PRESIDEN-
(Teacher Hogg) In response, Senator Kemp, and be-
fore I take further points of order, I have
consulted with the Clerk on this matter, and
the Clerk’s advice to me is that the form of
words used by Senator Eggleston should be
withdrawn. I believe that my approach in this
matter is even-handed. If the comment were
to come from elsewhere in the chamber I
would ask the person to withdraw it in exactly the same way. Senator Eggleston has been asked to withdraw the form of words, as they reflect on the senators, but that does not preclude Senator Eggleston, once having withdrawn them, from correcting the record.

Senator Brown—While Senator Eggleston is thinking about that, Mr Acting Deputy President, I would like to speak further to the point of order. I think your ruling is right, and it is an important one because nobody in this chamber is treacherous or a traitor. We do have different points of view, but we are here because we are all in the service of the electorate and this nation of ours. We should not allow ourselves to get to the point where a disagreement allows that sort of language. It is quite clear also that people will be voting different ways on this. To put it into the future and say, ‘Well, it only applies to people if they vote a certain way,’ adds nothing to the argument. The ruling you have made is quite correct.

The ACTING DEPUTY PRESIDENT—Thank you for your help, Senator Brown, but there is no point of order.

Senator Lightfoot—Further to the point of order, Mr Acting Deputy President, I ask you to consider this: this is a states house. Given that the disallowance motion currently before the Senate has the potential for a devastating effect on Western Australia, it may be construed that, if the vote did go contrary to what we believe is in the best interests of Western Australia, it is an act of treachery. I ask you to consider, in the light of this being a states house, that that was not an unseemly phrase to attach to any act that may be so grossly detrimental to the state of Western Australia.

The ACTING DEPUTY PRESIDENT—On the point of order, Senator Lightfoot, I have further consulted the Clerk. I stick with my ruling that the form of words used is unparliamentary. The words are a reflection on the senators and should be withdrawn.

Senator EGGLESTON—Mr Acting Deputy President, since you persist with your request, I will withdraw.

The ACTING DEPUTY PRESIDENT—Thank you.

Senator BROWN (Tasmania) (11.46 a.m.)—It would be a remarkable thing if, because of values that any of us hold, we were able to attach the label of traitor to some other member of the house. What an extraordinary thing if we carried that through into debate. It lowers the tenor of debate and adds nothing to it. It is extraordinarily important that members recognise that.

I will be very brief on this matter. I will be voting for the disallowance, because the regulations brought forward from the Western Australian legislation do not uphold the spirit of the legislation that has gone through this parliament in the last decade or the High Court rulings that indigenous people should have a real say in what is happening on their lands. Today we ought not to be debating the right of indigenous people to negotiate when it comes to resource extractors like miners moving in on their land; it should be the other way round: we should be determining the rights of miners, dam builders, tidal estuary blockers or whoever it might be to move in on indigenous land and override the sentiments and wishes of the indigenous people. That ought to be the debate, but it is historically around the wrong way. We are really debating whether or not we should allow the lowest definition of ‘right to negotiate’ which is embodied in the Western Australian law to stand. I will not do that. I did not support the so-called alternative rights scheme in Queensland or in the Northern Territory, and I will not be supporting this one.

I am very concerned about the movement by the Western Australian Court government to declare national parks over indigenous lands as a means of pre-empting the self-determination of indigenous people and what happens with their land. I say that as an environmentalist. I saw this happen during the Bjelke-Petersen premiership in Queensland—there was a divide and rule mechanism there. I am proud to say that the feedback I get is that environmentalists in Western Australia are opposed to this process as well, and believe that the rights of indigenous people should come first. That is something I wholeheartedly endorse. I am
told that very recently a half-million hectare national park was declared in the Mitchell Plateau area of the Kimberley region without due reference to the indigenous people. That is a backdoor way of taking away the legitimate rights of indigenous people to determine the future of their land and their relationship with it.

Finally, Senator Eggleston referred to the 1993 Native Title Act as leading to very corrupt practices amongst indigenous people. Gee, it is easy to slur the First Australians, isn’t it? I suggest that Senator Eggleston have a look at the mining corporations in this country and see what probity he can find there—or lack thereof. He might care to look at the whole process. Let us go outside our own borders but stay within the ambit of Australian corporate practices and look at what has happened at Ok Tedi. We could look at BHP. Its mining practices have led to the death of hundreds of kilometres of the Fly River through cyanide and other toxics floating down the river, resulting in the long-term loss of the right of indigenous people to have access to their land and its resources; resources which are fundamental to their livelihood.

Senator Eggleston might look across the border at the Freeport mine in West Papua, where, again, an Australia corporation is a major owner and benefitter. Not only have we seen the environment of indigenous people walloped by that mining operation but also many indigenous people have been killed in the process. Senator Eggleston could look at the situation in the Philippines. In Indonesia, including in Aceh, people are fighting for a measure of self-determination. Australian mining corporations are operative in a component of Sumatra and have long been friends of the Indonesian military. I think that we have a lot to question Australian mining corporations about before we fling epithets at indigenous people who, historically, have been put behind the eight ball when it comes to having a fair go and a fair say over their own land.

Senator LIGHTFOOT (Western Australia) (11.52 a.m.)—I of course reject totally and vehemently this disallowance motion, because it has the potential to disrupt the economic prosperity of not just Western Australia but Australia. It has the potential to further divide the Aboriginal people of Australia and other Australians. It has the potential to do away with the strong job growth in Australia. Perhaps that is the reason this house is going to allow the disallowance. I believe that the terminology used by my colleague Senator Eggleston, although rejected by the Senate, was not unseemly. I accept the ruling but at the same time believe it was not unseemly.

If this is to be a states house of some form during its running through the day, all senators here must vote for something that is beneficial for their respective states, particularly on matters of such a serious nature as this. I notice that Senator Chris Evans has just come in, the only member of the Labor Party from Western Australia to come in here. Missing of course are Senator Peter Cook, Senator Mark Bishop and Senator Jim McKiernan. It is something that I find quite strange. How can senators from Western Australia vote against this when they know that the Commonwealth government passed this legislation, when they know that the two houses of the Western Australian government also passed this legislation—albeit with a long-time member and now former member of the Labor Party who assisted in passing this legislation in the upper house—and when they know that there are significant Aboriginal groups in Western Australia which believe that the amendments that we put today from the Western Australian government that need ratification here are in the best interests of Western Australia?

Western Australia is something special, and not because I come from there. It supplies almost 30 per cent of our national export income. Where does a significant part of that come from? Where does the vast majority of that come from? Of course, it comes from the mining industry. Where is the mining industry in Western Australia? Of course, it is covered by native title. Does that mean that we are going to continue with a 40-odd per cent reduction in exploration, being inhibited by native title and the legislation that was passed that needs amendment or special amendment? Why can’t there be the same
treatment for the people of Western Australia as this house gave to Queensland legislation?

Why can’t that be ratified? Why can’t we have special legislation that is peculiar to each state? Why is it that we have to run ourselves down? Twenty or so years ago—a couple of decades ago—we were one of the wealthiest nations in the world. Argentina in the early part of this century, Canada and Australia had the highest standards of living in the world. You cannot start to deplete your wealth base and at the same time try to have the expenditure that Senator Brown wants on national parks or try to have the expenditure that the other side want on social services. You cannot have indexed social services without somehow increasing your wealth base each year, and this is what Western Australia does.

We are one of the biggest—if not the biggest—producers of iron ore in the world. We are the biggest exporters of alumina powder in the world. We are the third biggest producer of gold in the world. With the advent of the full production of the Murrin Murrin deposit of nickel we will be the third biggest producer of nickel in the world. We are the biggest producer of diamonds in the world, at 40 million carats per annum. We are the biggest producer of natural gas under export in the world and have the biggest facility on Burrup Peninsula for exporting gas in the world. We are the biggest producer of oil and condensate in Australia. We are the biggest producers and exporters of heavy sands, which covers ilmenite, leucoxene, rutile, monazite, zircon and garnet et cetera. They cannot be stopped. The flow of that must not be stopped. We are a significant producer of copper, lead and vanadium as well.

The vast majority of these commodities come from station country. They are all under claim. That cannot be impeded. What the Western Australian legislation said it would do is not deny Aboriginal people access, not deny them their rights, but simply have a process that allows the state of Western Australia to get on with what it does best, and that is producing commodities, producing income and producing wealth that is shared by all countries. I say this: until the next election I am going to follow those Western Australian Labor senators who vote against their state, and a lot of Western Australian people are going to do the same.

Senator CHRIS EVANS (Western Australia) (11.57 a.m.)—I think Senator Lightfoot just threatened to stalk me—not a prospect I look forward to. What we have heard today is two preselection speeches from Senators Lightfoot and Eggleston. I understand there is a very tight contest going on in Western Australia, and in the traditions of the Western Australia Liberal Party they tend to select the most outrageous, the most right-wing, the most conservative people who contest their Senate spots. We heard today both of those senators make a plea for that constituency. Senator Eggleston, who is usually a more moderate man, of course had to try to outdo Senator Lightfoot. That is always a hard task, Senator Eggleston, because if you want someone to be intemperate, to be outrageous, Senator Lightfoot always wins. But you had a good go by calling us traitors. Nice try. It might get you a run in the West Australian. It might get you noticed, but it is no substitute for decent policy.

The Western Australian Labor senators are very happy to support this disallowance motion, because fundamentally the government proposition seeks to diminish the native title rights of Aboriginal people. The Native Title (State Provisions) Act severely limits the native title rights of Aboriginal people in relation to pastoral leasehold. The section 43A scheme, which is part of that act, replaces the right to negotiate over pastoral lease and other crown land such as national parks with a much weaker consultation process. The right of native title holders to negotiate about mining and the compulsory acquisition of their land will be replaced with these lesser consultation processes.

That is why Labor, the Democrats and Senator Bob Brown will be disallowing these regulations. They weaken the rights of Aboriginals to negotiate—the rights recognised in the Mabo decision and the Native Title Act. The proposed alternative consultation scheme does not have the informed consent of the Aboriginal community and is an attack on those basic rights to negotiate. The Labor Party have been accused by Senator Hill of
not being consistent—quite the opposite. The Northern Territory and Queensland alternative consultation schemes have also been disallowed by the Senate for the very same reason. We have been totally consistent on this matter. If the measures enacted under section 43A seek to reduce the right to negotiate and to reduce the rights of Aboriginal people, we will not endorse them; we will not give them the tick. That is why today we will vote against that proposition in WA.

I must say in passing that I was very surprised that the Attorney-General, Daryl Williams, saw fit to approve the Western Australian proposition. He seems to have taken a very technical, legalistic approach to this rather than do what I think he was required to do, which was to have a good look at the provisions and make some judgments about fairness, justice and the protection of Aboriginal rights established under the Native Title Act. I have a deal of respect for Mr Williams, so I am surprised that he took such a narrow view, and what I think was quite a morally bankrupt view, in approving those regulations.

Senator Kemp—Mr Acting Deputy President, on a point of order: we have had a ruling on how we should not reflect on other senators. I wonder if the words ‘morally bankrupt’ come within that ruling. I suspect they do.

Senator Chris Evans interjecting—

Senator Kemp—Only because there was a previous ruling in this debate. I just draw that to your attention, Mr Acting Deputy President, and seek your guidance.

The ACTING DEPUTY PRESIDENT (Senator Hogg)—On the point of order: the words should be withdrawn, Senator Evans. I ask you to withdraw.

Senator CHRIS EVANS—I am happy to withdraw, if that is your ruling, Mr Acting Deputy President. As I say, I was very disappointed by the position adopted by the Attorney-General. As a result of his actions we have the need for this disallowance motion to be moved in this chamber.

I want to spend a bit of time discussing one of the reasons why I think this Senate should be very cautious in approving the application from WA. I think on any proper legal analysis it clearly diminishes the rights of Aboriginal people. But in Western Australia, of all the states, we need to be particularly conscious of a long history—of this state government and of governments throughout the state’s past—of the poor treatment of Aboriginal people. WA is the only state that has tried to abolish native title. In 1995 the High Court found that the state legislation to abolish native title was racially discriminatory and unconstitutional.

The people who today put this matter forward to us are the same people who tried to abolish native title in Western Australia in 1995. So I think we have to look at their form and their attitude. The state government have spent seven years trying to deny or prevent the existence of native title in this country. They have had a long campaign. To give them their dues, they have been consistent. They have not wanted to recognise native title since the Mabo decision, and they have tried every trick in the book to try to prevent native title rights being accessed by Aboriginal people in their state.

I have to say Senator Lightfoot has been consistent as well. He is most famous of course for his contribution to the debate on Aboriginal affairs and reconciliation in this country, having described Aboriginal people as ‘the bottom colour in the civilisation spectrum’. These are the sorts of people we are dealing with and these are the sorts of attitudes they bring to this debate. As a Western Australian, I very much remember the 1980s land rights campaign—which was probably the low point in political discourse in this country—and the outrageous attempt to scare people about the issue of land rights in the 1980s. There was a television advertising campaign that goes down as one of the most disgusting ever seen in this country.

As I say, Senator Lightfoot became famous for his contribution to Aboriginal affairs and, as a result of his racist comments, was promoted by the WA Liberal Party to the Senate to represent them here on matters such as native title. So we see the sort of form he brings to this. I remember very well the WA Liberal Party submission to the legal and constitutional affairs committee when in
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1993 we inquired into the first native title bill. I had the privilege to sit on that committee, along with Senator Cooney, the then Senator Reynolds and others. I quote from the formal contribution from the WA Liberal Party to that inquiry into the bill—this is the formal position of the WA Liberal Party:

The legislation is discriminatory and creates two classes of Australians: Aboriginal and non-Aboriginal. Aboriginal Australians will have exclusive rights to a form of land title unavailable to all other Australians. This is certain to create and foster racial division in Australia. This is especially the case where the form of Native Title, as proposed by the Federal Government, effectively establishes separate Aboriginal States within each State.

That is their form, their rhetoric; that is the sort of approach they took. And they have the audacity to criticise One Nation for racist attitudes! I ought to remind them of their form on this issue. That is why this Senate should not trust them; that is why this Senate should be very cautious. The High Court had a chance to rule on their approach. It found 7-0 that what they were trying to do was abolish native title and that that was unconstitutional. The High Court rejected their approach. This Senate should also reject their approach, because nothing has really changed. This is the latest attempt by the WA state government to extinguish or reduce native title rights.

Senator McGauran—Mr Acting Deputy President, I raise a point of order on unparliamentary language, although it was some comments ago, by Senator Hogg. It is just that we had a bit of a discussion here to be sure that we were able to clarify his comments. He called—

Senator McKierman—Senator Hogg never said nothing.

Senator McGauran—Sorry, it was Senator Evans.

The ACTING DEPUTY PRESIDENT—The point of order must be taken at the time.

Senator McGauran—You are splitting hairs here, aren’t you?

The ACTING DEPUTY PRESIDENT—I am not splitting hairs; I am advised by the Clerk.

Senator McGauran—I ask for your indulgence in that we needed to clarify the comments—and we have on this side—and the comments were against Senator Lightfoot, suggesting that he was racist and had made racist comments. That is incredibly unparliamentary, to say the least.

The ACTING DEPUTY PRESIDENT—I have just consulted with the Clerk. A point of order should be taken at the time that the point of order is deemed necessary. If you are referring to matters that have taken place previously in this debate, I will refer the matter to the President to examine the Hansard to see if there is anything arising from that.

Senator CHRIS EVANS—As always, if there is a ruling that I have said something unparliamentary, I will be happy to have it withdrawn. As I was saying, I think this is the latest attempt in the Western Australian government’s campaign to eradicate native title rights. I think it has been proven to be a cruel hoax on the mining industry. I heard Senator Lightfoot and Senator Eggleston again run out the argument that somehow the disallowance motion will ruin the mining industry. There are very complex issues involved in the mining industry’s success, and I have no doubt that native title is one of them. What has happened is that, in the last seven years, rather than have a state government play a constructive role in resolving their difficulties and in working through the issues that have been thrown up by the Native Title Act and the recognition of native title, we have seen a government which has used them for political purposes at every opportunity. We have seen them try to create political advantage and division within Western Australian society rather than be constructive and work through the problems that have been posed.

It is interesting that a number of statistics indicating the number of applications held up in the state mineral system were used as evidence of the failure of native title. What they reflect is the failure of the Western Australian government to engage in solving problems and to engage in negotiations with Aboriginal groups to work their way through the issues involved. It is an approach that has
been rejected by a number of the large mining companies who recognise that they need to get on with business and they want to get on with making it work, so they have actually started sitting down and negotiating directly with Aboriginal groups.

The barrier to success in lots of these areas has been the Western Australian government’s failure to be involved and its failure to take a constructive approach. Again we see a state election looming. This proposal has been put up and it will be played for all it is worth in the Kalgoorlie area where the Liberal Party hope to do some good. It is interesting that they have negotiated settlements in the Western Desert and in the Pilbara in recent times and have proved that it can work and that you can reach proper agreements with Aboriginal people based on native title. But, in terms of Kalgoorlie and the mineral exploration industry there, again it will be a political football. The small and medium-sized explorers and miners in particular in the industry there need a system that is not costly, not complex and not time consuming, but the Court government have given them a politically inspired mess. They have helped to create that mess. What they have not done is try to find solutions.

We have had seven years of fearmongering. Since 1993, Richard Court and his government have tried to create fear and division. They have played the wedge politics card, and it is a disgrace that Senators Lightfoot and Eggleston—and no doubt Senator Knowles, if she comes back—are trying to play that card again. It is not washing with the Western Australian public. They want to know why their hospitals have not been fixed up; they want to know why people are ripping off older investors in the state. They do not want to hear the divisive politics of Richard Court on native title. Every Sunday, week after week, we had Richard Court come out with his press release: ‘Suburban backyards under threat: native title claims to claim your own backyard’. That sort of thing went on year after year, week after week, to try to create fear and division. It is wedge politics at its worst. We need constructive efforts by the state government to assist in making native title work. Lots of mining companies are getting on with that. Growth and jobs will only flow when the state government realise that native title is here to stay. The High Court did not fall for their attempt to abolish it; the Senate will not fall for Court’s attempt to abolish native title, so he has to get on and live with it. But I suspect it will not be his job; I suspect after February somebody else will get the opportunity to try to make the state mining industry prosper again and get a constructive approach to those issues.

I think it is very important that the Senate disallow this attempt to downgrade native title rights in Western Australia. Far from being a traitor, as Senator Eggleston would describe me, I am very proud to adopt that position and I will argue it the length and breadth of Western Australia. I think Western Australians are coming to realise that native title has been used as a divisive wedge politics tactic by the Court and Howard governments, that they have not been interested in real solutions and that they have not been interested in making native title work. We need to endorse schemes that will assist the parties to sit down and negotiate constructive agreements. A lot of that is already occurring on the ground as miners reject the Court government’s approach and get on with the job. I urge the Senate to support the disallowance motion and reject the Court government legislation because it is fundamentally about downgrading the right to negotiate which this parliament has enshrined.

Senator KNOWLES (Western Australia) (12.13 p.m.)—What a sad day it is for Western Australia when Labor senators come in here and say that Western Australia cannot decide its own fate. Yet those same Labor senators come in here and allow Labor states, New South Wales and Queensland, to determine what they want to do because they are Labor states. This determination is basically on the same issue. The only reason Labor senators come in to vote this determination down through a disallowance motion is that the simple fact is that there is a coalition state government. There is nothing else involved in this other than pure politics. The tragedy of it is that Western Australian Labor senators and the Leader of the Opposition,
who also happens to be a Western Australian, are the people who are motivated enough to make sure that progress does not happen in Western Australia and that Western Australia will be hamstrung for evermore. Why do they make sure that they can adopt positions with the Labor state governments but not with the Western Australian state government? It is absolutely unbelievable.

Having listened to this debate, I can say that there has been no logical argument put forward by Labor senators as to the distinction between those two approaches. They will do this purely and simply on the basis of trying to win the next state election. The saddest part of all is that they do not care about the jobs that they are depriving Western Australians of. They do not care how much mining and other industry goes offshore because of their actions. It is just a political game. They are going to knock out a scheme in a state with a coalition government. They should know—but one suspects that they probably do not know or understand—that the resource sector is a key industry sector for both Western Australia and Australia. That does not seem to matter to Western Australian Labor senators or to Mr Beazley.

Western Australia earns vital export dollars and it provides jobs for indigenous as well as non-indigenous people. Once again, that does not seem to matter. This is all about a political football. This is all about persecuting a state government of a different political colour to Labor instead of getting on with it. As has been said so often in this debate and in every other debate on the matter, Western Australia has 10 per cent of the population but produces 25 per cent of the export earnings of this country. These Labor senators and Mr Beazley want to make sure that those export dollars continue to go backwards.

It is about time that the uncertainty over native title was eradicated and that the areas of exploration, mining and investment—with all the inherent consequences for all Australians—were given some certainty. That is all we are asking for and that is all that the state government seeks to do. But the Labor Party say that they are not going to allow that. They do not bother to look at the facts. Exploration expenditure in Western Australia has fallen by 43 per cent from its peak in 1997. Gold exploration has fallen by 60 per cent over the same period. Annual exploration expenditure is $268 million a year less than in 1997, and outstanding tenement applications have grown from nil at the end of 1995 to 11,000 in 1998, due to native title complications. It is quite concerning that Western Australian Labor senators and Mr Beazley do not care about that.

Senator Eggleston—Don’t forget Senator Andrew Murray.

Senator KNOWLES—That is quite right, Senator Eggleston. Unfortunately, Senator Murray, who I would have thought would hold a different position on this, is also supporting the Labor Party. That is a bit sad, because at least he understands the way in which business operates, the way in which the employment circle operates and everything else. Here, the Labor Party are combining with the Democrats—and, no doubt, our friend and colleague Senator Brown, who could not care less about jobs, who could not care less about any exploration in this country and who cares even less about exports. Here we have all that exploration and mining going backwards, along with the jobs and the export dollars, because of the uncertainty over native title.

The state government, in conjunction with the federal government, seek to resolve that. And what happens? Labor say, ‘No, you won’t—over our dead bodies. You will not resolve this. We will not give you any certainty. We will not allow you to create jobs, because we don’t want you to get the benefit of creating jobs. We don’t want the federal government to be able to say that more jobs are being created in the state and we certainly don’t want the state government to be able to say that they have created X more dollars in the state prior to a state election.’ This is appalling. I ask Labor senators and Senator Murray to reconsider their positions in favour of the state which they are meant to represent in this chamber.

Senator BOLKUS (South Australia) (12.19 p.m.)—I speak in response to the debate and acknowledge the cooperation that
senators have given this morning to this debate. We did come to an arrangement with the government to ensure that the debate was concluded within an hour. We have just about achieved that. It has meant that some people have not been able to speak, but I think the sentiments of all sides of parliament have been put on the table.

I sometimes feel sorry for Senator Hill. He is in a difficult environment and he quite often gets bashed around by his colleagues. But today is one of those days when I do not feel sorry for Senator Hill, because he led the government debate on this issue. He was expected to put down a government position in response, but this morning he made a fundamental mistake that he does not make all that often, and that was that he accepted to the letter the advice he got from Senator Minchin. He does not take Senator Minchin’s advice on South Australia and he does not often take it at all but, on this particular occasion, he read from the brief. The brief was inadequate, it was misleading and it did not address the issues. In essence, it was not good enough.

We expected from the government an assessment of the issues. We never got it. Instead, we got histrionics about development in Western Australia. The Western Australian Court government is not good for development in that state, because it has taken the wrong approach to native title. It has frozen the process. After years of taking the issues to court, it has continued to freeze the process. Western Australia needs—whether it is indigenous Western Australians or the mining industry, big or small—a constructive, agreed and consensual outcome, and it can get it.

The Court government is hell-bent on division based on race. It is hell-bent on playing base politics. Senator Hill today fell into the trap of talking about generalities. As he said, he did not want to get bogged down in a legal discussion. Unfortunately for Senator Hill, what we have here is a legal discussion. We have here a very clear discussion about the issue of the right to negotiate. Government speaker after government speaker made the point that they did not understand why Labor was distinguishing between Western Australia, New South Wales and Queensland. It is very clear. They might be confused about it, but it is clear that Labor has not allowed the alternative regimes in New South Wales, in Queensland and in Western Australia.

As I stated earlier, we disallowed section 43A in the Queensland package. We disallowed the Northern Territory package because of its 43A aspects. We have made it very clear to other states that the 43A mechanism in this legislation is not on. New South Wales has not embraced it. Victoria is not embracing it. So there is a very clear distinction. If Senator Hill had done his homework instead of copping the diatribe from Senator Minchin, he would have understood that the fundamental, principal objection is to the exercise of 43A. It is an objection which we maintain consistently across the states. We need to reinforce that consistency here. We allowed section 26A in New South Wales and Queensland, as it provides an alternative procedure on low impact exploration backed up with good faith agreements with indigenous people.

The Western Australian government have not even tried to have a section 26A low impact exploration scheme approved. Why not? Because they do not want development and they do not want the outcomes that they can get. They are holding Western Australia back in a manner in which New South Wales, Victoria and Queensland are not prepared to hold themselves back. Those states are going to head for the consensual alternative provided for in the legislation. But the Western Australian government are not concerned about development. They are concerned about self-protection. They are concerned about Premier Court’s position. For that to be protected, they will play the game they know best, and that is the politics of division.

Senator Hill says that this exercise today is holding back the mining industry’s economic growth. The Western Australian government have been selective as to where they want economic growth and development. They have made agreements. Recent agreements in the Pilbara and the Western Desert have shown that you can take an agreed approach through this. But the people of Aus-
Australia and Western Australia in particular need to ask: why is the Court government prepared to resolve native title matters by agreement in the Pilbara and the Western Desert but not in the goldfields of Western Australia? It is the Western Australian government that see the miners and the people living in the goldfields as second-class citizens. They will not provide for them what they are providing for the citizens of Western Australia in the Pilbara and the Western Desert. By not providing that, they are making the lives, the processes and the proceedings involving claims in the goldfields of Western Australia much more difficult to exercise than they need to be. It is the WA government that are failing. It is this government that has not done its homework.

Senator Hill also repeats the mantra of Senator Minchin, and that is that the Commonwealth scheme is not working in Western Australia. It has not been allowed to work. Senator Hill is bright enough to understand the facts if only he spent some time addressing them. The Court government would not implement the native title regime of the previous government. They went to court on specious grounds. They got dumped overwhelmingly. But, having had a rebuke from the High Court, they still did not acknowledge the native title regime. They embarked upon bad faith proceedings; their proceedings were not in good faith. They were exposed for not being in good faith in the courts again. They continued court challenges. There is no cooperation with rep bodies. There is little or no cooperation with the National Native Title Tribunal. Recently, for instance, they gazetted a number of national parks in the Kimberleys without consultation. Instead of taking the approach that other states are showing can provide outcomes, it is the Court government that have basically frozen the process. Senator Hill should be directing his criticism not at the national legislation but at his colleagues in Western Australia.

We come to the end of another phase in this debate. At the end of this debate, we have another example of how the Wik legislation of this government, the 10-point plan, was a failure and continues to be a failure. Essentially we have the community outside of this place acting in a way that achieves their outcomes but in a sense not putting up with the prescriptions on this issue that have been brought in by Senator Minchin and by the Prime Minister. Business is moving on. Business is prepared to make agreements. Business is prepared to sit down with indigenous Australians. But this government is not. This government, by its actions in backing an inflammatory proposal by the Court government, is showing once again that it is not fit to lead this country. I urge the Senate to disallow the WA native title motion.

Question put:
That the motion (Senator Bolkus's) be agreed to.

The Senate divided. [12.31 p.m.]
(The President—Senator the Hon. Marga ret Reid)

Ayes............. 32
Noes............. 28
Majority........... 4

AYES
Allison, L.F. Bartlett, A.J.J.
Bishop, T.M. Bolkus, N.
Bourne, V.W. Brown, B.J.
Buckland, G. Campbell, G.
Carr, K.J. Collins, J.M.A.
Coomey, B.C. Crossin, P.M.
Crowley, R.A. Denman, K.J.
Evans, C.V. Forshaw, M.G.
Gibbs, B. Greig, B.
Hogg, J.J. Hutchins, S.P.
Lees, M.H. Ludwig, J.W.
Lundy, K.A. McKierman, J.P.
McLucas, J.E. Murray, A.J.M.
O'Brien, K.W.K. Ray, R.F.
Ridgeway, A.D. Schacht, C.C.
Stott Despoja, N. Woodley, J.

NOES
Brandis, G.H. Calvert, P.H. *
Campbell, I.G. Chapman, H.G.P.
Cooman, H.L. Eggleston, A.
Ellison, C.M. Ferris, J.M.
Gibson, B.F. Heffernan, W.
Herron, J.J. Kemp, C.R.
Knowles, S.C. Lightfoot, P.R.
Macdonald, L. Macdonald, J.A.L.
Mason, B.J. McGauran, J.J.I.
Minchin, N.H. Newman, J.M.
Patterson, K.C. Payne, M.A.
Reid, M.E. Tambling, G.E.
Tchen, T. Tierney, J.W.
Troeth, J.M. Watson, J.O.W.
States Grants (Primary and Secondary Education Assistance) Bill 2000

Second Reading

Debate resumed from 8 November, on motion by Senator Hill:

The Hon. G. Stirling 
(12.35 p.m.)—Robinson, J. 

That this bill be now read a second time.

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

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

(a) notes that the detailed analysis of the effect of this Bill shows that the proposed distribution of funding among non-government schools is profoundly unfair; and

(b) condemns the government for:

(i) failing to provide a matching increase for government schools;

(ii) continuing its inequitable Enrolment Benchmark Adjustment policy; and

(iii) reducing the proportion of Commonwealth funding to government schools from 43 per cent in 1996 to 35 per cent in 2004.”

Senator FORSHAW (New South Wales)

(12.35 p.m.)—Last night when debate on this bill was adjourned, I was in the process of discussing issues regarding choice in education. I pointed out that the government talks constantly about the concept of choice and says that it lies at the heart of this legislation. It claims that every Australian parent has the choice of sending their children either to any state government school or to any non-government school. That is simply not true. As I said last night, parents in many communities across this country who send their children to the local state school or to one of the local non-government schools, such as those in the Catholic systemic system, do not have the choice, because of their income levels, of sending their children to elite, wealthy schools. So all this talk about choice is mere sophistry; it is being used to disguise the real intent of this legislation.

The real intent of this legislation is to allocate additional funding to category 1 schools—elite private schools, which have been identified by many other speakers in this debate—at a level much greater than the funding for all other schools, whether they be state or other non-government schools. I do not wish to take up the time of the Senate restating the many examples that have been put before this chamber of the gross inequities that will arise from this system. They have been well documented. The Australian public—not just parents of students at state government schools but also many parents of students at non-government schools—recognise that this legislation is inequitable. I have spoken to many parents whose children attend non-government schools—in the Catholic systemic system and other schools as well—who are appalled by what this government is doing. They have opted to send their children to a non-government school in their local community and, in making that choice, they have elected to pay the additional fees that are required.

But what those parents also support—and what the Labor Party has always supported since the days when the state aid debate was finally put to rest—is the principle that there has to be equity. Parents in those schools have said to me that they do not accept this government’s proposals to direct huge amounts of additional funding to a narrow group of 61 select elite private schools at the expense of schools throughout the rest of the country in both government and non-government sectors. We have had examples put forward of how, for instance, the King’s School in Sydney can raise huge amounts of money by a whole range of fundraising activities as well as by the extraordinarily high fees that the parents pay to send their children to those schools. Now, fine—this is not about greed or envy, as the government would try to suggest; what it is about is equity. Those parents have elected to send their children to those schools and to pay those huge fees. But they are a very small minority of people in this country. Very few people
can afford to send their children to those schools. They have to battle in their P&Cs—such as in the western suburbs of Sydney, or Melbourne, or in rural and regional areas—to scrimp to raise money through the chook raffles, the trivia nights, the Christmas hamper raffle and the chocolate fund raising ventures—

Senator O’Brien—Chocolate wheels.

Senator FORSHAW—I will not get into chocolate wheels. All those parents know that their kids will come home from school with an appeal from the P&C for some more funds because it desperately needs those funds for resources. They are the schools that we have to be directing our attention to—and that is what the Labor Party is about.

This bill has led to widespread community outrage. As I have said, we have all received hundreds of emails and letters and petitions, as well as personal representations, complaining about this legislation. What is the position of the ALP? As I said last night, and I repeat: we are about equity in education. We are about funding both the government and non-government school sectors on the basis of need and on the basis of ensuring that every kid in this country, no matter which school he or she attends, has access to a high standard of education and to the resources required to deliver that education.

What we are proposing is the abolition of the enrolment benchmark adjustment. That measure alone has already been responsible for taking $60 million out of government schools. Our amendments will also stop those 61 schools in category 1, the wealthy elite private schools, from getting the largest funding increases. We are not saying they should not get any funding; they should continue to get funding—but not the additional funding that is prescribed under this legislation. That is inequitable and unfair to all those other schools throughout the country that desperately need those government resources. It is our proposal that that funding—that unnecessary funding which currently is to be directed to the category 1 schools—be redistributed in areas of special need, special education services, particularly for the 100,000 students across Australia with disabilities where funds are desperately needed to improve their situation.

This government has a terrible record on education. It has taken a few years, but the public is now seeing the evidence of this government’s attempts—indeed, its successful attempts—over a number of years to slash away at the level of government funding for state schools as well as in areas such as TAFE and universities. We also see it evident in their approach to other important areas related to education and training, such as research and development.

It is not too late for this government to think again and to listen to all those parents out there who have corresponded with us and expressed their concerns. They are parents who care about their kids’ education and, as I said, those parents exist in both the government and the non-government school sectors. What they want is equity of funding for all Australian students in the school system. I look forward to the committee stage of the bill when we can advance our arguments in respect of the ALP’s amendments to this legislation in more detail. I urge the government to have cognisance of the community outrage against this legislation and accept those amendments.

Senator WOODLEY (Queensland) (12.45 p.m.)—Today I wish to make a contribution in the debate on the States Grants (Primary and Secondary Education Assistance) Bill 2000. I would like to comment on a number of issues arising out of this legislation related to the role of the churches in this debate about equity and fairness. This is a debate about a bill which will see an increase of $100 million in funding for Australia’s 7,000 government schools, an increase that delivers nothing beyond keeping up with inflation, and I want to underline that. This is in contrast to increases of $561 million a year to non-government schools by 2004, a 40 per cent increase in Commonwealth funding.

I know, because they have told me so, that many church based schools are reluctant to speak out about the SES funding formula, and there are various reasons for this. We have been told that one reason is that poorer schools that belong to associations or groups
are often under pressure from their wealthier peers to stay silent. The churches are in a paradoxical position with this legislation. Most denominations have wealthy, elite schools that claim some association with the church, although most of these schools have a very loose association with the churches whose names they claim. All of them are administered and incorporated quite independently of the churches. I know this is so because, as a parish minister, I was on the board of governors of one of these schools which was situated within the boundaries of the parish. It was not a good experience. The school took little account of the church’s position on many issues and made it very difficult for me as a parish minister. On the other hand, the churches provide assistance to people who are having trouble feeding and educating their children. So in the name of the church, you have a paradox at both ends of the social spectrum.

I would like to illustrate what I am saying by citing the experience in Victoria, for in Victoria at least there is an increasing demand from church-run agencies for assistance with education costs. As compulsory and quasi-compulsory fees and levies spread in public schools, many more parents are seeking help. The Catholic Social Services in Melbourne recently completed a report on truancy. The Jesuit Social Services focused on educational opportunities in its report Unequal in life: the distribution of social disadvantage in Victoria and New South Wales. The Uniting Church has also called for the abolition of fees in Victorian government schools. Any church-run agency that offers relief to families is, by necessity, having to address education issues as well. It would be useful to ask those agencies what they think of the government’s unjust and unfair proposals for the future of education in this country. Fortunately, we do know what some of the churches think about the government’s bill, and it is important to put that on the record.

Recently, the Victorian Synod of the Uniting Church issued a formal response to the states grants bill. It is a very important response because it outlines some serious concerns with the legislation. The Church argues for the greater good of decent funding for public education. There are several comparatively wealthy schools that stand to gain enormous windfalls from the formula. They include MLC in Burwood, which will get an additional $1.5 million a year; Methodist Ladies College in Kew, which will get an additional $1.1 million; and Newington College, which will get an additional $1.8 million. These are just a few examples. The Victorian Synod of the Uniting Church has written that the socio-economic status of a school community may be a reasonable funding criterion. However, it then severely criticises the government legislation. In order to give you the flavour of what the synod secretary has said, I will give you some quotes from the letter. After noting the government’s funding model, the synod secretary wrote:

However, we believe it would be more equitable if the funding model also incorporated the resources of the school in consideration of the funding, including the level of fees.

We would recommend that the States Grants Bill be amended to cap funding to non-government schools on the basis of the overall funds available per student compared to the Average Government School recurrent cost.

........

We are concerned that the Bill does not abolish the Enrolment Benchmark Adjustment ... We are deeply concerned that this policy removes money from government schools that they would have otherwise been entitled to by legislation on the basis of private school enrolments.

So here we have it. Dr Kemp likes to hammer the point that non-government schools do not get the EBA money. We all know that it does not end up there directly; no one argues otherwise. It goes into consolidated revenue. Yet here is a prominent member of the non-government school sector identifying the EBA for what it is: a lose-lose policy all round. The EBA policy has taken $57 million out of public education since its inception, simply because private schools have increased their market share.

Senator Forshaw—I said $60 million.

Senator WOODLEY—in round figures. And it does not work in reverse either. When public schools increase their market share
relative to private schools, private schools do not get penalised. I conclude with the last paragraph of the Victorian Synod of the Uniting Church letter:

Our response to the bill is in recognition that students from independent schools are more likely to gain tertiary education placements than students from government schools, due at least in part to the greater level of total funding many independent schools have per student. Therefore, increased government funding to schools with high levels of existing resources serves to increase this inequity.

Let me now turn to Reverend Tom Doyle of the National Catholic Education Office. The office is a professed supporter of the SES. Yet even he told the inquiry at its Canberra hearings that the SES should not be the sole determinant of funding, as it is under Dr Kemp’s bill. Instead, it should be weighted along with recurrent and capital resources, geographic spread and the necessity to provide a wide range of central services and it will redistribute the money it gets from the government according to its own SES criteria. The Reverend Doyle said:

We would still maintain that the SES model in itself is not sufficient and that it needs modification ... We would also say that, realistically, we accepted the political reality of the situation as it is.

So there you have from two of the larger churches their analysis of the SES, which clearly states that they see it as inequitable. But let me go on. Some Jewish schools are also comparatively worse off under this legislation. The Democrats received representation from one school close to Caulfield Grammar. The Australian Coordinating Committee of Jewish Day Schools says:

The model significantly disadvantages families who must, for religious reasons, reside in expensive areas. Many such families are recent immigrants from the former Soviet Union. Their large family sizes mean that these schools have a high proportion of parents receiving social security benefits, even though the heads of families are employed. They are upset that neither family size nor receipt of social security has an impact on their school’s funding level.

According to the Department of Education, Training and Youth Affairs, a school with more than 43 per cent of students on Austudy would be expected to have an SES score of 90 or below. However, Addas Israel School in Elsternwick has 60 per cent of families in receipt of Austudy, yet its score is 113. Yesivah and Beth Rivkah has 36 per cent of students in receipt of Austudy and its SES score is 117. Addas Israel will get a per student funding increase of zero under this legislation, while its wealthy neighbour Caulfield Grammar will get an increase of $1,442 per student—an increase of $3.8 million a year. It is surely obscene that a school such as Addas Israel should be treated as less needy than Caulfield Grammar. The minister has, according to the Jewish News, resisted calls to address these anomalies.

We were approached some time ago by the principal of Trinity College, a low fee Anglican school in one of Adelaide’s most disadvantaged areas. Principal Michael Hewitson was a product of the private system but taught in public schools. He said his eyes were opened to the extreme levels of disadvantage suffered by many children in the system. He became a convert to the principle that public education needs to be decently funded. He maintains that the unofficial exclusion policies of many non-government schools—where the difficult to teach students are booted out and left to the state system—are unChristian. He says, ‘I don’t see how you can justify accepting state funding without also accepting open enrolment.’ I believe Senator Hogg, who will speak soon in this debate, will spell out more of the inequities which I have illustrated to the chamber in this debate.

It is noteworthy that two Christian schools in New South Wales face state deregistration after continuing to cane students. One of the schools will have its funding increased by $100,000 a year under the SES—an increase of $1,085 per student. The public surely is entitled to demand that schools operate within the law if they wish to receive taxpayer funding. The Victorian Independent Education Union also spoke out against the legislation. It was acting on the considerable disquiet of its members. They are concerned at the disproportionate increases going to the wealthiest non-government schools. In its submission to the recent HREOC inquiry into pregnancy and work, the Independent
Education Union states that it was a battle getting many non-government schools to agree to six weeks paid maternity leave, let alone the standard 12 weeks that government school employees enjoy. I hope that schools receiving these funding increases will do the right thing by their members.

So while there are a few schools willing to speak out, there is recognition within the sector that this bill is unfair. It is recognised that the SES entrenches privilege and throws just enough to the needier schools in some cases to buy their silence. Dr Kemp’s argument that this funding model has unanimous non-government support is a whitewash. Fairness cannot be reduced to a matter of perception or be inferred from what the non-government sector is prepared to commit to a media release. The figures, in the end, say it all.

Senator WATSON (Tasmania) (12.59 p.m.)—Regrettably, the focus of the debate on the States Grants (Primary and Secondary Education Assistance) Bill 2000 has so far been on the extremities. On the one hand, there has been a lot of emphasis on elite, wealthy schools, principally in metropolitan Melbourne and Sydney; on the other hand, a lot has been said about the very poor state government schools. The purpose of my contribution to this debate is to focus on what I call the forgotten group: independent schools that have generally been established for quite some time, that are often resource poor and that are located in regional Australia. We all know that there are a great many parts of regional Australia that are not enjoying the great financial booms of Sydney and Melbourne. That is reflected in the financial problems these schools have, and it is these schools that strongly support the change in the basis of funding.

These schools are struggling not only for numbers, often, but also for resources. They are not among the well-endowed schools like the King’s School, but they are nevertheless called independent within the system and are generally located in non-metropolitan areas. It is these schools that have a limited ability to lift their fees, so it is these schools that are calling on the Senate to urgently pass this legislation, in many cases to make sure that they can pay their salaries until term 1 commences next year. That is how serious the situation is. Many of these schools are operating on the basis of deficit funding and deficit budgeting. It would be cruel to allow them to continue into the new year without adequate resources.

There is therefore an urgent need to pass this SES funding bill to enable these schools to cope. I ask those who are thinking of amendments, to not neglect in the amendments they are putting forward the financial plight of these independent schools that have generally been going for some time in regional Australia. Why do I say this? The previous mechanism, which is known as the education resource index, ERI, has been shown to be inconsistent, inadequate, complex, unfair and, worse still, not transparent. This educational resource index has been found by these long established, independent schools in regional Australia to be very harsh. Very often, these schools have been assigned to category 3 or 4, some of them verging on category 2. They receive grants which are less than 25 per cent of the average government school recurrent cost. That is an appalling situation which cannot be allowed to continue.

The analysis of changes over time in this aggregate government school recurrent cost, or the educational index from the CPI, clearly shows that the real cost of delivering education is rising much faster than the CPI. That is the dilemma these schools are facing. The real cost of delivering education is rising much faster than the CPI. The 1992 to 2000 total percentage assessment of the CPI, for example, was 17.6 per cent. On the other hand, the educational index was 47.6 per cent. This will continue because of employment costs, technology and the changes in school curriculums, such as in vocational education.

This gap is widening to such an extent that these schools are being placed in an impossible position under the current system. I put to the Senate that schools in regional Australia have not been able to increase their fees at the same rate. Therefore, they are struggling to keep abreast of the changes going on in
education and the quality of education is at risk and suffering.

In short, these schools are badly underresourced. Some are operating this year with budget deficits based on the promised increases. I hope this Senate is not going to let them down. The change to the SES based funding was announced in the federal budget in May 1999, and it has taken this long to bring the bill before the Senate. Extensive information about the mechanism and the funding levels has been available since then and, I hope, has been available to every senator in this place. There has been ample opportunity to analyse the changes, to look at the figures and to see the disparities in the percentage increases and the problems faced by these schools.

I put it to you that you have had ample opportunity to look at these changes. If you have not, I say that you are negligent in your duties as a senator and in your responsibilities to the electorate at large. You have had ample opportunity, so pick up the cudgel, look at the figures and make your vote on that basis. Comprehensive simulation studies and the validation reports have been published by DETYA, so there is no excuse for this bill not to be passed.

In Tasmania and, indeed, across regional Australia, there has been strong support from all the independent schools for the new mechanism. All schools see the bill we have before us as fair and equitable. All see it as vital for the adequate resourcing of schools in 2001 and beyond. Across the nation, schools are budgeting now for next year and setting their fees. They deserve some certainty, and they can have certainty only if this bill is passed.

Without the assistance of the SES funding improvement, many struggling schools will need to introduce massive fee increases, cut programs or make staff redundancies, et cetera. In fairness to the independent schools, particularly those schools long established in regional Australia, and to their families, this bill should be passed without delay so that the necessary arrangements can be put in place for the new school year. They need time.

The first grant payment to the schools takes place in January next year, so there is limited opportunity. This is 50 per cent of the total, and schools will be relying on this payment to pay January and February salaries. If this bill is further delayed and this payment cannot be made, many schools will be severely embarrassed. I implore the Senate to pass this bill.

Senator HOGG (Queensland) (1.09 p.m.)—Following on from Senator Watson is a treat in some ways.

Senator Patterson—Put the same passion into it. Come on!

Senator HOGG—Thank you, Senator Patterson, but I do not think Senator Watson necessarily understands what some of the motives of the Labor Party are with regard to the States Grants (Primary and Secondary Education Assistance) Bill 2000. I will come to those as time goes on.

It was interesting listening yesterday to Senator Tierney, who said that Labor was peddling the politics of envy, that the system had been run down over 20 years and that what the government was about was restoring part of the funding for some schools. He also raised the issue that it reopened the sectarian debate. Of course, I refute all of that and, again, I will address that during my statements here this afternoon.

The bill is terribly important. People should not lose sight of what the bill is really about. It is about giving people basic educational opportunities in an atmosphere of fairness and equity. People should be able to get a reasonable education for their children, not one that is distorted in favour of a few specially favoured schools. The approach that Labor has adopted in this debate is a very principled and correct one, in looking at the exorbitant funding that the 61 category 1 schools are receiving. One must take the government to task on that issue. It is something that the Labor Party, through its amendments, will be seeking to remove. We will be seeking to have the money placed in the important area of disability education.

Education is important for the nation; it is important for our children. In response to what Senator Tierney said, I do not want to
see this debate go back to the old state aid type of debates that characterised the sixties and seventies. Education should be about offering very basic educational opportunities to all, as I said, in equity and in fairness. There is an inherent disadvantage in coming from poor schools, be they private or public schools.

Yesterday, Senator Forshaw declared his private education background, and I do the same. I was educated at a private Catholic school in Queensland. I have tried to search the records to find out whether anyone else was. I found out that the school not only produced a socialist in me, but it produced an agrarian socialist in Senator Boswell. The fact is that that is my background. My three children have gone through the Catholic system. My son has now left the same school that I attended and attends university. The other two are girls. One completes her final year 12 exam today, so it is her last day there, and the other is in year 10. So I understand the pressures and problems that confront parents in the private system, but I understand the pressures that confront parents in the public system as well. All children should have a fair and equal opportunity to acquire a reasonable education. Some should not be disproportionately favoured, which is what will occur in the case of the 61 category 1 schools.

Most of the schools with which I have been associated, be they state or private schools, have not been wealthy schools; nor were the parents who sent their children to those schools necessarily wealthy. Quite the opposite was the case—many of them were average, ordinary, everyday workers who relied on an average, ordinary, everyday income. However, the bill that is before us today has the effrontery to feather the financial nest, not of the not-so-poor schools in Australia, but of the top 61 category 1 schools in Australia. This defies logic, but unfortunately it sits well with the ideological disposition of the government. Instead of the most needy receiving the necessary injection of funds, the 61 category 1 schools will receive massive windfalls. I do not think anyone should lose sight of that. There are 61 category 1 schools, and 61 out of the 61 are going to be better off. On average, they are going to be nearly $1 million per annum better off.

One fails to find the equity in that, when the average state school—where the greatest need is—is going to be $4,000 better off. My colleague Michael Lee made a speech in the other place, listing a number of the schools in category 1 which are going to be better off, and by what amounts. Against the $4,000 in the state school system we may weigh amounts such as: Trinity Grammar, New South Wales, $3.1 million; Newington College, New South Wales, $1.8 million; the King’s School, New South Wales, $1.5 million; Wesley College, Victoria, $3.9 million; Caulfield Grammar, Victoria, $3.6 million—and so the list goes on. They are not unsubstantial amounts.

I then took the opportunity to look at some of the schools in my state, Queensland, picking them just at random. The first one I looked at was the Calvary Christian College, Mount Louisa, Queensland. As against the Trinity Grammar’s $3.1 million or the Caulfield Grammar’s $3.6 million, Calvary Christian College is going to be better off by $87,410. Columba Catholic College, Charters Towers, in a rural and regional area, is going to be better off by $88,536; Assumption College, Warwick, by $21,232; the Darling Downs Christian School, $31,824. Those amounts pale into insignificance alongside the windfall that is going to be received by the likes of Trinity Grammar and Caulfield Grammar. This is not the politics of envy. It is purely and simply that the resources are going to the wrong place. We see that the 61 category 1 schools are benefiting disproportionately from this process, and there is a meagre handout, at best, to the state school system.

People from both the state school system and the private system have corresponded with me on this issue. It is interesting to note that we are being asked by the state school system to reject the legislation, to say that the way in which the government has cut the cake is unfair and should be rejected completely by this parliament. On the other side of the lobby, the private schools have been exhorting me, as a senator, to accept the gov-
ernment’s legislation. Those private schools could surely not be at odds with the stance that Labor has taken. Labor will seek, in its amendments, to have the 61 category 1 schools as funding maintained schools, that is, they would be treated the same way as 272 other non-government schools which are funding maintained, and in a similar way to the 1,600 Catholic schools which have opted out of the socioeconomic status—SES—system. The proposals being put forward by Labor seek to address the issue of funding those 61 category 1 schools. I do not think anyone would, by any stretch of the imagination, see those schools as being poor, impoverished or unable to provide fair and reasonable access to an up-to-date education system such as our young people are entitled to and need to have if we as a nation are to prosper.

If one looks at the Labor proposal, one sees that the amendment seeks to take the funding out of the category 1 schools and give it to special education. That redirection of funds in the order of $100,000 would assist schools which provide education for students with disabilities. Labor’s proposal is to double per capita funding in the non-government special education area and, of course, it would quadruple per capita funding in the government’s special education area. That seems to me to be a proposal that is fair and reasonable, and it is a proposal that one could live with in good conscience. That is not defeating the bill because, as we all know, Labor has given a commitment that the bill will pass. Senator Watson made the point, and quite rightly, that there are people in the education area who want to fix their budgets for the next year and are needing to pay people.

What we are looking at is a piece of legislation that will set the funding for the next quadrennium, the next four years. What is put in place now is terribly important. If the additional $30 million that has been given to category 1 schools can, by good conscience, be redirected towards special education, it does not affect the funding that goes to the non-government schools; it does not affect the funding that goes to the private system; and it does not affect the funding that will go to the Catholic systemic system. I would maintain that the only losers under the Labor proposal will be those schools which I would maintain have the capacity to be placed on a funding maintained basis. Good conscience and equity alone would dictate that. That should not be lost in this debate, because I think there are a few red herrings flying around out there about what the proposals of Labor are exactly about.

I have taken only a few examples out of the correspondence that I have been given, but I am sure that the Cooloola Christian College, on College Road, Gympie—which has written to me asking me to support the bill—the Trinity College, on Archer Street, Gladstone, and the Parents and Friends Association of A.B. Paterson College at Arundel on the Gold Coast would not be averse to the Labor proposals. I have not consulted them and I have not raised it with them. But the Labor proposals in no way affect the funding of those organisations, nor would the Labor proposal in any way affect the funding that will be given to the Calvary Christian College or the Colombia Catholic College, or the Assumption College or the Darling Downs Christian College—just to name a few. As I keep saying, this is an issue of equity, of good conscience.

Labor, in its proposed amendments, has said that it will seek the abolition of the enrolment benchmark adjustment. That will have the effect of reinjecting more than $30 million a year into the public school system. So that is a plus for the public school system. I believe the amendments that Labor will move in this area, together with the funding-maintained schools, the increases in funding for special education and the abolition of the enrolment benchmark adjustment, are, indeed, important enhancements to the bill. They are enhancements that will help our younger generation, who are deserving of the best that we can provide to them.

I cannot be convinced by the argument about the 61 category 1 schools. If one looks at the complete list of those schools, one finds that there are very few there who would be in need. There may well be the odd person who receives a scholarship to attend one of these schools but, in the main, they are not from what I would call average suburbia,
average Australia, and they would not be in any need or want whatsoever. Having experienced a private school education myself, as have my children, having come from that background, I believe that what is happening with the 61 category 1 schools is totally inequitable. That has been the focus of Labor, along with its other initiatives, and I commend to the Senate the amendments that Labor will move during the consideration of this legislation.

Senator SHERRY (Tasmania)  (1.26 p.m.)—The States Grants (Primary and Secondary Education Assistance) Bill 2000 puts in place the 1999 budget announcement which delivers almost $800 million extra for private schools, but only $90 million for government schools—and government schools have twice the number of pupils as private schools. I put some emphasis on the 1999 budget decision, because we have been waiting an extraordinarily long time for this piece of legislation to come into the House of Representatives and then to the Senate. I think it has been a deliberate tactic of this Liberal-National Party government, and in particular the minister in the other place, the Minister for Education, Training and Youth Affairs, Dr Kemp, to hold back this legislation until the last possible moment.

We know the legislation has to be passed, for obvious reasons, and there are some amendments that the Labor Party is proposing which I will touch on a little later. But it has been a deliberate tactic of the government to hold this legislation back until the last possible moment. Not only that; we have seen in the behaviour of the minister, particularly, and in the behaviour of the Liberal-National Party government in general, a very long period of seeking to hide, to keep secret, the outcomes of this legislation.

What concerns me overwhelmingly with this legislation is its basic unfairness. The Labor Party, and I personally, have always supported funding for needy private schools. We had a very lengthy and bitter debate in the 1960s about the funding of private schools, but I believe philosophically that needy private schools should receive assistance from government, and I think that is a principle that most people in this country accept. But what surprises me—actually, it does not surprise me, having regard to this minister, I have to say—is that, in some recent remarks about this legislation, the minister, Dr Kemp, mentioned private schools eight times but only mentioned government schools twice.

The comments by the minister have been marked by very hysterical, inaccurate and defensive correspondence, as well as public remarks, addressed to government school principals and to the media in general. I think this has served to highlight the approach of the minister in respect of his schools funding, which is unbalanced and unfair. I said earlier that the Labor Party is supporting the legislation with amendment. We believe those amendments are very important.

As I said earlier, this is a budget announcement from 1999. Over the last year and a half our shadow education minister, Mr Lee, has spent a great deal of time trying to find out what the precise impact of this legislation would be. However, it has been like extracting teeth, trying to find out the precise outcome and impact of this legislation. The minister and the government have been involved in trying to cover up as desperately as they can the impact of the legislation and the suspicions the Labor Party has had that this legislation represents a very significant increase in funding for the wealthier private schools.

Labor’s concerns were confirmed at the Senate estimates hearings in August of this year after questioning by Labor senators. I pay tribute here to Senator Carr, who has pursued this issue very vigorously. In front of the estimates committee it was finally admitted that the additional moneys for the 62 wealthier schools was probably in the vicinity of $50 million, although we now know it is more than that. It took months and months and months of trying to extract figures from the government before we got some idea of what the figure would be for the wealthiest private schools. This occurred finally at estimates hearings earlier this year.

What we are facing is an extreme ideological drive by Minister Kemp and the Liberal-National Party to shift funding from needy schools, both government and private
but particularly the government sector, to the wealthier private schools. This is an ideological position. It is interesting to note that the Labor Party obtained the 1991 minutes of the Liberal-National Party’s ERC processes where the current Minister Kemp is recorded as saying:

Noted that the Coalition sought to encourage students to move from government to non-government schools.

This was back in 1991. It said that the now minister, Minister Kemp, would report back to the Liberal-National Party’s ERC on non-government schools and whether additional expenditure could be offset by reductions in grants to government schools and in untied grants. This was a clear philosophical position, on this occasion—in secret, of course—laid down by the minister some 10 years ago.

Look at what the Liberal-National Party government have done since their election to office in 1996. Minister Kemp has systematically implemented the philosophical and ideological commitment that was laid out in secret in 1991. I will give some examples. Firstly, there was the establishment of the enrolment benchmark adjustment policy, which has taken $60 million from government schools so far. Secondly, there was the cutting of untied grants to the states in the area of education by more than $1.5 billion in 1996. And now we have the third element, which we are considering in this legislation: the massive biasing of Commonwealth funding in favour of wealthy private schools. So this has been a long-term ideological commitment of the minister and the Liberal-National Party.

In the House of Representatives, the trade union background of some members and senators on the Labor side is often highlighted. Frankly, I am not one to take a great deal of notice of the background of members and senators from either side of the chamber, but I did note the recent survey of the educational background of the current federal cabinet that was published in the Sydney Morning Herald.

Senator SHERRY—You interject, Senator, but you are one of those who likes to allege the trade union background as having some sort of impact on our approach to legislation. I am not going to make that allegation about members of the current Liberal-National Party cabinet, but I will draw the attention of the chamber to this Herald survey and the population can draw their own conclusions. Let us run through the survey, because I think it is important background information that people should be aware of. The survey shows that three-quarters of the current federal cabinet went to exclusive private schools. Of the remaining 14 cabinet ministers, 12 attended private schools such as Scotch College, Carey Grammar and Geelong Grammar in Victoria, and the King’s School and Barker College in New South Wales. There are two cabinet ministers who went to Catholic schools: the former New South Wales Premier and now Minister for Finance and Administration, Mr Fahey, went to Chevalier College in the New South Wales Southern Highlands, and the Deputy Leader of the Government in the Senate, Senator Alston, went to Xavier College in Melbourne. Apparently the bias in respect of private-public was not as marked in the outer ministry, with three ministers attending government schools and the other 10 attending private schools, five of which were Catholic. I mention these statistics in passing; people will make their own judgments. But I do wonder about the level of neutrality when it comes to decisions.

Senator Patterson—Don’t comment on Natasha, because her mother will write to you.

Senator SHERRY—You get outraged, Senator, but when you choose to highlight the trade union background of people on this side of the chamber maybe you should think about the particular allegations you make in respect of that link. This serves to illustrate the bias of the current Liberal-National Party government in respect of the extraordinary additional funding that is going to wealthy private schools as a result of this legislation. But this debate has been highlighted by a significant level of vitriol, personal abuse and attack, and the minister has engaged in
some extraordinary criticisms. The bill in respect of the legislation resulted in 100 prominent people signing an open letter condemning the philosophical approach of the government. The signatories included actress Sigrid Thornton; singer Paul Kelly; food writer Stephanie Alexander; trade union leader Sharan Burrow, apparently, and Olympic gold medallist Natalie Cook. A long list of prominent Australians expressed their concerns about the philosophy behind this particular piece of legislation. Minister Kemp just dumped on the signatories of the letter and accused them of being all the usual suspects. He can probably make that claim about Sharan Burrow, but the list of very prominent, and I think balanced, Australians who served that letter should not be subject to abuse in this way by the minister.

To highlight some of the schools that will be receiving additional money, I will run down the list of Australia’s 12 wealthiest schools and what they will receive: Trinity Grammar, New South Wales, an additional $3.1 million; Newington College, New South Wales, an additional $1.8 million; Wesley College, Victoria, an additional $3.9 million; and Caulfield Grammar, Victoria, an additional $3.6 million. I could go on, but the top 12 receive an additional $27.3 million.

In respect to King’s School, I was given a copy of a pamphlet which outlines the facilities available at the school. They are very impressive. I congratulate King’s School on having this extraordinary array of educational facilities. I am sure that the students and the parents are deeply appreciative of them. But most private schools would not have this range of facilities, including reflection pools and a centre for learning and leadership—certainly, I do not know of any in my home state of Tasmania—and the list just goes on and on. It is very impressive. The point I would make, and it is fundamental to fairness, is: why should a school like this, which has excellent facilities already, receive an additional $1.5 million in funding? The reality is that resources are scarce and have to be shared not only between private schools. It is just not fair to the overwhelming majority of students who go to public schools and the needy private schools in this country for this approach to be taken.

The amendments that Labor is moving are very important. They go fundamentally to attempting to restore fairness in this legislation. There are three key amendments. Firstly, the abolition of the enrolment benchmark adjustment, known as the EBA, has been used by the Liberal and National parties to take more than $60 million of funding out of government schools over the last three years. By the abolition of this unfair benchmark, Labor will be injecting more than $30 million a year back into public schools.

The category 1 schools are the wealthiest private schools and I have referred to a number of them. There are 61 in this category. They are getting increased funding under this legislation of an average of $900,000 a year and $57 million a year in total. Labor’s amendment is to limit the funding to the 61 category 1 schools at their current level. I think that is quite fair and reasonable, given the very extensive, comprehensive and very adequate range of facilities and the education levels offered at those institutions.

Thirdly, in the interest of fairness, Labor’s proposal is to increase funding for special education. This funding in a responsible way is achieved by redirecting the money from the 61 wealthiest private schools. The money that is saved here will go to those students, whether at government or private schools, who are in need of special education. In the case of government schools there is an increase of $30 million a year, and that is money that will be very well spent.

I just conclude my remarks on this legislation by making the summary that, as far as the Labor Party is concerned, this legislation raises a matter of fundamental fairness and equity. Is it fair and reasonable to significantly increase moneys to the wealthiest 61 private schools in this country when they do not need that additional money for the education services of the facilities they offer? Is that fair when, at the same time, a very significant number of government schools and needy private schools struggle to in any way match the facilities and the education levels offered by those very wealthy schools? This
approach of the Liberal National Party government and particularly the minister in the other place, Dr Kemp, highlights the elitist view of this government when it comes to education—and a range of other policy areas, but we are talking about education funding today. They are elitist, they are out of touch, and they are fundamentally unfair.

Senator BUCKLAND (South Australia) (1.45 p.m.)—We have heard repeated a number of times in this chamber on this debate the need for fairness and equity across the spectrum of education, particularly to students. A lot has been said, but there has been very little said on the real recipients of what this debate is about, and that is the students. It is all right for us to say that we want fairness and equity as to the distribution of the funding, but if that fairness and equity does not go to the real core of the business of education—that is, the students—then we are missing the mark quite badly. The bill, in its current form, does miss that mark. It provides funding for one class of school against another—that is, to some 61 of what I would call the elite schools as opposed to those in the public school system. If we are going to provide funding to one class of student as opposed to another then there is inequity, and the long-term damage to this country will be felt for many years to come.

The real damage that is being done to the system now is that those in most need are those who are losing out by what is happening and by what is proposed through this bill. Those who have the greatest need are in the public education system, where the children from disadvantaged backgrounds and the children with learning difficulties are mostly found. We also find that 88 per cent of the indigenous students received only 65.5 per cent of the Indigenous Education Strategic Initiatives Program funding in 1995-96. This is predicted, from what I have found, to decline to 52 per cent by the end of this financial year—an extraordinary reduction.

The special learning needs and targeted programs as a whole show similar patterns. Public schools cater for more of the needy in our society, yet Commonwealth funding, even in equity programs, seems to be grossly skewed in favour of private schools—those schools which are in the category 1 group.

I think we have a responsibility when we are considering this bill to look at its impact and to make those changes that are necessary in order to return some degree of equity not only to the students but to the school communities and to the community at large. The whole emphasis of the bill is on catering only for the wealthy schools at the real expense of state schools. The response of the government to this claim is to say that public schools are state or territory responsibilities. To some extent, that is correct. But speaking
for public schools in South Australia, it is not so much the state government that is doing the damage; it is the reduction in funding at a federal level. We can certainly highlight the inadequacies of the state government, with their cuts and school closures.

None of the five category 1 schools in South Australia is earmarked for closure, but schools throughout the state are being reviewed at this moment as to their ongoing viability on a cost basis, without any concern for the impact that may have on the student population. It is not reasonable to suggest that the private school sector, such as the Catholic or Christian schools throughout South Australia, can take up the slack. They are no better off. The majority of them fall into categories 11, 10 and 8. It is not reasonable to suggest that they provide the answer to the real issue that is facing the nation at the moment in relation to education—that is, educating young people to contribute to the future of Australia.

The amendments to be moved by the Australian Labor Party will go a long way towards righting some of the wrongs that are contained in the bill at the moment. We believe that the category 1 schools should be held where they are for the moment; that the additional funding being directed towards them should be put towards assisting those public schools which have a wealth of children who are disadvantaged or from an indigenous background and who are suffering because of lack of facilities and lack of ability on the part of those schools to provide a reasonable education that will give them a role in the future.

Unless we take steps now, the current values and ethos of public education will be undermined and the role of a coherent and cohesive public education system will simply collapse. That will be to the detriment of us all. We need to look, too, at the contributions that parents make. I have no difficulty with any child being sent to a category 1 school, to a private school. My neighbours can send their children wherever they wish, if they have the means to do so.

What I do have a difficulty with is that those in most need do not have that opportunity—people who live in the outback and in small communities where the income of families is so much smaller than it is for those living in capital cities or large regional areas. These people suffer. They do not have the same opportunity and there is no fairness in that. There is no fairness for a child living in a remote area not having the opportunity to learn at the same rate as a child who can be sent to a more luxurious school, one that can provide amenities that are not available elsewhere.

We cannot allow government subsidies to go to schools that already have resources in abundance. We need to redirect that money to where it is properly needed; to indigenous education and to schools providing high levels of training and one-to-one education for children with learning difficulties or with social background problems. At the moment the bill, as it is designed, cannot provide for these.

The enrolment benchmark adjustment has taken some $60 million away from the Australian public school system. If we are going to have equity and fairness in what is being done to educate our community for the future, then the enrolment benchmark adjustment simply has to be abolished. We have to find a better way to more equitably spread the funds across the education system to provide the teachers with the opportunity to properly educate those that are put in their care and to give the opportunity to children to learn those things that they desire to learn. I commend the amendments to be put forward by the Labor Party to the Senate.

Finally, it is difficult to come here after being out in the community for so long dealing with public schools—and private schools to some extent. It has been difficult to be out there and to see how the schools are suffering, to take the phone calls that we have taken in my office and to read the emails that have come through not only from my own state but also from the other states. They are pleading for this bill to be defeated as it currently stands and asking for assistance to cater for those in need and to get further education for young people who are leaving the system simply because their parents cannot afford the very basic education that they need.
We talk about wanting to grow this country. Unless we put those funds into a system that provides equality for all children to learn and for equality for all schools to compete on the same basis, we can no longer call ourselves lucky. We can no longer say that we are truly catering for the needs of the nation’s future. We have an ageing work force, and at some point in the not too distant future that work force will need to be replaced. Unless the young people coming through now are properly educated and have the opportunity to use the latest educational facilities, they will not be able to contribute into the future as we require them to do and this country will further slip behind the rest of the world in self-esteem and in providing for the future needs of our economy.

**QUESTIONS WITHOUT NOTICE**

**Vocational Education and Training:**

**Legislative Framework**

**Senator CARR** (2.00 p.m.)—My question without notice is to Senator Ellison, representing the Minister for Education, Training and Youth Affairs. Can the minister confirm that the Howard government has now on two occasions—in May and September 2000—received reports from the legal firm Minter Ellison about the deeply flawed legal basis of the Australian Recognition Framework in the nation’s vocational education and training system? Can the minister confirm that the current legislative framework does not provide for an effective framework for national consistency in quality assurance and qualifications in vocational education?

**Senator ELLISON**—I am not aware of any reports from the law firm Minter Ellison. What I am aware of is that the vocational education and training sector in this country is doing very well. In fact, we are coming up now to the new ANTA agreement—the agreement that we will be making with the states and territories in relation to funding—and we are going to maintain funding for training in this country. This financial year the Commonwealth has committed $1.7 billion to vocational education and training, and not only have we committed the funds but, as Senator Carr knows full well, the Australian Recognition Framework is a very good step in the direction of having qualifications recognised across this country. We have got industry to participate in training packages so that, after people train, there will be jobs to meet that training that they have undertaken. So we are training people for the needs of the marketplace. But not only that; we also have the situation where now you can train in one corner of Australia, travel to the other corner and be recognised for your qualifications in relation to that training. This spells good news for all those Australians who have undertaken this training, especially young people, because it is those young people that are forming the majority of the record number of people that we have in training now, which is over 260,000.

There is nothing wrong with the training framework in this country. Senator Carr should join with us in the reforms that we are looking at in relation to training and not keep on beating up the situation by trying to create uncertainty in the community that there is something wrong with training in Australia. It is not the case; it is a very good training sector that we have. In fact, people come from overseas to train in Australia—that is how good it is. This government is totally committed to the vocational education and training sector, and we will continue to devote funding and resources to that.

**Senator CARR**—Madam President, I ask a supplementary question. Minister Ellison, is it the case that Minter Ellison provided advice to the government in May 2000 entitled ‘Mutual recognition reports to ANTA’ and they provided advice in September entitled ‘National consistency of the regulation of the vocational education and training sector’, in which they specifically contradicted everything you have just said: the fact is that in Sydney and Melbourne you are not necessarily recognised if you undertake particular qualifications? Can you advise, Minister, that, in requesting this advice, the government asked Minter Ellison to exclude reference to the policy option of national legislation to ensure quality assurance for vocational education in Australia? Why was this policy option specifically excluded?

**Senator ELLISON**—For a start, they did not ask me because I am not the minister. In relation to training, state governments im-
implement the training around the country. If there is any problem in that regard, Senator Carr should address his remarks to those state governments, especially those Labor state governments.

Economy: Growth

Senator TIERNEY (2.04 p.m.)—My question is to the Assistant Treasurer, Senator Kemp. Will the minister inform the Senate how today’s labour force figures demonstrate the ongoing strong performance of the Australian economy under the Howard government? Will the minister outline the benefits that are flowing to Australian families from the healthy economy and the $12 billion in personal income tax cuts that were introduced as part of a new tax system on 1 July?

Senator KEMP—I thank Senator John Tierney for that important question. One thing that pleases John Tierney particularly is the government’s ability to create jobs and provide people who previously could not find jobs with jobs. I think this is one achievement that the government points to with considerable pride.

In recent weeks I have been able to report to the Senate on a variety of very positive figures that have come out on the Australian economy. The September consumer price index was lower than expected, and I think we were all very pleased with the October trade balance, which showed Australia’s first trade surplus since November 1997. I am sure that figure particularly pleased Senator Cook, who is the Labor shadow minister for trade. Then we got some excellent figures on motor vehicle sales. The ACCI survey of business expectations showed growing confidence about the strength of the economy and there were some very good figures out of the ANZ job advertisement series.

Today I am very pleased to report to the Senate that the Australian Bureau of Statistics has released the labour force survey for October, which shows trend employment up by some 8,300 for the month. In seasonally adjusted terms, some 234,400 jobs have been created in the year to October. I think, Senator Tierney, that is an excellent figure and one in which we take some pride. As a result, the unemployment rate today remains at its decade low of some 6.3 per cent. This is in stark contrast to the very high figures of unemployment which occurred under the Labor government and particularly occurred during the so-called recession we had to have. It is true that there is quite a range of former ministers from the Keating government in this chamber, not one of whom has ever apologised to the Australian public for that appalling performance.

The reduction in unemployment, I am pleased to say, is one of the proudest achievements of the Howard government since coming to office in 1996. I mentioned Labor’s figures of unemployment—under Labor, the unemployment peak reached 11 per cent in the early 1990s.

Senator George Campbell interjecting—

Senator KEMP—Eleven per cent in the early 1990s, Senator George Campbell, compared with 6.3 per cent today—quite a contrast. Senator Campbell, you are one of the few people in the Labor Party who can claim very strong Labor roots; I would have thought that you would have been very pleased with those figures indeed. Senator Tierney drew to the Senate’s attention the very strong benefits that people are enjoying from the very large tax cuts which this government has provided—some $12 billion in income tax cuts, for your information, Senator Tierney. They are arguably the largest tax cuts in Australian history. All in all, it has been an excellent result. Unfortunately, the Labor Party have refused to guarantee those tax cuts. The Labor Party have been speaking about roll-back, but we do not know how roll-back is going to be financed, and I think there is great suspicion out there, Senator Faulkner, that, if the Labor Party ever get into government, they are going to attempt to withdraw the massive tax cuts which this government has provided to Australian families.

Senator TIERNEY—Madam President, I ask a supplementary question. Minister, you mentioned roll-back. Could you comment on the effects of such a policy on the Australian economy?
The PRESIDENT—You are not allowed to ask questions on Labor Party or government policy, Senator.

Senator Tierney—Madam President, I raise a point of order. The minister mentioned the term roll-back and I am asking him to expand on, and clarify, it.

Senator Hill—I would like to speak on the point of order.

The PRESIDENT—I believe the supplementary question is out of order.

Small Business: Activity Statements

Senator HOGG (2.09 p.m.)—My question is to Senator Ellison representing the Minister for Employment, Workplace Relations and Small Business. Can the minister confirm that many Australian businesses do not have tax accountants because they are too small and therefore will not benefit from the belated announcement of an extended deadline for activity statements submitted by agents? Why hasn’t the Howard government made the same concessions for those small and micro businesses struggling to do their tax returns themselves, or will there be less of the ‘big stick’ approach than we have seen up until now, with a waiving of the stiff financial penalties applying to late lodgment?

Senator ELLISON—What we have done for small business is to provide a simpler tax system and a situation where a business activity statement replaces three payment books, a sales tax return book and FBT forms. That one form replaces all those. It also includes such things as the GST, pay-as-you-go instalments, withholding and FBT instalments and also a claim for wholesale tax credits. That makes it simpler for small business. We have acknowledged that this is a great transition to a new tax system and we have provided $500 million in funding to help small to medium enterprises, as well as charitable and educational institutions, to adjust. We have provided a massive information campaign to assist those small businesses that do not have agents or accountants. We have a system which is much fairer and simpler and one which will clean up the cash economy.

We have adopted some 57 of the 62 initiatives mentioned in More time for business, and this has been good news for small business around Australia. We have provided an extension of time and it will be staged out over a period of time. That is a good idea in view of the transition that I have mentioned and the size of it. We are watching closely to see how small businesses adjust to this and we are looking out for ways in which it can be improved. We have also had a fantastic success rate with our visits by Tax officials to small businesses and people in relation to the new tax system. In fact, the reason it is so successful is that, through word of mouth, people have told other people that it is a very good thing to have a Tax official come and explain the situation to you.

Senator HOGG—Madam President, I ask a supplementary question. Is the minister aware that a recent survey by the National Tax and Accountants Association indicates that up to 400,000 small businesses could fail to submit a business activity statement by the deadline of 11 November? What consideration has the Howard government given to the massive workload its new tax system has imposed on tax agents, accountants and small businesses nationwide?

Senator ELLISON—Senator Hogg is talking about this increased burden. I refer to a statement by the Chamber of Commerce and Industry in my home state of Western Australia. I quote from the report today:

The WA Chamber of Commerce and Industry has challenged concerns raised by accountants and tax practitioners that the business activity statement is too complicated and will cost many businesses. The CCI taxation officer, John Anderson, said his organisation had provided training for 12,000 business operators in the past year and most had little trouble grasping the BAS and GST tax issues.

That speaks volumes in relation to how this tax system is going over and how it has been accepted by small business.

Research and Development: Business Funding

Senator GIBSON (2.13 p.m.)—My question without notice is to the Minister for Industry, Science and Resources, Senator Minchin. Will the minister advise the Senate how the government is assisting research and development and promoting innovation by
Australian companies? Is the minister aware of any alternative policies?

Senator MINCHIN—I thank Senator Gibson for that question. I know he, like me and the government, shares our strong commitment to innovation. In fact, funding for science and innovation under this government stands this year at a record $4.5 billion, more than any government has ever spent. We particularly recognise that seed capital and start-up funds for innovative companies in this country are really crucial to our economic prosperity. In fact, our total venture capital investment in this country now stands at $971 million, having doubled in the last 12 months, supported by government programs such as our Innovation Investment Fund and the Commercialising Emerging Technologies program.

The Innovation Investment Fund program is designed specifically to promote the commercialisation of Australian R&D through providing venture capital to small high-tech companies. It is in that vein I am delighted to announce today that almost $91 million of government money will be provided to four venture capital funds under round two of the Innovation Investment Fund program. The successful applicants for the funds are: Newport CDIB Funds Management Pty Ltd, dedicated to IT&T; Start-up Australia Pty Ltd, which is a specialist bioscience fund, which Ms Lawrence will not like; and Nanyang Ventures Pty Ltd and Foundation Management of Western Australia Pty Ltd, both of which have a general investment focus, including manufacturing and mining. Our contribution of $90.7 million will be matched by about $73 million from the private sector, meaning a total of $163 million for venture capital in this round. So, when that is combined with round one of the IIF program, about $358 million will become available. It will operate in all states and territories to boost the commercialisation of Australian ideas. The four round two funds represent a great advance for Australian innovation.

I specifically directed the Industry, Research and Development Board, which controls this fund, to give consideration to applications representing geographical areas of Australia not covered by existing funds. So I am very pleased that one of the successful funds announced today is Foundation Management, based in Perth. It will service the Northern Territory and South Australia. We are very keen to ensure that innovative companies throughout Australia benefit from government policies of this kind and not just those located on the eastern seaboard. It is critical that companies in places like Perth, Adelaide and the Northern Territory have access to venture capital. Taken together, the two rounds of funding will establish a total of nine venture capital funds under this program, each managed by private sector fund managers who make all the investment decisions—not government, not bureaucrats. Indeed, I remind the Senate that a round one fund was an investor in LookSmart, which has turned out to be one of the most successful venture capital investments in Australian history.

There is no doubt that the government’s Innovation Investment Fund program has been an absolutely outstanding success. It is rightly credited with driving the tremendous success and growth of Australia’s venture capital industry. While we are driving innovation, the Labor Party forms task forces that never meet and appoints a shadow minister for technology and innovation who hates biotechnology. While the Labor Party whinges about all this, we are getting on—we are acting.

Centrelink: Social Security Compliance

Senator FORSHAW (2.18 p.m.)—My question is directed to Senator Newman, the Minister for Family and Community Services. Does the minister recall that last night on the program 7.30 Report she accused both Kerry O’Brien and ACOSS of ‘putting together’ figures which showed that a total of 474,000 penalties were applied in the year to June 2000, of which 172,000 or nearly 35 per cent were later revoked, and that the net figure of 302,000 penalties was a 250 per cent increase over the previous three years? Has the minister questioned these figures on the 7.30 Report last night? Can she now confirm that they are correct or explain to the Senate the basis upon which she disputes them?
Senator Newman—The figures that were quoted last night were obtained from ACOSS and Welfare Rights. They came by way of a freedom of information request which gave the bald figures for, I think, three years. What I think was unfortunately not in the document which they requested was an explanation of why the figures for the previous years were comparing apples and oranges, not just apples and apples. The fact is that the data systems for breach recording for the previous two or three years were not consistent with the criteria for breach recording in the last year, 1999-2000. To that extent, there was discrepancy in the figures, which they could have got from me: in fact, I gave them figures not long ago. But they went by way of freedom of information, and they did not get a document that explained the differences between the various years.

Having said that, yes, there has been an increase in breaches—I would question the percentage of increase—but I would say that it is for a number of reasons. The economy under this government is, as you heard in the answer a few minutes ago, improving. More and more people each month are in jobs, and therefore there is less tolerance of people not looking for jobs when they are required to under the social security law. Therefore, inevitably, there is a growth in the number of people who have breached. In addition, there is a greater ability now by the government to data match between the Taxation Office and my department, as a result of which we are discovering more and more people who, in this growing climate of jobs, are not declaring their income to Centrelink. That, once again, is a breach of the social security law. In addition, there are other measures such as video surveillance. As you will recall, we did a pilot program on that about 2½ years ago and that is now in place.

There are a number of reasons that there has been a growth in the number of people coming before Centrelink for a breach. That is responsible, in my view, because, while we need a safety net to protect people who are in need, we also have legislation that requires them to obey the law on behalf of their neighbours. It is a serious matter when people who are on pretty low incomes themselves and paying taxes are required to provide income support for people who are not obeying the social security law.

Senator Forshaw—Madam President, I ask a supplementary question. I thank the minister for her answer and, in fairness, I note her attempt to explain the growth. Minister: firstly, are you aware that the figures that were used on the program last night by Kerry O’Brien and also by ACOSS actually come from the department’s own annual reports? Secondly, in relation to the revocation of 172,000 penalties—which is, as I said in the original question, 35 per cent—given that ACOSS found that one in three people was wrongly penalised by Centrelink, doesn’t this demonstrate there is something fundamentally wrong with the system over which you preside? What action do you propose to take in response to the ACOSS report?

Senator Newman—There were more than 170,000 potential breaches that were not imposed or revoked by the Centrelink one-to-one contact. That means that job seekers in these cases generally suffered no financial penalty. That needs to be understood. Secondly, the system is a fair one. It was endorsed by all members of this parliament. I think it would be worth while in this context to quote the Leader of the Opposition in the Senate, Senator Faulkner, who said on the passing of this legislation:

The activity test regime that Labor introduced when it was in government was a tough one. But, as I indicated very clearly in my speech on the second reading and as was the thrust of my second reading amendment, it was a reciprocal one. It was developed under an arrangement of a reciprocal obligation, where the community undertook to pay income support for those actively seeking work and to provide labour market assistance in employment services which unemployed people need to get back into the work force. In turn, unemployed people were obliged to meet the conditions of the activity test.

(Time expired)

Centrelink: Social Security Compliance

Senator Bartlett (2.23 p.m.)—My question is also to the Minister for Family and Community Services. I ask her why she is continuing to deny the evidence from a growing number of community organisations
that the increasing number of breaches is placing a major strain on their resources, causing immense and growing difficulties for a large number of people and making it much harder for those community organisations to help some of the poorest, struggling members of our community. Can she also explain why over 50 per cent of those people breached in the last 12 months are young people under the age of 25 and why indigenous Australians are disproportionately represented among those who are breached?

Senator Newman—There is a variety of information I can provide to the senator for that. But let me make it clear. He is right in saying that young people under 25 are the ones who fail consistently to meet their requirements. That is why it is very important that you do not have a system as we had under Labor—which system was not enforced as well as it should have been—whereby people lost payment on the first offence. We introduced an arrangement—which, as I just said, all of this parliament agreed to—that we would have a staged approach whereby there would be a lesser penalty for the first offence and then also for the second offence and then cut payment after the third. We find that the substantial majority of people who are breached are only breached once. They do not reoffend. They are not breached a second time. Quite a small number of people ever reach the stage of being cut off altogether.

But nearly 86 per cent of people who are on payments are never breached at all. They do not break the law. They tend to be people who are older and who have perhaps got a bit more responsibility and understand that they have to obey the law; and people, for instance, who come from countries overseas and who, it is very interesting to see, are prepared to obey the law here too. You have asked a question for which there is a multitude of answers. But there are some I can direct you to. Of course, some of the young people suffer from mental illness or drug addiction and so on. And, as you would know, Senator, from having been a social security social worker, there are exemptions from the activity test that are available to people in those circumstances.

Senator Bartlett—Madam President, I ask a supplementary question. I ask the minister: has she or her department, which, as I am sure she is aware, also has responsibility for housing, any reports or compiled any information about, or tried to find out, the number of people who are becoming homeless as a direct result of losing income as a consequence of being breached?

Senator Newman—Certainly my department is always researching the area of homelessness. Under the SAAP, Supported Accommodation Assistance Program, agreement we work very closely with the states and territory on this matter in, I must say, a pretty cooperative sort of way. Everybody is concerned about the plight of people who are really homeless. But, as you know, the exact numbers of people who are homeless and the definition of ‘homelessness’ is a fairly fluid matter and there is not general agreement anywhere. As for the proportion of those people who are actually homeless as a result of being breached, I do not know whether that research is under way somewhere or has been done, and I will get back to you if I can.

Disability Services: Transport

Senator Denman—My question is also to Senator Newman, Minister for Family and Community Services. Can the minister inform the Senate why people with disabilities will now have to wait 30 years before the full implementation of the accessible transport standards, when the minister herself has acknowledged:

Lack of accessible transport is one of the biggest barriers for people with disabilities in engaging social and economic participation.

Is the minister satisfied that it will be the year 2031 before people with disabilities can travel unhindered on public transport?

Senator Newman—I am delighted at the question from Senator Denman, because I would agree with her that it is not satisfactory to wait 30 years. But that is for trams and trains, which are of course systems run by state governments. It is trams and trains that do not have to be 100 per cent accessible for 30 years. However, to be fair to the states, most of the trams and trains will be
ready earlier than that. Some states are already very far along the road. You might understand that taxis are currently the most attractive form of transport for people with disabilities, because they are so much more flexible in where you can get them and where they will take you. The standard for taxis is that within five years the waiting time for an able-bodied person and disabled person for a taxi must be the same. That is a substantial improvement, as I am sure you will agree.

Buses, ferries and aircraft, for example, will have to be 100 per cent accessible within 20 years. There is a time line for each of those forms of transport of five years, 10 years, 15 years and 20 years. It is only the trams and trains, which are owned by the states, which have some additional exemption of five years because of, I suppose, the enormity of the cost to taxpayers of replacing all of them more quickly. But I do believe that many of the states will be ready much earlier than that for people who have got disabilities. I would like it all to be much faster, but it has taken nearly 10 years to get to this stage, with negotiations, as you will recall, between the transport industry sectors and the community and disability sectors. I am delighted that it has now come to fruition and will become law.

Senator DENMAN—Madam President, I ask a supplementary question. Will the minister confirm for the Senate that dedicated school bus services will be exempt from the standards? Has the minister considered that this exclusion will serve only to further isolate school children with a mobility disability from their peers at a crucial stage of their social development and substantially reduce their chances of being able to attend a mainstream school?

Senator NEWMAN—Yes, it is true that the agreement negotiated between the two sectors did give an exemption to school buses. I think that is partly—as you would recognise from living in a regional area yourself, Senator Denman—because school buses are often run by one-bus proprietors with little or no capital behind them. But I point out that the advice I have been getting since the standards were announced is that we will very soon be at the stage where you will not be able to buy a replacement bus that is not wheelchair accessible. That may already be the case. All buses available for sale in future will be wheelchair accessible. So, while school buses may be exempt, I think they might find it difficult, when they need to replace their buses, to get anything other than one which is appropriate for people with disabilities.

Mining Industry: Government Policy

Senator EGGLESTON (2.31 p.m.)—My question is to the Leader of the Government in the Senate, Senator Hill. Will the minister inform the Senate of the importance of the mining industry to the Australian economy? How has the Howard government supported the industry to create more wealth and jobs for Australia? Is the minister aware of any alternative policies, and what would be the impact if these were implemented?

Senator HILL—The mining industry is an important part of the remarkable success story the Australian economy has enjoyed under this government. The industry is a major employer, with more than 80,000 people directly employed in the mining of minerals, oil and gas, with a further 300,000 indirect jobs. Mining contributes around $40 billion annually to the Australian economy and makes up about 40 per cent of Australia’s merchandise exports each year. Importantly, the mining industry has also significantly improved its environmental performance over the past decade or two.

One of the big challenges facing the mining industry has been the issue of native title. There is no doubt that the Labor Party made a complete mess of the original native title legislation. They were warned of course, but they did not listen. Our government, in contrast, have acted prudently to resolve the further uncertainty created by the subsequent Wik decision. This parliament has passed legislation which seeks to streamline the native title processes, while respecting and protecting the legal rights of Aboriginal people. Our system allows states and territories to develop an alternative state based scheme for resolving native title claims. Again, this parliament has set minimum standards that those schemes must meet.
But what we have seen from the Labor Party is a deliberate attempt to destroy the system for base political reasons. In the long run the mining industry loses, the local indigenous community loses and the Australian economy loses. Of course we know that the Labor Party is just playing politics with the issue. Schemes put up by Labor governments in Queensland and New South Wales quietly get the tick, but when Liberal governments in Western Australia and the Northern Territory put up schemes that more than meet the Commonwealth standards Labor votes them down. Thanks to Labor, almost 10,000 mining and exploration applications in Western Australia will sit waiting in a backlog, and a further 1,000 applications are stuck in a backlog in the Northern Territory. That represents millions of dollars of investment put on hold by Labor for political purposes; thousands of potential jobs put on hold by Labor which could have gone to indigenous communities; lost royalty payments to indigenous communities; and potentially hundreds of millions of dollars in export earnings, again put on hold by Labor for base political purposes.

Let us make no mistake who is to blame for this disgraceful situation. It might have been Senator Bolkus—who snuck in here this morning to move disallowance of the Western Australia determination—but the decision of course came from Mr Beazley. The people of Western Australia should know that Mr Beazley has put investment, jobs and profits in his home state from this most important industry on hold just so he can score a cheap political point. He let his mates in Queensland and New South Wales have their schemes but not his home state. I note that the Liberal senators from Western Australia all stood up for their state this morning in stark contrast to Labor.

Medical Profession: Inquiry

Senator McKIERNAN (2.36 p.m.)—My question is directed to Minister Herron, representing the Minister for Health and Aged Care. Can the minister advise the Senate why the minister for health has still taken no steps to ensure prompt investigation of the serious allegations of medical fraud in Western Australia? Can he explain why the Health Insurance Commission has still not commenced an investigation into the Perth allegations? Will the minister order an immediate start to an inquiry, and will he broaden this to look at whether similar practices are occurring in other states?

Senator HERRON—I thank Senator McKiernan for the question. Dr Wooldridge can confirm that the Health Insurance Commission has been actively responding to the allegations. The Health Insurance Commission requested full details about the allegations on a number of occasions since it was first informally notified in July this year that audit activity was under way. The Health Insurance Commission wrote to the Western Australian Health Commissioner on Wednesday, 4 October following weekend media reports and requested a copy of the Ernst and Young audit report provided to the Metropolitan Health Services Board. In early October, the Western Australian Health Commissioner advised that this report had not been completed.

The Western Australian Health Commissioner has now advised the Health Insurance Commission that the report will be finalised within the next week and that a copy will be provided to the Health Insurance Commission. He also advised that the Health Department of Western Australia will assist and will cooperate with the Health Insurance Commission in any investigation the Health Insurance Commission considers necessary. Once it receives the report the Health Insurance Commission will review the findings to determine what further investigations are needed. As Dr Wooldridge said in parliament, the Health Insurance Commission’s investigation activities are quite properly undertaken separately from the minister. It is not possible for the Health Insurance Commission to routinely identify double dipping of the kind alleged to be contained in the audit report, and the reason for this is the unavailability of data from state governments which identifies individual patients. The Health Insurance Commission cannot act unilaterally in this type of case. It undertakes formal investigations into alleged Medicare double dipping with the cooperation of the state government. The Health Insurance
Commission is looking forward to receiving the report. The existence and operation of hospital trust accounts remain state matters.

Senator McKIERNAN—Madam President, I ask a supplementary question. I thank the minister for his answer. It makes a change from some of the answers we have had from other ministers in recent days. It might help the minister were I to be given permission to table a copy of the report of the Ernst and Young consultancy into the Princess Margaret Hospital for Children theatre operating sessionals, and I have another copy of a report on the King Edward Memorial Hospital for the Princess Margaret Hospital for Children. I seek leave to table these documents to help the minister and the commission with their investigations.

Leave not granted.

Senator Ian Campbell—On a point of order, Madam President, Senator McKiernan knows very well that it is basic courtesy in this place to show the other side a document if he seeks to table it. He has done nothing more than pull a cheap and pathetic stunt. He should have shown the documents to Senator Herron if he was going to do that, and I invite him to do so.

Senator McKIERNAN—I gratefully accept the invitation from the Manager of Government Business and apologise for not doing so in the first instance.

The PRESIDENT—Senator McKiernan, have you completed your question?

Senator McKIERNAN—Yes, Madam President.

Senator HERRON—I have finished answering the question.

National Australia Bank: Fees and Charges

Senator STOTT DESPOJA (2.39 p.m.)—My question is addressed to the Assistant Treasurer. I refer to the commitment made by the Treasurer on 18 October to seek an explanation from the National Australia Bank on its announcement of fee increases and the imposition of fees on previously exempt student accounts. Has the Treasurer obtained this explanation and, if so, what is it about the bank’s justification for levying fees and charges on those least able to afford it which has convinced the Treasurer and the federal government that further regulation of the banking sector is not necessary?

Senator KEMP—Thank you, Senator Stott Despoja. Let me say to you, Senator, that the government is committed to enhancing competitive pressures and information disclosures in the financial sector to ensure that bank fees and charges are kept to the minimum necessary and consumers are able to make well-informed decisions through which their fees can be minimised. The government, however, I should point out to you, does not determine the policies or guidelines that banks adopt in levying fees and charges which are, of course, a matter for commercial judgment by the banks. However, let me make it clear—and I do not know whether you believe in this, Senator, but this is what this government believes—that one of the best ways to keep downward pressures on fees is to increase competitive pressures in the financial sector and to encourage people to shop around. If people are unhappy with the fees and charges—

Senator Robert Ray interjecting—

Senator KEMP—Madam President, I have just been attacked by Senator Ray. It is so awful. I think he reflected on my competence. This is the minister for the Collins class submarines. Senator Ray, you have lost the right to reflect on the competence of others after your performance as a minister. Let me make it absolutely clear to you, Senator Ray, that every time you stand up and reflect on the competence of others we will remind you of your miserable performance.

Senator Stott Despoja—On a point of order, Madam President, could you please direct the Assistant Treasurer back to the question—or to begin answering the question?

The PRESIDENT—Senator Kemp, I do draw your attention to the question and I suggest you ignore Senator Ray.

Senator KEMP—It is true that I was unduly provoked by Senator Ray, Madam President. Let me now return to the question of Senator Stott Despoja’s. Senator Stott Despoja will know that ASIC has established
a transaction fee disclosure working group to identify the means for consumers to better understand transaction fee structures applying to their accounts to enable them to make informed choices. I am able to advise Senator Stott Despoja that the group is comprised of representatives from government, consumer organisations, industry associations and individual financial institutions. Can I also draw to Senator Stott Despoja’s attention—

**Senator Conroy**—The banks have social obligations.

**Senator Kemp**—Senator Conroy, if you wish to ask me a question, please ask me one. Don’t remain seated all week. We have not heard from you this week.

**The President**—Order! Senator Kemp and Senator Conroy, there is an appropriate time for you to debate these matters.

**Senator Kemp**—Thank you, Madam President. Again I am being unduly provoked. I would also like to draw to the attention of Senator Stott Despoja that the Joint Statutory Committee on Corporations and Securities is also conducting a national inquiry into the status of fees on electronic fund transactions and telephone banking. Specific attention will be given to examining fee increases for cash withdrawals from ATMs. Given your interest in this matter, Senator Stott Despoja, it may well be of interest to you to make a submission to this particular inquiry or perhaps even, if you are able, to attend these inquiries on your own behalf. I know you do have an interest and you do have concerns about some of these fee increases, which I might say the government share. That is why we always encourage people who are concerned about fee increases to shop around and to strike the best deals that they possibly can.

**Senator Stott Despoja**—Madam President, I ask a supplementary question. I seek clarification from the minister. Did the Treasurer receive the advice that he requested from the National Australia Bank? In his answer, the Assistant Treasurer referred to competition. Minister, isn’t it the case that, while the four pillars policy may have prevented mergers among the big four and the Wallis reforms actually increased the number of financial institutions available to offer banking services, these institutions are now being gobbled up at a rate of knots by the big four? For example, Colonial has now been taken over by the Commonwealth Bank, which charges the highest fees. Isn’t this actually undermining any potential benefits from the so-called competition to which the Assistant Treasurer referred?

**Senator Kemp**—Most people would agree that the competitive pressures in the financial sector have increased in recent years. Last year, as a result of the Wallis inquiry—

**Senator Conroy**—They just got pinged for price fixing.

**The President**—Senator Conroy, I have already drawn your attention to the standing orders.

**Senator Kemp**—There is a very wide range of institutions offering financial services to people—far wider than in previous decades. There is an argument that the competitive pressure should be greater. I do not know if that is the argument that you are putting. Certainly, this government encourages, through its various activities, competition between the banks and other financial institutions. Most people would think that, in most areas of financial services, there have been significant increases in competition. Senator, you may feel that this has not gone far enough, but I think that this is what the general trend has been. I put that on the record. *(Time expired)*

**Civil Aviation Safety Authority: Management**

**Senator O’Brien** *(2.46 p.m.)*—My question is to Senator Macdonald, the Minister representing the Minister for Transport and Regional Services. Given the minister’s comments yesterday regarding the chief executive officer of CASA, can the minister confirm that Minister Anderson wrote to the Chairman of CASA, Dr Scully-Power, on 10 October this year, raising serious concerns regarding an Ombudsman report into CASA’s actions, with the minister stating:
I am particularly concerned that actions in this particular case may indicate that there are still managerial problems in the authority.

Doesn’t the minister also express his concern that there has been ‘a significant mishandling of evidence’, ‘a lack of concerted action in the early phases of the investigation’ and ‘misleading advice provided to me earlier this year’? Given that Minister Anderson clearly believes that CASA provided their minister with misleading advice, does the minister still maintain that he has full confidence in the management and operations of the Civil Aviation Safety Authority and its chief executive officer?

Senator IAN MACDONALD—Senator O’Brien allegedly quotes from a letter from Mr Anderson to Mr Toller.

Senator O’Brien—Hasn’t he told you?

Senator IAN MACDONALD—How you would come by that letter, Senator, I do not know. It seems to be a bit of an unusual situation. Perhaps it was stolen. Or did you get it from freedom of information?

Senator O’Brien—I got it how I got it.

Senator IAN MACDONALD—Perhaps it was stolen, which makes me wonder whether I should even dignify it by referring to it. I am not aware of it. From long, sad experience, I would not accept anything the Labor Party senators quote to us from alleged letters. But I will refer that to Mr Anderson to see if he wishes to confirm whether or not he did have that correspondence with Mr Toller. There are obviously difficulties with the Civil Aviation Safety Authority—not made any easier by the continuing carping and whingeing by members of the Labor Party.

Senator Conroy—Are you sledger the previous minister?

Senator IAN MACDONALD—And sledger—thank you, Senator Conroy—by members of the Australian Labor Party, who seem to be hell-bent on upsetting the morale of our Civil Aviation Safety Authority people and causing them a maximum amount of trouble for purely petty and selfish political gain. Why this continues is just beyond me.

CASA does have a very difficult job to perform. It was suggested to me yesterday by Senator O’Brien that Ansett and Qantas should have a say on who regulates their airlines. That is the sort of thing that the Labor Party seem to be suggesting. It is not the way the government proceed with these areas. We want to make sure that there is an independent and appropriate Civil Aviation Safety Authority. What Mr Anderson and the government have done is remarkably different from what was done when the Labor Party were in charge. Under our government, there has been a period of relative tranquillity. In Labor’s day, there was an enormous turnover of members of the board. Under Labor, there were four chairmen in less than seven years. There were four chief executives.

Honourable senators interjecting—

The PRESIDENT—Order! There is far too much conversation across the chamber.

Senator IAN MACDONALD—Certainly CASA has a long way to go yet, but it is much better now than it was under Labor. Under Labor, in less than seven years there were four separate chairmen, there were four different chief executives, there were six heads of safety regulation and there were also eight ministerial changes in the portfolio. If you say that CASA has been in a period of turmoil over the years then you can understand why this happened under Labor.

The problems which we acknowledge in the Civil Aviation Safety Authority are being addressed. They are being addressed calmly but decisively by the board and by Mr Anderson, who does an excellent job in the portfolio. The scattergun approach which was so typical of Labor has now been replaced by a measured approach to aviation safety. This government is proud of what it has done. Mr Anderson has done an excellent job. There is more to be achieved, but it would be achieved better with a cooperative spirit and with the Labor Party helping out rather than carping and making negative comments all the time. (Time expired)

Senator O’BRIEN—Madam President, I ask a supplementary question. I note that the minister does not have a brief on these important matters from his minister in the other place, and I would urge him to take the question on notice and come back with an
answer. While he does that, can the minister confirm that Minister Anderson’s letter also states:

It is unacceptable that a law enforcement agency appears to have inadequate procedures in place for handling evidence to the extent that its minister is then misled on the location of supposedly missing evidence.

Can the minister confirm that the Queensland police are currently investigating the alleged destruction of material evidence in this case? Given that the minister seeks an assurance from the chairman of CASA that the destruction of critical evidence by CASA officers in this specific case is ‘not an indication of continuing organisational problems in the authority’, does Minister Anderson stand by his public confidence in the board and management of this country’s air safety watchdog?

Senator IAN MACDONALD—The Queensland police have been pretty busy. They have to investigate all the electoral rorts of the Labor Party in Queensland, plus a few other things that I will not mention involving Labor Party members in Queensland. Obviously, the Queensland police are going to be very busy. Perhaps the police should also have a look at what happens to private correspondence between Mr Anderson and Mr Toller and then wonder how it ends up in Senator O’Brien’s hands. I guess we could look into that. Senator O’Brien, as I said to you, you may have a copy of that letter but I certainly do not. I am not in the habit of running around taking things out of other people’s mailboxes, as it has been proved that Labor Party people do in Queensland and as has been proved in Townsville in the vote rigging inquiry. I am not part of that, so I am not aware whether that letter is there. If you indicated to me where the letter came from, I would perhaps know whether it was genuine or not. (Time expired)

Domestic Aviation Market: Developments

Senator FERRIS (2.54 p.m.)—My question is to the Minister representing the Minister for Transport and Regional Services, Senator Ian Macdonald. Could Senator Macdonald please advise the Senate of developments in the domestic aviation market as a result of the introduction of greater diversity and competition? Could he please tell the Senate how this enhances the options for Australian travellers?

Senator IAN MACDONALD—I thank Senator Ferris for that question, which really highlights the positive aspects of aviation and aviation policy within Australia. Like most of us in this chamber, Senator Ferris and I are very big users of the aviation industry out of necessity—we have to use their services. The coalition government is very pleased that its policy of encouraging new entrant airlines into the domestic aviation market is really paying off. Australian travellers are benefiting from a range of very good discount fares by all airlines in response to the fairly strong marketing which has followed the expanded activities of Impulse Airlines and the entry into the market as well of Virgin Blue. This government encouragement of these new entrants has been of great benefit not only to people in regional Australia but also to the many Australians, including the mums and dads, who previously did not fly. They are now able to fly, taking up the option of cheaper fares, and are able to get out to see relatives in distant parts—things that they could not do in the Labor years, for example, when fares were so expensive.

The advent of these new airlines has meant a significant increase in the size of the aviation market. The statistics up to August, which are the latest I have, show that the aviation market grew by almost 150,000 passengers compared with August last year. On the Sydney market route, the trunk route Sydney-Melbourne, which is the third busiest trunk route in the world, passenger traffic has increased by some 78,000 passengers this year. That is up 17.7 per cent. Between Brisbane and Sydney, the number of passengers is up 37,000 over August last year. That is an increase of something like 13.2 per cent. Those new entrants, Impulse and Virgin Blue, are both recording healthy load factors. I am particularly pleased that Impulse is, it being an Australian airline and coming from Senator Tierney’s area in Newcastle. It is good to see it doing so well.

The high emphasis that the government have placed on air services generally and
regional air services in particular has paid dividends. Certainly on regional trunk routes, sometimes some of us who are a bit larger in size get a bit concerned at the narrowness of the seats and the lack of room but, even with those complaints, there are still very good services in rural and regional Australia, and that is something the government obviously encourage. Air traffic to the national capital, Canberra, has increased. That is good for tourism in this district. It is good for people visiting our national capital, and again we encourage those sorts of activities. The advent of these cheaper fares will also help the Labor Party. They will be able to move their people around from Brisbane up to Townsville and enrol them much more easily nowadays. It will not cost you so much, members of the Labor Party, when you want to shift your voters around from one electorate to the other. Our policy of getting cheaper airfares has benefits for everyone, even for the Labor Party.

Senator FERRIS—Madam President, I have a supplementary question for Senator Macdonald. I found his answer to be very interesting, in particular in relation to the emergence of cheaper air services to my home state of South Australia. I wonder whether Senator Macdonald would be able to elaborate on future plans for extensions of competition services to South Australia.

Senator IAN MACDONALD—That will be of particular interest to Senator Ferris and all her South Australian Senate colleagues. They move around performing their duties—and they do a very good job. I read in a newspaper the other day that one of the airlines is putting on extra flights from Canberra, which is good to see.

Senator Hill—Two flights a day: Virgin Blue.

Senator IAN MACDONALD—The Leader of the Government in the Senate mentions that Virgin Blue is heading Adelaide way. This would not have happened under Labor’s restrictive policies that kept airfares high and limited travel to only the wealthier sector of the community. Under our policies, fares have dropped. Ordinary mums and dads can travel to Adelaide to visit relatives. That is good for tourism and it is good for family get-togethers. All Labor can do for aviation is carp and attack. (Time expired)

Senator Hill—Madam President, I ask that further questions be placed on the Notice Paper. 3.01 p.m.

PARLIAMENTARY LANGUAGE

The PRESIDENT (3.01 p.m.)—During debate this morning on the disallowance motion, Senator Hogg undertook to refer to me an expression used by Senator Evans about Senator Lightfoot. The use of the word ‘racist’ in respect of a senator or a senator’s speech is clearly unparliamentary. I understand that Senator Evans offered to withdraw any unparliamentary remark he had made, and I accept that he has withdrawn that remark.

ANSWERS TO QUESTIONS WITHOUT NOTICE

Medical Profession: Inquiry

Senator MCKIERNAN (Western Australia) (3.01 p.m.)—I asked during question time for permission from the Minister for Aboriginal and Torres Strait Islander Affairs to table some documents. I wonder whether the minister has had time to look at those documents and whether I can table them now.

Senator HERRON (Queensland—Minister for Aboriginal and Torres Strait Islander Affairs) (3.02 p.m.)—Like Senator Macdonald, I am very reluctant to accept anything at face value. I notice that these are retyped extracts from an original document. With due respect—I accept Senator McKieran’s intentions in this—I am not prepared to accept these documents for tabling. They are retyped extracts from an original document; they are not an original document.

ANSWERS TO QUESTIONS ON NOTICE

Questions Nos 2899, 2904, 2943 and 2944

Senator COOK (Western Australia—Deputy Leader of the Opposition in the Senate) (3.02 p.m.)—Pursuant to standing order 74(5), I ask the Assistant Treasurer for a second time to explain why answers have not been provided to questions on notice Nos 2943 and 2944, which I asked on 18 September 2000. I ask the Assistant Treasurer
for a third time why answers have not been provided to questions on notice Nos 2899 and 2904, which I asked on 6 and 7 September 2000 respectively.

Senator KEMP (Victoria—Assistant Treasurer) (3.02 p.m.)—This time I am able to thank Senator Cook for giving my office plenty of notice of his intention to raise this matter after question time. This is better than the way Senator Cook proceeded last time. I want to put on record that I appreciate the courtesy with which this matter has been dealt with this time—in contrast with last time.

I would not want Senator Cook to think, having raised these issues, that I have done nothing about them. I always take particular notice of what Senator Cook says—and he has the same interests as me. I am advised that the answer to question No. 2944 was tabled two days ago, on 7 November. As to questions Nos 2899 and 2904, I have the answers on hand and I will seek leave to have them incorporated in Hansard. I have looked more closely at question No. 2943, which is in 13 parts. It seeks a vast amount of information, which it requires to be drawn from a number of areas in the tax office. My office has had discussions with the tax office and, to be quite frank, if there is a huge amount of work involved, I am not prepared to authorise that it be carried out.

The tax office is always busy, but this is a particularly busy time. We are not trying to hide any information from Senator Cook, but at the end of the day a minister must make a judgment as to whether he is prepared to authorise the undertaking of work that will entail a great deal of effort on the part of the tax office. I will look at the question and at those parts of it that I feel we can answer without tying up vast resources. I will see what we can do. I will have to reflect upon those parts of the question that I think will require a great many resources and see whether we can provide the detailed information that Senator Cook requires. I seek leave to incorporate the answers in Hansard.

Leave granted.

The answers read as follows—

TREASURY Senate (Question No. 2899)
SENIOR COOK asked the Assistant Treasurer upon notice on 7 September 2000:
(1) When the Government announced, on 30 June 2000, its decision to legislate against the abuse of employee benefit arrangements relating to superannuation, why did the Government only announce a review rather than legislative action in relation to the abuse by company executives of employee share plans that was identified by the Australian Taxation Office (ATO) in its submission to the inquiry into employee share ownership plans by the House of Representatives Employment, Education and Workplace Relations Committee.
(2) In the ATO’s submission to the same House of Representatives committee inquiry into employee share ownership schemes, dated 30 April 1999, the ATO estimated the revenue at risk from abuse by company executives of employee benefit arrangements at $1.5 billion (as confirmed in evidence given to the committee by the ATO on 11 May 2000): What is the latest estimate of revenue at risk from employee benefit arrangement type schemes, given the evidence of ongoing aggressive marketing of the schemes provided by the Member of Lalor at the 11 May 2000 hearings.
(3) What is the estimated revenue impact of the exemption provided in Taxation Ruling TR 1999/5 ‘for taxpayers who have received a Private Ruling (under part IV AA of the Taxation Administration Act 1953) and have implemented the arrangement ruled on, in substantially the same terms as the Private Ruling’.
(4) How much money has been identified by the ATO as flowing into non-complying NZ superannuation and like schemes over the past 4 financial years.
(5) (a) What estimates, or educated estimates, were available to the Government as at the end of March 1996 of the revenue at risk from the abuse of employee benefit arrangements and (b) what steps were taken by the Government to address the abuse of these arrangements.

Senator Kemp— I have provided the following answer to the honourable senator’s questions:
(1) I refer the honourable Senator to my Press Release of 30 June 2000 which outlines the reasons provided for the actions announced on that day.
(2) The premise of the question is false. The ATO did not claim that $1.5 billion in revenue was at risk. The ATO has consistently stated that abusive employee benefit arrangements are not effective under existing law.
(3) and (4) Estimates have not been published.
(5)(a) and (b) No estimates have been provided to the current Government of the revenue at risk from the abuse of employee benefit arrangements because as the ATO has stated, abusive employee benefit arrangements are not effective under the existing law.

TREASURY Senate (Question No. 2904)

SENIOR COOK asked the Assistant Treasurer upon notice on 7 September 2000:

(1)(a) Who is conducting the review into the abuse of employment benefit arrangements announced by the Government on 30 June 2000; (b) what stage has the review reached; (c) on what date is it anticipated the review will be concluded; and (d) will the results of the review be publicly announced and/or tabled in Parliament.

(2) In evidence given to the House of Representatives Employment, Education and Workplace Relations Committee, on 11 May 2000, representatives of the Australian Taxation Office (ATO) stated roughly one-third of the employment benefit arrangement schemes that could be the subject of litigation had made use of the ATOs safe harbour arrangements and sought to come to an agreement regarding the payment of tax: (a) how many schemes have come to an agreement regarding the payment of tax; (b) how much tax has been paid as a result of these agreements; and (c) how much in tax and penalties has the ATO agreed to forgo to come to these agreements.

(3) In evidence given to the House of Representatives Employment, Education and Workplace Relations Committee, on 11 May 2000, representatives of the ATO stated Federal Court litigation was being undertaken in order to recover tax from employment benefit arrangement schemes: (a) how many Federal Court cases have been initiated; (b) how much would be payable if the ATO were successful in each of the cases; (c) at what stage is the litigation process in each case; and (d) have any of the cases in which court action has been initiated been subsequently settled; if so, what are the terms of settlement and what is the difference between the settlement amount and that originally by the ATO.

Senator Kemp - I have provided the following answer to the honourable Senator’s questions:

(1)(a)-(c) A review is being conducted by the Australian Taxation Office (ATO) of the interaction of the income tax and fringe benefits tax laws to ensure that employee benefit trusts and employee share plans are taxed appropriately.

(d) If any announcements are to be made, the honourable Senator will be aware of them when they are made.

(2)(a)-(c) The ATO is taking the necessary action against abusive employee benefit arrangements. This action is ongoing.

(3)(a)-(d) As above.

Senator COOK (Western Australia—Deputy Leader of the Opposition in the Senate) (3.05 p.m.)—I move:

That the Senate take note of the explanation.

The minister thanked me for being courteous and for giving him more notice of my intentions this time than I did last time. I gave the minister sufficient notice last time as well and he criticised me for providing insufficient notice. This is very odd behaviour. The minister has gone beyond the regulatory time for providing answers. He is late, yet he criticises me for giving him notice of my intention to ask: ‘Why haven’t you supplied the answers?’ Yet again, this is insulting behaviour—as if last time I did not give him notice before question time.

Senator Sherry—As if you are the one at fault.

Senator COOK—That is right. The minister is at fault: he has passed the 30-day rule. As he leaves the chamber and turns his back on this debate, it is worth recording that the minister is well and truly in breach of a rule that applies in this chamber to ensure that ministers answer questions from the Senate. I thank the minister for—at long last, after three tries and three reminders—incorporating in Hansard late answers to two questions. I will read those answers and, if they produce more questions, I will pursue the matter further.

Can I just say this? In answer to question No. 2943, the minister says, ‘This is a long question,’ and that, if he ‘deems’ that too much time will be required by the tax office to answer the question, he will decline to answer it. That is just a barefaced refusal by the minister, on behalf of the executive wing of government, to provide to the parliament the information that we seek—information that in the case of this question is quite clearly necessary; and it is responsible information that should be provided. If the fo-
rums of this parliament do not operate, if ministers refuse to answer questions on notice past the deadline on which answers by resolution of this chamber are required to be delivered—and, in the case of this question, after prompting on two previous occasions—and respond with a tempestuous display of ‘Oh, it might take too much time,’ then what avenue can be followed by any member of this chamber or any citizen in this country who wants to inquire of the executive wing of government about issues of considerable importance? Does this not smack of high-handed censorship and denial of the right of senators and citizens in this democracy to know what is happening, when ministers just slam the door on those questions and refuse to provide answers?

At this stage the minister has not refused to provide the answer, so it would be premature of me to take this debate further. What the minister has done is given notice that he may refuse to provide the answer. I am going to be patient. I am going to wait until the next fortnightly sitting. If the answers are given in full, that will be fine—and congratulations. At long last the government will have done what it is required to do: it will have performed its duty, albeit late and albeit after several promptings. But if the answers are not given, then that does raise a serious matter of accountability by the government to the community and the parliament. That will therefore raise a serious matter of breach of faith in this chamber and with the community by the government.

I remember quite well, before the 1996 election, the Prime Minister promising an honest and accountable parliament and an honest and accountable government. I do not remember, I have to say, too many occasions on which that promise has been honoured. But here is one opportunity for the Assistant Treasurer to prove that the Prime Minister meant what he said: for his colleagues in the government to live up to the Prime Minister’s undertaking given to the Australian people in a pre-election speech and do as he promised. One hopes it was, in fact, a core promise and not a non-core promise. But I do mark the spot now that, if this answer is not provided, I will be pursuing the matter further.

Question resolved in the affirmative.

ANSWERS TO QUESTIONS WITHOUT NOTICE

Nursing Homes: Hindmarsh

Senator BOLKUS (South Australia) (3.10 p.m.)—On Tuesday of this week, I asked Senator Herron a question about the now closed Hindmarsh Nursing Home. He promised to investigate the matter further and provide more information. Since Tuesday, we have spoken to his office, which has advised us that information would be forthcoming today. I now ask the minister why that information has not been provided.

Senator HERRON (Queensland—Minister for Aboriginal and Torres Strait Islander Affairs) (3.11 p.m.)—I thank Senator Bolkus for the reminder. I did promise on Tuesday to investigate the question that Senator Bolkus asked. To quote myself on that occasion:

As I said, I am happy to investigate that on his behalf but, more importantly, on behalf of the residents of South Australia ...

My investigations reveal that the Aged Care Act 1997 requires that the income derived and the retention amounts from accommodation payments must be used for the purposes of: providing aged care services to meet capital works costs relating to residential care; retiring debt relating to residential care; and improving the quality and range of aged care services where no capital expenditure is reasonably necessary to comply with certification or accreditation. Accountability for the use of these funds is achieved through certification and accreditation standards introduced by this government. Funding is forfeited if these standards are not maintained, and this creates the imperative to use the money for capital purposes to the extent necessary. It also allows the flexibility to apply to care and services where there is no capital need. All providers, even those intending to leave the industry, will have capital related expenses such as depreciation. Moneys earned from accommodation payments provide a source of funds to meet these expenses. That is by way of preliminary. Senator Bolkus also asked in relation to the
Hindmarsh Nursing Home: where has the money gone? I have been unable to answer that question.

Senator BOLKUS (South Australia) (3.13 p.m.)—by leave—I just wish to ask the minister when he intends to come back to the Senate with information addressing the core questions that I asked the other day.

Senator HERRON (Queensland—Minister for Aboriginal and Torres Strait Islander Affairs) (3.13 p.m.)—by leave—I will come back when I can obtain any further information.

Vocational Education and Training: Legislative Framework

Senator CARR (Victoria) (3.13 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 Carr today, relating to the vocational education and training scheme.

Today, I asked Senator Ellison a question concerning two reports that the Howard government has received from the legal firm Minter Ellison about the deeply flawed legal basis of the Australian Recognition Framework in the nation’s vocational education and training scheme. The minister, in response to this question today, indicated that he was not aware of these reports. That was, quite clearly, in sharp contrast to his acknowledgments on page 18987 of last Monday’s Hansard. He went on to say that the problems were essentially nonexistent. It seems to me that, on both counts, we have an arguable case that the minister may have misled the chamber. He clearly indicated on Monday that he was not aware of these reports; he clearly indicated on Monday that he understood that there were serious problems identified with the quality assurance regime operating in Australia.

It seems to me on both counts that we have an arguable case that the minister may have misled the chamber. He clearly indicated on Monday that he was aware of the reports; he clearly indicated on Monday that he understood that there were some serious problems identified with the quality assurance regime operating in Australia.

My concern went also to the instructions given to Minter Ellison in the instructional brief issued on 15 August 2000. Minter Ellison were charged with the task of providing advice to the government on all aspects of the legal enforceability of standards and operations of the national training scheme. This brief asked Minter Ellison to provide advice on the different options that were available to addressing identifiable legal problems with regard to the basic operational matters of vocational education and training in this country. Minter Ellison were asked to assess the options of national consistent legislation, codes of conduct, cooperative legislation and uniform legislation. However—and this is the crux of the matter we are raising today—on 31 August the government specifically instructed Minter Ellison not to consider the questions of national legislation. That was specifically withdrawn from the instructional brief. I quote from this report that the minister has suddenly forgotten:

We have been instructed that the Commonwealth legislation is not to be considered as an option to achieve national consistency in the VET sector. There is a significant concern that the Commonwealth would not have the legislative competence under the Australian Constitution to enable all the legislation that it would require for the implementation of such a vocational training and education regime.

The government claim that there were constitutional impediments to the national legislative solution. That should have been the answer the minister gave today. That was the claim they were making to that expert legal firm. But this claim was made two weeks after the initial instruction was issued, and it would appear to be at least seven months after the decision was taken to involve a major legal firm to get this advice. Why was it withdrawn? Specifically, on what basis were these amendments made to the instructional brief? What constitutional issues were suddenly uncovered? What impact was it to have on the matters referred to Minter Ellison for advice? Who instructed Minter Ellison not to consider Commonwealth legislation as an option? On whose authority was that done? Can the Senate be provided with a copy of the legal report on these constitutional issues? Why was Minter Ellison not
asked to advise on the option of Commonwealth legislation among all the other options, given the seriousness of these fundamental questions being raised in this report?

I also seek from the government advice as to whether or not MINCO, the ministerial council, will be considering these issues at their next meeting, or did they consider it at the last meeting in June where they did canvass these general issues? I would be interested to know why the government now acknowledges in its report that there is no national recognition of registered training organisations, no consistent monitoring and auditing of our qualifications and no consistent qualifications actually operating in the country. There are serious flaws in a whole range of areas. Why does the government claim suddenly that there are constitutional restrictions? If there are constitutional restrictions, what considerations were given to the use of the corporations power, the territory power, the external affairs power or the various incidental powers in the Constitution, such as the alien power, the immigration power or the overseas trade power? All of these are issues that are canvassed in the Constitution that go to the question of the provision of educational services. Were any of these questions canvassed with Minter Ellison before the government instructed them not to consider national legislation? If we do not get answers to those questions, how can we say that there has been a thorough and proper review of the obstacles to the legislative implementation of these various training agreements? If we cannot establish that, what value is there in the government’s position at this point there is not very much value in the government’s position whatsoever.

Senator MASON (Queensland) (3.18 p.m.)—I always enjoy Senator Carr’s contributions to debates because there is always a core issue, an issue of policy and sometimes an issue of ideology. He is to be congratulated for that. It is not just a matter of expeditious pragmatism. So I thank Senator Carr for his contribution.

The legal aspect of the Commonwealth’s competence to legislate in these areas is an important issue, but it is only part of the much broader issue of vocational education and training. Senator Carr is quite right to suggest that education is perhaps one of the most important investments any community or government can make in the future of its individuals, particularly today in an era of globalisation where, let’s face it, skills matter much more than pure knowledge. Those skills matter more today than they ever have before, and they have to be harnessed and developed. It is perhaps the most empowering concern that a government can have today.

As a former lecturer, I agree with Senator Carr that these issues must be canvassed and canvassed fully. But it is not an issue of class warfare; this is all a matter of standards. What is important to the Australian community is standards. In fact Mr Della Bosca, a good friend of the Labor Party, said a while ago that Australians are more ambitious than they are given credit for, and he is quite right. Because of that, this government has tried to establish a framework throughout the community and across the nation where standards at school, university and vocational levels are standardised and increased. To do that, the government has established a trainee systems scheme, called New Apprenticeships, which has offered nationally recognised qualifications. The government has established New Apprenticeships centres, which are single points of contact for employees and new apprentices. It also has arranged for school based new apprenticeships and more flexible industrial relations arrangements. To date, an enormous amount of money has been made available for financial incentives to support an estimated 140,000 commencements of new apprenticeships in 2000-01. The number of new apprenticeships in training, both apprentices and trainees, continues at record levels. As at the middle of this year, it was estimated that there were 275,000 new apprentices in training. These are record numbers and are almost double the figure of five years ago. It is something this government is proud of. The Australian community recognises the value of this and supports the government in the area of new apprenticeships and training.
The government will also be providing $2 billion over the next four years—and I know Senator Tierney is here and will elaborate on this—to support New Apprenticeships, including $342 million for New Apprenticeships centres; $1½ billion for incentives for employers to take on new apprentices; $65 million to provide information and strategic intervention programs to help remove barriers to entry; and $79 million for the New Apprenticeships Access Program, which helps young people bring their skills up to apprenticeship entry level. Senator Carr also touched on legal matters regarding the corporations power, the aliens power and so forth under the Constitution. The government is examining those options and taking advice in those areas to ensure that it can do as much as is humanly possible to coordinate those aspects nationwide. The government thanks Senator Carr for his concern but is well aware of the legal issues and is taking advice on those matters.

Senator JACINTA COLLINS (Victoria) (3.23 p.m.)—I would also like to thank Senator Mason for his very constructive contribution to this issue. Unfortunately, in taking note of Senator Ellison’s answer—and whilst I accept that he is simply representing the Minister for Education, Training and Youth Affairs in this area—I would suggest that, as a minimum, he take note of the government senators’ report to the report that we tabled today in relation to the quality of vocational education and training in Australia.

As the government senators’ report highlights, the minister has come some way to acknowledging that there are quality concerns, although the majority report highlights a number of issues that remain a concern. Senator Carr indicated in his comments that his understanding of the original brief that went to Minter Ellison ruled out the option of improved legislative arrangements. I hope that comments made today by both Senators Tierney and Mason cast a different perspective on this situation because the advice put forward by Minter Ellison clearly indicates that we need to take a very cautious and solid look at the legislative underpinning of the framework in place for vocational education and training.

For the benefit of the Senate and perhaps the Minister representing the Minister for Education, Training and Youth Affairs, I want to revisit the issue of New Apprenticeships because Senator Mason referred to the great successes he saw associated with New Apprenticeships. As I highlighted today, many of the tensions that exist within the vocational education and training system stem from the government’s introduction of the New Apprenticeships scheme. I indicated that it is New Apprenticeships which is putting most of the strain on the ability of TAFE institutes to deliver training in a climate of reduced funding and that it is the New Apprenticeships area that has been the catalyst for growth of non-TAFE registered training organisations—a number of which had their record for providing quality training called into question in our inquiry. It is New Apprenticeships which facilitates wholly on-the-job training, criticised in this report and the Schofield reports for its failure to provide broad generic training. It is under the New Apprenticeships scheme that some unscrupulous employers, including a number of major companies, have abused incentive payments—taking on young employees but confining them to unskilled tasks in which the training component is minimal—and this has destroyed the long-term benefits of the program and demoralised scheme participants. Also it is New Apprenticeships which has caused some industry bodies, such as the Australian Industry Group, to question the training priorities of the government. They are concerned that measures appear to be aimed at short-term alleviation of unemployment statistics rather than raising the general skill base for the purposes of rebuilding the national economy.

I am happy to have this opportunity of taking note of an answer at question time to reiterate these points because there is perhaps more chance that the likes of Senator Mason will understand that there is another side to the coin when we are talking about the purported successes of New Apprenticeships. But the government does not go to the fundamental issue. The fundamental issue that has been raised in the majority report is that the minister needs to look very seriously at the legislative underpinnings of the frame-
work. The government senators’ report indicates that it is the government’s view that the minister’s National Training Quality Council with its enhanced powers can deal with some of the problems that I have referred to. But the core of the Minter Ellison advice is that these purported enhanced powers are not sufficient, that they do not go far enough to rectifying the problem. They are the two points I would conclude on.

It is imperative that the regulatory framework promote stability and integrity in the VET system. Minter Ellison’s advice has indicated serious flaws in that integrity. A stronger hand is needed in the management of quality in order to ensure integrity of the system, and leaving sole regulatory authority in the hands of the states and territories has not worked. It is no longer a viable option, particularly in light of identified inconsistencies in legal and administrative processes. Also, the Commonwealth funding deficiencies have exacerbated all of these problems.

Senator TIERNEY (New South Wales) (3.28 p.m.)—This morning the Senate considered a major report on vocational education and training. This was going to be the Labor Party’s great shot against the government in the lead-up to the next federal election. What a fizzer it was. The reason it was such a fizzer was the way in which the training agenda has already been reformed in this country. And now we come to the debate on taking note of answers. There is a whole range of things in that report that perhaps you would expect an opposition to raise and spend half an hour of the Senate’s time debating. It is absolutely amazing, unbelievable, that the point the opposition has picked for debate in the whole vocational training area is an obscure piece of legal advice from a legal firm to the government about whether a particular underpinning of quality control will go far enough. Maybe we should look at that legal advice—there might be some things in it that we need to see that the minister has not seen yet and I have not seen. Putting that aside, one would wonder why the opposition has not been able to strike a blow on this matter.

It was obvious at this morning’s press conference when so few turned up that there is a lack of interest generated by this major shot against the government. The reason for that is the way in which we have reformed vocational education and training since the Howard government came to power four years ago. We had up until that time a change to policy in this country whereby we had greater federal involvement and that was through ANTA, the Australian National Training Authority. What this gave under the previous Labor government was a much needed boost to funding in the vocational training area—a boost that has certainly been continued by this government; those levels have been maintained. What the previous government did not do was very much about what was actually happening in the vocational training area. It did not do very much about making sure that we had some sort of rational coordinated framework, and it did not do much about making sure that we were actually boosting outcomes in vocational education and training.

This is where the Howard government’s record stands in stark contrast to the previous government’s, because we have delivered real outcomes in vocational education and training. This is proven in any area you look at: new apprenticeships have risen remarkably, and we went through this in the debate this morning; the new system of registered training organisations provides alternatives in training to the providers of work, and this has been boosted significantly; and the new training packages are a totally new approach which is developing pace and getting very wide coverage though industry. In the reaction to those innovations of the Howard government—and those reactions were in the majority report delivered by the Labor Party and the Democrats this morning—there was absolutely no criticism of the fundamental framework of training as set up by this government. For example, there was no suggestion that we go back to the old apprenticeship system; as for having alternative forms of registered training organisations, it was not suggested that that be scrapped; and as for the learning systems that have been set up, it was not suggested that they be scrapped.

Labor and the Democrats on this committee have basically suggested some finetuning
to the system, and that is fine. We accept that the most revolutionary change in vocational education and training in 30 years will possibly need some finetuning. We are doing that in a cooperative way with the states. The minister is meeting very soon with the state ministers, and what we are going to put together in a cooperative federal approach is a much more rational and a much more coordinated approach to voc. ed. in this country. That did not happen under the last Labor government. Their planned proposals for the future, particularly where they want to set up yet another authority, yet another bit of bureaucracy with their quality authority, will not achieve it either.

Senator CROSSIN (Northern Territory) (3.33 p.m.)—It is interesting to note that Senator Ellison, in his response to Senator Carr’s question relating to legal advice received from Minter Ellison regarding the status of the vocational education and training system in this country, said that he was not aware of any such advice and that, in fact, the vocational education and training system was doing well. However, as Senator Carr pointed out, on Monday when we debated the Vocational Education and Training Funding Amendment Bill 2000, which will appropriate money for that sector over the coming year, Senator Ellison did acknowledge that he was aware of that advice and made some comments about it. One would have to wonder why the government is now being so elusive about this advice, and perhaps we might explore that in a minute or so.

Senator O’Brien—You are probably right, Senator O’Brien. One could say that, today in question time, he misled the chamber by actually saying that he was not aware of that advice. The vocational education and training system in this country should seek to do two things. It needs to satisfy individual people that they are going to get access to a vocational training and education system that will develop their own particular skills, that is effective in enhancing their own skill base and that is there for them during their period of lifelong learning. The second thing it must do is be effective in providing skills formation and productivity in the work force on a national basis—not each work force in isolation in each particular state and territory. Projects that are being developed and enhanced rely on skills transferring around this country. We need a vocational education and training system that is going to underpin that need.

In the report that was released this morning after many months of work by the Senate Employment, Workplace Relations, Small Business and Education Committee we have reference to the fact that quality assurance is a critical component of a genuine national vocational education and training system. Not only must quality assurance go to the quality of courses and their content, the way in which that is assessed, the way in which students are supported during their learning process and consistencies around industries, but also whatever qualification you may get in any one state or territory must be transportable into other states and territories. We have a reference in the report to the Shop, Distributive and Allied Employees Association, who, in their submission, gave evidence that a person who may become a qualified hairdresser in Victoria, through successfully completing an AQF level 3 course at a registered private provider, may be denied the right to carry on their trade in New South Wales because that state does not recognise that qualification and rejects recognition of the full-time training mode of delivery.

We did have evidence before this committee that there is a lack of national consistency when it comes to the recognition of courses and qualifications. There is also reference in this committee’s report—denied by Senator Ellison today—to the legal advice received from Minter Ellison Lawyers. It was legal advice that, in fact, identified that the legal foundations for our VET system are seriously flawed. This was confirmed in a report to the government in May and September, a report that has not been made public. It was sought as a result of a legal challenge by a registered training organisation that faced deregulation. Basically, it goes to the very matter of national consistency: outside the primary recognition authority, there are only two jurisdictions in this country that will recognise such training providers and
courses. We have government members telling us that this is a nationally consistent registration program, that the VET system in this country has national quality assurance guarantees and is underpinned by the recognition of qualifications around this country nationally, and that there are registered training organisations that can operate in any state or territory as long as they get registration in one state. Clearly, they are not right. Something should be done to look at that advice.

Question resolved in the affirmative.

DOCUMENTS

Auditor-General’s Reports

Report No. 15 of 2000-01

The ACTING DEPUTY PRESIDENT (Senator McKiernan)—In accordance with the provisions of the Auditor-General’s Act 1997, on behalf of the President I present the following report of the Auditor-General: Report No. 15 of 2000-01—Performance audit—Agencies’ performance monitoring of Commonwealth government business enterprises.

State and Territory Reconciliation Committees

The ACTING DEPUTY PRESIDENT—On behalf of the President, I present a letter from the Chief Minister of the ACT, Mr Humphries, in response to a resolution of the Senate of 9 October 2000 concerning state and territory reconciliation committees.

COMMITTEES

Corporations and Securities Committee

Report: Government Response

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (3.39 p.m.)—I present the government’s response to the report of the Parliamentary Joint Committee on Corporations and Securities on its inquiry into the mandatory bid rule. I seek leave to incorporate the document in Hansard.

Leave granted.

The document read as follows—

GOVERNMENT RESPONSE TO THE REPORT OF THE PARLIAMENTARY JOINT COMMITTEE ON CORPORATIONS AND SECURITIES ON THE MANDATORY BID RULE

On 7 December 1999, the Minister for Financial Services & Regulation, the Hon. Joe Hockey MP, requested that the Committee consider whether the framework for regulating takeover activity contained in the Corporations Law should be amended to include the Mandatory Bid Rule (MBR).

The MBR would allow a bidder to acquire shares above the statutory threshold of 20 per cent of the voting shares in a target company in advance of a formal takeover bid or announcement, provided the acquisition was immediately followed by an unconditional cash takeover bid for the remaining shares.

The MBR was included in the Government’s Corporate Law Economic Reform Program Bill 1998. However the relevant provisions were removed from the Bill by the Senate on 13 October 1999. The MBR was therefore not included in the final version of the Corporate Law Economic Reform Program Act 1999 (CLERP Act) that commenced on 13 March 2000.

The Parliamentary Joint Committee’s Report on the Mandatory Bid Rule

The Committee tabled its report on the MBR on 21 June 2000. It recommended ‘that the MBR as proposed in the CLERP Bill should be enacted’. It also recommended that the operation of the MBR should be reviewed two years after its commencement.

A dissenting report by the Committee’s four Australian Labor Party (ALP) members recommended that the Corporations Law not be amended to include the MBR. It stated that ‘the Labor Party does not believe that the advantages of such a rule outweigh its disadvantages’.

A minority report by Australian Democrats Senator Murray recommended ‘that the MBR not be enacted at this time’. However it indicated that the Australian Democrats might be prepared to support the adoption of the MBR at a later date. Senator Murray’s report indicated that the other reforms contained in the Corporate Law Economic Reform Program Act 1999 (CLERP Act) as well as the introduction by the Government of rollover relief from capital gains tax in relation to scrip for scrip bids had the potential to increase the level of Australian takeover activity. It suggested that any decision concerning the introduction of the MBR should be delayed until the impact of these other reforms had been assessed.
The Government’s Response to the Parliamentary Joint Committee Report

The Government supports the Committee’s recommendation that the MBR proposed in the CLERP Bill should be enacted. In the Explanatory Memorandum accompanying the CLERP Bill the Government has already indicated that it would ‘review the operation of the MBR two years after its commencement, to ensure that the Government’s policy goals with the introduction of the mandatory bid are being achieved’.

In the light of the present views of the other parties in the Senate, the Government will not seek at this time to re-introduce legislation containing the MBR. Nonetheless, as the Government believes, for the reasons set out in the remainder of this response, that the implementation of the MBR would be a worthwhile reform, it remains committed to the introduction of the necessary legislative amendments at the appropriate time.

A More Efficient Market for Corporate Control

The Government believes that enactment of the MBR would enhance the efficiency of the market for corporate control in Australia. It would therefore complement other reforms to the regulatory framework governing takeovers in Australia contained in the CLERP Act.

Despite the positive contribution made by the CLERP Act reforms, the Government believes that the current regulatory framework continues to place unnecessary obstacles in the path of corporate takeover activity by preventing a bidder from obtaining a controlling stake in a target company except through a public auction process. This is because prospective bidders may refrain from launching takeover bids because of their reluctance to participate in a public auction process.

This reluctance is due primarily to the uncertainty inherent in launching a formal takeover bid and to the high transaction costs associated with takeovers. These costs derive from the potential for free riding and “greenmailing” by rival bidders as well as the scope available for the adoption of defensive tactics by target companies. The uncertainty and cost associated with takeover bids in the current environment reduces the contestability of the market for corporate control in Australia.

The enactment of the MBR will ameliorate these problems by providing potential bidders with the option of acquiring a controlling interest in a company without a public auction. This has the potential to reduce the uncertainty and costs associated with takeover bids which in turn can be expected to increase the contestability and efficiency of the market for corporate control in Australia.

A number of benefits can be expected to be derived from establishing a more efficient market for corporate control. Most importantly, the threat or increased prospect of a takeover can be expected to significantly enhance managerial performance and work to more closely align the interests of managers with those of their shareholders. This will significantly increase the pressure on corporate boards and managers to perform to the benefit of all shareholders in listed companies. Enhanced corporate performance would improve allocative efficiency by ensuring that corporate assets are put to their most valuable use. A more efficient market for corporate control can therefore be expected to benefit all shareholders whether a takeover occurs or not, as well as the economy more generally.

While the enactment of the MBR should reduce some of the uncertainties and costs associated with takeover activity, it will not necessarily reduce the size of the control premium paid by the bidder. This is because the MBR maintains and strengthens ‘price tension’ on the value of shares. Shareholders, including those with a substantial shareholding, have a powerful incentive to gain the highest possible price from any prospective buyer. This incentive is also evident in the case of so-called ‘distressed sellers’, since creditors will also seek to obtain the best price for a parcel of shares. Under the MBR shareholders would remain at liberty not to sell their shares or seek a better offer if they believe that the price being offered is too low and that a higher price could be obtained through a public auction process.

Protection for Minority Shareholders

The Government believes that the MBR provides ample protection for minority shareholders. A number of specific protections are afforded as part of the MBR provisions that would augment those provided by the other relevant provisions of the Corporations Law. As the Committee noted in its report, the requirement for the transfer of a controlling stake to be followed by an unconditional cash offer to remaining shareholders ensures that all shareholders have an opportunity to exit the company following the transfer of control. Conditional bids would be prohibited as these could deny minority shareholders the opportunity to exit the company.

The MBR would also maintain the principle of ‘equal opportunity’ by ensuring that minority shareholders participate in any control premium obtained by the initial seller. This is achieved by requiring the consideration offered to remaining
shareholders as part of a mandatory bid to equal or exceed the value of the consideration received by the initial seller.

Under the Government’s proposal, minority shareholders would remain at liberty to reject an offer to purchase their shares under a mandatory bid. Mandatory bidders would therefore face the potential prospect of being left without full control of the target at the completion of the bid period. As bidders would wish to avoid this predicament, they have a powerful incentive to offer sufficient consideration to ensure that remaining shareholders sell into the bid (including, if necessary, increasing the size of the consideration offered under the mandatory bid).

The MBR proposed by the Government also contains several further safeguards for minority shareholders. These include the right of minority shareholders to receive an independent report evaluating the adequacy of the consideration offered under the mandatory bid, prohibitions against the bidder exercising control of the target until after the beginning of the offer period under the mandatory bid, and restrictions against securities being issued, dividends declared or distributions made during the mandatory bid period.

For these reasons, the Government does not accept the suggestion that small shareholders are more likely to be disadvantaged or presented with a fait accompli under the MBR.

**DOCUMENTS**

**Advance to the Minister for Finance**

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (3.40 p.m.)—I present details of the use of the Advance to the Minister for Finance for April, May, June and August 2000.

**Human Rights and Equal Opportunity Commission**


**COMMITTEES**

**Finance and Public Administration Legislation Committee**

Report

Senator CALVERT (Tasmania) (3.41 p.m.)—On behalf of Senator Mason, I present the report of the Finance and Public Administration Legislation Committee entitled *Format of the Portfolio Budget Statements: 3rd Report.*

Ordered that the report be printed.

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

Leave granted.

Senator CALVERT—I move:

That the Senate take note of the report.

I seek leave to incorporate a tabling statement.

Leave granted.

*The document read as follows—*

I table today the committee’s third report on the Portfolio Budget Statements (PBS). Senators will recall that they referred the matter of the PBS to the committee in November 1996, following the widespread dissatisfaction expressed with the documents in the 1996-97 budget estimates hearings. The committee has continued to monitor the reception accorded to the PBS since that time and to report as necessary.

This report is based largely on the views expressed by senators in the context of the 2000-01 budget estimates hearings and at an informal briefing with officers from the Department of Finance and Administration held on 4 October. The committee did not attempt to evaluate accrual budgeting per se, nor the quite separate but frequently confused issue of the outcomes and outputs reporting framework. It merely considered the difficulties reflected by senators in their use of the documents and developed a number of suggestions and recommendations that build on the committee’s previous recommendations.

High amongst the priorities expressed for the PBS is stability in the reporting frameworks. In addition to stability, these also need to be sufficiently disaggregated to enable comparisons to be validly drawn on pricing and performance. In this report, the committee has suggested that real funding changes need to be identified more clearly and that partial performance information should be provided where possible in the PBS. It has also recommended that the PBS contain the name and contact details of an officer in each agency who can answer factual questions on the contents of that agency’s PBS.

The committee has again recommended that forward estimates be provided, at the very least for administered items.

In a few areas, the committee believes that agencies are well aware of problems and are actively taking steps to remedy them. In particular, the
reporting on progress towards outcomes needs to be much more robust. The committee will continue to monitor developments in this area.

Finally, the committee encourages all senators to take an active interest in the PBS and to participate in briefings on their contents. The committee again recommends that legislation committees routinely include in their reports on estimates and annual reports an assessment of the adequacy of the PBS and the performance information they provide.

I commend the report to the Senate and I take this opportunity to thank all those senators who assisted the committee in its most recent inquiry.

Senator CALVERT—I seek leave to continue my remarks later.

Leave granted; debate adjourned.

DELEGATION REPORTS

Parliamentary Delegation to 21st ASEAN Inter-Parliamentary Organisation Conference

Senator KNOWLES (Western Australia) (3.41 p.m.)—by leave—I present the report of the Australian parliamentary delegation to the 21st ASEAN Inter-Parliamentary Organisation Conference, which was held in Singapore in September 2000. The 21st AIPO General Assembly was held in Singapore between 10 and 15 September 2000. Parliamentary representatives of eight ASEAN countries, two special observer countries and eight observer countries attended the assembly. The assembly provided a forum from which to examine, discuss and propose solutions to issues of common interest throughout the Asia-Pacific region. One of the major features of the general assembly was the dialogue session during which representatives of the ASEAN member countries discussed issues with the observer countries. During Australia’s dialogue session, the key issues examined included regional and political matters, trade and investment issues, environmental issues, and health issues.

During the discussion on regional and political matters, the Cambodian delegation commended Australia for its participation in helping to bring peace to Cambodia during the early 1990s. The Cambodian delegation also sought more information on Australia’s domestic response to United Nations committees. The Australian delegation indicated that any examination of its domestic social policies should be balanced and fair. The Australian delegation suggested that Australia was open to scrutiny, provided external bodies were balanced and objective.

As part of the debate on trade and investment, the key issue was the region’s response to the Asian financial crisis. We encouraged ASEAN countries to continue with their domestic economic reform programs so that individually and as a regional community we can all benefit from the opportunities of globalisation. I indicated that Australia’s experience with globalisation has been extremely favourable, with export industries and foreign investment contributing substantially to employment growth and an increased standard of living.

The Australian delegation elaborated on the merits of the ASEAN Free Trade Area, AFTA. In particular, we encouraged delegates to consider positively the feasibility of an AFTA closer economic relations, CER, free trade area. Economic modelling by the Centre for International Economics shows that the benefit of establishing an AFTA CER free trade agreement during the period 2000 to 2020 would be US$48.1 billion of additional GDP across the ASEAN region.

During the discussion on environmental issues, I indicated Australia’s support for environmental initiatives in the ASEAN region. In particular, I elaborated on aid packages to address haze in South-East Asia. These included a $660,000 assistance package in 1998 and a recent announcement to provide approximately $250,000 over 12 months to fund an immediate action plan for West Kalimantan Province through the ASEAN secretariat. The Indonesian delegation indicated its appreciation of Australia for its assistance and support in helping ASEAN to resolve environmental issues and, in particular, the haze problem.

As part of the discussion on health issues, one of the key concerns was the global situation of HIV-AIDS. It was noted that 34 million men, women and children worldwide are infected with HIV. Of this total, 18 million people have AIDS. Accordingly, the assembly recognised the need to strengthen existing health mechanisms to include and
put emphasis on AIDS. The assembly urged ASEAN member countries to incorporate a regional component to foster ASEAN cooperation in fighting HIV/AIDS in the respective member countries.

The delegation wishes to make a few recommendations. One of the objectives of the delegation was to identify key practice and features of the AIPO General Assembly that may assist future AIPO delegations. Therefore, the delegation made two recommendations. In recommendation 1, we advise future delegations to ensure that an officer of the Australian overseas post attends the Australian delegation’s dialogue session of AIPO. This officer should assist the Australian delegation by coordinating answers to questions taken on notice and then provide information direct to the AIPO member delegate, together with a copy to the leader of the Australian delegation. Recommendation 2 suggests that the Presiding Officers give consideration to the proposal that delegation secretaries to AIPO parliamentary delegations attend at least two or three consecutive AIPO general assemblies. This would enhance the efficiency and effectiveness of future delegations by providing continuity and corporate knowledge.

Because Australia is an observer country to AIPO it does not attend all sessions of the conference. In view of this, the delegation, with the assistance of the Australian High Commissioner in Singapore, attended a series of meetings and inspections with Singaporean organisations. These meetings provided a valuable opportunity to share information and examine issues of mutual interest to both Australia and Singapore. The delegation met first with officials from the Port of Singapore Authority Corporation. The Port of Singapore is, as many of us would know, one of the most efficient container terminals in the world. The PSA Corporation is responsible for the management and the strategic development of the port. As part of this briefing, the PSA Corporation discussed its current and future operations and provided the delegation with a detailed tour of the port. The delegation’s next meeting was with the Infocomm Development Authority of Singapore. IDA provides advice to government and industry on information communications, including telecommunications and Internet commerce. The delegation’s final meeting was with the Ministry of Health in Singapore. This briefing focused on health policy issues ranging from health insurance to care and prevention strategies.

The Australian delegation’s attendance at the 21st AIPO General Assembly was very successful, and the Australian Parliament was ably represented by my colleagues Ms Burke and Dr Nelson from the House of Representatives. On behalf of my colleagues and me, I express our appreciation to Ms Brenda Herd of the Parliamentary Relations Office, who did an outstanding job in making sure we got there and back. She does a fantastic job for all of us. I can see you, Mr Acting Deputy President McKiernan, nodding in agreement. The contribution of His Excellency Mr Murray McLean, Australian High Commissioner to Singapore, and many of the staff of the High Commission in Singapore was equally outstanding. They really did put themselves out for us. Nothing was ever too much trouble. They played an instrumental part in ensuring that the other meetings we had were as successful as they were, and they also ensured that we were well briefed prior to the AIPO General Assembly. Finally, I put on record our very great thanks to Mr Stephen Boyd, the secretary of the delegation. He was nothing short of brilliant. I know that many of us have been on delegations where the secretary has been outstanding. I can assure the Senate that Mr Boyd did not let down the reputation of his colleagues—he was absolutely terrific. I commend the report to the Senate.

AUSTRALIAN RESEARCH COUNCIL BILL 2000
AUSTRALIAN RESEARCH COUNCIL (CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) BILL 2000
First Reading
Bills received from the House of Representatives.
Motion (by Senator Ian Campbell) agreed to:
That these bills may proceed without formalities, may be taken together and be now read a first time.

Bills read a first time.

Second Reading

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (3.50 p.m.)—I table revised explanatory memoranda relating to the bills and move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

AUSTRALIAN RESEARCH COUNCIL BILL 2000

The Government recognises that the ability to generate, disseminate and apply knowledge is the distinguishing feature of the strongest economies and the most robust societies.

For Australia to hold its position in the global knowledge revolution, we need to ensure that we are making the best use of our research and research training capabilities. We must construct a framework that allows knowledge and innovation to flourish.

Generating knowledge through research is an essential requirement for Australia’s long-term growth and competitiveness. The higher education sector is a key part of Australia’s innovation system, performing nearly 30 per cent of Australia’s research effort. Our economic and social prosperity depends critically on the outstanding contributions that individuals and teams within universities make to the national innovation system. These contributions are across the full spectrum of the research endeavour, in the natural sciences and technologies and also in the social sciences and humanities.

To ensure that the higher education sector is strategically best placed to meet the challenges posed by the changing global environment, last year the Government released Knowledge and Innovation: A policy statement on research and research training. At its centre was the proposal for a dual approach to funding research and research training in the higher education sector. Firstly, institutions would be supported by performance-based block funding to ensure the provision of a high quality environment for research and research training. Secondly, support would be provided for the work of outstanding individual researchers and research teams through competitive grants administered by the Australian Research Council.

I am pleased to announce to the House that preparations for implementing the first approach, new performance-based block funding to universities, is well underway. Universities have already submitted their first research and research training management plans, and have, in the main, clearly demonstrated their willingness to embrace a more strategic approach to managing research. Universities are focusing on linking research to the innovation system, while securing their strengths in basic research.

They are also reaffirming their commitment to providing high quality research training environments for their research students who will become our future leaders in the production of knowledge, as well as being instrumental in disseminating this knowledge to the community. Universities are developing for their postgraduate research students a wide range of approaches to learning and the opportunities to experience a wider range of settings in which to develop their knowledge and skills – experiences essential if our researchers of tomorrow are to be well prepared for the challenges and opportunities for future innovation.

The Australian Research Council (Consequential and Transitional Provisions) Bill 2000, which we are considering cognitively with this bill, contains measures that will progress these reforms.

This bill implements the second arm of the approach outlined in Knowledge and Innovation, through reorienting the Australian Research Council, an organisation critical to ensuring that Australia has a strong foundation of excellent, world-class basic research, as well as the capacity to link this research with other research institutions, government, businesses and the wider community at the local and international level.

The bill will establish the ARC as an independent agency within the Education, Training and Youth Affairs portfolio, charging it with the provision of strategic policy advice to the Government on research in the university sector. The ARC will also be charged with increasing awareness and understanding among the community of the outcomes and benefits of Australian research.

This bill will also establish a new funding regime for a national competitive grants programme, giving the ARC full responsibility for its administration. Through its system of peer review, the ARC will have an enhanced capacity to identify and respond to emerging areas of research excellence, as well as supporting Australia’s traditional research strengths.
For Australia’s best return on its over $2.6 billion investment in higher education research and research training, the generators of knowledge must be linked with its users. By recognising that insularity is an enemy of innovation, a reformed governance and organisational structure for the ARC will be introduced by this bill.

As a means of building these links, the ARC will consist of a Board to which a prominent Australian, highly regarded in the research community, will be appointed as part-time chair. The Board will consist of eight appointed members, reflecting the breadth of academic, industry and community interests in research and its outcomes, and five ex-officio members. These ex-officio members will include the Secretaries of the Departments of Education, Training and Youth Affairs and Industry Science and Resources; the Chief Scientist; the Chair of the National Health and Industry Science and Resources; the Chief

ment of Education, Training and Youth Affairs and Industry Science and Resources; the Chief Scientist; the Chair of the National Health and Medical Research Council; and the new created position of Chief Executive Officer of the ARC.

The Chief Executive Officer of the ARC – a person with a distinguished record in research and management - will be responsible for the day-to-day management of the ARC, the development of strategic policy advice to Government and the proper and efficient administration of its research grants programmes.

Through the new planning and accountability framework established by this bill, the ARC will be able to demonstrate the very real and important contribution that higher education research makes to the innovation system. Each year the Council will bring forward a strategic plan, for Ministerial approval, that outlines the objectives to be achieved over the next three years. The plan will include performance indicators, which will enable the performance of the ARC in meeting its goals to be assessed.

Research is a process which converts money into knowledge; and innovation is a process which converts knowledge into money. It is important that Australia’s production of knowledge is supported by a framework that ensures that Australia receives the optimal social, cultural and economic return on its investment.

This bill demonstrates the Government’s commitment to an ARC that will be supportive of our most outstanding researchers and that is responsive to changes in the global environment. It provides a framework in which the ARC will be able to build on its contribution to national innovation through forming and maintaining effective linkages between the research sector and the business community, government organisations and the international community.

I am pleased to inform the House that, in our consultations with the higher education sector, we have found that the research community strongly supports the reforms to the ARC and the administration of its new programmes put in place by this bill.

In closing, I would like to thank the current Chair of the ARC, Professor Vicki Sara, the Council and its staff for their outstanding efforts in maintaining the ARC’s role as a peak forum for Australia’s research interests. I would particularly like to congratulate Professor Sara and her team for their work on developing the new competitive grants programme structure, and the ARC’s strategic plan for 2000 to 2002, which sets out how it will undertake this important work over the next three years.

AUSTRALIAN RESEARCH COUNCIL (CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) BILL 2000

This bill repeals the Employment, Education and Training Act 1988 and provides for the transitional arrangements to apply to the management of the Australian Research Council and the programmes it administers, including current competitive research grants, following the introduction of the new legislative framework.

The bill also amends the Higher Education Funding Act 1988 to implement a number of initiatives that were announced in Knowledge and Innovation: A policy statement on research and research training. This includes the creation of performance-based, block funding schemes to support research and research training, as well as providing for the funding for those schemes administered by the Australian Research Council to be appropriated under a different Act.

In addition, this bill will introduce a requirement for all universities to submit an approved research and research training management plan to the Commonwealth. This provides for the funding for university research to be conditional on a university providing an environment that fosters excellent research and research training.

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

AUDITOR OF PARLIAMENTARY ALLOWANCES AND ENTITLEMENTS BILL 2000

Second Reading

Debate resumed from 1 November, on motion by Senator Faulkner:

That this bill be now read a second time.
Senator ROBERT RAY (Victoria) (3.51 p.m.)—When I first entered the Senate, Mr Malcolm Fraser was Prime Minister and Mr Howard was both federal Treasurer and a very influential member of cabinet. They presided over a system of parliamentary entitlements in which there was little accountability and absolutely no transparency.

Shortly after arriving here I heard various anecdotes which were passed on from one generation to another that would raise concern—for instance, in terms of parliamentary entitlements. A Queensland Labor senator who had left this august chamber well over 20 years before I arrived had regularly claimed a form of travel allowance and slept in his parliamentary office. However, because they did not have the same facilities as we have today, every morning he would slip down to the Hotel Kurrajong, sneak in through the side door and have a free breakfast, as though he was a guest there. This went on for years. In the end, he was finally sprung because he complained that his toast was not hot enough one day and the manageress tracking that through found he was not a guest there. Many other similar anecdotes have come down over the years about people who may not have properly acquitted the entitlements that accrue to us as parliamentarians. But, as I said, it was a different era. That has to be said. There was far less temptation by politicians to keep their peers accountable, and there was certainly little transparency.

The first major change in this, however, came with the passing of freedom of information legislation in the late seventies/early eighties. That enabled any interested party—be they a politician, a journalist or a member of the general public—to use freedom of information to gain an insight into how parliamentary entitlements were being accessed and acquitted. But over the years the value of FOI as a tool has become highly marginalised. It is not that it was a wrong provision, but it does require third-party consultation, which often means very long delays in the response to an FOI request. Sometimes six months, sometimes a year, goes by before a response is given.

The second problem with using freedom of information is the excessive cost involved in this regime at the moment. Let me give you an example. The Melbourne Herald Sun put in an FOI request for information about overseas travel—mostly the overseas travel entitlements component—of members of Parliament. They were billed $279,000 before the information would be provided. I know we have to guard against vexatious use of FOI. I know resources are limited. But all of us have been through this sort cost regime that basically means we cannot afford it. About 2½ to three years ago I put in two FOI requests. The bill for the first one was about $9,200. The bill for the second one was over $2,000. It does make it very expensive. In response it was pointed out to me that I could put questions on notice. I tried to explain to the officials that the information I was seeking I may never want to use. The moment I put a question on notice it is published in the Hansard and can be misinterpreted by anyone who wants to. But it does make it very difficult when freedom of information is so expensive today.

The second avenue, of course—for a parliamentarian, at least—is to ask questions on notice. The current government, you would have to say—like all governments—has got a very mixed track record on questions on notice. The coalition parties and the Democrats when in opposition combined to demand that at least in principle all questions should be answered in 30 days and if not an explanation has to be given. But I think it is true to say that is more honoured in the breach than in the observance. I rarely come in here and complain when it is more than 30 days, because I understand that some complex questions take time to answer. But, for instance, I have got at least 20 questions on notice which have been outstanding for over 500 days. That is an awfully long time in terms of scrutiny of government.

In one notable case—which I complained of recently—Minister Wooldridge refused outright to answer a question that eight of his colleagues had answered fully, citing the reason of cost. I then put further questions on notice, and one of the answers I elicited was that in fact the department forwarded the
response to Mr Wooldridge’s office within just a few days of me asking the question and it sat there for four months until I raised after question time why it had not been answered. And in that elicited response they said they did not intend to answer it because they thought it was too costly. Having taken out a freedom of information request on the same information I got it within a month. And, to give credit to the department, I got it without charge. So what I am saying is in terms of scrutiny these two tools are very blunt weapons and ones that are not always effective.

Finally, you can pursue these matters through estimates committees. A question put on notice by Senator Faulkner on 23 May—the answer to which we already knew existed, because the department had said they had just reviewed this area—still is not answered today. That is a question on telecard use. It was not answered, yet they had just done a revision and established telecard use by all members of parliament. That remains unanswered, and it remains unanswered because politically the minister did not want to answer the question at that stage, because it would have revealed that Mr Reith had some problems with his total and maybe in the end with more probing the way that total was in fact achieved.

Let me say that the first major step towards accountability and transparency was taken by the then Special Minister of State, Mick Young, in 1983. For the first time ever, the cost of all travel allowance claims of office holders—mostly ministers, but also leaders of the opposition and presidents and speakers—was published. It was published annually around budget time, after the end of the financial year, for everyone to look at. Virtually at the same time the cost of all Comcar use by office holders was published. Finally, all costs associated with overseas travel by office holders was published on that occasion. This, if you like, was the first step towards transparency of use of parliamentary entitlements. The costs of travel allowance claims and the costs of Comcar use by office holders’ staff was also published.

The next major advance in transparency was when the Senate published travel allowance claims put in by chairs of Senate committee. This was an initiative of the coalition senators in 1991, and I congratulate them for it. There was some suspicion of abuse, but I think by publishing those figures any suspicion of abuse disappeared. The problem was that, while most travel allowances were claimed for committee work et cetera, there was one exception: chairpersons of committees could claim in their own right as chairpersons of committees—quite a reasonable proposition, especially when they were travelling to Canberra to write and rewrite reports. But the difficulty was that maybe one or two people were abusing it. This initiative, which resulted in the publication of that information, kept people on the straight and narrow.

The next major advance did not come by the way of an initiative; it came when this parliament considered the abuse of entitlements in 1997, owing to the exposure of rorts perpetrated by the then Deputy President, Mal Colston—sorry, that should be Dr Colston. This in turn led to a decision by the Senate, I think made without dissent, to publish all travel allowance claims by senators. That initiative was in turn eventually adopted—somewhat reluctantly, I believe—by the House of Representatives, and they also published all travel allowance claims by members. And in turn, the executive published similar detailed lists.

It was following such publications that the problems really started. Senator Minchin and Senator Ian Macdonald had to repay travel allowances claimed during the election period—post policy speech. I want to stress here: each one of those claims was legal—it was simply in breach of a convention—and it was really optional for Senators Minchin and Macdonald to repay that money. Similar problems were found with claims by Labor ministers from 1993 and 1996. They similarly had legal claims, but they repaid them because they were in breach of the convention. Of course in all this panic at the time Mr Sharp and Mr McGauran secretly repaid large sums incorrectly claimed in travel allowance. That resulted in Mr Sharp losing his job and Mr McGauran spending a fair bit of time on the interchange bench. It has to be
conceded that this was a difficult time for politicians. The public could not understand how Mr McGauran could claim something like $68,000 for basically living at his residence in Melbourne.

Both chambers then agreed to have KPMG audit travel allowance claims of MPs for the previous two financial years. This audit turned up a significant number of mistakes, but no systemic problems were identified. It also led to the transfer of travel allowance administration for members of parliament—not for the executive—from the Department of the House of Representatives and the Department of the Senate to the then DAS and later DOFA, which has meant for a more robust examination. None of us like examining these matters in an adversarial way if they exist within parliamentary departments. It is a lot easier if they rest in a government department where there is direct political responsibility, even though some people would say that runs the danger of political manipulation. It is a much healthier system in the long run. New procedures were introduced to vet all travel allowance claims but, even more importantly, twice-yearly publication has achieved full transparency in this regard.

Another lesson that can be learnt is that the minister in charge of these areas should avoid trying to take a partisan political role. It cost Mr Jull his job. This is a stark reminder to all his successors—whoever they are, Labor or Liberal—that transient opportunism comes at a price. The opposition are a little cynical about the claims of the current SMOS that the coalition have cleaned up the area of parliamentary entitlements. I acknowledge they have made advances, but only under the pressure of exposure. It is time now, we are suggesting, to take a quantum leap.

Going into the last election the Australian Labor Party adopted, as part of its election platform, a promise to appoint an auditor of parliamentary entitlements. We did so as a matter of principle, but we also acknowledge that pragmatism suggests this is a very wise course of action. My only doubt about the wisdom of this bill is the term ‘auditor’. I prefer the term ‘inspector-general’. When you look at the various inspector-generals that exist and the powers that they have, both in a limited and extensive way, this suggests a better role to me than that of an auditor. We have several inspector-generals working in the Department of Defence, working in the security area, who I think operate very effectively and very independently. But I guess the problem is that this not a term well known to the general public.

The Labor proposal differs a little from the proposals put up by the Democrats, who seem to want to have an ethics commissioner. My problem with that is that a lot of ethics are subjective. I do not accept appointing someone to tell me not what strict laws and regulations to follow but whether or not my ethics are good. But I do accept that the electorate is the best judge of my ethics and that, if they have doubts about that, they will mark my card—and so they should if I misbehave. I would much rather leave it to them than someone we appoint, but we agree to differ on that, I am sure.

Put simply, this act allows the auditor that we appoint to investigate complaints concerning the use of parliamentary entitlements. I think it is sensible to have someone do that. It is up to that auditor to institute a regime to decide how many of these entitlements are published. I argue that the more transparent you are, the less abuse and the fewer attacks on politicians there will be. He or she can also make recommendations to change parliamentary entitlements where they find anomalies here or there. Finally, that person exists to give advice to parliamentarians, hopefully in writing, about how they could access an entitlement or how they should use it. This is very much a vacuum that we live in at the moment.

Situating this auditor in the Auditor-General’s office I think makes sense because it is traditionally an independent area and you have to situate this person somewhere. If the scheme comes to fruition, I think it would be nice for there to be agreement, especially amongst the major parties, as to who should be appointed auditor. Eventually that would go in any event to the Joint Public Accounts Committee where it can have some exposure.
There is no question that the accessing of entitlements by Australian parliamentarians is more scrutinised by both the press and the public in this country than in any other country in the world. The other night I watched A Current Affair. I heard Mike Munro introduce it, and I could have written the script. He went through one entitlement after another—with no qualifications and a bit of distortion, but we all accept that. I will tell you what I found hard to accept: Mike Munro’s introduction. I would have accepted every criticism on that show if Mike Munro had anted up his own salary and entitlements at the start of the show. But he did not. Yes, we are well remunerated; yes, we have good parliamentary entitlements to make us do our job. But I tell you what: I am not earning a quarter or probably a tenth of what Mr Mike Munro is earning. He should have put that up front before he took cheap shots at politicians.

The fact is that, even with the publicity we have had surrounding several cases, the truth has to be put down. There is less abuse of parliamentary entitlements in this country than in almost any comparable country in the world. That does not mean that we should sit back and relax. We should be ever vigilant, and it is in all our interests to make the system as transparent and as accountable as we can. In the end, and I think I have said this in this chamber before, I cannot remember a Liberal or a Labor minister in this country directly accused of taking a bribe in federal parliament. You could not say that about any other country around the globe. There has never been an accusation in this country of ‘cash for questions’ such as has plagued the House of Commons in recent years. There have not been any of those silly defamation cases that Jonathan Aitken and others have been involved in. The problem is that the spotlight is on us. We should not rail about the fact that the spotlight is on us: it always will be. But we should do something about it.

This bill should not be taken as a criticism of the current government. I do not take it as a criticism of the current government. I say it is time to make the next leap forward, to take some of the administration and problems with this out of political hands and have an independent auditor who can in fact ensure proper accountability and proper transparency. With that in place, those who seek to abuse the system will come unstuck. We want a regime that will frown on maximisation and have zero tolerance for rorters. By supporting this legislation and by bringing it into being, you will go a long way down the track towards achieving that. I am not sure whether it will come about now, but I know that eventually it will. So I hope the Senate will give the bill serious consideration. I am sure there will be some suggestions as to the technical aspects of it. Oppositions never draw up perfect bills no matter how much skilled help we have from the Clerk of the Senate, but I really think it is time to contemplate this proposal.

Senator KNOWLES (Western Australia) (4.11 p.m.)—I would like to start my comments on the Auditor of Parliamentary Allowances and Entitlements Bill 2000 where Senator Ray left off. I am actually sorry that Senator Ray spoke before me because I really would have liked to hear his answers in relation to some of the things I am going to raise in regard to this bill. He mentioned the fact that Australian parliamentarians have a very good record of honesty and that it is a very small proportion of senators or members who have ever gone against the grain. That is true. As Senator Ray quite rightly said, when a few things came to light some years ago, in 1997, an independent audit by KPMG of travel allowance claims was instituted. But the interesting thing about that audit was that it showed an error rate of less than two per cent.

Senator Robert Ray—And not all the same way.

Senator KNOWLES—Exactly right, Senator: not all the same way. But the interesting thing was that it was so small. When we read media reports about that at the time, there was a report right across the media that every member of parliament was rorting the system. If we can have a situation in Australia where less than two per cent do something wrong, this will be a pretty flash country—or even more flash than it already is.
Senator Ian Campbell—There would be a lot of lawyers out of work.

Senator KNOWLES—Exactly. Senator Campbell, there would be a lot of lawyers out of work. But it is interesting because we say that most members and senators are honourable people who, by and large, use their entitlements correctly. Of course, there will always be some who make mistakes and some who make quite genuine mistakes. I think that was the interesting thing about the KPMG audit: an error rate of less than two per cent. The Auditor-General himself usually does not investigate discrepancies of less than five per cent. Yet some members of the opposition would have the public believe that we are all crooks, and I think that is very sad.

In our society today where authority is being debased the whole time—it does not matter whether it is politicians, police, schoolteachers or whatever—this bill makes fundamental assumptions that the members of this parliament are so untrustworthy that there is a need for a permanent auditor to hang over their heads. One has to ask the rhetorical question: what is wrong with the Auditor-General himself? Are the opposition saying he is not up to the task? I cannot understand, given the recent revelations of things that are happening in Queensland and so forth, why the Labor Party would have such a poor view of themselves and their elected officials. We have to look at the issues, and the bill before us today has a number of very peculiar features. I hope we will get an answer regarding some of these features during this debate.

Firstly, the bill grants an auditor a 10-year term, when the standard term for public service appointments is five years. Why is this the case? The second reading speech gives no reason for this unusually long appointment. Secondly, the Remuneration Tribunal sets the level of remuneration for the auditor. There is a clear conflict of interest here, because the auditor may have to make critical comment about the determinations of the tribunal in the course of issuing guidelines and advice on the use of those entitlements. Thirdly, the bill explicitly states that the appointment of the auditor must be approved by the Joint Committee of Public Accounts and Audit. No other section allows the minister to appoint a person to act as auditor on the minister’s own discretion. Fourthly, there is a fundamental problem in the proposed role of the auditor. The auditor is not only the adviser for members and senators on the use of their entitlements but also the investigative body for those same entitlements and the body that recommends any change. Therefore, the auditor becomes the rule maker, the policeman, the jury and the Law Reform Commission. Why do we have such a situation being put to the chamber? That is just manifestly unworkable.

Fifthly, the hypocrisy between proposed sections 17 and 20 is outrageous. It grants no punitive measures against uncooperative members and senators and their staff but strong measures against everyone else. Sixthly, proposed section 29(6) means that any offence—even the most minor, even giving a single sheet of paper to another person—immediately becomes a matter which must be referred to the Australian Federal Police. Is that workable? Seventhly, what does proposed section 30(1)(b) actually mean? Are Labor admitting that there are times when it is acceptable to use taxpayer funded entitlements outside the guidelines set out for their use? If this is an admission that the guidelines need to be rubbery, why are they trying to establish a system with absolutes? I want to go to proposed section 30(1), because it is so unclear. It says:

The Auditor may, in his or her discretion, decide not to investigate, or further investigate, a complaint under this Division, if, in the opinion of the Auditor:

(a) the complaint is frivolous or vexatious or was not made in good faith; or

(b) the investigation, or further investigation, of the complaint is not warranted having regard to all the circumstances.

What does that mean? Who makes such a decision? It is an absolutely outrageous proposition. Then we have to look at the way in which this bill could be used against senators and members. It is a very intrusive bill which makes the proposed system unworkable.

I am sure that the Labor Party and the Democrats know that this is unworkable.
They are such political opportunists that they are still proceeding so as to paint all members of parliament as crooks. There is an element in the media that wants to believe that and that wants to portray that. I know that Senator Ray said, ‘Wouldn’t it be nice if, one day, one of the reports in any of the electronic media or print media actually spelt out what these commentators are getting paid?’ I am talking about what John Laws is getting paid or what Alan Jones is getting paid and whether or not they use their mobile phones to ring home and whether or not they use their work phones to ring home.

Senator Ian Campbell—Do you mean paid by the ABA or paid by 2UE?

Senator KNOWLES—Exactly. Who are they paid by? I am talking about the cash for comments thing. They rail against members of parliament but they never declare their self-interest. They rail against members of parliament travelling overseas, but there is a traffic jam out at Fairbairn if there is a plane going overseas. They are all trying to get up the gangway at the same time—with their mobiles, with their laptops and with every other apparatus they need for their jobs. Do they ever have an audit? No. Do they ever ring home when they are overseas—ring their husbands, wives, girlfriends or whatever—to say, ‘I’m okay. How’s the family?’

Senator Ian Campbell—I hope they do.

Senator KNOWLES—Exactly, Senator Campbell. I am not saying that they should not. I hope they do. That is what public life is all about and that is what other lives should be about, if we really want a decent country. But how do we know any of this? We just have to look at the second reading speech of Senator Faulkner, where he made the point that one of the key motivations for this bill is a Herald Sun poll that shows 54 per cent of people think politicians rort their entitlements. I would have thought that that would be a higher percentage. Why? Because of some of the people in this parliament. Look at Peter Andren in the House of Representatives. Forgive me, but the platitudes that come out of that man’s mouth! He has been here fully five minutes, does not understand the system and then goes yapping on television at every opportunity, just as self-promotion. Has he ever rung home? I wonder if he has ever rung his wife. I wonder if he has ever rung his children. If he has, according to this bill, he is in contravention of the entitlements.

Rather than try to counter the spurious belief—and it is spurious; Senator Faulkner engages in a bit of cheap opportunism—we just have to look at the effects. This creation of a permanent investigator into members’ and senators’ entitlements is just so intrusive that it is frightening. There are many people who ring a senator’s or a member’s office who do not want to be recorded in any way, shape or form as having made contact with the senator or member. They quite often ring about very serious matters and they do not ever want someone to be able to FOI a phone bill or FOI that they have been in contact with a member of parliament. But that is exactly what this bill will enable.

The roles that senators and members perform are many and varied. The bill places absolute discretion to investigate any aspect of a member’s or a senator’s entitlement in the hands of the proposed auditor. They can extract any record they want at any level of detail they want. What happens to that constituent who does not want any identification with a senator or member at all? There are very delicate things. There might be family law issues, and so on. They do not want that disclosed because some clown decides that our phone lists have to be made public.

They do not need a reference. They can jump up and investigate anyone at any time for any reason. They can say, for example, ‘We note that there has been a local council election in your electorate recently. We want you to certify that every ream and every sheet of paper used in your office—every photocopy done and every copy that has been made on the Risograph or anything else—has been solely for the purpose of parliamentary or electorate business.’ Who keeps the record? Who provides the information? According to this legislation, that is an outcome.

We note that there has been a local council election in your electorate recently. We want you to certify that every ream and every sheet of paper used in your office—every photocopy done and every copy that has been made on the Risograph or anything else—has been solely for the purpose of parliamentary or electorate business.’ Can
you tell me who is going to keep that record? How are people going to justify ringing home on that basis?

Senator Ian Campbell—Peter Andren would get his sister to do it. She works in his office.

Senator KNOWLES—That is another story, isn’t it? A lot of people who take on righteous roles in this matter actually have their families working in their offices. It is a very interesting proposition. But they could then go on to say, ‘We note that you have called the head office of your party or your union on several occasions. You have also called people who are factionally aligned to you. Are you aware that entitlements are solely for the purpose of parliamentary and electorate business, not party and union business?’ But, under this legislation, that is a very valid question that could be asked. They could also say, ‘We note that you have sent letters to people outside your electorate. Are you aware that that is outside your entitlement?’ Therefore, in the case of senators, when someone writes to us from another state and we respond to that letter, that is outside our entitlement. The mere fact that someone has asked a question of us and we have responded is, according to this bill, outside our entitlement. In the absence of any specific allegation, they could just turn up on the doorstep of your electorate office and say, ‘Here is a list of telephone calls that you have made from your office in the last six months. We want you to certify that every call from this office has been solely for the purpose of parliamentary and electorate business.’ Therefore, you have a situation where your staff are working back late at night and they are not allowed to ring their husbands, wives or children and advise them that they are going to be working late at night because that is not within their parliamentary and electorate business. How preposterous!

Do senators opposite realise the stupidity inherent in the bill that they are currently proposing? How many members or senators, particularly members in highly marginal seats, would be willing to spend days going through telephone records and justifying each and every telephone call? For those senators who might have forgotten why itemised bills were stopped by Labor back in 1991, it was because they did not want public servants to see who they were calling. Now we have seen an absolute backflip.

I have been in this place for 16 years, and I can tell you that I know of very few instances of people rorting the system. But I do know of senators and members on both sides who work very hard, and I do know of senators’ and members’ families who have to put up with an immense amount of criticism. All this criticism hurts them. They also put up with the absence of their family member to do their job, even when they are supposedly back in their electorate. With this bill we are saying, ‘Whatever you do, when you walk out your front door, you cannot even contact them. You can’t fax them, you can’t phone them and you can’t do anything, because we will have an auditor on your back.’

The ultimate irony—and I want to get onto this in the last few minutes that I have—is that Labor have put this forward. It is no secret to anyone in Australia. They were in office for 13 years, had the opportunity to do something about it and did nothing. It is not as though they did not know that things were going on and being done by some of their own, and they sought to do absolutely nothing about it. But this government has done something when there has been any evidence—and even when there has not been evidence—of any fraudulent behaviour. The safeguards and accountability are now an integral part of the process of administration of entitlements, and I want to quickly go through some of those.

The government introduced a policy that frequent flyer points should be used only to offset the cost of travel which would otherwise be at the expense of the taxpayer. We do not want people roaming around the world thanks to frequent flyer points, so that has been put in place. There is now six-monthly tabling of travel related costs, including travelling allowance payments, commercial fares, car travel, charters and the cost of self-drive vehicles. There is reconciliation of travelling allowance claims with evidence of travel before meeting the payment, a reduc-
tion in the rate of travelling allowance when members and senators stay in non-commercial accommodation, a 60-day rule relating to the submission of travelling allowance claims and a warning mechanism as the deadline approaches for senators and members who have not made their claims. Car travel in Canberra has been clarified so that members and senators may make reasonable use of the access available without risking allegations of misuse.

Once again, the public would prefer to have senators and members walking everywhere once they get to Canberra. I personally have my own car that I paid for, and I have had it for years and years. That is my choice. But, when people choose not to do that, the media would have them just walk. They say, ‘We don’t care where you live; you should walk to and from work,’ whereas people in the private sector can get cabs, they can get limousines, they can get anything and the company picks up the tab. But somehow the media think that it is different for a member of parliament. The journalist concerned can do that, but a member of parliament cannot in the execution of their job.

Senators and members who undertake overseas study travel are now required to submit a report upon their return to Australia detailing their activities overseas. If they fail to do so, they lose their entitlement to further overseas study travel. The cumbersome arrangements for the payment of home telephone accounts have been removed. If I have time, I will speak a little bit more about that later. Family travel has been made more flexible but within the existing financial limits, so it places no increased burden on the taxpayer but recognises the important role of families in the lives of senators and members. If that is a sin, I plead guilty and so does Senator Ellison. The old postage allowance has been modified so that senators and members are not put at risk by the build-up of credits in franking machines in electorate offices. The arrangements for parliamentary secretaries have been changed to establish a satisfactory constitutional basis for the entitlements. Telecard issuances and monitoring have been significantly improved. Senators and members now have to personally sign for their telecard to receive it, and any unusual usage of the card is reported to the senator or member. Telecard costs have now been included as a separate line item on the monthly management reports.

All of these changes have been instituted by the coalition government. Labor had 13 years to act, and they did not. Senator Ellison should be congratulated on the work that he has done to ensure that these measures were put in place. They represent major improvements in accountability and in the administration of entitlements. If any problems are identified, they are fixed.

I would like some answers from the opposition and from Senator Murray as to why this legislation should be supported when it will put an immense burden on staff. In many instances, we do not have enough staff now to do the job that is required of us. So we simply lump on them an accountability system that applies to every sheet of paper, every telephone call and every fax—everything that moves. I think that is totally and utterly unreasonable and unworkable. Nothing like it occurs in the private sector and nothing like it should be considered here.

The government has corrected any misuse of entitlements as it has occurred, and it seeks to do so on an ongoing basis. Let us not forget that an audit by KPMG found that less than two per cent of senators and members—not 98 per cent—had transgressed in any way.

Senator MURRAY (Western Australia) (4.31 p.m.)—We are debating Labor’s private member’s bill, the Auditor of Parliamentary Allowances and Entitlements Bill 2000. I will answer one of Senator Knowles’s many questions. As the debate progressed, she mentioned my name in conjunction with that of Senator Ray. This is a Labor bill, and I will come to its flaws later. We have our own bills and our own views—which differ somewhat from those which Labor has put before us. Having identified the bill’s authors, we will move through the general to the specific.

Before I initiate a general discussion, I must note that accountability measures come to the parliament in surges. It does not matter what those issues are; there are different
types. For instance, the coalition’s own charter of budget honesty was a reaction to a demand for a type of accountability. These things happen on that basis. There are four private members’ bills currently before both houses of parliament that are reactions to a perceived problem and an actual problem. Those four bills are: the Government Advertising (Objectivity, Fairness and Accountability) Bill 2000, the Leader of the Opposition’s bill, which is in the House of Representatives; my two bills, the Charter of Political Honesty Bill 2000 and the Electoral Amendment (Political Honesty) Bill 2000; and Labor’s bill, which is the subject of today’s debate. At the two previous Selection of Bills Committee meetings I have asked Labor to agree to combine all four of those bills as one reference to a legislation committee because I think these matters need to be reviewed and assessed as a group to gauge their overall strengths and weaknesses. I think this government, and the parliament as a whole, must deal with this issue on a legislated basis. I believe the government will come to that view—the community, media and political pressure is such that they must do so.

When I heard Senator Knowles’s analysis of, and reaction to, the bill before us, I noted that it was not important who did what when or what was done—let those who have done things take the credit that is due to them. What is important is what needs to be done. That is what this bill is about. Before we embark upon criticisms of the detail, we need to decide whether we accept certain principles. When I enunciate principles such as these, I find that parliamentarians seldom disagree. For instance, when I say to parliamentarians that we, in the exercise of our duties and through our offices—both in the Senate and at home in our electorates—are the recipients of public money and therefore should be accountable for it, I have never heard anyone not say, ‘Well, of course we should; that’s obvious.’ If I then go on to say that that accountability should include transparency and an auditing process—like any other field of government expenditure—they will generally answer, ‘Well, of course it should.’ The question then is: what practical measures are appropriate in the exercise of accountability, transparency and auditing? That is really where the focus lies.

However, I think we must first accept the principle and whether that principle is established properly in the way in which our salaries, allowances and electorate expenses are dealt with. My view and that of my party is that for a long time—for decades, not just years—it has not been. In terms of general remarks, we must also recognise that the climate has changed—not just in this arena, but in every field of human endeavour. About a year ago, the Institute of Company Directors produced a graph showing the amount of legislation that this parliament has produced over the last 100 years. It revealed—do not hold me to the details; this is a rough description—that in the last 10 years we produced more legislation than in the previous 90 years.

The reason for my raising that point in this debate is that I perceive that people no longer trust individuals, institutions or organisations to do the right thing. There has been a diminution of trust and an increase in cynicism in our society—and, consequently, the demand that there is legislation and regulation for everything we do. We must recognise that that applies to us as parliamentarians as well. The level of trust generally in society is lower. Of course, it is fanned and flamed by media reporting, which emphasises, if you like, the darker side of our national soul. Even though I accept the point made by both Senators Ray and Knowles that the level of honesty in our parliament is no better or worse than that in the community—and those are my words, not theirs; that is my interpretation of what they are saying—even though I accept that, the fact is that the perception which is within voters of there needing to be far more transparency, better reporting and more openness has to be dealt with.

Senator Knowles—By the media.

Senator MURRAY—No matter how it is created, we will have to react to it. That is my point, Senator Knowles: if we accept the principles which I enunciated earlier, we have to then say to ourselves, ‘Well, what is the mechanism by which those principles
will be met and by which this voter perception will be reacted to?

The other point I want to make is that this is not a federal parliament issue; this is a national issue. We have nine parliaments in this country; we have over 850 parliamentarians. How entitlements are dealt with is an issue for every parliamentarian in this country in every parliament, and we cannot deal with this in isolation. It is similar, if you like, to the Auditor-General situation. You do not just have one Auditor-General in this country; you have one for every state as well as the federal parliament. The reason for that is that you require the same principles of identification, of audit, of transparency, of reporting to be carried out in every parliament. In parliamentary terms, those are universal truths, they are universal requirements—and they need to be exercised as such. So, for those parties that are truly national and are represented in any parliament in this country, whatever decisions you make in terms of your accountability mechanisms have to be replicated. If Labor wants to go this route federally, it should be arguing that it should be going this route in every other parliament in this country.

There is also the question of probity and honesty. I made the point that we reflect community attitudes. We are as a group of people, I do not think, any better or worse than the people we serve. It is a fact that, in statistical terms, a percentage of the community does the wrong thing and sometimes does the criminal thing—and we would expect that to be reflected in the parliaments of this country. We know it to be so. There are parliamentarians who are subject to criminal convictions and fines, or who have even been jailed—former parliamentarians.

To go back to your percentages, Senator Knowles, if out of the 224 federal parliamentarians one per cent are crooked, that means there are two people that we have to find out and sort out. Frankly, I would not be surprised if there were two people of that sort, and neither should we be. But we have to guard against it through appropriate auditing mechanisms. If you take that same very low percentage nationally, you are talking of maybe nine parliamentarians. Our laws are designed for the wrong minority, not for the right majority. We have laws that deal with how people behave in society and what they can or cannot do, because of a minority. There are not many people who resort to murder, but we still need laws for murder. That percentage argument has to be put into that perspective.

Let me turn now to the bill before us. I think some of the criticisms expressed by Senator Knowles have bite. For us Democrats, the most important criticism probably relates to the fact that the roles or the intended roles of Labor’s auditor—and I agree with Senator Ray that the title is wrong—are confused. The Democrats are of the opinion that the Auditor-General is the most experienced, capable, best resourced auditor that we have; and that, if his or her powers or abilities are limited with respect to parliamentarians, they should simply be enlarged so that he or she can exercise that duty.

We have argued in my bill, the Charter of Political Honesty Bill 2000, for a commissioner for ministerial and parliamentary ethics. The timing of the laying down of my bills in this parliament was particularly acute, because it was within a couple of days of what is now known as the ‘Reith affair’, the telecard issue. But its genesis was in some cases decades before—and, certainly in my case, years before. I should remind senators that the Charter of Political Honesty Bill 2000 has four parts: to prevent the misuse of government advertising for party political purposes; to require truth in political advertising; to establish a comprehensive code of conduct for ministers and other members of parliament; and to ensure that public appointments are made on the basis of merit.

Part of that bill, such as the bit about truth in political advertising, relates to campaigns which we have been running since the early eighties and which were reflected in South Australian legislation and now exist. All the other elements of the bill have come about as a result of my and our frustration with putting up propositions as amendments to bills or presenting ideas which have been rejected by the Senate. So we have accumulated them and put them in as a block and here they are...
as a legislative footprint before you. We recommended the Commissioner for Ministerial and Parliamentary Ethics as recently as 1996, and it was repeated in 1998 in the federal campaign. Our approach is entirely different from Labor’s. Our bill would establish a Commissioner for Ministerial and Parliamentary Ethics appointed by the Presiding Officers in accordance with what are known as the Nolan appointments on merit formula. Nolan was the person in England who headed the 1995 Nolan commission and managed to get the government to accept an appointments on merit approach there.

The Presiding Officers would be required to consult with the leaders of all parties prior to making the appointment. The commissioner may be removed by the Presiding Officers prior to the expiry of his or her term for misbehaviour or incapacity following an address by the Presiding Officers to their respective houses. So it is a parliamentary body. The commissioner would have the following functions in relation to the code of conduct: to review the codes of conduct for ministers and members of parliament at least once every two years, to implement an education program, to advise on ethical standards, to recommend guidelines to both houses of parliament on interpretation, to investigate complaints of breaches of the code and to do such other functions in relation to parliamentary ethics and standards as may be determined by resolution. What we are seeking is somebody who would advise on setting standards, who would administer those standards, who would give advice to people who demanded it, who would investigate breaches and who would make recommendations. The attempt in that bill is to avoid the conflict of interest which is absolutely apparent in the way in which the Prime Minister has to deal with breaches within his own cabinet and his own party and to reduce the conflict of interest which is apparent in this parliament. We would see the Auditor-General as fulfilling the auditing role. That contrasts very markedly with Labor’s approach.

We do, however, welcome Labor’s approach from this point of view: it seems to us that they have accepted the principles I outlined earlier and they have recognised that they need to do something to lift the legislative standard in this transparency area. To assist them will be the review which the Senate last week requested the Auditor-General to undertake at our request and with Labor’s support but, unfortunately, with the coalition’s opposition. The Auditor-General first needs to identify where rules and guidelines on expenditures and entitlements are unclear or imprecise, whether the administration of such allowances, entitlements and expenditures is adequate, whether the bureaucracy have sufficient resources and means to do the job required of them, which line items should in future require regular audit, which line items should be publicly reported singularly or in the aggregate, which line items should be benchmarked to determine unusual or excessive expenditure, and which line items should be subject to comparative assessment between parliamentarians. We think the Auditor-General should determine which expenditures and entitlements are potentially at risk of abuse and should be tightened. In other words, in that package of consideration, Senator Knowles, are some of the answers to your questions. The practical issues as to how transparency and reporting can be undertaken without affecting detrimentally the way in which parliamentarians must do their job can be carried out by the Auditor-General. I would think the Auditor-General’s report, if he undertakes that request from the Senate, would be absolutely seminal to the proper introduction of an accountability device such as either we recommend or Labor are recommending. I think that is a key step to be taken, and I am personally delighted that we were able to get approval of the Senate for that request to be put to the Auditor-General.

In my closing remarks, I want to go back to the fundamental issue—that is, there will never be a parliamentarian’s office, whether in the electorate or in the parliament itself, which does not allow people to use phones to phone home, to see how mum is, to order taxis. What we are discussing in these issues is the wholesale rorting and abuse of
entitlements or electorate expenditures by people who do not abide by the norm. We all know that that potential exists. Therefore, it is absolutely vital that, if the government do not accept this proposal of Labor’s, they come up with something of their own which meets the very great demand there is for much better transparency and honesty by politicians in the exercise of their duties.

Senator LUNDY (Australian Capital Territory) (4.51 p.m.)—The purpose of the Auditor of Parliamentary Allowances and Entitlements Bill 2000 that Labor has brought before the Senate is to create an office of Auditor of Parliamentary Allowances and Entitlements. This initiative was originally proposed by the ALP three years ago and was incorporated into the 1998 ALP platform. Lamentably, Mr Howard chose to disregard Labor’s proposals, something I am sure he now regrets, considering the series of unethical and inappropriate actions of which many in his party have been found culpable. So now we have before us today a Labor initiated bill which seeks to clean up the mess created by the coalition and restore public confidence in the political system. This bill will establish the office of Auditor of Parliamentary Allowances and Entitlements. The principal functions that the Auditor of Parliamentary Allowances and Entitlements will be engaged in include investigating complaints against members of parliament who misuse their entitlements and providing politicians with independent advice on ethical matters.

Specifically, the auditor will have the power to undertake inquiries on his or her own initiative and then to report to both the House of Representatives and the Senate on any matter relevant to this act. The auditor will also be able to make recommendations to either chamber and to the minister of the day about changes to the system of parliamentary entitlements and allowances. Importantly, the auditor will also have the powers in relation to parliamentarian staff who are classified under the MOPS Act. These powers relate specifically to requests for information to be provided to the auditor or to produce requested documents or give evidence as the particular circumstances require. In short, the office of Auditor of Parliamentary Allowances and Entitlements will act in a similar manner to that of an ombudsman or Auditor-General in that they will have certain codified powers and the ability to provide independent advice. For example, the auditor will be able to investigate matters brought to their attention by either a minister or the parliament. The auditor will be able to initiate sample audits on how the members of parliament use their entitlements. The auditor will also have powers to make recommendations for modifications to the system of entitlements. Furthermore, the appointed auditor will be positioned so that they can give advice to members and senators about ethical matters related to the use of their entitlements.

This latter function is very significant because, for the first time, members of parliament will be able to seek genuine independent and impartial advice about ethical issues that may arise. Of course we would not need an auditor with those powers if the coalition’s own guidelines and ministerial protocols had been structured transparently and then followed to the letter in the first place. If Mr Howard had actually enforced his code of conduct, if Mr Howard had acted swiftly to deal with breaches of entitlements and unethical behaviour or if Mr Howard had adopted Labor’s proposals three years ago, then we might not be here today debating this bill. But because the coalition has not done the right thing, we are currently experiencing a very general and negative perception of politicians. Therefore, this bill will hopefully usher in a period during which the reputation and standing of all federally elected representatives will be enhanced.

Transparency and openness are two key motivators in ensuring that all members and senators comply with the rules and regulations laid out. Ensuring that the details about entitlements are made public and open to analysis by the legislature will ensure that members of parliament are well and truly accountable for how they use taxpayers’ money. Considering the litany of betrayal of public trust that has characterised the Howard government, this bill should be welcomed by every single member of this par-
The truth is: this bill has been far too long in coming—too long in the eyes of many Australians who are fed up with politics seemingly being dominated not by policy and ideological debates about social policy and economic policy but by rorts and misuse of entitlements. There is no doubt that the tabloids lap up the rort stories far more enthusiastically than they do the serious debates about social welfare, for example.

We know that many other major Western democracies already have in place offices or commissioners overseeing ethical standards of members of parliament. So, in this respect, Australia has been lagging behind in creating such an office along similar lines to the British Parliamentary Commissioner for Standards. The behaviour of Minister Peter Reith, in particular, was one of contempt for the ethical standards required by the national parliament and its representatives. Perhaps if the Howard government had adopted Labor’s proposals, as I said before, three years ago, then Mr Reith could have sought independent advice and paid back the $50,000—

Senator Ian Campbell—Mr Acting Deputy President, I rise on a point of order. On three occasions the senator has reflected on members of the Liberal Party as a class, members of Mr Howard’s party as a class and now Mr Reith as an individual. It is entirely out of order certainly to do the latter, and I would put it to you that it is out of order to do the two former.

The ACTING DEPUTY PRESIDENT (Senator Bartlett)—Perhaps in accordance with a ruling made a week or so ago, under standing order 193(3), it might be wise not to use offensive imputations against members of either house, if possible.

Senator LUNDY—Mr Reith’s actions and those of some of his colleagues have done little to enhance the reputation of elected members.

Senator Ian Campbell—I would request that the senator opposite withdraw her imputation against members of the Liberal Party, particularly Mr Reith.

The ACTING DEPUTY PRESIDENT—Perhaps withdrawing imputations against Mr Reith would be helpful, Senator Lundy.

Senator LUNDY—Are you instructing me to withdraw?

The ACTING DEPUTY PRESIDENT—I am asking you to withdraw, yes.

Senator LUNDY—I withdraw.

Senator Ian Campbell—I thank you for the ruling and I thank Senator Lundy for the decency of withdrawing her unparliamentary remarks. But I also put it to you that applying the words ‘breaches’ of ethics and ‘unethical behaviour’ to members of Mr Howard’s party is equally an imputation against members and senators.

The ACTING DEPUTY PRESIDENT—My advice and my reading of the standing order is that it relates to members of houses of parliament, not members of a party. I realise this might be a thin dividing line, but it seems to come on the other side of it.

Senator Ian Campbell—So what you are saying is that it is entirely parliamentary for me to reflect on the gross unethical behaviour of members of the Australian Labor Party, and I so do. Is that within standing orders?

The ACTING DEPUTY PRESIDENT—It is not within standing orders to do so via a point of order, but it would be if you were doing so in debate, as I am advised, yes.

Senator Ian Campbell—Thank you for your advisory opinion.

Senator LUNDY—It is, however, an unfortunate reality that many voters do not differentiate between the political parties when they are surveyed about the honesty and integrity of politicians and the individual politicians themselves. It is extremely frustrating to read that the unethical and inappropriate actions of a few people can reflect on us all, but that is the case until we collectively act to rebuild the public’s trust. As shadow minister for youth affairs, I am constantly talking with young Australians. And one of the main barriers they see with respect to engaging in political activism and participation in public debate is that many of them are deeply cyni-
cal, apathetic and plain disgusted with some of the behaviour they see within the political forums of this country.

Part of this cynicism comes from the way in which young people are stereotyped and categorised in particular ways that negate any positives that they have and that highlight the controversial. Part of it also derives from the scepticism they have about their political representatives and the way they perceive their conduct. There have been a number of polls specifically targeting the youth sector, and these polls reveal that an exceptionally small percentage of young Australians trust the messages that politicians disseminate. In one poll only two per cent of Australians aged from 15 to 24 said that they trusted politicians to inform them about politics. The majority of young Australians in this poll trusted their family, teachers and the media more than they trusted politicians. A Morgan poll from last year found that, when asked to rate professions in terms of honesty and ethical standards, federal and state members of parliament were viewed positively by only 13 per cent of respondents.

Survey results like this are deeply troubling and indicate just how much ground needs to be made up in order to garner the trust of not just younger people in Australia but the whole population. Let me remind the Senate that young people in the 15- to 24-year age grouping make up 15 per cent of the population, yet they are under-represented in structural and political decision making roles in Australian politics. Not only are they under-represented, but they are often bombarded with negative messages about the political system.

This was brought to the fore during last year’s republic referendum. A situation that certainly sticks in my mind is the quite absurd experience we had when a coalition minister, Mr Abbott, was going around telling young Australians that politicians could not be trusted, particularly with respect to appointing an independent Governor-General. This message, which was repeated loud and wide by Mr Abbott in his campaign for the monarchist side of the republic debate, did us so much damage in the way young people perceive politicians and the role we have in this and other parliaments in the country. The Abbot approach—obviously endorsed by the Prime Minister, who also took a monarchist view in that debate—exposed how low the leadership of this country was prepared to sink to divide and foster distrust in the community. For what purpose? It was nothing more than short-term political gain, and in this example it was with respect to the republic referendum.

Public trust and public confidence are absolutely essential if young people are to engage with our political system. We must act in a positive and progressive manner to ensure that the highest standards of accountability and trust are set. We stand here and we continually ask young people to take on leadership roles. We encourage them to stand up in front of their peers and demand their respect and lead by example. And, yet, we have a situation in the federal parliament where our leaders do not lead by example; they lead by trying to foster division and they lead by trying to denigrate the political institution that was designed 100 years ago—we will be celebrating the Centenary of Federation next year—to guide this country through all circumstances. Unless we do this, the next generation of voters will continue to be turned off by the negative connotations and images that so often of late have dominated the political landscape.

In many respects, politicians are in the same boat as members of other services, like the police force and the armed services. They are suffering in terms of lack of recruitment, and part of this can be attributed to recent media attention focused on unethical and inappropriate behaviours that are reflected negatively across the entire spectrum of these professions. If young people perceive that a profession is beset with unethical practices and tabloid scandals, they will not engage. They do not want to be a part of it, and they will turn their backs and find a profession that they can feel proud to be a part of.

The sporting world is going through a similar crisis of trust with the honesty and integrity of sporting representatives being called into question. It is interesting to study the parallels between the cricket scandal and
the scandals that have characterised the Howard government since 1996. Given that cricket is the Prime Minister’s obsession, he of all people should be ensuring his party supports this bill. By failing to deal with the unethical behaviour of cricketers, the cricket world has been rocked by scandals, allegations and mistrust. If the powers that control national and international cricket had adopted a code of practice that was independent, transparent and enforceable, then I have no doubt that the current crisis in cricket would not be occurring. However, they adopted the Howard government approach—that is, to do nothing and hope it will all go away but pay a lot of lip-service along the way.

Trust is something that has to be earned. Words have come so cheaply and never so cheaply as those uttered by the Prime Minister in reference to the coalition’s code of conduct. But it is actions that the citizens of Australia will judge this parliament by. And it is in taking action that Labor brings this bill before the house. This bill is about re-establishing that trust through transparent and open measures that will enhance the standing of the federal parliament and ensure that all members and senators have access to independent and authoritative advice.

Senator FERRIS (South Australia) (5.05 p.m.)—Like so many of the policy criticisms that come from those opposite, they are always characterised by a curious failure to acknowledge that they had an opportunity to change or improve this particular policy administration over 13 long years in government. It is a little like the outsourcing or the cuts to the ABC which Labor, we know, would most likely have done in government in time. We need to question what was done in government by the previous administration: this time it is in relation to the administration of entitlements.

Sadly, many Australians have a somewhat negative view of politicians and their entitlements. I am sure I am not the only one who is often confronted by members of the community questioning me about my use of entitlements, and of course I am always very happy to answer. To preserve our democratic process, it is important that this negative view of politicians is dispelled as quickly as possible, because it only gives vituperative people in this place the chance to engage in acts of cheap populism. Having read Senator Faulkner’s speech on the second reading to the Auditor of Parliamentary Allowances and Entitlements Bill 2000, I was struck by the examples that he used to justify having this legislation. There were allegations about Dr Colston, Dr Woods, former Minister Sharp and Minister Peter McGauran—all a product of a different time and a different style when it comes to the administration of parliamentary entitlements.

Perhaps at this point it is worth noting that Senator Lundy said that independent and impartial advice is already available to politicians. She said that you just have to ring up the branch managers of Ministerial and Parliamentary Services. Those people are in fact public servants. They are not politicians and they are the ones who administer the entitlements. They give advice if they are asked. While we know that Senator Faulkner’s bill is more about playing to the 54 per cent of people he quotes as believing politicians are rorters, it is obvious that he is not serious about such reforms. Pollie bashing may have become a popular and fashionable sport but, by and large, the members and senators in this parliament use their entitlements correctly. While mistakes have unfortunately been made in the past, they are thankfully only a tiny minority. In fact, in 1997 an independent audit of travel allowance claims conducted by KPMG found that the error rate of politicians in the use of entitlements was just two per cent. To put that in perspective, the Auditor-General usually does not investigate discrepancies of less than five per cent.

This government has continued the basic allowances and entitlements of the previous Labor government. Telecards, fuel cards, leased vehicles and mobile phones are entitlements supported and, in many cases, introduced by Labor. However, there is one very crucial difference between our approach and that of the previous Labor government, and that is in the area of accountability—perhaps the most important area of all. We have reforms to the entire system of
reforms to the entire system of entitlements, reforms that Senator Faulkner’s government curiously failed to even contemplate.

Let us have a look at telecards, for instance. We have now made telecard costs a separate line item in monthly management reports. Members and senators now have to personally sign for a telecard, and they are immediately notified should any unusual use of the card be noted. There are other things we have done other things to strengthen accountability in this area. We have introduced a policy that ensures frequent flyer points given by airlines can only be used to offset the cost of travel. The rate of travel allowance when staying in non-commercial accommodation has been reduced, and claims are now only paid once evidence of travel has been provided. Senators and members who take up overseas study allowance travel now have to submit a report when they return to Australia. Importantly, we now table six-monthly travel related costs, including travel allowance payments, domestic and international travel, the cost of self-drive vehicles and the use of charters. Senator Faulkner, why didn’t you and your government introduce this probity? What did you do and what did your government do to make the administration of entitlements more accountable when you were in government?

I turn now to Senator Faulkner’s bill, which is, in my view, highly intrusive and probably quite unworkable—I have a sneaking suspicion that Senator Faulkner knows this as well. For example, the bill establishes an officer of Auditor of Parliamentary Allowances and Entitlements, with the auditor being granted a 10-year term. I could find no information in Senator Faulkner’s second reading speech as to why the auditor would be given a 10-year term when the standard term for Public Service appointments is five years. What about the obvious conflict of interest contained in the bill, whereby the auditor is paid by the Remuneration Tribunal and yet the auditor might have to make critical comments on the tribunal’s determinations? Then, interestingly enough, there is the proposed role of the auditor. According to the bill, he or she will be not only the adviser for members and senators on using their entitlements but also the investigative body for those same entitlements and the agency that recommends change. Surely, it is a little odd that the centrepiece of this legislation—that is, the auditor—has absolutely no clear role to fill. If anything, the confusion the auditor would create as it tries to fulfil those three dimensions of its role would create more difficulty and could lead to more breaches of entitlements.

Senator Murray said words to the effect: ‘Murder laws are to catch murderers, not innocent people.’ I agree, but the problem with this bill is that the potential powers of the auditor are so great that they represent a threat to the privacy of the vast majority of honest members and senators, I notice also that, in section 29(6) of the bill, any offence, even the most trivial, could immediately become a matter which has to be referred to the Australian Federal Police. Surely, this bill is merely a crude populist gesture that does a great disservice to all the honest and honourable members and senators in this place.

Remarkably, it is quite difficult to find out what Senator Faulkner himself has done since he was elected, even when he was in government in the previous administration, to reform any branch of parliamentarians’ entitlements and the administration of them. Worse still, he refuses to acknowledge that the efforts of this government have made the whole process more transparent and more accountable. There is now public scrutiny, through each of the chambers of this parliament, of every single member. I am sure I speak for many colleagues in this place when I say that on the day the entitlements and costs are tabled you can pretty well expect to get two or three calls from the media asking why you were in this place or that, why you flew to this place or that and why the costs for this item or that were what they were. There is no doubt in my mind that the opportunity to scrutinise some of the costs incurred by politicians in one way or another is in fact looked forward to by members of the press gallery and invariably finds its way onto the front pages of the newspapers in the state where the politicians come from. I can remember several opportunities when those
lists were published in my home state of South Australia.

But all Senator Faulkner now offers us is a confused, poorly thought-out piece of legislation which aims to score a few cheap political points and reinforce negative attitudes to politicians in the wider community. Surely this is the last thing that members, senators and the wider community need in this place or in any other place. It does nothing to enhance the positive view that some people in the community do have of their politicians; that is, that they are honest, hardworking and try their best to help the community and bring in good policy. I urge this chamber to reconsider Senator Faulkner’s bill.

Senator HOGG (Queensland) (5.15 p.m.)—I rise to support the Auditor of Parliamentary Allowances and Entitlements Bill 2000, but I think there has been a little bit of misunderstanding on the part of some people as to the real intention of the bill. Let me say at the outset that I think this bill, if it has achieved nothing else this afternoon, has achieved one thing: it has caused a debate to take place on the issue of accountability and transparency in the use of the parliamentary entitlements and allowances that are given to senators and members. I think that that in itself is a very healthy thing. The unfortunate part—and I think Senator Knowles alluded to it—is the fact that the same sort of scrutiny does not apply to those in the field of journalism and the like. But I will come to that later on. Two things need to be said at the outset. Firstly, there is a determination process and, secondly, there is an accountability process for the entitlements and allowances. With those processes comes the transparency of the allowances that are paid to people in this place.

I have a little bit of experience, going back over a fair time, with the issue of accountability and transparency; it is not something new to me at all. In my former life as a full-time trade union official I found myself having to be accountable and transparent in all that I did. If I had not done so in that role, I would have found myself no longer in office, and the organisation and the people I represented would have fallen by the wayside. I believe that I have imported the accountability and transparency ethos that I have developed over a long period of time—not only in my former work life but in my personal life—into this lifestyle. I believe that not to be accountable, not to be transparent, is a recipe for disaster. It is not just a recipe for cynicism amongst and criticism by those out there in the general community but a real recipe for disaster, because those people lose faith and trust in the people in whom they have placed that faith and that trust. Once we have caused a breakdown in trust, faith and goodwill among those people whom we represent, we cause a breakdown of the system in general.

This bill is about the fact that some politicians—regardless of their political persuasion—have, over time, acted badly. And, to answer one of Senator Ferris’s claims, in many instances this parliament has moved only in response to abuses that have been exposed rather than being proactive and preventing those abuses taking place in the first instance. Nonetheless, it should be said that those people who have acted badly over time have deliberately put their own personal greed and disposition before those whom they represent. The bill is about putting in place an Auditor of Parliamentary Allowances and Entitlements to restore public trust and confidence in politicians and in the political system. Much was made of the 54 per cent that Senator Faulkner mentioned in his second reading speech. But I think it would be fair to say, and I think this would be acknowledged by most, that if you get out on the hustings you will find that many people—ordinary people, average people—are cynical about the entitlements, the pay and the allowances given to politicians. Many of them believe, rightly or wrongly, that we lead a life of absolute luxury, that we are fairly constrained in the amount of time that we spend at work and that most of our life is spent in some sort of social ether, which I have yet to find. That misconception is fuelled by media perceptions—quite wrongly and quite poorly, in my opinion. Nonetheless, a large number of people out there believe that.

The purpose of this bill undoubtedly is not to try to put in place a process for determi-
nation of the entitlements and allowances that members and senators receive but a process to audit the various parliamentary allowances and entitlements. The interesting thing is that currently the only scrutiny of these entitlements is, as I understand it, done through Ministerial and Parliamentary Services, which is part of the Department of Finance and Administration. Senator Faulkner’s bill goes to the appointment of an independent auditor. It was raised here this afternoon—by Senator Murray, I think—that that scrutiny could well be carried out by the existing Auditor-General. That may be a reasonable point. Senator Ray raised the issue of whether or not the word ‘auditor’ was the correct title. Again, that was something that found favour, as I understand it, with Senator Murray—and that is quite a reasonable debating point. But the fact is that something is needed because of the damage that has taken place over a period of time. Senator Faulkner says in his second reading speech that the purpose of the auditor will be to:

... investigate complaints relating to the use of entitlements; inquire into any matter referred by the Minister or Parliament—

That is fair. He continued:

undertake sample audits of the use of entitlements by members of parliament; undertake inquiries on his or her own initiative; make recommendations for changes to the entitlements system and provide advice to members of parliament on ethical issues associated with the use of parliamentary entitlements.

Currently, if you are seeking advice on your entitlements you rightfully go to the people who work in Ministerial and Parliamentary Services. I cherish their advice. It is good advice. But in the end they are the people who give you your six-monthly report and your monthly report on the use of your entitlements. It seems to me that it only makes good sense to divorce those roles, to separate the role of advising members of parliament on ethical issues associated with their entitlements from the role of the administration of those entitlements, which rests with Ministerial and Parliamentary Services. The intentions outlined in Senator Faulkner’s second reading speech are quite reasonable tenants on which to base the appointment of an auditor of parliamentary allowances and entitlements.

I have had a number of papers from the library—and I must say they have been very helpful to me in looking at the range of issues surrounding this debate—one of which shows that payment to members of parliament in the Westminster system, the system that we embrace, have been made since the 13th century. I would imagine that there has been, over that period of time, claims and counterclaims of corruption, misuse of entitlements, and so on. This is further backed up in a paper from the library, which talks about the British system. It states:

In the 18th and for much of the early 19th century, a seat in the House of Commons could be a lucrative source of wealth in the form of sinecure offices and pensions. Many were prepared to pay large sums for a seat or sought the patronage of the magnates who had seats at their disposal. In so far as Members were paid during the period, Lloyd George described the system in 1911, during the debate on the resolution to pay MPs a regular salary as, “indirect, surreptitious and corrupt”. Of course, many Members were equally concerned to maintain their independence of such corruption.

So accountability and transparency have been a problem over a long period of time—not just in this parliamentary environment but in parliaments established far longer than ours. The problem, though, in many instances—as has been acknowledged here this afternoon—has been caused by the few. That is the central issue. It has been caused by the few but attributed to the many. Therein lies much of the problem. Everyone is tarred with the same brush—by accusations that beset a few of the people who seek to abuse the privileges they obtain once they become parliamentarians. That is unfortunate indeed. But let us not be under any illusion. There are people who abuse the trust that is placed upon them in other areas of employment as well. So we are not on our lonesome. But we are in a situation where we are under the public purview, we are scrutinised by the media, we are scrutinised by the public at large; and they have a higher expectation, I believe, of the accountability of politicians than of many other people out there in the community.
In looking at the general issue I looked at what happened in other countries. It is interesting to note that in the documentation the Parliamentary Library provided me was a comparison between a number of countries. The countries included the United Kingdom, Canada, the United States, Belgium, France, Italy, Greece, the EU and Australia—just to name a few of the places that were in the comparative charts. The issues covered were salary, review of salary and allowances, allowances, secretarial research staff, office accommodation, telephone, postal services and stationery, travel, subsistence and constituency expenses. Not every nation that was canvassed in that document had something under each of those headings, but it covered the broad range of entitlements that we as politicians receive.

Interestingly, the United States has an office of government ethics, which I understand reviews the entitlements and looks at the conduct of the various politicians in the use of those entitlements. Canada has an ethics counsellor, and the United Kingdom has a parliamentary commissioner for standards. There are varying degrees of scrutiny, but from what I can gather—and I think this was confirmed by Senator Ray—we probably have as much scrutiny and close scrutiny as any of those parliaments that I have mentioned throughout the world. Irrespective of that, the cynicism and disbelief still exist out there.

When I came to parliament 4½ years ago I found myself in the position where I had to set up my own internal procedures to enable me to support myself in terms of accountability not only to the public but also to Ministerial and Parliamentary Services, and so on. No-one should be under any misapprehension that I was handed a pro-forma which told me what to do, how to do it, what to avoid and what not to avoid. That was certainly not available to me. Nor did anyone give me any administrative systems which linked in with either the ministerial and parliamentary systems or anything else that could assist me in reaching reasonable accountability standards. I found that over a period time I had to put in place my own administrative procedures.

Of course, each month we receive a monthly management report from Ministerial and Parliamentary Services. I have now got into the habit of not only trying to check this but also trying to make sure that even such a thing as their year-to-date figures are correct. Let me say that I have found a number of discrepancies in their year-to-date figures. When I have queried those figures, what have I found? That I have had some other senator’s expenses attributed to mine and the overtime for another senator’s staff attributed to my account, and so on. When I have raised these discrepancies with Ministerial and Parliamentary Services they have been corrected. In some instances this has taken some time, but without that close scrutiny I could have easily exceeded some of the entitlements that might have been allowed for use by my office.

I do not think it is advocated that everything be placed under the close scrutiny of the Auditor-General, but it seems to me sensible and reasonable to separate the audit process from the ministerial and parliamentary group. They are the people responsible for administering the various entitlements, and it seems to me that ‘administering’ is what they should do. But this should be on the basis that there is an independent auditor—or call the person by some other name—who will inquire into any complaints about entitlements and look at making their own inquiries and taking their own initiative to audit certain entitlements and allowances paid to senators and members. If one reads this proposal by Senator Faulkner reasonably and sensibly, it is not going to go down to every minutia. Certain things are already very closely and very successfully scrutinised. Our air travel, for example, is very well covered. You now get the ticket number and the flight number, and it is very simple and very easy—

Senator McGauran—What is not scrutinised properly?

Senator HOGG—There are a range of things, and I am glad you raise that, Senator McGauran. A number of things should be subject to closer scrutiny—like Comcar, for example. I could tell you a story about Comcar charges.
Senator Troeth—That is a different question.

Senator HOGG—We can come to that. Unfortunately, Senator Troeth, I am going to run out of time. But those are the sorts of issues that need to be canvassed and subject to an independent auditor. They should not be subject to a review process by the people who administer the process. This is what we lack under the current system. (Time expired)

Senator TROETH (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (5.36 p.m.)—It is very timely that this debate has arisen now, and there is no doubt that some of the questions posed and some of the answers given by members and senators during this debate have been quite instructive. But I would like to make it clear from the outset that the government regard this bill as an insult to every member and senator. The fact is, much as the opposition would like to think otherwise, there is no widespread rorting of entitlements. I think Senator Murray made the point that, if the statistics were applied properly, there would perhaps be two members of federal parliament at any given time who were actually indulging in some rorting. Nevertheless, I would be the first to agree that we would always have to be watchful that we as members of parliament do not abuse the entitlements we are given, courtesy of the taxpayer. But I believe that the present system already provides for that accountability, transparency and openness to be possible.

Senator Murray also remarked that accountability comes to parliament in surges. But at the moment we seem to be refining and refining and refining. Where will this level of scrutiny finish? I believe that the bill reaches a level of scrutiny that simply makes it impossible for any government to function. To institute another office, another officer and another level of bureaucracy to deal with this problem is simply beyond belief. Senator Murray also indicated that there should be principles which apply to parliamentary behaviour or the behaviour of members of parliament in respect of their entitlements. Well, there are principles, and those are the guidelines which have been laid down both by the Department of Finance and Administration and by the Prime Minister in various edicts.

To set in place the level of bureaucracy that the Labor Party would like is simply not dealing with this problem. In any group of 100 people there will, of course, be wrong-doers. We have had instances of this in the past; no doubt we will have instances of it in the future. If people are determined or predisposed to find a way around the system, they will set their minds to do that and they will inevitably do it. I hope that inevitably they would also be found out. But at the moment we have a very good system in place for dealing with this as it arises.

In contrast to what Senator Lundy said, there is transparency and openness in our system. We have a legislative process which can be used. Senator Lundy said that it cannot be used and needs further refinement. It can be used. We have this place, the parliament, where question time and orders for the production of documents are regularly used by the opposition and the Democrats. I cannot say that I have ever noticed that they have been particularly shy about asking for or demanding the production of those documents. There is the Senate estimates process, where individual officials can be called to account for the administration of entitlements. Again, I have never noticed any lack of use of the time available for the opposition to question officials on the way in which those processes work. There is, as a last resort, the Auditor-General, who can investigate the administration of entitlements. The Auditor-General’s office operates perfectly well already. As well, if you took this bill at face value, you would assume that the Department of Finance and Administration is unable to look after its own territory. I totally reject the implied slur that this bill also places on the officers of that department. There is already in place a range of mechanisms which the public can count on.

I would also like to comment on Senator Hogg’s remarks. He said that the proposed role of the auditor separates the role of advice from administration. The key point of this bill is that the proposed auditor will not only combine advice with administration but also combine the roles of enforcement and
So this bill defeats Senator Hogg's express purpose. As Senator Knowles has already remarked, the auditor, under this proposed role, becomes the rule maker, the policeman, the jury and the Law Reform Commission. That becomes an impossible role for any person to play.

Senator Lundy, unfortunately, became totally diverted with the public view of politicians. Senator Hogg went on—and, possibly, so did Senator Lundy—to describe this bill as proactive and said that the role of the government until now had been reactive in only reacting to any perceived breach of the law. I would also like to suggest that the way in which this government has moved has been totally open, honest and transparent, which defeated the total lack of interest which the Labor Party displayed when they were in office for 13 years. As I said, there are transgressors in every party. I have no doubt that, during the 1970s and the 1980s, for every 100 politicians there would have been people likely to transgress. In that case, why didn't they during that time move to make rules or guidelines which dealt with the way those people offended? They did not, and they stand indicted because of it.

To introduce a piece of legislation like this is to suspect every member and senator. We do not need to encourage cynicism—as various speakers have remarked, there is plenty of that around already. But that is what we will do if we agree to this legislation to put in place a law enforcer whose sole role is to watch politicians and see that they are not doing anything wrong. Senator Hogg also compared this with the rotten boroughs of Georgian England, which are well known to any middle school student of history. I am sure you would agree, Senator McGauran. Didn't you learn about that in junior school history? But to compare this with the modern system that we have now is totally ludicrous.

Senator Hogg also touched on a very interesting point: when you arrive in parliament, there is no book given to you on day one as to how to be a senator or how to be a member of parliament. You have to think about this for yourself and decide how you are going to play that and what you are going to do. We have already agreed, on the figures available, that 98 out of every 100 members of parliament choose to go by the rule book and look after what they do very well. Frequently, when I have looked down the list of domestic flights that are provided, to my amazement I have found myself travelling both on an Ansett and a Qantas flight at exactly the same time to different places. This obviously needs to be picked up by the member or senator concerned and pointed out to the Department of Finance and Administration. It obviously arises through a mix-up with tickets or some similar occurrence. The department is only too willing to rectify that sort of error and the matter is resolved.

We have had instances in the past where members and senators have, wittingly or unwittingly, not looked at what they are supposed to have done—in some cases, in the more distant past, when those systems were not in place. They are now in place, and those systems have been put in place by this government. Those members and senators who want to check up and who want to run a
proper system—and, again, that is 98 out of every 100 members of parliament—can check that what they have done is correct to the best of their knowledge. There will always be room for human error but we have seen room for errors of other sorts in the past and, naturally enough, they should be looked at very closely indeed.

We see this suggestion for a standing auditor of parliamentary entitlements to be unworkable, intrusive and unwarranted. Several of my colleagues have pointed out the reasons for that already and I will not take the trouble to repeat them. However, I will say that I certainly believe that we can do without this piece of legislation. In his second reading speech, Senator Faulkner used as examples former Senator Colston, former Senator Woods, former member Mr Sharp and so on. They are products of a different time and a different style of administering entitlements. Since then, we have tightened up considerably on how members and senators should run their offices. This bill seeks to fix a problem that no longer exists.

I have no doubt that the Labor Party will seek to portray our opposition to this bill as some sort of cover-up and that we do not want any of our entitlements further explored. The mechanism is there to explore them and for proper scrutiny, and this is what this government is trying to do. It is not a cover-up. We will be opposing this bill for the very clear reasons that have been presented today: it is unwarranted, it is intrusive and it is unworkable.

Senator O'BRIEN (Tasmania) (5.48 p.m.)—Isn't it amazing that this is the government that puts through legislation that requires people who are on social security to account for their work seeking activities and the like, that puts through legislation that requires small business to complete business activity statements and puts the onus on them to collect tax, to fill in statements to engage accountants and to report on their activities, that puts through legislation that requires companies—just as parliaments have in the past—to publish accounts which have been audited, to comply with the law and to establish that they have complied with the law but, when a bill is put forward by the opposition to establish an auditor for the special purpose of auditing the allowances and entitlements of members of parliament, that is objectionable? Isn't that amazing?

I do not envy any of the coalition senators who have been tasked with the obligation of speaking against this bill—and that is what has occurred. This is a bill that the opposition has put forward, and the government have decided that it would be too embarrassing were this to come to a vote—they would have to stand up and vote against this legislation today—so they will talk the bill out. I will be speaking until the time for this debate to conclude, tonight at six. If I sat down, I am sure that Senator McGauran would ensure that we did not get to the point of voting on the bill, so I do not propose to do that. I am not sure whether Senator McGauran is prepared tonight, but I will be ensuring that some of the issues that ought to be dealt with are now dealt with.

In her contribution, Senator Knowles described this as an absolutely outrageous bill. In the context of what I have just said, I am expecting her to say the same thing every time we put obligations on members of the Australian community, on companies and on businesses and to describe them all as absolutely outrageous. It is absolutely untrue to suggest, as Senator Knowles did, that the ALP are trying to paint all members and senators as crooks. It is quite the contrary. We would like to see an auditor—or inspector general, which was Senator Ray's term—investigating, reporting to the parliament and establishing, on the record, whether the entitlements of members and senators are entirely observed within the limits and bounds of the determinations and allocations they are allowed and whether they are used properly. You can nitpick a bill in the debate on the second reading. Of course, this government is going to try and ensure that we do not actually get to the committee stage where, if there are deficiencies in the bill—and there are many deficiencies in government bills—they can be dealt with. The government is going to try and make sure that we do not do that.

What I think we ought to focus on from Senator Knowles in particular is her com-
plaint about the scrutiny of telephone accounts. She said—and I tried to write it down; I do not think I am misrepresenting her—that many people who ring a senator’s office do not want to be identified in any way, shape or form. Doesn’t that remind you of the comments that were made by former Senator, now member of the House of Representatives, Bronwyn Bishop when pressure was put on the Labor government in 1991 to ensure that there was no publication in any way, shape or form of phonecard accounts? That is the reason that Senator Bolkus, the then minister, responding to pressure from the then Senator Bronwyn Bishop, said that there should not be publication of telecard accounts. That was the complaint, yet Senator Knowles is raising it again. She has clearly forgotten that the complaint that created the problem that Mr Reith complains about was initiated by the complaints of the coalition and the then Senator Bronwyn Bishop, who had exactly the same complaint. She said, ‘People don’t want to know who is ringing us, and we don’t want you to know who we’re ringing, so we can’t possibly publish anything that could identify that.’ It has been raised again.

We are trying to say not that these should be published widely but that an independent auditor should look at the general activities and the use of entitlements and allowances and ensure that they are within the bounds of those allowances and entitlements. I say again that what Senator Knowles said about 1991 is not correct in the sense that the reason it was done and was not stopped by Labor is that, as she said, Labor did not want the public servants to know who they called. That was the complaint of the coalition. It is strange that it seems to have been revisited by a coalition senator again in this place.

Senator Herron—Mr Acting Deputy President, I rise on a point of order. Senator O’Brien needs to substantiate that, because my belief is that it was Mr Gordon Bilney who instituted this complaint.

The ACTING DEPUTY PRESIDENT (Senator Chapman)—It is not a point of order. It might be a point of information, Minister, but it is not a point of order.

Senator O’BRIEN—It is interesting. That is the way the matter has been clearly reported. Because the coalition want to talk this bill out, I guess we will even hear from Senator Herron as to why we should not have the bill when we bring this matter back here just so that we do not get to the committee stage. Isn’t it interesting, as I said, that the coalition will do anything to stop this bill from proceeding through this place and, I am sure, through the House of Representatives?

I was reminded by the comments of Senator Hogg about his role in his previous occupation as a union official—and that is my previous occupation—of how, as union officials, on a monthly basis we would hold meetings of committees of the executive or councils and present to them details of expenditure: what had been expended, what we were buying and how the members’ money was being spent, as required under the rules of the organisation. All of that was published for the members as required in summary form with full accounts available and supplied to the registrar of the Australian Industrial Relations Commission. It seems to me that there was good reason for the parliament requiring trade unions to do that.

I know the coalition want to be critical of trade unions, but the fact of the matter is that here we are proposing an audit system which will simply require the members and senators to establish that what they have done is appropriate, within entitlement and within the bounds of what is allowed—and they want to oppose it. They say that we should be happy with a system which seems to be the subject of amendment each time there is a crisis. Unfortunately, each time there is a crisis, the government have chosen to point to some deficiency within the administration of a department. We saw the abolition of the Department of Administrative Services with the demise of the then minister Mr Sharp, the then minister Mr Jull and the then minister Mr McGauran, who has subsequently been reinstated. We saw the abolition of the Department of Administrative Services, yet the government were prepared to point the finger at public servants and say it was all their
fault that something was wrong with the administration.

Had the law that is being proposed by the opposition been in place and an auditor been available to give advice on the ethics of actions by particular members and senators, we might not have even got to the position where Mr Sharp, Mr Jull and Mr McGauran had to be sacked. We probably would not, because there would have been a requirement for the entitlements which were wrongly used at the time—and I do not say that about Mr Jull; he was sacked because of the knock-on effect of the abuse of entitlements at that time—to be attended to by the auditor. There would have been an opportunity available to those members of the House of Representatives to check things with the auditor, who, just as an auditor in the commercial world provides advice to businesses about what they are entitled to do in terms of taxation claims, the operation of their accounts and revelations that they need to make to shareholders, could have done similar things with members and senators. Some of the problems which have caused the lack of standing that politicians may be held in by some members of the public could have been avoided.

There is no point in saying that we are in a position where we should resist any move to something new. I may later have the opportunity to touch on what happens overseas, but here we have an opportunity to do something new which would put into place an auditor who would be able to say to the public, ‘I’ve audited the activities of members and senators and I’ve found that they have operated within the law and within the limitations that are applied to them in terms of the use of allowances and entitlements.’ If there were a case where that had not happened, the auditor would say, ‘I have found a problem and I’m dealing with it.’ I would personally much rather be in the situation where I am able to say, ‘I’ve been audited. I’ve done the right thing. It’s on the public record. Check the public record,’ than, as some coalition senators have said here today, have to answer every question of the constituents on the matter.

**The ACTING DEPUTY PRESIDENT (Senator Calvert)—**Order! It being 6 o’clock, the time allotted for the consideration of general business has expired.

**DOCUMENTS**

**Human Rights and Equal Opportunity Commission**

Debate resumed from 2 November 2000, on motion by **Senator Bartlett**:

That the Senate take note of the document.

**Senator BARTLETT (Queensland) (6.01 p.m.)—**The Human Rights and Equal Opportunity Commission report into acts and practices in immigration detention centres has been spoken to a few times—by Senator Cooney, among others. The detail in the report makes interesting reading in terms of a specific case and the aspects of that investigation. Its clear finding is that there were breaches of human rights in that case. This report was tabled earlier this year but the case dated from 1996. It has taken a while to reach this point, and I look forward to the government’s response. It is worth noting that the management of detention centres has changed since that time so the finger cannot be pointed at the current management group, ACM, in this case.

This report is important not just because of the specifics of that case but because of the ongoing and repeated concerns that have been raised about the impact of detention centres on so many people. A large number of those detained in such centres are subsequently found to be refugees, and the Democrats are greatly concerned that genuine refugees are subject to detention for often quite significant periods. That is hardly the way that we should treat people who, in many cases, have already suffered immense trauma and separation from family members and whose future and safety is incredibly uncertain. In effect, jailing them for an indeterminate length of time obviously compounds that suffering enormously.

I point to some recent commentary and statements by medical practitioners—made, from memory, on the *Four Corners* program, among others—about the immense psychological damage that can be done to people in detention centres, particularly those who are already traumatised. People who have suffered torture and trauma need specialist and...
very intensive assistance in order to recover. I know detention centre management does its best to assist people in that situation, but that is often simply not possible. Similarly, it is worth emphasising the fact that numbers of children are currently in detention throughout Australia. These children—members of families who do not have valid migration visas and who are often asylum seekers—are sometimes incarcerated in detention centres for years at a time. We heard terrible reports of the suffering of some of the Kosovars who were sent to detention centres after they refused to return home because they feared for their safety. They were locked up at Port Hedland.

The Democrats very much congratulate and welcome the recent decision of the immigration minister to free some of those people. But it really should not get to a situation where people have to go through such enormous torment and get such a wave of support from the community. I congratulate those people in the broader community who continued to campaign for the Kosovars and who continued to highlight the traumas that they were going through. I have absolutely no doubt—that is not the mark of a humane country. Also, it is something that is not necessary: it is not necessary for our safety, our health or our security as a nation. We really need to re-examine that policy. The Democrats believe that reports like this highlight how crucial it is that we re-examine where we are going in this area and look for a better way.

Question resolved in the affirmative.

Department of Health and Aged Care: Report for 1999-2000

Motion (by Senator O’Brien) proposed:

That the Senate take note of the document.

Senator CHRIS EVANS (Western Australia) (6.14 p.m.)—In taking note of this report, I highlight its consideration of the monitoring of aged care standards in this country. One of the key objectives of the Department of Health and Aged Care is to ensure that proper aged care standards are maintained in nursing homes across Australia. What we have learnt today is that that is not occurring in a particular home in Victoria, the Kenilworth Private Nursing Home, which has been the subject of a number of questions to both the Minister for Aged Care in the other chamber and her representative in this chamber, Senator Herron. Today, in answering a question about this matter, the minister indicated that she had had four serious risk reports on the Kenilworth nursing home—that is, four reports from the department of health indicating that the level of care provided at the Kenilworth nursing home was unsatisfactory. In fact, four reports now have indicated that the residents there are at serious risk, which is the highest rating and worst finding the department can make against a nursing home.

What I have asked on previous occasions is: what is the minister doing? She seems to collect these reports, file them neatly in her office and do nothing about them. Some sanctions have been applied to Kenilworth, but none of those have gone to ensure that proper care occurs. They have largely been
financial penalties on the provider, and they may or may not have influenced the provider's behaviour. Certainly, there is no sign that they have made conditions better for the residents, and the department's prime objective ought to be to make conditions better for the residents. The minister has failed to put in an administrator, as she has on a number of other occasions, to ensure the protection of residents. Rather, she has continued to apply essentially financial sanctions against the provider while the nursing home residents are left there. Since July last year, she has had four reports that have said those residents are at serious risk. She gets report after report after report saying they are at serious risk, she hears stories of a patient being left for six days with no treatment for a broken leg, and she gets reports that pain management is inadequate, medication control is inadequate and basic medical care is not up to standard, and nothing is done.

The latest report, which I only found out about today, is of an inspection done by the agency on 17, 18 and 20 October this year which found serious fire risks. It found that there were 11 patients there, eight of whom were bedridden, and only one nursing staff member on duty at night, so in the event of a fire the home would not have been able to successfully evacuate the residents. They would have died in their beds. This is the fourth serious risk report from the minister's own department, this time highlighting the fact that those nursing home residents would die in their beds if there was a fire because there was inadequate staffing to ensure their safety. Again, what has happened? As far as I know and on the information the minister provided today, the nursing home proprietor still trades. There are eight to 10 residents still in that nursing home, after four successive reports that they are not receiving proper care. For over 18 months, they have been left in that nursing home receiving substandard care. The minister files the reports that say, 'Yes, they've been treated badly. Yes, they're not receiving adequate care. Yes, their health is at serious risk,' but nothing is done about them.

It is interesting that there were two reports at the Riverside Nursing Home within a matter of 10 days that said there was a serious risk to the health of the residents of Riverside, and what happened? The minister was so concerned that she had to close the nursing home. My question is: how after four serious risk reports and five sets of sanctions over 18 months has this nursing home not been closed and why are there still residents at risk in the home? Why are they still there? Why is the place open? Is it because the minister lacks the political will after the Riverside fiasco to close another nursing home? That is the only answer I can give to that question. I do not understand why it is still open. I do not understand why those residents are still at risk. How many reports does the minister need before she will take effective action to protect the residents? They should be her concern, yet they have been left there for 18 months after report after report says they are at serious risk. Why hasn’t she had the political will to close the place if it is as bad as her own reports suggest? I seek leave to continue my remarks later.

Leave granted; debate adjourned.

The ACTING DEPUTY PRESIDENT (Senator Calvert)—The time allowed for the consideration of government documents has now expired.

Consideration

The following orders of the day relating to government documents were considered:


bate adjourned till Thursday at general business, Senator Cooney in continuation.
Australian Industrial Relations Commission and Australian Industrial Registry—Reports for 1999-2000. Motion of Senator Cook to take note of document called on. On the motion of Senator Forshaw debate was adjourned till Thursday at general business.
Medibank Private—Statement of corporate intent 2000-01 to 2002-03. Motion to take note of document moved by Senator For-
Debate adjourned till Thursday at general business, Senator Forshaw in continuation.


Department of Communications, Information Technology and the Arts—Report—Implementation and operation of the Australasian Performing Right Association (APRA) complimentary licence scheme. Motion to take note of document moved by Senator Ludwig and agreed to.

Wet Tropics Management Authority—Report for 1999-2000. Motion of Senator Ludwig to take note of document called on. On the motion of Senator Bartlett debate was adjourned till Thursday at general business.

Australian Centre for International Agricultural Research—Report for 1999-2000. Motion of Senator Denman to take note of document called on. On the motion of Senator Forshaw debate was adjourned till Thursday at general business.

General business orders of the days nos 3, 5, 7-12, 14-18, 20-22, 25, 26, 28-31, 33-35, 37, 38, 40-46, 48, 50-52, 54, 56, 60, 61, 64, 65, 67-70, 74, 76, 80, 81, 86-88, 90, 92, 95, 96, 98-101, 103-108, 115, 117-121, 123 and 125-128 relating to government documents were called on but no motion was moved.

**COMMITTEES**

**Membership**

The ACTING DEPUTY PRESIDENT (Senator Calvert)—The President has received a letter from a party leader seeking variations to the membership of committees.

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

That senators be discharged from and appointed to committees as follows—

Community Affairs Legislation Committee

Substitute member: Senator Watson to replace Senator Tchen on Friday, 24 November 2000;

Environment, Communications, Information Technology and the Arts Legislation Committee

Substitute member: Senator Watson to replace Senator Tchen on Friday, 24 November 2000;

Finance and Public Administration Legislation Committee

Substitute member: Senator Coonan to replace Senator Lightfoot on Wednesday, 22 November 2000;

Substitute member: Senator Gibson to replace Senator Lightfoot on Friday, 24 November 2000;

Foreign Affairs, Defence and Trade Legislation Committee

Substitute member: Senator McGauran to replace Senator Sandy McDonald on Friday, 24 November 2000;

Substitute member: Senator Calvert to replace Senator Ferguson from Friday, 10 November 2000 to Friday, 15 December 2000.

Environment, Communications, Information Technology and the Arts References Committee

Motion of Senator Bolkus to take note of the report.

Debate resumed from 7 November, on motion by Senator Bolkus:

That the Senate take note of the report.

Senator TCHEN (Victoria) (6.20 p.m.)—When I previously spoke on this issue, I inadvertently sought to adjourn the debate by asking for an opportunity to continue my
remarks later and thereby cut off Senator Brown from speaking. I have apologised to Senator Brown. But I have thought about this issue and realised that I inadvertently abused the Senate’s standing orders. I do apologise for that. I realised that should this practice become common, especially if adopted by more adept senators, we could create real problems, as Senator Conroy might realise. So I do apologise to the Senate for this transgression.

Turning to the greenhouse gas abatement inquiry, a number of previous speakers have noted that this wide-ranging inquiry into Australia’s response to global warming has been very productive. In the course of the inquiry, the committee has collected much valuable information on the perceived danger of uncontrolled warming of the lower atmosphere of the earth due to changes in the composition of the air induced by human activities. However, in drawing conclusions from this information, the committee has been preoccupied by political priorities and ideological bias and has come up with the usual mixture of hackneyed slogans and myopic demands which not only are meaningless and impossible to fulfil but also prevent Australia from making an effective contribution to worldwide efforts to reduce greenhouse gas emissions. Consequently, and unfortunately, the majority report the committee tabled in the Senate last Tuesday, 7 November is seriously flawed. To demonstrate this point, I shall offer two examples of fundamental flaws. The non-government members’ majority report either conveniently overlooked serious issues presented in evidence at the hearings or simply failed to seek evidence to pursue issues which are important. Nevertheless, the committee went on to make recommendations about those issues.

Firstly, I wish to cite the committee’s failure to investigate the issue of greenhouse gases other than carbon dioxide. The committee was informed quite emphatically that there are a number of naturally occurring gases, including nitrous oxide, methane, tropospheric ozone, free carbon particles and water vapours, and a number of industrial synthetic gases, including chlorofluorocarbons, perfluorocarbons, hydrofluorocarbons and sulfur hexafluoride. Some of these gases, including methane and most, if not all, of the synthetic gases, produce greater greenhouse effects than carbon dioxide. Yet the report showed little sign of deliberation about possible ways and means of dealing with these gases, nor does this matter feature in the 121 recommendations of the report.

Another issue that is conspicuous by its absence from the inquiry, but not from the list of recommendations, is nuclear energy. Given that nuclear energy is completely greenhouse gas emission free, it should at least be examined in an inquiry into greenhouse gas emission reductions. It was never mentioned in the course of the inquiry. Nevertheless, nuclear energy technology features in recommendation No. 9 of the non-government members’ majority report. Out of nowhere came the statement that nuclear technology should be excluded in the clean development mechanism. In other words, we do not know what kind of nuclear technology we are talking about. We just do not want to know. In other words, the committee said, ‘We do not want to know what the alternatives are. We do not care, as long as it is not nuclear technology.’ This conclusion of the committee came from a single reference from a single submission by the Climate Action Network Australia. These are not examples one ought to find in a rational, objective report from an important and wide-ranging fact-finding investigation. I submit to the Senate that this report is seriously flawed.

However, the greatest discrepancy between evidence related to facts presented to the committee and the recommendations of the non-government members’ majority report is on the issue of the government’s achievements in the area of greenhouse gas abatement. This is where the report’s recommendations are clearly preoccupied and inspired by the opposition’s political agenda. The first achievement we should note is that this government has been doing something about global warming. Global warming has been recognised as a major issue in informed political circles as well as scientific circles for more than 20 years. This government has not sat back, like previous governments, to
It has taken a risk management approach, identified key risks and opportunities and established a credible record of action to reduce greenhouse gas emissions in Australia and ensure our national interests are protected.

In the three years since the Kyoto protocol was approved, the government has taken a consistent and comprehensive approach to tackle climate change and meet our international obligations. This approach was outlined in 1997 by the Prime Minister in his statement Safeguarding the future: Australia’s response to climate change. The key to this approach is to seek realistic, cost-effective reduction in key sectors where emissions are high or growing strongly while also fairly spreading the burden of action across our economy. We should not single out any sector, whether intentionally or unintentionally, to carry the cost of the nation’s response. It needs to be appreciated that the government has the responsibility to do so in a manner that will not harm our international competitiveness and that will protect Australia’s interests, Australian jobs and Australian industry—a point which apparently was lost on the non-government members of the committee. To successfully achieve this goal, we require a commitment in support of industry and the community and effort on the part of the states and territories. In other words, we require a cooperative approach, and you cannot achieve a cooperative approach by compulsory legislation, which is what the opposition members of the committee require.

**Senator Bartlett**—What about your renewable energy bill? That’s compulsory.

**Senator TCHEN**—The renewable energy bill will not be passed, Senator Bartlett. If you people insist on letting wood rot on the forest floor to release methane into the air, rather than allow us to clean it up and at least get some energy out of it. That is typical of the response we get from the opposition and particularly the Democrats—that it is more important to see the trees than to see the forest—whereas to face a global challenge such as global warming, it is important that we have an approach for the long term that will not only solve the problem for Australia but also contribute to the world’s ability to solve this global problem, particularly the ability of developing countries, who not only have to catch up to our development but also have to catch up in a form that is sustainable and safe for the rest of the world.

Debate interrupted.

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

**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:


**STATES GRANTS (PRIMARY AND SECONDARY EDUCATION ASSISTANCE) BILL 2000**

Second Reading

Debate resumed.

**Senator McLUCAS** (Queensland) (7.30 p.m.)—I rise tonight to speak to the States Grants (Primary and Secondary Education Assistance) Bill 2000. The debate that we are having here in this chamber about the funding of schools is one that unfortunately we have had many times before. It is a debate that we actually had for most of the last century. It was a debate that was characterised by division whereby the denomination of the church in which we were christened determined how we approached the discussion about education funding. It was hurtful and irresponsible and was not based on any understanding of the differing needs of children in our communities. It was a debate about religion and class, and it was divisive and destructive. It is to the shame of this government that they have extended the politics of division that we have seen in their dealings with indigenous, health and women’s issues—in the whole way that this government have operated. They have extended the politics of division to education.

We need to remember that it was a Labor government which, in the early seventies, tackled the issue of education funding and brought a sense of peace and closure to the whole state aid debate through the bringing down of the Karmel report. Professor Kar-
mel’s report set the model for the funding of education with an even-handed approach to each sector, with funding being provided on the basis of need—not religion; not the old school tie—but in a fair and responsible manner that ended the division about education funding.

Ever since the Howard government’s election, there has been a concerted effort by this government to break down the peaceful coexistence between each of the sectors of the education system. The first thing they did, we remember, was to abolish the new schools policy, which regulated the establishment of any new private schools in favour of a policy of funding any non-government school which met minimum state standards. The result was that any new non-government school could be established without analysis of the impact on the schools in the surrounding area. There were no requirements for minimum or maximum enrolments, and we know that the result has been a burgeoning of a large number of very small schools, most of them based on specific beliefs. And it is true that many of those schools are fundamentalist Christian schools. I find it quite ironic that, on one hand, we have the deregulation of the planning for schools in the schooling sector, yet, on the other hand, we have this government embracing—and I think quite rightly—a planning system for the opening of new child-care centres, whereby any new application for a child-care centre has to be assessed for its impact on any child-care centre in the surrounding area. That is a sensible policy: it acknowledges that the opening of a child-care centre will impact on the operations of other child-care centres in the area and will diminish the quality of care available in those pre-existing child-care centres. They can do it for child care, but they cannot do it for schools.

Their next action in the move to cause division within the education sector was to create the enrolment benchmark adjustment scheme, which shifts $1,700 per student from the public to the private school when growth in the private sector occurs. Given the abolition of the new schools policy, growth in the private sector will be at a rate of about five times that of the public sector, resulting in significant movement of funds from the public to the private sector. The third action was the abolition of the education resources index, which responded to the capacity of private schools to raise their own funds. This will allow private schools to raise funds without any impact on the funds that are provided by government. It is very evident that, in the private sector, there is a capacity for private fund raising—widening even further the resource gap between private and public schools.

The result of these three actions and the intent of this bill are clearly to shift enrolments away from the state school system and into the private system. It is a huge shift away from this particularly Australian policy setting whereby publicly funded private schools coexist with the public sector. It is a unique Australian arrangement that is based on the existence of a strong and effective state schooling system and, where parents decide to enrol their children in the private sector, they do so in response to specific religious or cultural needs. It is premised on excellence in the state school sector and the belief that I think all Australians have—the belief that every Australian child, whatever their background or wherever they live, has access to an excellent education.

The shift of funding to the private sector undermines the capacity to deliver the excellence in the state school systems that all Australians believe should be there. I think of the small rural towns in the state of Queensland which have one state school to provide education services to that community. There are no options for families to enrol their child in a private school; there simply is not one in town. With the shift of funds from the state sector to the private sector, these small rural communities will receive relatively fewer education dollars than the large towns or cities. This government, which has all the rhetoric of caring for rural and regional people, is advantaging city people over their country counterparts. I suggest that country people will not be pleased.

I think too of the role that a state school plays in a suburban setting. These suburban state schools play a significant role in pro-
viding a sense of community cohesion through sports days, fetes and tuckshop duty—all the things that happen around a state school which bring us together around our children. I think of my daughter’s school—a state school—and the diversity of our school community, and the way that all of these school events bring us all together from our suburbs, building links between families across the small feeder region. The establishment of schools with specific ethnic or religious foci means that the suburban cohesion created by us all knowing each other is undermined. The government’s intent to divide us will reach down to the suburbs, where the growth of small fundamentalist schools has been the greatest. It is building distrust through a lack of understanding of our neighbours and can only lead to further division in the suburbs.

It has been argued that the decrease, in relative terms, of funding to the state sector is in fact a threat to our democratic system. The argument was extremely well made by Professor Alan Reid of the University of South Australia when he said:

The common spaces we call schools should be places characterised by plurality and diversity because it is here that we can teach that a respect for difference is precisely what binds our society together. Such lessons are not possible when our schooling system is organised to separate out rather than to mix young people from a variety of backgrounds. It is within these public spaces that students can serve an apprenticeship in democracy. The knowledge, skills and attitudes necessary to function as effective and participating citizens are not things people are born with, they need to be taught systematically. Not the least of these is the capacity to recognise the reality and legitimacy of different perspectives and diverse points of view. That is, the capacity to live beyond the comfort zone of a narrow group is essential to the exercise of democratic life. But it is surely more difficult for this capacity to be developed and practised in schools which are built around the marginalisation or exclusion of particular lifestyles, cultures and points of view. It is ironic that at a time when the government is urging that schools embrace a civics education program called Discovering Democracy, it is pursuing also a policy direction which erodes the essential conditions for participation in civic life.

I need to make it very clear that I am not arguing against funding for the private school sector but against what is fundamentally wrong with the shift of resources from the state school system to the private sector, and that is that it is based on ideology and not on need. That is what this government is hell-bent on doing. As I have said, the last 25 years have been characterised by a respectful recognition of the different but complementary roles of each of the sectors of education services, but this bill, if it is passed in its current form, is an attack on this fair and sensible approach.

I will take a moment to look at the history of school funding over the last decade. In 1983, 3.6 per cent of Australia’s GDP was spent on the schooling sector. By 1997-98 that had dropped to 2.7 per cent. This decline in the priority of education means that schools have $45 billion less funding to do what they do best—to teach our children—than they would have had if their share of GDP had stayed at 1983 levels. It is also interesting to note that, in 1996, 57 per cent of Commonwealth funding went to private schools. If this trend continues, by the year 2003 it will rise to 65 per cent of total Commonwealth funding for schools.

I turn now to the bill and what we know about it. The States Grants (Primary and Secondary Education Assistance) Bill 2000 provides much greater funding increases for private schools, including some of the richest private schools in Australia, than for government schools. It introduces a new funding model which, under the guise of equity, is, as I said earlier, a recipe for increasing inequality in education. It continues the enrolment benchmark adjustment scheme, which takes from government schools the funding to which they are entitled under the Commonwealth per capita funding formula. It is part of a plan to increase the privatisation of the provision of schooling and to increase costs for parents. We know that, on average, 62 of the most well resourced elite private schools will receive increased funding of around $800,000 a year. We know that the Catholic schools will receive increases of around $60,000 a year while government schools
will receive increases above indexation of only around $4,000.

Dr Kemp has claimed that the Commonwealth has the responsibility to fund non-government schools and that the new bill will promote equity and choice in education. This shows no understanding of the largest schooling sector, the state sector, which enrols the vast majority of students from low income families, those of indigenous origin, those from remote and rural areas and those with disabilities.

Turning to the socioeconomic status model, the legislation changes the formula for funding non-government schools from one based on school resources, including fees that are charged, to one based on a statistical estimate of parental incomes. By removing the link to school resources, the new model allows very wealthy schools to increase expenditure to levels even further above those of government schools, while continuing to receive increased funding from the Commonwealth. Dr Kemp has claimed that the new funding model means that:

As a result of this Budget, no working class Australian family ... is going to be deprived of a choice of school ...

Statements like this anger the Australian public. It shows absolutely how out of touch he is with the reality in the schooling sector. It shows that he has no understanding of the education system that he is meant to be managing. It also shows that he has no understanding of the geography or the demographics of Australia. We know that most private schools have said they will not be cutting their fees. Melbourne’s Wesley College has said it will cut its $11,000 fee by $200. Let’s get real, Dr Kemp. That will hardly open up that school to low income families.

I turn now to the introduction of the enrolment benchmark adjustment. The unstated but very real intent of the EBA is to shift enrolments from the public to the private sector. We have heard that leaked minutes from the coalition’s 1991 expenditure review committee record that Dr Kemp had:

... noted that coalition policy was to move children from government schools into private schools.

He has denied that over and over again, but that is the underlying ideology of this bill. Further, Dr Kemp had also said he would report on:

... whether additional expenditure could be offset by reductions in grants to government schools and in untied grants.

And that is what we will get if this bill were to pass unamended.

The government’s strategy is to talk up private schools, to talk up a crisis in government schools and to shift the dollars into the private sector. As enrolments continually shift into the private sector, the EBA will kick in yet again, further diminishing funds to state schools. I am pleased to be able to support the ALP amendments that will make this bill fairer for all children in Australia. Firstly, we will move to abolish the enrolment benchmark adjustment, and thus limit the encouragement of the enrolment drift from the public to the private sector. Secondly, we will reduce the funding increases for the ERI category 1 schools and redirect that funding to special education in both government and non-government schools. This reflects Labor’s commitment to fairness and equity in our education system. And, thirdly, Labor will provide increases in federal funding for government schools to match the significant increases for non-government schools. Surely this is only fair for all.

Before I conclude I would like to make some comments about how we compare internationally in terms of education spending. It is true that the level of private spending on education is now above the OECD average. The level of public spending on private schools in Australia is also above the OECD average. The level of public spending on education in Australia is well below the OECD average. Australia has a strong and effective schooling system. It is one which we should be very proud of; it is one which, when we are in government, we will support and grow. We have excellent teachers who should be encouraged and supported whether they work in state or private schools. This bill does nothing to show these teachers that we value them. Our amendments will go
some way to retaining the education system that we value.

Senator RIDGEWAY (New South Wales) (7.46 p.m.)—I also rise to speak about the States Grants (Primary and Secondary Education Assistance) Bill 2000, as have many of my Democrat colleagues. There are a number of things that need to be said about it, particularly in relation to New South Wales. There is an ongoing flow of views from people in New South Wales—various parents and citizens groups, including teachers in the public education system—about the consequences of this bill. The Minister for Education, Training and Youth Affairs, Dr Kemp, says that this bill is about delivering choice to parents. What that essentially comes down to is whether that includes choice to parents in need. The question that then needs to be asked is: why Wesley College in Victoria, with an additional $3 million a year, and King’s in New South Wales are among the biggest winners under this bill? As one commentator recently said, ‘You can only consider Wesley as needy from the vantage point of Scotch.’

My home state of New South Wales, probably more than any other state, has had a foretaste of Dr Kemp’s obsession with private sector largess at the expense of public schools. New South Wales has so far borne the brunt of the enrolment benchmark adjustment. This formula cuts federal education funding to the states every year that private schools increase their share of enrolments relative to public schools. Dr Kemp keeps saying that this money represents the savings to taxpayers when students leave public schools for private schools. This alleged drift from public to private schools is not what it seems when you consider that the Department of Education, Training and Youth Affairs does not track whether students are leaving public schools to go to private schools, as Dr Kemp maintains. It does not record whether they are leaving school altogether to go to TAFE, whether they are dropping out of education or even whether they are moving interstate. But, based on 1999 enrolment figures, federal education grants to New South Wales were supposed to be cut by $16.7 million under the EBA. This is despite the fact that New South Wales lost only 42 students last year. How can 42 students justify a cut of $16 million or translate to mean $16 million? The minister generously reduced this amount to $10 million, and an almighty row ensued when the state minister, in response, deducted $5 million from the state allocation to private schools. It is telling that, at a recent public meeting on the new SES funding model, the New South Wales shadow education minister, Patricia Forsythe, distanced herself from Dr Kemp. Ms Forsythe expressed her disagreement with the EBA and expressed concerns about the SES. She emphasised that she wanted to remain focused on state issues and said that Dr Kemp could defend his own policies.

It has just been revealed that Dr Kemp deducted $3.8 million from grants to New South Wales over the now famous toilet blocks provision in guidelines in the states grants legislation. Basically, these guidelines ensure publicity opportunities for coalition MPs at the launches of federally funded public works in schools. If the guidelines are not adhered to, states can have up to 20 per cent of their capital works budget withheld. Dr Kemp has threatened Victoria with the withdrawal of up to $10 million for precisely this. So far the guidelines do not call for a framed photograph of Dr Kemp in every classroom or for coalition MPs to be included in daily prayers at non-government schools. Perhaps those are matters for a future states grants bill. But, entertaining as they may be, these stoushes get in the way of education delivery and they pit public against private schools. Dr Kemp’s bill is so outrageously inequitable that I fear we will see far more unproductive haggling over funds.

I think that Dr Kemp ought to understand the new powers under this bill that he is given to withdraw money from the states if they do not reach as yet unknown performance targets in different subject areas. He has flagged his intention for benchmarks and performance targets to be set in information technology, civics education and other areas of the curriculum. The department has also made assurances that there will be no unward use of that particular power; that there will be no league tables or withdrawals of
funds from schools that are performing the worst—of course, those are the ones that need the most help. But if Dr Kemp is prepared to withdraw funds over meagre publicity opportunities in suburban papers, can we trust him on this? Can we trust him to use this power for the good of all? Probably not, particularly as the government stood by silently as the Northern Territory proceeded to axe bilingual education in indigenous languages against the wishes of many communities in that territory. Bob Collins, a former senator reporting on education in the Northern Territory, found that up to half the federal money destined for indigenous education was siphoned off over many years into consolidated revenue and administration.

The national inquiry into rural and remote education conducted by the Human Rights and Equal Opportunity Commission found areas of significant need in rural and remote indigenous communities for early childhood development, particularly community based early childhood training institutions. That inquiry also found that a number of indigenous children living in homeland centres have no access to primary or secondary education, particularly in communities with fewer than 12 children. The report estimates that half of all indigenous secondary aged students in the Northern Territory are in so-called non-graded programs taught at community education centres by primary trained teachers. The report points out that this is at odds with goal 8 of the national policy, which is to ensure that all Aboriginal children have local access to primary and secondary schooling.

Much can be said about the shortcomings and the needs in the provision of education for indigenous students. Many of those shortcomings need to be addressed through more funding and a greater interest in indigenous education by the federal government. The Democrats acknowledge that this new SES model will increase funding to some very needy non-government schools which serve indigenous communities in rural and remote areas. But our amendment, which would take actual parent incomes instead of notional average incomes, will benefit these schools as well.

The new formula disregards the level of fees that are charged by a school and any sources of private income. Instead, it funds schools according to where parents live. It does not even take into account actual parent income to measure need. Instead, parent addresses are matched with ABS data to come up with a profile of the school community. It is important to point out that there is a fundamental flaw in this approach, and that is that census data on average income is unreliable. It is determined from a census question which it is not compulsory to answer, which cannot be checked for accuracy because of tax office confidentiality, and which is unlikely to be answered honestly or at all by any family with undeclared income or for any number of other reasons.

The Democrats have been called a number of things by Dr Kemp during this debate—ignorant, arrogant and veering on being totalitarian—for daring to suggest that the present funding arrangements continue for another year. Our amendments will provide for the usual indexation to apply in 2001, contrary to the claims going around that suggest that funding would somehow be capped at the 2000 level. We want an extension of the current funding arrangements for a year so that there will be time for a proper inquiry into a fairer funding model. We are not opposed to funding non-government schools fairly on the basis of need and in order for all children to be educated with an agreed standard of resources.

A true democracy demands that we educate all of our children to the best of our capacity. A decent education should not be solely for those who can afford to pay high fees. However, Dr Kemp is trying to convince parents that they do not care about their children if they send them to state schools and that they are a burden on the taxpayer if they choose state schools when they cannot afford private schools. One email sent to a Democrat senator repeats this rhetoric, saying:

We chose education over assets, and that was our choice. We are really not happy having pressures put on us to have to bludge on the public system. The Democrats find this talk of bludging offensive to the 70 per cent of Australian
families who chose, for whatever reason, to educate their children in the government system. I also find the bludging argument disingenuous. In the end, the decision to send a child to a private school is a very personal one. Parents do not think to themselves, ‘I’d better alleviate the burden on the taxpayer and send my kids to a private school.’ People who send their children to private schools do so in the belief—whether right or wrong—that they have something to offer that the local government schools do not. This is not a betrayal, because in the end they are maximising their self-interest, as parents ought to. Fair enough. But there are limits to taxpayer support of this choice, especially in a climate where 70 per cent of Australia children are in an under-resourced state system. We believe it is the government’s priority to fix this before delivering such windfalls to elite schools. The public system needs active, committed and concerned parents who are prepared to fight for improvements. Without these parents—the very ones Dr Kemp is targeting—we risk moving towards a residualised public system.

There is an argument that parents should not be penalised for using their after tax income on education. This is an astonishing argument. The federal government is not doing anything of the sort. It is not the responsibility of governments to spend an equal amount on the government and non-government systems. If you make the choice to go a private school, then good luck to you. Dr Kemp and the independent schools lobby have pointed to the fact that some very affluent families earning more than $80,000 are using the public system. I think that is a vote of confidence in the public system itself. I am glad that these parents are there. Without them, I would be very worried that the public system was failing to deliver quality education.

The Democrats have no beef with parents sending their children to private schools. In fact, a good many of our members and some of our MPs, including me, have done exactly that. I am perhaps the product of the public and the private school education systems. What we object to is Dr Kemp’s ideological commitment to running down the public sector, both verbally and financially. He said in 1996 that if you can find a service in the Yellow Pages you have to ask why the government is providing it in the first place. What we object to just as strongly is the idea that if you send your child to a public school you are a bad parent. I have heard coalition members in the House talk about parents who go private as just wanting to give their kids a chance. What does that say about the public system? That kids have no chance there at all? Roy Martin from the Australian Education Union described the government’s rhetorical shift quite nicely. He writes that in the past the concept of need:

... has applied to schools which were operating on resource levels below the norm, or schools that had large numbers of disadvantaged students and needed extra resources. The government is bending the term to apply to parents who are finding it difficult to afford a privileged education for their children. Under their definition, the new ‘needy’ schools are not schools operating below reasonable resource levels, but parents ‘struggling’ to afford the fees in private schools ... in some cases these fees enable the schools to operate at twice or more the level of most other schools.

Several of the schools in NSW operating as categories 2 and 3 match this description. These schools’ funding increases will be spared the impact of the ALP amendment scapegoating category 1 schools. These schools generally charge high fees and are already splendidly resourced. For instance, Meriden School, a category 2 school, will receive an increase of $1.2 million by 2004. It charges $10,290 in fees for year 12. Another category 2 school is PLC, which will get an additional $1.4 million a year. PLC has four rebound ace tennis courts, a swimming pool, a music centre, an extension centre for gifted and talented children, and a studio theatre.

It is interesting to contrast the situation of these schools with that of the public schools that have also come to my attention. One teacher from a primary school in the Canterbury-Bankstown area—the same electorate where our Prime Minister grew up and went to a public institution—says they have no hall or covered-in assembly space. He continues:
This school has to lobby local members of parliament to get an upgrade in the toilet block. Crime and vandalism is on the increase at the school and meagre security measures have to be paid for directly from the school’s global budget instead of the money being appropriately used for sound pedagogic purposes.

Another teacher talks about a school where all the classrooms are portables. This is a common occurrence. She says:

You should try working/learning in one of these rooms in the extremes of summer or winter. I have never even taught in a school with its own hall. Currently our Parents & Citizens Association pays a Support Teacher Learning Difficulty wages for 1 day per week.

Jesmond High School in Newcastle does not have a gym, a pool or adequate access to computers. They talk about the walls shaking in a strong breeze and the roofs leaking and say that they do not have enough money for textbooks. These are the comments coming through from teachers.

I am concerned that, as a result of this bill, the department will soon cease collecting financial information from non-government schools on their fees and private income. This information, contained in the annual financial questionnaire, was the basis for funding under the ERI. However, it also served a useful purpose in giving governments a snapshot of how non-government schools were doing. Without that, we have no way of knowing what resources these schools are putting into student education and what proportion of schools are really in need. Without this information we probably have little chance of funding schools according to what they really need to deliver a decent education.

This week’s letter from 120 Australians calling for the rejection of this bill was unfortunately jeered at by Dr Kemp. I hope that Dr Kemp does not seriously think that the only commentaries with any legitimacy are stockbrokers, Liberal members of parliament or those people in stable full-time employment. He was even amused at the fact that some comedians had signed this letter. I would have thought the only qualification for speaking out on schools funding would be a concern about the future of this country.

I think the point that needs to be made about funding for public schools is that public education is a great equaliser—it is a fantastic instrument of social change. More than anything, it demands more funding because it improves the nature of Australian democracy without necessarily creating new classes in our society. This is not to have a shot at private schools—as I said, I am one of those who has benefited from them—but I still believe that a bill of this sort must establish a sense of interrelationship between public and private school sectors and not be divisive on the basis of a rigid ideology of trying to establish a regime of the haves and the have-nots.
met by state education and around 74 per cent of secondary education is catered for by government education.

This means that most of the money will go to those that cater for under 30 per cent of the needs of parents with school age children and adolescents on the North West Coast of Tasmania.

I must say I find it extremely puzzling that a government with an obsession for rationalism could justify this bill. It is quite simply irrational to excessively fund those that have the most. It does not make sense.

Perhaps the funding to top private schools is an attempt to reduce the power of the Australian Education Union. By giving more money to the top private schools there is the potential to force changes by changing the power relationship in the sector.

Additionally this form of targeted funding has a whiff of Commonwealth interference in what is essentially a state issue—something the Howard government has ridiculed previous Labor governments for time and time again.

The Australian Education Union stated in their submission to the Senate inquiry into the State Grants (Primary and Secondary Education Assistance) Bill 2000:

“Public education is dedicated to giving all Australians the foundations upon which to build a future for themselves and their families. It strives to ensure that regardless of personal circumstances all Australians receive a fair start in life and have access to continuing education throughout life.

However the capacity to provide high quality education for millions of young Australians is being undermined. It is being replaced with private systems where the capacity to pay and where parental wealth determines the resources available.”

One could be excused for thinking that the Howard government know that knowledge is power and they are engineering the next generation of elites, thus creating a return to a two-tier segmented, divisive society.

As the public education system is ground down by the relentless punishment handed out by the Howard government the reintroduction of the pre-Whitlam era of education will become more and more a reality. This will re-entrench the ‘which school did you go to’ question and dubious clubs and memberships will count more than intellect or creativity in life opportunities.

This was vividly illustrated in the House the other day by the Labor Shadow education minister the member for Dobell Mr Lee when he explained that public schools will lose nearly $30 million to 12 category 1 private schools. Which schools? you ask. I will list them for you:

Trinity Grammar, NSW gets an extra $3.1 Million,

Newington, NSW gets an extra $1.8 Million,

King’s School, NSW gets an extra $1.5 Million,

Wesley College, Victoria, $3.9 Million,

Caulfield Grammar, Victoria $3.6 Million,

Haileybury, Victoria, $2.9 Million,

Ivanhoe Grammar Victoria 2.4 Million

Mentone Grammar, Victoria, 1.6 Million

Geelong College, Victoria, $2.3 Million

Geelong Grammar Victoria, $1.7 Million

Scotch College, Victoria, 1 Million

St Peters Collegiate South Australia $1.5 Million

Unless most of these are boarding schools, I doubt they will have to run breakfast to ensure the children are fed as they are in some Tasmanian schools. I doubt their parents are having the phone cut off as they cannot see their child miss out on one more school function, as some of the parents are in Tasmanian schools.

That is not to say that some of the parents sending their children to these schools are not going without, due to the largely manufactured belief that they will receive something that they cannot get in government schools, but any reasonable person would concede that they are in the minority.

Finally, I suggest that the benevolent funds and the fixed term accounts that these category 1 schools have hidden away, deny any need to give them any more public money at the expense of those that have least.

Senator GEORGE CAMPBELL (New South Wales) (8.04 p.m.)—The States Grants (Primary and Secondary Education Assistance) Bill 2000 determines the federal government’s funding commitment to primary and secondary education for the next quadrennium—that is, the period 2000-04—and is worth something like $22 billion, representing a very substantial investment by the community, by the taxpayer, in the education of children for the future. As such, this bill is extremely important. It is our commitment not just to providing knowledge to young people but to securing our future knowledge base. Adequate funding of primary and secondary education is a fundamental factor in determining whether or not Australia be-
comes ‘the clever country’ and whether or not we are able to hold our own in the global economy we are moving into in the immediate future.

Universal education has traditionally been an important way of addressing inequality in society. The purpose of universal education has been to give our young people equality of opportunity no matter where they come from or what background they come from. It is a belief that dates back to the Elementary Education Act passed in England in 1880. How we fund education and the access we provide to all children, irrespective of socioeconomic status, is a cornerstone to providing equality of opportunity. The values reflected in the policies and rhetoric surrounding the government’s approach to schooling provide an important background against which school education takes place.

A well funded public education system and policies that talk about addressing disadvantage and achieving equality of opportunity are key facets of striving for an egalitarian society. Our children are taught this important principle as well. The values of excellence, equality and fairness in the provision of education create the basis for young people’s understanding of their society and nation—that is, that no-one is born better than anyone else, that everyone deserves a fair go. This is the cornerstone of what Australia is all about. The states grants bill undermines these beliefs and tries to provide preferred funding to those of privilege. Minister Kemp is dividing the Australian community on the basis of massive funding increases to the privileged private schools, while public schools remain cash-strapped and underfunded. It is a policy founded on beliefs that existed in England pre-1880 and it is driven by a naked class ambition.

The socioeconomic status, SES, funding model that distributes the next four years of funding between private and public schools is fundamentally flawed. Nearly all the state education departments reported to the Senate inquiry that the SES funding model does not treat socioeconomic disadvantage seriously. It is too simple and cannot accurately measure the complex factors that attribute to disadvantage. Its faults are now well documented. For instance, Dr Tease Warren, in an article in the Australian of 11 October 2000, argued:

The socioeconomic status of catchment areas is not a reliable indicator of educationally relevant characteristics of families using private schools. These schools are often academically selective. They do not enrol random samples of children from each catchment. But under the new scheme their subsidy will rise with every student they can find from a poor area, regardless of whether that student comes from a poor household. The SES model does not look at private schools’ existing wealth or total funding resources and makes funding judgments on notoriously inaccurate census collection districts.

The point is that this SES measure is deliberately simple. This government does not believe in eliminating disadvantage at the level of primary and secondary schooling. If it did want to seriously address inequality, it would have done away with this regional system. It would have, in consultation with the state government education departments, fixed the well-reported problems with this model. Minister Kemp has had plenty of time to fix the SES funding system. Tests on the model were carried out in 1998. The government knew which schools were going to get which amount of funding. Minister Kemp chooses not to change the model and has tried to hide its results from the Senate inquiry. The result is that the SES model transfers funds that should be going to public schools to the rich, wealthy schools that can get their money from elsewhere. It makes a mockery of the principle of needs based funding.

So Minister Kemp is about dismantling the egalitarian values underpinning our education system and wants to assist his classmates—the rich and the privileged. He wants to divert money from poorer schools and give that money to the rich schools. Let us be frank: the Howard government are lining the pockets of the old boy schools because that is where they were all taught. This is the rich ruling for the rich. Yesterday’s article in the Sydney Morning Herald showed that nearly all of the Howard government’s cabinet went to old boy private schools. This is private school ministers ruling for their own kind
and, ultimately, their children. Let us look at which schools Howard ministers went to and what funding they are going to get as a result.

Senator Abetz—Where did Kim Beazley go?

Senator GEORGE CAMPBELL—If you had read the paper, Senator Abetz, which you obviously did not get enough education to do, you would see he went to Hollywood High, which is a public school. John Anderson, for example, went to King’s School, a school that will end up getting $1.5 million. Alexander Downer went to the very poor Geelong Grammar, which will get $1.7 million out of this funding arrangement. Chris Ellison went to Trinity College—

The ACTING DEPUTY PRESIDENT (Senator Knowles)—Order! Senator Chris Ellison.

Senator GEORGE CAMPBELL—Senator Chris Ellison went to Trinity College. His school gets a massive $3.1 million out of this funding arrangement. Minister Kemp’s own school, Scotch College—where he did his schooling with Michael Wooldridge and Senator Rod Kemp—

The ACTING DEPUTY PRESIDENT—Order! Dr Wooldridge.

Senator GEORGE CAMPBELL—Dr Michael Wooldridge and Senator Rod Kemp’s school gets $1 million. Other examples of private schools that do well out of this bill are: Newington College, $1.8 million; Wesley College, $3.9 million; Caulfield Grammar, $3.6 million—that will help pay for the gym that was burnt down two or three days ago; they will have no trouble replacing that in a relatively short period of time—and Haileybury College, $2.9 million. Twelve elite private schools are getting an additional $27 million in funding. In some instances this funding increase amounts to $2,000 per student. The King’s School in Parramatta is set to receive $1.5 million in funding as a result of these changes. This is a school that has 15 cricket fields, five basketball courts, 13 rugby fields, three soccer pitches, a 50-metre swimming pool and a rifle range. It is also talking about some new buildings. Let us look at the issues of concern that King’s School has. For example, it wants to create a learning and leadership centre. It says:

The Learning and Leadership Centre will be the central project in a plan to totally revitalise the Academic Precinct.

The E and F block will be demolished and students relocated to new classrooms built near the Science building. These classrooms will be air conditioned and fully equipped to enable the delivery of contemporary curriculum relevant for the 21st century.

The school wants to upgrade the quadrangle classrooms to provide airconditioning and better teaching facilities, and upgrade the central teaching area as well. It wants to refurbish the science laboratory and the staff and administration centre. It says:

It is planned that the existing Library be converted into an Administration and Staff Centre. Current staff facilities are inadequate with far more space being required for teaching staff and a gracious reception centre needed for those visiting the School.

Currently Futter Hall cannot seat all the students in the Senior School, thus Futter Hall needs to be extended. This initiative will also enable a new front to be put on Futter Hall so that it might be matched architecturally with the other upgraded buildings.

A ‘green heart’ is planned for the centre of the academic precinct ...

Contrast that with a lot of the state schools that have got portable classrooms and no airconditioning. I understand that some of the new portable classrooms were taken off state schools in the lead-up to the Olympics—they were given second-hand portables for that period—so that the Olympic athletes, staff or people associated with the Games could be adequately housed.

Contrast that with the very difficult conditions that pupils at King’s School will have to suffer while they go through their education. No-one begrudges those kids at King’s School getting the advantage of adequate and proper facilities, but this argument is about all kids getting the advantage of and access to proper and adequate facilities and an environment in which they can get a proper edu-
cation and in which the same grounds and
the same basis for that education is provided
to every other child in the community.

I could go on and on, but the point is well
and truly made. This is education funding for
the rich by the same rich that went to these
establishment schools. The taxpayers and
Prime Minister Howard’s so-called battlers
must be angry, and I know they are, because
faxes and emails to me with complaints
about this bill have not stopped. Literally
thousands of emails and faxes have come in
from parents, teachers and pupils all around
this country, complaining about this bill and
asking for it to be defeated. Their hard-
earned taxes are being given to a wealthy
minority, helping to further establish their
privilege. This is a ripping off of the poor to
feed the rich—so much for the Australian
ethos of a fair go.

This is money that could be better spent
on our ailing public school system. But, un-
der this government, funding for public
schools will be and is being cut. In 1996,
when the government came to power, 43 per
cent of federal outlays on schools went to
government schools. In 2000, this will fall to
36.4 per cent and, by the end of this funding
period, it is forecast to fall again to 34.1 per
cent. Under the bill, by 2004 every public
school will lose $63,000 per annum. At the
same time, the 50 richest schools will get $1
million each.

This trend spells the potential demise of
public education and, therefore, universal
education. At best, it creates a dual school
structure that then further reinforces a dual
labour market. In this country, since the mid-
eighties we have seen a dual labour market
develop. We have heard arguments about the
need to increase executive salaries. We have
seen executives in major companies lining
their pockets with salaries of $2 million or $3
million a year as well as share options and a
range of other remuneration packages that
have been substantially to their benefit. And
the argument for it is that we need to retain
these brains, these skills and these people
with the training to be able to run our com-
panies operating in the global economy.

At the same time, since the mid-eighties
and perpetuated by this government, we have
heard the argument in respect of the other
end of the labour market, and that is that we
have to force down wages and free up the
labour market if we are going to be able to
compete with our goods and services in the
global economy. There are two different ar-
guments for two different groups. Exactly
the same fundamental principles that are be-
hind and inherent in this schools bill are what
is driving the labour market. We are seeing
the same things occur in respect of the school
structure as are happening out in the labour
market and within our community. We are
seeing a substantial divergence in wealth.
Those at the top are getting richer and richer
while those at the bottom are getting poorer
and poorer.

This bill degrades public education to a
system of last resort, and those students go-
ning through it are not treated the same as
those in the exclusive private school system.
If you do not get to go to one of these elite
schools, because you cannot afford it, you
probably will not go to university or get an
interesting, well-paid job. I grew up in a
school system not dissimilar to the type of
system Dr Kemp is trying to introduce here. I
got my education in Belfast in the period
after the Second World War, in the early fift-
ties. I left school at 13, not because I wanted
to go into the labour market and not because
I did not want to go on and get an education
but because there was no other option. Be-
cause I came from a poor working-class area,
I was designated to only go through the pri-
mary school system. There was no secondary
school system in Northern Ireland when I
went to school. There was no option for
someone like me at that period of time.

I was forced to go out and find employ-
ment at the age of 13 simply because my
access to further education in that period was
cut off. My only access to the system at that
time was to pass an exam when I was aged
11. What kid at age 10 or 11 has the maturity
to be able to understand the importance to his
future of passing his exams at that stage,
when that is three or four years down the
track and when total access to the system is
well down the track?

It was well known in Belfast, where I
grew up, that the vast majority of kids in that
private school system were actually paid for by their parents and did not go through the 11-plus exercise. It was only the very elite in the primary school system in Northern Ireland at that time who actually got through that system and got to go on to further education. I know how difficult it was for me to struggle—after putting in 12-hour days, at times, at the dockyard in Williamstown—to go home and study at night for three and four hours at a time, well into the early hours of the morning, to try and give myself an education. There is no kid in our community that ought to have to go through that system. Education should be a universal right for every child.

Senator Abetz—It is.

Senator GEORGE CAMPBELL—The totality of education that is available to children in the community should be available to all children, and you know it is not, Senator Abetz. Don’t sit there and say that it is, because you know it is not. You know that people from disadvantaged areas cannot put their kids through the education that is available to the children of people who do not come from disadvantaged areas.

Senator Abetz—I’m not saying a damn thing, George.

Senator GEORGE CAMPBELL—That is not what your remarks indicated, Senator Abetz. If you want to mutter under your breath, maybe you ought to do it a little bit quieter so that it is not picked up on this side and you do not get the response that you are entitled to.

I want to now refer to a couple of letters out of the overwhelming number of letters, faxes and so forth which I have received. The first one is from some parents in regional Australia, and it is addressed to me. It says:

To George Campbell

We are writing to protest about the Howard government schools funding bill. Taxpayers should not have to foot the bill for private education. If anything the funding should be increased for state schools to help our ailing school system.

We have a 14 year old son that has a learning difficulty and we have fought tooth and nail to get him help. We started trying to get him help in 2nd class and he is now in year 8. We have finally got him the help he needs and if these cuts to the school funding happen we are afraid that we may lose this great help that he is getting.

We are so sick and tired of the Howard government promising the world when you’re actually getting nothing at all. What happens is the rich get richer and the poor get poorer. If we get any poorer our family and many other families in Australia will be living on Parliament House grounds in cardboard boxes.

Where is the future for our country and our most valuable assets, our children and their education.

The second letter that I want briefly to refer to is from the principal of Ulladulla Public School. It says:

This week we lost our place on the Federal Government’s Disadvantaged Program. This is in spite of our school community being in the same position economically as it was three years ago when we were originally placed on the program. In effect this means we lose one teacher position and approximately $80 000 p.a. in additional funding. You can imagine the effect this is going to have on our ability to provide aide support and resources for our school population.

Universal primary and secondary education has been a central part of citizenship and a key democratic institution. Undermining this principle by not securing funding equities between public and private education could have far greater ramifications than even this government envisages. If this social experiment goes wrong, thousands of children will be condemned to a life of disadvantage.

(Time expired)

Senator BRANDIS (Queensland) (8.24 p.m.)—I too wish to speak on the States Grants (Primary and Secondary Education Assistance) Bill 2000. I listened to the remarks of Senator George Campbell—as I have listened to the remarks of other Labor senators who have participated in this debate—with growing disappointment and dismay. Try as they might, though I do not think they try very hard, the Australian Labor Party cannot escape the old shibboleths, the old class war rhetoric, the belief that there is something wrong or something invidious about choice, the belief that in order to en-
able parents to achieve the education that they would choose for their children one is therefore handicapping families and students who attend government schools, and the idea that private provision and public provision are a zero-sum game. It is nonsense. I believe that this legislation is some of the finest legislation this parliament will consider.

Senator Carr—You have got to be joking!

Senator BRANDIS—There he goes. Senator Carr is displaying all of the old prejudices, the bigotries and the shibboleths of the 1950s. This is about empowering parents and empowering families. Let me correct a couple of the misconceptions which either deliberately or through ignorance the Labor Party have advanced about this legislation. The first—and we heard it in ringing tones from Senator George Campbell—is that this legislation is anti government schools. Senator George Campbell should know, as all senators should know, that funding for government schools will be increased as a consequence of this legislation, not reduced. The legislation appropriates a sum estimated at $7,620,191,000 for grants to government schools in the 2001-04 quadrennium. In addition, as honourable senators such as Senator Carr and Senator George Campbell ought to know—or perhaps they do know but pretend not to know—100 per cent of the GST revenue is returned to the states so that they can spend that money on government schools through their own budget allocations and at their discretion. There has never been more Commonwealth money invested in public education in this country before than there will be as a direct consequence of this bill, which, for the most foolish and ideological reasons, the Labor Party have chosen to oppose.

The second misconception, a misconception born either of deliberate falsehood or of ignorance, which the Labor Party cultivate in this debate is that it is about elite schools. Tell that to the Catholic schools, who have welcomed this proposal with open arms. Tell that to the entire private school sector, which has welcomed this proposal with open arms. As usual, rather than come to terms with the basis of a policy, the Labor Party, as they did in the GST debate, pick upon a wilderness of single instances and then try any way they can, through the distortion of language, to make the legislation seem unappealing to the public and suggest that therefore the legislation and the policy underlying the legislation are flawed. They pick on the category 1 schools. They pick on the so-called elite schools. Senator Campbell and Senator Carr: this is not so much about schools; this is about students. It is about families. It is about giving those families the choice not to send their children to government schools if they choose not to. If they are religious people—if they are Catholics, members of other Christian churches or members of other religious faiths in this country and they want to send their children to a school where they will be educated in the religion of their family, the legislation enables parents to do that. It looks not at the needs of the schools but at the needs of the families.

Senator Calvert—They pay tax too.

Senator BRANDIS—As Senator Calvert rightly points out, they pay tax too. It looks at the needs of the families and enables them to have a choice. This nonsense about category 1 schools being the home of elitism is lamentable. There are so many families—I know many in this position, as I hope would all honourable senators—who make tremendous sacrifices so that they can send their kids to what they consider to be the school that will give them the best education. That is not to say that private schools are better than government schools—many government schools are better than a lot of private schools—but it is the right of parents to say where they want their children educated. I speak in this debate with real passion because my family made that choice with me.

Senator Carr—What a surprise!

Senator BRANDIS—My mother was a widow and she worked hard. She worked overtime and made a hell of a lot of sacrifices to send me to a private Catholic school—not an elite school, but a middle range, very fine school in Brisbane: Villa nova College. If parents want to make sacrifices so that they can choose where their children are educated, who is to say that they ought not to have that right? How dare any-
one say that a parent or a family should not be given every encouragement by policy and by legislation to exercise that choice.

My little girl attends a very fine school, St Margaret’s, in Brisbane and the parents of the children in her grade 3 class are not rich—some might be, but most are not. They are shopkeepers, small businesspeople and public servants—I daresay a few of them are trade unionists. They make the sacrifices because they have decided that they would like to have their daughters educated at a school that they think is a good school and one that they would prefer them to be educated at. I understand Senator McLucas is a St Margaret’s old girl.

Senator McLucas—No, I’m not.

Senator BRANDIS—I am sorry, I am contradicted. If parents make that choice, who is to say that they ought not to? The parents of children even at the so-called elite schools—such as Geelong Grammar, Shore and the King’s School—are, in many cases, struggling people who make tremendous sacrifices to give their children what they perceive to be the best start in life. Who is to say that they should not have that opportunity and that government ought not to encourage it?

The test of this legislation is whether it will increase access to schools, government and private. In that regard, I will read into the record some communications that have been passed on to me by the minister from some of the schools to which the right of parents to send their children is being attacked by the Labor Party in their opposition to this legislation. Let me read from a circular letter, dated 6 November 2000, to parents of the Westminster School in South Australia from Mr R.H. Graham, the secretary of the school council. The letter commends the legislation, and Mr Graham writes:

In the event that SES funding passes the Senate and results in increased funding being received for 2001, the Council has determined that it will reduce the fee levels by passing on the full increased benefit to parents. If this occurs, I will write to you again to inform you of the reduced fee details.

Senator Carr—Don’t hold your breath.
this legislation and this funding mechanism pass the test.

Senator MURRAY (Western Australia) (8.37 p.m.)—The States Grants (Primary and Secondary Education Assistance) Bill 2000 delivers unprecedented gains to the top private schools—and the Democrats hold the view, like large numbers of Australians, I think, that this is unfair and unreasonable. Make no mistake: the Australian Democrats recognise the need to fund non-government schools with public support. But this particular bill is just unfair. It is unfair to the non-government schools in genuine need of more funding, and it is unfair to the 70 per cent of the school population who are in our critically underresourced public education system. This bill is overgenerous to the well-off and better-off schools.

Public education is underresourced in this country. As a percentage of GDP, our overall spending on education has dropped from 5.1 per cent in 1992-93 to 4.3 per cent in 1999-2000. We have also dropped well below other OECD countries in public spending on education. Australia was spending 4.3 per cent of GDP in 1997, compared with the OECD mean of 5.1 per cent. This is a policy we will live to regret, and our children will curse any government that allowed this kind of situation to develop.

It is quite clear that the coalition government is not prepared to fulfil its obligation to fully support—I recognise that they do support, but they do not fully support—a free, universally accessible and secular, high quality public education system. Quality needs money. It is also clear that Minister Kemp is very interested in parents paying more for education by shifting students out of government schools and into the private sector. This is a minister who once posed the question, ‘If a service can be found in the Yellow Pages, why is the government providing it?’ Every parent forced out of the public sector system by a low investment policy is effectively forced to pay an indirect tax by paying for private education. It is cost shifting from the public to the private.

The Democrats think there are very good reasons to provide high quality public education—reasons such as equity, such as securing a sound future in Australia with a population of well-educated young people; reasons such as making Australia as competitive as it can be in what is a very tough world. This legislation will help some schools produce outstanding, well-educated young people. But they will be in schools that, by and large, are already well resourced or will become well resourced.

The coalition makes the charge that it is unfair to pick upon the schools which illustrate the point of being excessively funded, but that indicates the weaknesses of what you are suggesting. No-one denies that you should not be funding non-government schools, but there are excesses in what you are proposing. The King’s School in Sydney has been raised several times in debate. As we all know, it will get an additional $1.4 million a year under the new system. The school has just announced a $16 million capital works program. It has already raised $2 1/2 million from parents—and good on them. But how can this possibly be considered a needy school? The money raised works out to about $2,200 per student, and it is going to get an additional $1.4 million a year.

In my home state of Western Australia, Dr Kemp’s reward system for the already privileged is yielding similar results. The Hale School, which I know well and have visited several times, is a category 2 under the present system: it gets an extra $1 million a year under the SES. Hale has 12 tennis courts, four basketball courts, a gymnasium, an Olympic size eight-lane swimming pool, a rowing fleet on the Swan River, four football fields, two soccer fields and hockey fields, four squash courts and two rugby fields. Terrific young people are educated there. It is a great school. The annual fees are in the order of $9,000. Why is it getting extra money?

We are told that many families make great sacrifices to send their children to non-government schools. That is obviously the case for some families. The rhetoric of many needy families making sacrifices to give their kids a better chance is powerful, and it is true—and Dr Kemp knows this. But is it a sound basis for this kind of subsidy, for this kind of public policy?
The Democrats have fundamental problems with relying solely on notional parental income to establish the basis for deciding which non-government schools are in need of more Commonwealth support. The current system of funding takes into account all of the resources flowing into each non-government school and the fees that each is able to command. In many schools receiving large increases, those fees alone are equal to twice the amount spent on students in government schools. The issue here is not the top amount which students are getting; the issue is the bottom amount and how we can ensure that our system’s base is as strong and of good a quality as we can make it.

The role of government should be to alleviate inequities, not to entrench them or increase them. Ultimately, the issue at hand is excessive public subsidy of the private sector and what the limits should be. We should be focusing our efforts and our dollars on ensuring a high minimum educational standard for each child—and that should be a quality minimum educational standard. At present, we are failing at this challenge. Forty per cent of students in government junior secondary schools are being taught maths and science by teachers who are not qualified in those areas. We are not giving children at risk of homelessness or early school leaving the support that they need. That is hard work, looking after the disadvantaged or difficult is hard work, and you need to pay teachers and have enough teachers to do that hard work. It is much easier teaching bright, well-fed privileged kids than teaching those sorts of children—which really is hard work and needs money.

In country areas, access to a decent range of curriculum choices and cultural enrichment is often severely lacking, and successive federal governments of both persuasions have neglected their responsibility to provide pre-school access. The Democrats believe the primary role of government is to ensure that every Australian child has access to a good standard of education, regardless of what their parents are able or willing to pay. We do believe in a fair go. All of Australia believes in a fair go. We are also unashamedly egalitarian on educational matters. We believe funding is better done by basing it on the resources schools can call upon.

The fundamental flaw in the SES is the fact that it does not reflect directly the actual income of households where students live. It uses the average income of their neighbourhood. Many urban areas are mixed income neighbourhoods—and these are generally close to the city—where the wealthy can live cheek by jowl with those on low incomes and social security. Again, in my own city of Perth, there are very wealthy areas where there are also very poor people because the city and the government have had a policy of putting assisted housing in wealthy areas, and I think that is a good policy. It is against the ghetto mentality, but it does have an effect when you are looking at this kind of funding of distorting the formula. The ABS say that this phenomenon tends to produce scores around the middle of the range.

Even worse the SES does not reflect the actual wealth of households with private school students. Aspects such as tax minimisation techniques, inherited wealth, savings, indebtedness, property values, possession of trusts, et cetera, are not included. The ABS acknowledges that people filling out the census form tend to understate their income, especially in relation to investment income. In the end, this is information that is supplied voluntarily and cannot be checked against tax records. There is no wealth database in this country. The consequence of all this is that well-off and better-off schools are being overpaid, and that is what this debate is about.

The SES will also disproportionately reward high fee schools which take boarders from rural areas. These schools will benefit from the low SES of rural areas, even though only a handful of families from these districts would be able to afford boarding fees. For instance, the 700 boarders at Geelong Grammar make up roughly half the school population. On the whole, they may come from lower socioeconomic rural areas but higher wealth households. It is clear that the SES will favour above all the most affluent urban schools in the eastern states. Professor Richard Teese from Melbourne University
found that outside the Catholic system more than three-quarters of the SES funding increases would go to schools in ERI categories 1 to 3, which are the schools charging the most fees and with the highest resourcing levels. Dr Kemp says the hefty increases to the most privileged schools are meant to redress years of underfunding. By whose measure? It seems to me that schools like Hale in Perth have been doing just fine without Canberra’s help. Of course they will accept any more money that is coming their way—they would be mugs not to—but do they deserve it and would that money be better placed in the public sector system? I believe the money would be most efficiently and equitably redistributed to the genuinely needy. I cannot accept that this is a fair or particularly efficient use of taxes to promote the widest distribution of educational skills in our young people.

Fair enough if there was money to splash around, but the need in the public system deepens. The supply of teachers at WA public schools is expected to satisfy only 72 per cent of demand by the year 2003. Western Australia in particular, because of its size, has a problem with staffing schools in regional and remote areas. Year 12 completion rates nationally in 1998 were 67 per cent in urban areas, 63 per cent in rural areas and 54 per cent in remote areas. Year 12 completion rates in privileged private schools are outstanding by contrast. ABS figures show that in 1996 the region with the poorest school attendance in Australia was the Kimberley in my state of Western Australia.

The recent HREOC inquiry into rural and remote education heard that teacher turnover is high. In remote areas, new graduates in government schools are expected to teach multigrade classes with few facilities and usually live in substandard housing. They are usually unable to help children with special needs or special talents because there is not enough human resources support. The plight of these teachers will be worsened under the bill, not only because funding in general to public schools will stagnate but also because funding for the federal Country Areas Program will go into decline. Indeed, $18.7 million a year is supposed to give additional support to thousands of schools all over the nation. A couple of years ago this figure was $20 million, so it has not even kept pace with inflation. Ninety per cent of what is known as CAP money goes to government schools. There is a pattern here: where targeted programs support government schools, Dr Kemp seems to be running with a suitcase full of money in the opposite direction. These schools are shuddering under the weight of not enough resources. The Western Australian Farmers Federation said:

There is a desperate need for the Federal Government to take a long hard look at the hardships that thousands of families encounter just by being located in the rural or remote areas of Australia. No wonder those small towns, jobs and people are disappearing from rural areas, where the sacrifices that those people endure are greater than the benefits their families would gain by staying.

I do not consider the Western Australian Farmers Federation to be a hotbed of radical Socialist Leftism, but if you had to ask them whether they would prefer to take that money out of Hale and pop it into the public sector rural schools, I suspect they might answer yes. The inquiry into rural and remote education by the Human Rights and Equal Opportunity Commission painted a stark picture of the need for special funding in Western Australia. We are talking here of an entirely different realm of need from what Dr Kemp’s notion of need is. One principal told the HREOC inquiry:

We have children here with foetal alcohol syndrome. We are not really sure of their learning capacity. In the younger years it is not so much of a problem but we have one girl here who is nearly 14 and she can barely write her name. This child is also developmentally delayed. She has been tested once before and she once had access to an occupational therapist. Students with foetal alcohol syndrome really need an integration aid.

We have to ask ourselves as a society: do we give up on these people and say it is a hopeless case and it will just go on from generation to generation like that, or do we actually try to turn matters around? I think, as someone who has hope in the human nature and human condition, we should try to help them to turn things around. Another witness to the
inquiry highlighted the desperate need for health specialists in remote areas of Western Australia, where indigenous children suffer high levels of ear infections, saying:

There is a teacher of the deaf in Broome. But this person does not have money for travel nor does he have a vehicle.

Quite a number of children have hearing disabilities. We have 6 children who had a referral to the ear specialists out of 40 children. Two of those 6 children have priority one ear operations. We have one child who has no hearing and no speech. He floats between two communities. One child has recently had an ear operation. It might be next year before the ear specialist comes so it might be a long time before these children have an ear operation.

Those children are harder to teach. They need more resources to deal with them and to bring them along so that they can become productive and meaningful members of society. Another witness talked about the severe levels of undernourishment impeding children’s learning saying:

We don’t provide a breakfast program though we do have children who are failing to thrive. We sell Weetbix at recess and some children hold on to them for lunch.

Our children do not have much energy. You get a few hours of work out of them and then they say they are ‘weak’. ‘We are weak, we are slack’.

Everybody who is involved in education knows that an undernourished child does not concentrate as well and needs, again, more teacher attention. There is a desperate need for English second language teachers in remote communities. Several teachers told the inquiry that it was very difficult accessing ESL support for Aboriginal students. They said, ‘Students that in Perth would be deemed to be ESL or English Second Language students are not recognised as such if they’re Aboriginal.’ The retention rate for indigenous students is 33 per cent compared to 75 per cent for all students. I know it has improved over the last decade, and that should be said, but it still has a long way to go. Only 5½ per cent of the indigenous school aged population are participating in years 11 and 12. Nearly half of indigenous people aged 15 years and over have received no formal education.

The life chances and aspirations of all Australian children, some more than others, rest in part with the fate of this bill. It is quite proper in the debate on this bill to concentrate on those at the very top and those at the very bottom because it illustrates the distance between the kind of funding which is being proposed at each end. We think that is distorted and should be shrunk. The Democrats believe that delivering $500 million in increases to private schools while granting only $106 million extra to public schools over the next four years is not a recipe for efficiency or equity or a fairer nation. One communist hope, which was never realised in its awful tyranny, nevertheless held an interesting ideal. That communist hope was: from each according to their means to each according to their needs. In this bill the coalition are feeding the rich and rationing the poor, and that is just not fair.

Senator ELLISON (Western Australia—Special Minister of State) (8.56 p.m.)—I thank senators for their contribution to this very important States Grants (Primary and Secondary Education Assistance) Bill 2000. This is a significant piece of legislation. It will appropriate $22 billion to schools over the next four years, and it has implications for raising the quality of education and increasing access to education for all Australian school children and Australian families. The bill renews the government's commitment to school education across Australia.

This bill reflects the government’s policy decisions related to the 2001 to 2004 school funding quadrennium. These include implementation of the new socioeconomic funding arrangements of non-government schools; the introduction of a streamlined structure for Commonwealth targeted programs for schools, improving accountability and permitting greater flexibility in the application of Commonwealth funds to improving outcomes for educationally disadvantaged students; and strengthened accountability and reporting arrangements where education authorities will be asked to commit to reporting on student outcomes against agreed performance indicators and targets underpinning the national goals of schooling. This bill also contains provisions for establishment
grants to assist new non-government schools with costs incurred in their formative years and enable them to be competitive with existing schools. For the first time it will provide recurrent funding for distance education students in the non-government sector receiving that education from non-government schools and the streamlining of legislative requirements for the capital grants program which will be accompanied by a broader reporting by states on the state of their school infrastructure and improvements year on year.

It is necessary to put in place a new funding mechanism for non-government schools because the mechanism which the Labor Party put in place—namely, the education resource index, or ERI as it is commonly known—is badly broken and has no credibility. It has been broken because it has been subject to constant political manipulation and political decision making with the result that the categorisation of the schools through the ERI has now no obvious rationale whatsoever. The ERI is inequitable, complex and readily manipulated. Increased funding for the non-government sector will give a significant funding boost for the neediest non-government schools. It addresses areas of need which have remained unaddressed for many years and restores an equitable balance between funding for government and non-government schools alike. The ceiling of maximum funding will be lifted from about 56 per cent of average government school costs to 70 per cent, representing a 14 per cent funding increase to where it is needed most. The legislation will ensure that the level of funding need assessed for parish schools will be secure. It will ensure that the new schools are funded at the assessed level of need of their parents and not at some artificially reduced level designed to inhibit lower income parents from exercising their choice as to which school they send their children. It will mean that the gross inequities of the ERI, especially for schools in categories 1 to 4, will at last be replaced by a fair funding arrangement reflecting the actual needs of parents who have children at these schools.

With regard to this new SES funding system, Mrs Audrey Jackson of the Association of Independent Schools in my state of Western Australia, which has 120 members throughout the state, wrote in the Australian on 6 November this year that the association has schools:

... at Carnarvon, Coolgardie, Gibson and Mukinbudin. There are schools also in the Great Sandy Desert and other remote areas of the Pilbara and Kimberley. In these latter schools, access to a reliable power and water source is problematic, as is ready access to the internet. These schools will benefit from the implementation of a socio-economic status (SES) model of funding, since the maximum funding level has increased to 70 per cent of the average government school recurrent cost.

It is time to stop taking the narrow view with a focus on the larger, high-fee, longer established schools and to consider the benefits across the sector. In the SES, the Government has developed a method of funding that truly recognises the circumstances of schools in rural and remote Australia.

I think Mrs Audrey Jackson puts the point very well that what we are talking about in the non-government sector are many schools which are at the lower end of the socioeconomic scale and, in some cases, are schools which are in the remote and regional areas of this country. I might just refer to correspondence that I have received from the National Council of Independent Schools Association urging the Senate to pass this legislation. Correspondence from the National Catholic Education Commission urges that the Commonwealth parliament pass this legislation as soon as possible. There are other items of correspondence that I have received and, indeed, it would be fair to say that churches across Australia have endorsed this legislation and are urging this Senate to pass it intact.

No school will be financially disadvantaged by the move to the new SES funding system. Schools that would otherwise have their funding reduced under the new arrangements will have their 2000 per capita entitlements maintained. Schools that are funded under the SES model will have their increased funding phased in at a rate of 25 per cent of the increase each year, so that by
2004 schools will be fully funded at their new level. In the legislation the Commonwealth’s increased funding for schools is not confined to non-government schools. Commonwealth spending on government schools is at the highest level ever. I stress that the government believes that you need to have a strong government school sector as well as a strong non-government school sector. By having that, you give the parents of Australia a viable choice as to where they send their children. The total funding for government schools in the Commonwealth budget this year is $2 billion and over the next four years will total $8.6 billion. Government schools will receive over $1 billion more for the next four-year funding period than during the previous four years.

The government’s fairer funding reforms enjoy the support of the entire non-government sector, as I have said. At the recent meeting between the Prime Minister and state premiers, there was a press conference after the COAG meeting, and the Prime Minister stated, ‘Nobody criticised the new funding formula for independent schools,’ Whereupon Premier Beattie from Queensland supported this with a comment saying: The Prime Minister is quite right. In fact, I made the point that we didn’t want to see one cent go out of any private schools.

That came from a Labor Premier, from a Labor state, and he was supporting the government funding formula. Senator Allison, of the Democrats, has proposed an amendment requiring greater accountability for non-government schools. With respect, she has missed the point on a major feature of this bill—that is, it is seeking to achieve equality of outcomes for all students. This bill contains provisions which give effect to a new accountability framework aimed at strengthening the link between the funding provided under Commonwealth school programs and improved outcomes for all Australian students. This bill also provides for a revised structure for some Commonwealth programs of targeted assistance for schools, which is the outcome of the review foreshadowed in the 1999-2000 budget. The revised structure combines the literacy and numeracy grants to schools and the special education support fixed and per capita grants into the strategic assistance for improving student outcomes program. What we have here is not just SES funding; it is a comprehensive bill that deals with targeted assistance for Australia’s school children.

The priority and community languages programs will be combined into the Languages Other Than English program to provide greater flexibility for funding to achieve improved learning outcomes. The changes give education authorities greater freedom to allocate Commonwealth funding to schools to achieve improved learning outcomes for students. They are intended to encourage sectors in schools to think more strategically about how to utilise this funding to achieve improved outcomes. Targeted programs need to have the capacity to produce far-reaching changes to school practice, not just act on the margins in a few selected schools. For example, schools going through a revolution in the senior years of schooling, as a result of the Commonwealth’s strategy of encouraging a major stream of enterprise and career education supported by business and community organisations, to greatly expand options for the 70 per cent of school leavers who do not go straight from school to university. The result has been a veritable explosion in the number of senior students doing enterprise and career courses. It has risen from 26,000 in 1995 to an estimated 167,000 students this year. We also have over 7,000 students in school based part-time new apprenticeships. What we are providing is a seamless transition from school to training, and that of course is applicable to the 70 per cent of students who do not go on to university.

We have here a genuine and positive educational change taking place not in a few selected areas but in schools across the country. I expect our initiatives in indigenous education, especially in literacy and numeracy, to have similar widespread effects. Senator Lees from the Democrats made the remark that there is no requirement for non-government schools to spend Commonwealth funding on education. I recommend that she read the first page of the bill that states:
A Bill for an Act to grant financial assistance to the States for 2001 to 2004 for primary and secondary education, and for related purposes.

This means that all funding under this bill is for the provision of education.

We believe that the amendments proposed by the ALP and the Democrats are unfair and completely unworkable. As Senator Tierney quite rightly pointed out, Labor’s proposal to maintain the funding of category 1 schools at the current level is ridiculous as it assumes that all category 1 schools are the wealthiest schools in Australia. The SES funding model has shown this to be incorrect by revealing the socioeconomic status of parents who send their children to these schools. They are not necessarily rich parents. This also highlights the deficiencies of the current ERI index, which I mentioned earlier. The amendments proposed by the Democrats are not based on any sound rationale. Freezing funding for 12 months would be totally untenable for the schools sector and would deprive schools of additional funding of $285 million under this bill. The proposal to change the calculation of the SES system by checking every parent’s income is equally inappropriate. This has significant privacy implications and would be an administrative nightmare.

Senator Lees’s claim that the Commonwealth increases for government schools are only cost supplementation is incorrect. This government’s commitment to government schools is shown in the substantial election and budget increases provided since 1996: some $516 million for important literacy and numeracy programs, $187 million for languages, $180 million for special learning needs, $78 million for quality teaching—to assist teachers in professional development—$239 million for indigenous education, and $130 for VET in schools. We also have, for the first time ever, a comprehensive drug education program involving $18 million and the setting up of a National Schools Drug Advisory Council. That is something the parents of Australia would indeed acknowledge as very important. Some 70 per cent of the funding I have just mentioned goes direct to government schools. We have a bill here which is for all, not just for some. There is widespread support for this bill within the schools sector and the public arena. There have been calls from both sectors for this bill to be passed so that schools can get on and start planning the new school year. Labor and the Democrats have been delaying the passage of this bill by proposing amendments which are not appropriate and by delaying the tabling of the Senate legislation committee report not once but twice. This bill is the single most important piece of schools legislation that this government has introduced.

We are also going to provide new arrangements for educational accountability which will require education authorities—government and non-government—as a condition of funding to commit to achieving performance targets underpinning the national goals for schooling. As a nation, we will know for the first time where we are headed in relation to our education in this country. The outcomes expressed in these targets will be those related to the national benchmarks in literacy and numeracy and progressively to those performance measures in other key areas as identified and endorsed by education ministers. These performance measures, in the form of targets with a clear time line, will be agreed through the relevant MCEETYA task forces. Education authorities will be required to publicly report on progress towards achieving these outcomes. I expect that the reporting built into this legislation will have immediate and direct benefits. It will build public confidence in our schools by providing an agreed national framework against which parents can assess their children’s progress in key areas.

The Commonwealth is encouraging educational authorities to improve reporting to parents, including the provision of information on the performance of students against the national standard. The strength of this approach is that it provides assessment and reporting of student achievement against nationally agreed standards, but it does not mandate how schools should achieve those improved outcomes. These accountability measures will throw the whole weight of the federal government’s $5 billion annual investment in schools behind improving edu-
The Commonwealth approach to school quality includes parent choice and increased funding. We are also providing important strategic intervention to help schools improve these outcomes for the most disadvantaged students. This bill has a variety of measures which will all go to improving education in this country. As I said, it is the single most important piece of schools legislation that this government has introduced. It will involve $22 billion of funding over four years. The Commonwealth’s commitment to improving educational outcomes for all young Australians is clear and backed up by increased funding, strategic intervention, improved standards and, of course, choice.

I note that Senator Carr has moved a second reading amendment. The government will be opposing this. In his proposed amendment to the second reading speech, Senator Carr is entirely off the point. He has not recognised the benefits of this bill. He has not recognised the increased funding for the schools sector in this country. He has not recognised the increased accountability and transparency in relation to the funding of the education sector. For those reasons, we will be vigorously opposing the second reading amendment. I have touched briefly on the amendments proposed by the ALP and the Democrats, but I believe they are best addressed individually when we come to them in the committee. I commend this very good bill to the Senate.

Senator CARR (Victoria) (9.15 p.m.)—by leave—I move opposition amendments Nos 2, 3 and 8:

(2) Clause 28, page 28 (lines 14 to 16), omit subclause (2), substitute:

(2) Subject to subsection (2A), the Minister may make a determination reducing an amount that is authorised to be paid to a State under any provision of this Act in a program year by an amount not more than the amount repayable.

(2A) The Minister may not make a determination reducing an amount calculated under section 53 in respect of a State unless the State has failed to comply with a requirement of Division 2 of this Part.

(3) Clause 53, page 50 (line 9), omit “not more than”, substitute “equal to”.

(8) Clause 107, page 94 (after line 16), at the end of the clause, add:

A determination made under subsection (1) must not reduce, or provide for the reduction of, financial assistance payable to a particular State or States on the basis of the proportion of student enrolments in the government and non-government school sectors in that State or those States.

These amendments go to the question of the enrolment benchmark adjustment. The opposition amendments seek to remove this measure from the States Grants (Primary and Secondary Education Assistance) Bill 2000. The EBA, as it has become known, is an offensive policy which, frankly, this government has not sought to defend for some time. I look forward to seeing whether or not the government is prepared to defend it tonight.

From the very first year of its operation, the Minister for Education, Training and Youth Affairs, Dr Kemp, has fiddled with this formula. He has introduced arbitrary buffers to take the edges off the worst effects of this inequitable policy. This is the same minister who repeats, ad nauseam, claims that the ALP was guilty of political manipulation of the education resource index. Once again, this demonstrates Dr Kemp’s hypocrisy. He has been trying to pretend that the EBA has not really existed since 1997.

I think it is important to consider exactly what this measure is and the response to this offensive policy. I take the Senate back to MCEETYA meetings in July 1997. After consideration of the bill that introduced this measure in 1996, and following a response to the Senate committee report into this meas-
ure, the Commonwealth undertook consultations with the states and territories after the introduction of this measure. The records of those meetings, held in Darwin on 12 and 13 June 1997, say:

All states and territories expressed concern over the introduction of the EBA. Most stated that there was a negative perception in the community about how the EBA would affect government school systems. There was a shared concern over the length of time the EBA would be in place.

The records go on to say:

Several states and territories view the EBA as the Commonwealth shifting costs onto the states and expressed concern that the EBA would recoup all the increased costs to states for government education in the years to come.

The records of the meetings say that South Australia was particularly concerned:

South Australia expressed a deep concern over the introduction of the EBA in an environment of poor economic outlook and continuing high youth unemployment.

The documents go on to say:

These factors contributed heavily towards falling retention rates in government schools and the shift of students to non-government schools. It estimated that a 12 per cent shift in enrolments at non-government schools would result in the Commonwealth not providing any general recurrent funding for South Australian government schools. It currently estimated a three per cent shift.

And so on. What was also indicated in these documents about the EBA was that all states and territories shared these concerns. We know that, when the EBA actually was operating, it varied from place to place. Various exemptions have been made and we are never certain precisely what those arrangements are or why they have been made. One gets the impression that political arrangements are entered into to protect certain regions from the worst effects of this arrangement.

This policy of Dr Kemp’s—which is, in reality, one of his real favourites—was essentially designed to take money away from government schools to reflect what was regarded as the percentage shift in enrolments between the two sectors. The premise that underpinned it all was that it was claimed by the Commonwealth that there was a cost saving to state governments if people enrolled their children in non-government schools. As a consequence, the Commonwealth sought to claw back from the states approximately half what they believed these savings would be. It was claimed originally there would be a saving of $3,400 per student, and that the Commonwealth therefore had a right to claw back $1,700. In reality, increasing enrolments have taken place in the government school system—that is, the absolute numbers have increased—although the percentages in the total system have varied.

So what we have is a situation such as that in New South Wales where the EBA has effectively taken $31 million from public education, despite the growth in actual enrolments in that state of 3,000 students. The EBA is simply a means of punishing any state where the growth in the non-government school sector enrolments is faster than the growth in the government school sector. I can only conclude that this is part of a broader campaign by this minister. In opposition he made his aim clear: encouraging the shift from one sector to the other. The evidence is overwhelming on that point.

While in government this minister has introduced policies to give effect to his fundamental prejudice against public education. This minister seeks to justify this action by suggesting that our public schools are in crisis. He constantly denigrates public education in this country. He suggests there is a crisis over standards. He suggests there is a crisis over curriculum. He suggests there is a crisis over parent choice. All of this is terrific if you are seeking to build an atmosphere of crisis, as if it is easier to reform a system that he claims is in crisis than it would be to suggest that the system was actually working well.

I take the view that Australian schools are doing a good job. Our teachers and our students in our schools are working hard and are generally doing very well. The school system that was inherited by Dr Kemp in 1996 was a system in which we could generally feel very proud. In fact, it was not a system in crisis over standards, or over curriculum, or over parent choice. This is a figment of Dr Kemp’s political imagination. He has to
demonstrate this crisis so that he can be seen to be acting in a way that would justify what is quite clearly a partisan policy in regard to his attitudes towards non-government schools.

In recent times we have heard the states continue their concerns. They in fact last year established their own task force at MCEETYA in regard to the operations of the EBA. I ask at this point if we could get some indication from the minister how that task force is going and what action has been taken by this government to facilitate the work of that task force which, as I said, has been undertaken through the MCEETYA process.

Senator ELLISON (Western Australia—Special Minister of State) (9.24 p.m.)—In relation to the EBA can I just say at the outset that cost shifting between levels of government in this area is a serious issue. That has been recognised by the state education ministers and by the Labor Party itself. The proposed amendments to the schools legislation by Labor seek to simply abolish the EBA without paying any attention to the underlying cost shifting issue which I have mentioned. The EBA was introduced to put a brake on this cost shifting from one sector to the other. A committee established by state ministers is to report on the alternatives to the EBA but has yet to do so. It is very important that the Senate realise that the ministerial council of education ministers has looked at this, and there is a report to come from a committee set up by those ministers. It is premature, therefore, to propose this amendment when the states have failed to propose their alternatives to cost shifting. We should await the outcome at the very least.

I place on record that the Minister for Education, Training and Youth Affairs, Dr Kemp, has not denigrated the public sector at all. I reiterate that the government has said time and time again—and Dr Kemp has been very firm on this—that there should be a strong government schools sector and a strong non-government schools sector. Only by having two strong sectors will you give parents that viable choice. There is no crisis that is being talked up by Dr Kemp. All Dr Kemp has ever talked of is improving outcomes for Australian students and, what is more, to have some national goal that Australian schools can work to and that there be some transparency and accountability. Parents want to know how their children are faring, how they measure up to national standards. In fact, it was this government that, for the first time ever, brought in national benchmarks for literacy in years 3 and 5. We are working towards further benchmarks in relation to numeracy as well.

When Dr Kemp did that he was roundly criticised for trying to beat up an issue which did not exist. History has shown that he was absolutely right and that the parents of Australia thought that this was an issue that had to be addressed. I now see that Labor has adopted this. In fact, Labor in my home state has adopted a policy on literacy which you would swear came straight from what Dr Kemp proposed those years ago when he was initially criticised. So it is wrong to attribute those positions to Dr Kemp. But I place on record the government’s attitude to EBA and why it is there.

Senator BROWN (Tasmania) (9.27 p.m.)—Firstly, let me reiterate, as other members have, how important this legislation is. Because it will affect funding of schools in this country for the next four years, it is critical that we get it right. The Greens and I are very strong in our support of a good education system but stand particularly strongly in defence of the public school system, to which most Australian youngsters go and upon which most Australian families depend. It is the right of all Australian children—and indeed it should be the right of all children around the world—to have access to high quality education and to have that assured by government. After all, it is by law a requirement that children go to school. It should be by law a requirement that governments spend taxpayers’ money on a schooling system which gives those children an equal and equitable education—and that, above all, is the public school system in Australia. That is not to deny that some funding should also go to the private school system—of course that is the case—but to ensure that where the need is greatest the money is best spent. The clear argument here is that the need in the year 2000 is by
far the greatest with the public school system in Australia, where more than 70 per cent of children go, and that is where the government’s primary obligation should be.

I apologise to the committee for circulating my amendments late. I assure you that is my oversight. They were prepared much earlier, and by tomorrow we will have adjusted for that. Senator Carr might note that my second amendment goes in exactly the same direction as the one he is putting forward at the moment. It proposes the removal of the enrolment benchmark adjustment for Commonwealth general and recurrent funding by amending section 63, as Senator Carr’s amendment is doing, with the effect that Commonwealth funding for government schools be equal to the amount prescribed by the funding formula—instead of using the current wording which says ‘up to’—which allows the minister to operate this enrolment benchmark adjustment.

I inform the committee at this stage that I also have another amendment, which we can deal with after this or further down the line, at the committee’s pleasure, proposing an overarching statement which will become the object of this act and which reflects the Greens’ thinking on this matter that ‘all governments have a shared responsibility for ensuring quality school education for all, as reflected in the national goals for schooling, and that the Commonwealth has a particular responsibility to support state and territory governments in their provision of a high quality school system’.

We then have other amendments to ensure that current funding for schools authorised in the states grant legislation be extended to operate for a further year so a review of the whole system can be carried out to ensure that funding is fair to all schools and government schools receive a share of Commonwealth funds in proportion to their enrolment share, that the EBA is indeed abolished and that privileged schools operating well above the average of the government schools do not receive increases in Commonwealth funding at a time when there is such a particular need for government schools throughout Australia to be better funded than they are at the moment. That said, I will be supporting the Labor Party amendment.

Before I conclude I would like to note a statement today from AAP which says: Australian Democrats Leader Meg Lees marched into the festering schools funding row today accusing Labor of going to water over the government’s $22 billion plan. She urged the opposition to block the bill unless there were significant changes to it and vowed to do the same. Senator Lees’ attack follows weeks of exchanges between the government and opposition over the amount of funding that the government’s bill will send to private schools.

I am very mindful of the fact that not very long ago—indeed on 4 October—my hometown newspaper, the Hobart Mercury, reported:

Democrat education spokeswoman, Lyn Allison, said her party, though upset with the system, which was to deliver an extra $700 million to non-government schools, was hamstrung in stopping the bill.

That report led off with the comment: Australian Democrats yesterday signalled they would support the federal government’s contentious new funding system for schools despite believing it was unfair.

There is a PM report earlier still which reflected the Democrat view that a money bill ought not be held up by the Senate. It would be good to get an early indication, while Senator Allison is here, that the Democrats have indeed changed their position, as indicated by Senator Lees today, to one of being prepared to block the legislation if necessary to ensure that funding for the public school system is not deprived in the way this legislation would require.

What we are going to find of course is that it may well be that amendments, like the one currently before the committee, will be passed here, and in a couple of weeks time they will go to the House of Representatives and the government will say no. They will come back up here and then the Senate are in this position of having to hold the line or, even closer to the deadline of 31 December, insist on their amendments—somewhat of a critical situation. Let me make it abundantly clear, because this may help people assess their situation, that the Greens will be hold-
ing the line when that time comes, in defence of the public school education system.

As I have already mentioned, I am putting forward amendments to ensure that, in that situation, there would be a year available for review while current funding levels, adjusted for inflation, were continued into 2001. Indeed, I would like to know if the Labor Party is going to stay strong on this position. Senator Lees has urged the opposition to block the bill unless there are significant changes to it, and she has vowed to do the same. I think it would help people who are very anxious about this legislation to hear from Senator Allison that in fact Senator Lees is prepared to block the bill if these significant improvements to the legislation are not made. It would be good to have a similar indication from the ALP.

The TEMPORARY CHAIRMAN (Senator Hogg)—Senator Brown, I can now advise that a revised running sheet 1 has been circulated in the chamber. That revised sheet has your proposed amendments incorporated in the running list.

Senator BROWN—I thank the people who were responsible for that magically fast action in getting that into order in this place. That is a tremendous job; it has been done in the last 15 minutes.

Senator ALLISON (Victoria) (9.36 p.m.)—I think it would help in this debate if we did not simply rely on press releases and press clippings for information. I hope the debate is more about the substance than that kind of press speculation. As I understand it, we are debating the amendment relating to the enrolment benchmark adjustment. The legislation that introduced the EBA was one of the first pieces of legislation I had to deal with in this place. I remember, when I sat down at one stage and worked through the figures that had been presented by the department, being astounded at what this nasty piece of legislation would do to government schools. I was shocked and appalled. And pretty well everyone I have spoken with since that time has held the same view—that this piece of legislation is insidious, it gets worse with every year of operation, it has no rationale or justification, and, more than that, it robs the state education system of ever increasing amounts of money each year.

If there was ever a symbol of this government’s intentions with regard to facilitating the growth of non-government schools and punishing the government school sector, then the enrolment benchmark adjustment is it. The government tried to tell us that the enrolment benchmark adjustment was a simple transfer of $1,750 every time a student left a state school to enrol in a private school. The minister repeated that pretty much tonight when talking about cost shifting and the enormous problem that cost shifting is causing. He uses cost shifting as justification for the enrolment benchmark adjustment. I remind senators how this works. The benchmark is the proportion of students in government schools and non-government schools in 1996, and any variation from that proportionate share triggers the adjustment.

In the face of mounting opposition from state governments and the public at large, the government did soften the impact of the enrolment benchmark adjustment by introducing a buffer equal to the shift of 500 students, if my recollection is correct, and also by allowing the states to vary the adjustment according to how much they spent per capita on education. We had the extraordinary situation in 1997 where the states were scrambling to demonstrate that they spent less than each other when it came to making those calculations. Instead of being proud of spending more, they were busy trying to convince the federal government that they spent less than they actually did.

So far the enrolment benchmark adjustment has taken $57 million out of state budgets intended for government schooling, even though, overall, the number of students in public schools has increased. In its first year of operation, the EBA cost public education $11 million—that was the enrolments for 1997 and deducted in 1998. That was because the proportion shifted in 1997, even though enrolments in Australian state schools went up by more than 8,000. Of course, as I said, the so-called benchmark is set at 1996 levels, so the effect of the EBA each year is cumulative. So $57 million was taken out of public education even though in
that period government school enrolments had gone up by more than 26,000. If this were about cost shifting, we need to hear from the government at this stage—this is an opportunity to really demonstrate the theory that this measure is about cost shifting—just where the cost shifting is going on in this measure when there is an increase of 26,000 students across Australia. Of course, New South Wales has by far taken the brunt of the EBA. So far $30 million has come out of New South Wales, and that is equal to a cut of $14,000 to every government school in that state. Queensland weathered a cut of $11.5 million, even though in that state there was an increase of 14,000 students at government schools.

Based on 1999 enrolments, the liability for the EBA in the year 2000 might have been $38 million were it not for that buffer. That $38 million bill was reduced, if you like, to $27.5 million. In that year, government enrolments increased by 8,300 nationally. Private school enrolments, on the other hand, grew by 19,000 in the same year. Queensland lost $5.4 million, even though it gained 5,000 students. South Australia lost $1.67 million. Victoria lost more than $2.2 million. Western Australia lost $1.4 million. New South Wales lost $17 million. For $17 million New South Wales lost only 42 students in 1999, according to the Australian Bureau of Statistics figures. Adele Horin of the Sydney Morning Herald wrote at that time:

Such a tiny drop in enrolments ... in a system with more than 780,000 students will hardly be noticed. It will not mean fewer teachers or classrooms, or lower overheads.

But, nonetheless, New South Wales lost $17 million.

One of the great flaws in the enrolment benchmark adjustment is that it does not work in reverse. If a state manages to attract more students to government schools than to the private sector and the private sector’s numbers go down, the system does not get reversed. The proportion of students enrolled in the Tasmanian government school system increased by 0.54 per cent, whilst in Victoria it declined by 0.53 per cent. As a result, Victoria lost $3 million whilst gaining 7,787 enrolments since the EBA’s inception while Tasmania got nothing extra. In the EBA’s first year of operation, 1998—again, based on 1997 enrolments—$11 million was taken away from public education even though enrolments in public schools rose by more than 8,000 nationally. A strict application of the formula would have seen $20 million deducted from the state education budgets. Instead, the then Minister Ellison introduced the buffer, as I mentioned earlier, which brought that liability down nationally to $11 million.

The ACT was liable for the enrolment benchmark adjustment for the first time this year, on the basis of 1999 enrolments. The Minister for Education, Bill Stefaniak, made a deal with Dr Kemp in May to avoid the ACT’s liability of $1.3 million. Since 1996, the territory has actually lost 1,180 enrolments and private schools have gained 359 enrolments—so much for a stampede from the public sector to the private sector. We are talking here about 821 missing private school converts. If only 30 per cent of those leaving public schools ended up in the private system, where did the others go? They could have just dropped out altogether, found work, become homeless or moved interstate. We just do not know, because the Department of Education, Training and Youth Affairs does not keep track.

This whole notion of the EBA being about students who move from one sector to another is a complete nonsense. Apart from looking at the raw figures, which show you the absolute increases or decreases in either sector, the government and the department have absolutely no idea whether these students are moving from government schools to private schools or whether they are disappearing altogether. The government and the department also have no idea exactly what changes, and where those changes, are taking place. So it has always been a nonsense to talk about cost shifting. It has always been an insidious piece of legislation which has unnecessarily taken money away from government schools.

As we get into the debate this evening and tomorrow, no doubt we will hear a great deal more about the result of this government’s attacks on government schools and the re-
duction in funding for public education. It will be demonstrated by the end of the debate in this place that this whole bill—including the enrolment benchmark adjustment, which was originally introduced in 1996—is worthy of support. The Democrats will wholeheartedly support the opposition’s amendments Nos 2, 3 and 8. The Democrats’ amendment No. 11 has the same effect as these amendments, and we will be happy to withdraw our amendment, since it goes to the same question, in support of the ALP’s amendment.

Senator ELLISON (Western Australia—Special Minister of State) (9.47 p.m.)—If I can use figures from 1995 to 2000, which give you a better picture, there was an increase in students in the government sector of 47,000 and, in the non-government sector, an increase in students of 96,000—so it is nearly double. They call it an increase of two to one. One sector grew at twice the rate of the other sector. That is why you have an EBA—because of the cost shifting that goes on between the two. It is a furphy to say that those extra 47,000 government school students are not funded. On the per capita funding, they are funded. You must remember that at the outset. This growth in the non-government sector has not been caused by the coalition’s policies. It has been growing steadily since 1970.

In fact, from 1970 to 2000 the number of Australian schoolchildren being educated by the non-government sector has grown from 22 per cent to 30 per cent. That is an increase of about 40 per cent. It shows that the non-government sector, over the last 30 years, has been growing steadily—and it has been doing so under Labor just as much as under the coalition. It has been growing at a steady rate. But, when you compare the growth rates—over the last five years, in particular—one sector has grown twice as much as the other. We must remedy the cost shifting which goes on between the sectors. That replies to the argument of Senator Allison in relation to the EBA, and I want to place that on the record.

Senator CARR (Victoria) (9.49 p.m.)—Minister, it should also be placed on the record that the coalition polices on these matters have been quite clear for some time. As I understand it, on 3 and 4 June 1991, the coalition’s Expenditure Review Committee met. Dr Kemp was your shadow minister at the time, and he told that committee that the coalition sought to encourage students to move from government to non-government schools and that it was committed to the funding of non-government schools. Minister, I would like know from you: has that proposition ever been denied? What I understand to be the minutes of the meeting say that it was also agreed that Dr Kemp would report to the committee on non-government schools on whether additional expenditure could be offset by reductions in untied grants to government schools. It does not just stop there. The minutes go on to talk about government schools and administrative savings in devolving responsibilities to the states.

Minister, in the context of a government policy which has seen a reduction in the percentage share of total Commonwealth sourced revenues going to government schools—43 per cent of total Commonwealth revenues in 1996 down to 35 per cent in the year 2004 as a result of this bill—how can it possibly be said that this government has not had a deliberate policy of shifting resources from one sector to another? When we take into account the effects of price movements over that period—and the quadrennium statistics, as I understand it, have been confirmed through the Senate estimates processes; they show a 25 per cent price adjustment, which you will see when you calculate the enrolment shifts—the real impact of this budgetary measure is that the growth for non-government schools will be nearly eight per cent in real terms, dollar for dollar, and the growth for government schools will be next to nothing.

Minister, I would ask you to respond to that. Is it the case that Dr Kemp said those things in 1991 to the expenditure review committee of the coalition? Were they not the policies of the coalition when you came to office in 1996? Isn’t it the case that the effect of your policies since 1996 has been to shift resources from one sector to the other in terms of the amount of total Commonwealth moneys being allocated by this government,
moving from 43 per cent down to 35 per cent? While you are getting answers to those, Minister, I might make a few other comments. It strikes me that this argument about the cost shifting is extraordinarily spurious. We have heard very little from the government in recent times trying to defend this policy. When you were minister for schools, I recall that you devised a scheme of providing us with a wonderful buffer, the 0.3 per cent shift buffer.

Senator Ellison—Very fair.

Senator CARR—A very fair one, plucked out of thin air because you knew the political cost you were bearing with regard to this. In quite an arbitrary way, you managed to determine that the liability for each state was going to be reduced. I have some figures here from a Senate estimates question in May this year.

Senator Ellison interjecting—

Senator CARR—As you know, I seek to do my job thoroughly, Minister. The answer showed me that, according to your formula, the liability was $54.2 million in 1999 but, according to your buffer arrangements which were put into place, it was down to $27.5 million. Minister, the third question I have for you is: how did you justify that? On what basis did you come to those conclusions? Is it the case that you pull them out of the air, or do you have some scientific formula which will explain the political manipulation that accounts for those figures?

When we come to the issue of cost shifting, I think we are entitled to ask exactly how the schools work. It just so happens that students do not move about in nice, neat clumps. Whatever the class size is in any particular school—maybe it is still 35 in some schools or perhaps it is down to 20—you do not find that nice, neat clumps of 20 move from one government school to the private school down the road. What happens is that there are increases in some areas and decreases in others. You still have to provide the teacher for the school. If one or two students leave the particular class, you still have to provide the teacher and all the resources that go with running that class. So the argument about cost shifting is absolutely spurious.

The states have told you over and over again, Minister, that the student numbers in any particular location or stage of schooling or curriculum area do not necessarily decrease in nice even numbers for you. What happens is that a mix of students will move and that will determine the relative costs. Rural students are generally a higher cost for states, as are disadvantaged students. So it depends on what type of student is moving as well. The higher the general proportion of students moving from one government sector school to the non-government sector, the higher the costs that tend to be retained in the government system itself. That is the nature of it. In fact, what you find is that your costs might go up, not down, if there are fewer students in any particular class. I suggest the unit costs which would apply in any other sector of education will demonstrate that they increase under those circumstances.

There is no process in any of the Commonwealth government’s measures to determine what the cost of a teacher’s time is with any particular class or the proportion of a building or the student support service or the incremental scale-back that will be required if there are fewer individual students in any particular school. The truth of the matter is that, when you actually see shifts in enrolments in small numbers, as you do from time to time, there may be no saving whatsoever to the state. In fact, as I said, it may well be the exact opposite—that there will be an increase.

Minister, when I asked you some questions before, you suggested to me that the states were having a look at this problem, that they were part of a task force and that, therefore, it was premature to embark upon amendments to remove this offensive policy. Minister, can you tell me one state that supports this policy? Just tell me one that supports the policy of this government. That is the fifth question. Perhaps, Minister, you could consider this: I quoted a number of Liberal states before in terms of the position taken through MCEETYA. Let me quote from a couple of Labor ones as well. Far be it from me to avoid my comrades in the
states. In the Senate inquiry, the New South Wales government said to us:

We know that there is very little support in the education community for the use of the EBA to enable the under payment of grants struck by parliament to particular states and territories on the basis of enrolment proportions rather than numbers of students in schools. The New South Wales government believes that this policy is, at best, inept and, at worst, unprincipled, ungenerous and unworthy. The responsibility for providing a compulsory period of schooling for all rests with the states and territories. It is through their systems of public schools which are open to all children and young people regardless of their family background or circumstances that Australian governments guarantee universal education. Being open to all children and young people places on public schools a complex web of challenges, pressures and obligations. States and territories have looked to the Commonwealth to complement and generally support their own efforts in meeting these challenges, pressures and obligations. They have done that ever since the Commonwealth assumed a significant role in schools funding in the 1970s.

The Queensland government said:

... the bill makes provision for the Commonwealth to continue the enrolment benchmark adjustment. The enrolment benchmark adjustment is an iniquitous policy that divides the education community and disadvantages state schools. Why should Queensland continue to be penalised under the enrolment benchmark adjustments when enrolments in Queensland state schools increased by 15,512 between 1996 and 1999 and the increase in non-government school enrolments was 14,752 over the same period?

In Victoria there has been an effective reduction of $6.5 million in grants to that state and enrolments have increased by 7,800. The increase in Queensland is more than 14,000, but I understand that something like $11.5 million has been taken from that state. It strikes me that it is basically unfair to take $60 million from Australian schools when the school population has increased by 26,000 students. I am afraid that this government has a profound bias against public education. Its policy seems to be predicated on the assumption that it is fair to wind back resources to public education in favour of elite private schools. That is the trouble with this bill: that fundamental assumption works its way right through it. Perhaps the minister could give us some advice on the questions that I have put to him.

Senator ELLISON (Western Australia—Special Minister of State) (10.00 p.m.)—As usual, Senator Carr asks more than one question and raises several issues. The buffer that Senator Carr talked of was introduced to make the EBA work in a fairer way. In fact, the buffer approved for 1997 was 0.5 per cent, or 500 enrolments; for 1998, it was 0.15 per cent, or 1,500 enrolments; and for 1999, it was 0.3 per cent, or 3,000 enrolments. This year the buffer is estimated at 0.5 per cent, or 5,000 enrolments, which gives us a bit of leeway. There is a science to it: it is not a matter of just plucking figures out of the air. That is why I have traced it from its inception in 1997. It was designed to make sure that, when there was a marginal change, the EBA was not triggered inappropriately. Of course, the ACT, the Northern Territory and Tasmania have enjoyed the benefits of this mechanism when there has been a minimal change or none at all. Certainly it has made the EBA work more fairly and has been a good innovation on the part of the government.

As to the bias that Senator Carr talked about, I reject totally the suggestion that the government has any bias in relation to the schooling sectors in this country. I am not aware of Dr Kemp making the statement that Senator Carr alleged. This government has certainly never had a policy of encouraging students to shift from one sector to the other. In relation to cost shifting, I ask Senator Carr to look at the MCEETYA resolution from earlier this year, which states:

In MCEETYA resolution 1.9, states and territories acknowledged the issue of cost shifting between the levels of government as proportions of students change. States also agreed to establish a working party to propose an alternative approach to the EBA in order to address this issue. The Commonwealth is pleased that the states and territories have finally acknowledged that cost shifting occurs when students move from government to non-government schools. The minister will consider any recommendations which might come from this working party.

I mentioned that earlier. This points to the fact that state and territory education ministers have acknowledged that cost shifting
occurs—and Senator Carr should remember that a good proportion of them are Labor education ministers. The fact remains that direct Commonwealth funding for government schools in 2000 has increased by 25.7 per cent since 1996—the last year of the Labor government—which is an increase of more than $400 million. That speaks for itself: we have increased funding. We increased funding by $107 million in direct funding on last year’s figures. We must recognise that this is in addition to funding given to the states by the Commonwealth. People should remember that, according to the Constitution, the delivery of education is a responsibility of the states and that the government schools sector is administered by the state governments around this country. Senators should bear that in mind also.

I think it is very unfair of Senator Carr to keep on beating up this issue of bias where it does not exist to create a division where none should be. I reiterate: this government’s policy, very squarely, is to have a strong government schools sector and a strong non-government schools sector. I think that covers the matters that Senator Carr raised.

Senator ALLISON (Victoria) (10.05 p.m.)—I would like the minister to explain in more detail how he imagines this cost shifting works. For example, last year Victoria lost $2.5 million at a time when 2,694 students were added to the government school population. What exactly does the state government have to gain from 2,500 additional students? Where does the cost shifting take place in those circumstances?

Senator ELLISON (Western Australia—Special Minister of State) (10.06 p.m.)—As I said earlier, the extra students are funded on a per capita basis. It is not as though there is an increase in, or influx of, students and schools do not get any funding. I think Senator Carr confused this issue earlier when he said there is resource shifting. It is not a shifting of resources: we fund one sector on the one hand and the other sector on the other hand. They are both growing—it just so happens that one sector is growing twice as fast as the other and that a cost shifting occurs.

We are saying that the increase in students in one sector is funded on a per capita basis and the increase is funded in the other sector. So there is increased funding on both counts, but the EBA adjusts the cost shifting that goes on between the two sectors because of differing growth rates. We have gone over this ground time and time again. It is a fact that direct funding by the Commonwealth to the government schools sector has increased, as I have said. When senators look at the funding of the government schools sector, they must address some of their questions to the state governments that have that primary responsibility.

Senator CARR (Victoria) (10.08 p.m.)—Minister, I am afraid that you were not able to address the questions I put to you—and maybe after a little while we will get used to your doing that. Perhaps we will just press on and see what progress can be made.

Minister, I am concerned though that you should try to present this view about the government’s largess towards public education. Dr Kemp has stated on many occasions that, under Labor, the King’s School—the school we hear of so much, the one with the 15 cricket pitches and the indoor rifle range; it is a school that obviously is very well endowed—did not receive any funding increase for 15 years. Of course, we know that is not true because there was indexation built into all the arrangements. We have heard the minister again tonight talk of public education with indexation arrangements built in. It just strikes me that, when it comes to public education, he acknowledges that indexation occurred; when it comes to non-government schools, he seems to suggest that there was no indexation. I think there is a double standard operating there and it is further evidence of the government’s hypocrisy.

The minister goes on to suggest that this bill before the parliament gives the government schools system $1.4 billion more than it had in the previous quadrennium, the previous four years. When you look at the discretionary funding, the extra funding contained in this bill for government schools—and, Minister, I would ask you to confirm whether or not these figures are true; you have a very large group of people here who
are very well versed in these matters, so I have no doubt they will be able to tell you—DETYA has, in fact, advised the Senate estimates committee and the Senate inquiry into this bill that the discretionary funding in this bill, this $22 billion bill for public education, is $106 million, that is, the extra money for public education is $106 million.

Minister, is it not the case that the extra money that Dr Kemp talks about is, in fact, nothing more than the automatic price adjustments that occur for inflation? Is it not the fact that the price adjustments across the government and non-government school sectors over the next four years will be 25 per cent? Is it not a fact, Minister, that when you consider the enrolment growths for the government sector, it is expected to be 0.05, and for the non-government schools system 5.8? Are they not your forward projections? Is it not a fact, Minister, that under this bill, real increases for public education are next to nothing, in real terms? I am not talking about your inflationary terms but real terms. You take away the effect of inflation and the effect of increasing students in the system, and how much extra money is really there? You will find that the situation for government schools is that there will be next to nothing; for the non-government sector, the real increase is 7.7 per cent. Minister, I would ask you to confirm those figures. It would assist the work of this committee no end, if we could make some progress on those basic facts.

Senator ELLISON (Western Australia—Special Minister of State) (10.11 p.m.)—Perhaps I can just say that Senator Carr obviously was not listening to my second reading speech. What we do have is supplementation, which he has referred to. But in my speech I said that there was additional funding—which I singled out and described—such as: literacy and numeracy, $560 million; languages, $187 million; special learning needs, $180 million; quality teaching, $78 million; indigenous education, $239 million; VET and schools, $130 million; and drug education, $18 million. That is in addition to supplementation. What Senator Carr is trying to say is that the only increase we have is supplementation, which they would have got anyway. What I am saying is that you have supplementation and these amounts in addition to supplementation—and that is direct funding going to all schools.

How much of that goes to government schools? Seventy per cent goes to government schools; 30 per cent goes to non-government schools. That is the break-up that we have in Australia’s schooling population—70 per cent of students are in the government schools; 30 per cent are in the non-government schools. So it is appropriate that this direct additional funding be divided in those proportions. But that is the short answer.

Perhaps I can point out to the Senate that, since 1985, the category 1, 2 and 4 non-government schools have had no real growth in funding. In fact, category 3 schools have had none since, I think it is, 1993. From 1993 onwards, there have been no increases for real growth in category 3 schools. From 1985, 15 years, there has been no real growth in categories 1, 2 and 4—and that is in the non-government sector. I wonder what Senator Carr would be saying if that were in the government sector. He would be howling from the rooftops in relation to that. What I am pointing out here is that, under the ERI, which I have mentioned before, you have got this discredited system whereby those schools in the non-government sector, in real terms, remain stagnant in their funding. In the government sector, I have pointed to that additional funding we have provided—funding which is over and above supplementation.

Senator CARR (Victoria) (10.14 p.m.)—Minister, isn’t the truth of the matter that the additional moneys in this bill are for the literacy program and the NALSAS program? There is $106 million extra for the government sector; that is it. Those other matters you referred to include money that was in the previous budgets which has been rolled over. New money accounts for $106 million. Minister, I am surprised at your readiness to be able to find the real funding figures for what you claim to be categories 1 to 3. I would be grateful if you could be as ready to come to the party on the issue of the real funding increases for government schools
over the last four years. Is it not the case that there has actually been a reduction in real terms for government schools over the last four years and that under this budget only an additional $106 million has been put in this $22 billion bill? Is it not the case that the real increases will go disproportionately to the old category 1 schools—the 61 richest, most powerful schools in this country—which will achieve nearly $60 million extra out of this government’s largesse? Is it not the case that real moneys for government schools have not substantially increased in this bill but have in fact declined in the previous quadrennium? Is it not the case that real money for the non-government system will increase by 7.7 per cent under this government?

Senator ELLISON (Western Australia—Special Minister of State) (10.15 p.m.)—I said earlier that funding last year increased by $107 million over 1999. The figures I mentioned with respect to the other programs were moneys which were over the four years from 1996 to 2000. I stand by what I said earlier: the increase in direct funding since last year is $107 million. Senator Carr agrees it is $106 million or $107 million in round terms.

Senator ALLISON (Victoria) (10.16 p.m.)—I want to pursue the question I asked previously, which was how the actual cost shifting worked. The minister talked about per capita funding, and I thought that was what was understood. So if the Victorian government sector increased its numbers by 2,694, I understand that they would get per capita funding for that increase. But I am still not at all clear how the minister continues to attempt to justify cost shifting—exactly what cost and shifted from where to where under these circumstances? It seems to me that, just because there has been an increase in the private sector, it does not follow there is necessarily cost shifting. If the minister could be a bit more precise about exactly where the money is being shifted to and from in those circumstances, I would appreciate it.

Senator ELLISON (Western Australia—Special Minister of State) (10.17 p.m.)—Of course what you have got is the non-government sectors financed by the Commonwealth direct, and the states do not play any part in that. They might give some assistance by way of low interest loans, et cetera, but when there is an increase in the non-government sector, it is totally drawn from the Commonwealth resources. The states do not put anything into the non-government sector.

Senator Allison—They do. Of course they do.

Senator Carr—That is not true. That is just not true.

Senator ELLISON—Hang on. They do provide some assistance, but let’s be clear on this: the Commonwealth provides direct funding to the non-government sector. There is no argument with that. The Commonwealth provides funding to the state governments, the previous financial assistance grants, which the states in turn plough into government schooling. On top of that, the Commonwealth provides direct assistance, and that is in terms of the programs that I have been mentioning. What happens is that, when there is an increase in the non-government sector, the demand made of the Commonwealth is more on a percentage basis than it is in the non-government sector.

The state governments have acknowledged—and I have referred to that in resolution 1.9 of the MCETYA meeting this year—that there was a cost shifting between the two sectors. The Commonwealth has said—and it has taken some time for this to get through—that there was a cost shifting because of these two sectors growing at different rates, one twice as much as the other, and because the Commonwealth was affected more greatly by an increase in the non-government sector. So what you have is a cost shifting which has to be addressed, and the EBA is the mechanism for it. The states have agreed that it exists; they have agreed that there is a cost shifting. They have said that. Whether the Democrats like it or not and whether Senator Carr likes it or not, the state governments, some of them Labor governments, have agreed with the Commonwealth and I have just read the resolution. The states have said, ‘Okay, we’ll go and look at an alternative,’ and that is what they are doing right now. They have not got back to us yet, so until they do the EBA should remain. To talk
about doing away with it until the states get back to us is, I think, very premature. What would the Democrats or Labor suggest if they go ahead with their amendments, make these changes and then the state governments come back and say, ‘Sorry, that’s not what we want’? You would then have to look at changing your amendments again. Quite frankly, the government are opposing these amendments on the basis that this is being looked at by the state governments and they are going to get back to us and we should wait for that report.

Senator CARR (Victoria) (10.20 p.m.)—I think it is perhaps time to test the will of the chamber on this matter. What we are seeking to do here with the Labor amendments—and I want to thank the Democrats and the Greens for withdrawing theirs—is basically remove a policy which is offensive, logically unsound, socially unjust and massively divisive. As far as we are concerned, it is time to kill the EBA. I hope that is the majority view of the chamber.

Amendments agreed to.

Senator ALLISON (Victoria) (10.21 p.m.)—I move Democrat amendment No. 1 on sheet 1972:

(1) Page 2 (after line 3), after clause 2, insert:

2A Object of Act
The object of this Act is to provide for financial assistance to States to enable States:
(a) to provide high quality, free, compulsory and secular public education: and
(b) to assist all schools to reach agreed community standards in education; and
(c) to reduce the disparity in resources available to schools between those schools serving the least and those schools serving the most socioeconomically disadvantaged communities.

Our amendment No. 1 goes to the object of the act. Our amendment reiterates the responsibility that federal and state governments share to provide free, quality public education. This amendment also makes a commitment to reducing extremes in resourcing within and between the public and private sectors. Crucially, it frames this in terms of the resources of schools, not individual families. The Democrats believe education funding must be based on what schools are able to offer, not what individual families can or are willing to pay. The latter takes Australia closer to parent vouchers and means testing for government schools. Just to make it clear, we want the object of this act to provide for financial assistance to states to enable states to provide high quality, free, compulsory and secular public education; to assist all schools to reach agreed community standards in education; and to reduce the disparity in resources available to schools between those schools serving the least and those schools serving the most socioeconomically disadvantaged communities.

Senator CARR (Victoria) (10.24 p.m.)—The Labor Party support elements of the Democrat amendment but think the object that the Democrats are proposing needs to be expanded. It might be appropriate to have an opportunity to discuss those matters overnight, as this matter has come on a little earlier than we had anticipated. The fundamental principles that we support go to the issue of the purpose of schooling in this country, which is to provide high quality, free, compulsory and secular public education. We also indicate that we recognise the importance of public funding for non-government schools but that that funding ought to be allocated on the basis of need and the provision of education to an acceptable standard. Essentially, under this government there has been a major shift in the level of resourcing going to one sector over that going to another, and these principles are no longer universally held to be supportable in real terms, rather than rhetorical terms, by all parties in this chamber. We have argued that education ought to be a prime objective of government, not just of this act. The education of people ought to be one of the most important functions that governments undertake. We acknowledge that the schooling experience is critically important to the formation of life chances for most people. When you look at this government’s policies, you see that they are about the entrenchment
of privilege. There ought to be an understanding by policy makers that schooling has a vital part to play in reproducing social relations. That means that we ought to be ensuring that all children have the opportunity to enjoy excellence in education and all children—no matter what their class background—should have access to the very best in facilities. That is not a view that is shared universally across this chamber.

There is a rhetorical proposition that says that that is supposed to be what we are doing, but the harsh reality tells us a different story: this government is entrenching the advantages and the privileges that some Australians have over others, and our concern is to even up the balance, to make the bill much fairer and to ensure that every child in this country gets a fair go, not just the sons and daughters of the wealthy. So for us these are fundamental principles. Senator Ellison, if we could talk about these propositions I think we will be able to reach agreement on an appropriate form of words which will satisfy the aspirations that you are expressing and the aspirations that we are seeking to put into this bill.

**Senator McGauran**—When? When are you going to talk?

**Senator CARR**—I suggest that could be done over the break. We are due to break here in a minute.

**Senator McGauran**—We are going to adjourn in a minute.

**Senator CARR**—We talk about the National Party. You really want to get into it. You want to talk about people who need a bit of equality of opportunity because there cannot be a group of people more disadvantaged politically, who desperately need some basic political education, who do not even understand when they are being constantly abused and used by the Liberal Party.

**Senator McGauran**—What happened to the early adjournment you wanted?

**Senator CARR**—You can rely on Senator McGauran. As I said the other day, he is living proof that you cannot put brains in a statue. That is basically the National Party’s role in this parliament: to demonstrate to us all that fundamental political proposition. I am sorry for Senator McGauran. I am very sorry for the people he claims to represent because unfortunately he is missing the game all too often and he is desperately in need of some political re-education. One trusts that he will develop his skills a little more overnight as well.

**Senator ELLISON** (Western Australia—Special Minister of State) (10.29 p.m.)—When I was at university I had a mate called Reg the Bearded Communist, and we used to have great debates about the class war. Having this debate with Senator Carr really takes me back to my uni days.

Progress reported.

**ADJOURNMENT**

**The TEMPORARY CHAIRMAN** (Senator Hogg)—Order! It being 10.30 p.m., I propose the question:

That the Senate do now adjourn.

**10th Australian Political Exchange Council Delegation to Japan**

**Senator MASON** (Queensland) (10.30 p.m.)—Recently I enjoyed the great privilege of leading the 10th Australian Political Exchange Council delegation to Japan. The eight delegates chosen were parliamentarians or party activists representing the four major Australian political parties. The trip was organised by the Australian Political Exchange Council as part of its program to foster international understanding through exchange visits by young leaders who, in the council’s opinion, will best benefit from the experience and thus build stronger ties among nations.

Professor Ross Terrill, a distinguished Australian academic teaching at Harvard University, recently published a book titled *The Australians*. It concluded: Australia will continue its steps into the Asian orbit. It has been going on for decades. Yet it may never be total. Australia, like Japan in a different way, hangs at a tangent to the nearest region. It may over a long period become to Asia what Japan is to the West—the most Asian nation of the West, as Japan is the most Western nation of the East. Eventually, if not in my lifetime, Australia will draw, as Japan draws, great dynamism from this dualism.
Japan is like a distant uncle for many Australians. We assume we will like him but are a little wary of some of the stories we have heard. While Japan is our major trading partner and the rhetoric of friendship is cultivated and warm, it is difficult to talk of a popular appreciation of a Japan-Australia partnership. The Japan we visited was one filled with uncertainties unleashed by globalisation, the push for trade liberalisation and the fallout from the aftermath of the Asian economic crisis. There was no evidence of a fat or conceited Japan—the subject of some Western commentary in the 1980s. Japan is undergoing fundamental change with a comprehensive program of reform, challenging demographic shifts such as its rapidly ageing population, restructuring and reorientation of its economic system and perhaps even questioning of cultural values.

One of the exciting advantages of politics is that you enjoy marvellous access to individuals and to places. Japan was no exception. Our exchange group enjoyed 3½ days of briefings in Tokyo. These sessions covered the whole range of Japanese life: politics, economics, culture, bureaucracy, interest groups, education and the environment. Again, what startled me was not so much what was said as who said it. We had access to cabinet ministers, heads of departments, leaders of opposition political parties including—and it is sad that Senator Carr has gone—Senator Carr—I have not gone anywhere.

The ACTING DEPUTY PRESIDENT (Senator Chapman)—Order! Senator Carr, you know that not only is it disorderly to interject but it is most disorderly to interject when you are not sitting in your own seat.

Senator MASON—They included the famous feminist and reformer, former Speaker of the House of Representatives in the Japanese Diet and leader of Japan’s Social Democratic Party, Ms Takako Doi, leading commentators on Japanese affairs as well as the rising stars of Japanese politics. Despite representing different opinions on so many facets of Japanese life, all the commentators agreed on one thing: that Japan would have to reform its economy, its industry, its education and, to some degree, even its psyche.

Liberal democracies classically divide society into two realms: the public and the private. The public realm is largely the institutions of state: the political system, the administration of justice and the bureaucracy. The private is the household and the affairs of the individual. Since World War II the Japanese public has certainly changed, though not in the wholehearted way that some might argue. The bureaucracy, for example, predates World War II and yet remains very much at the centre of power in Japan. The private, many argue, has changed much more slowly. The regime of family life—the centre of the private—is often said to be more conservative than in the West but even here attitudes are undergoing transformation: the number of young educated Japanese women in the work force has forced a somewhat reluctant change. But in the West our communities are not defined just by the strength of public institutions nor the role of the family. Rather, the strength of social ligatures is enhanced by a strong civil society which bridges the public and private realms.

Civil society is what communities do for themselves, specifically through non-government organisations that fulfil social, cultural, welfare and other roles. Unlike Australia and the United States, however, Japanese life has not developed a mature civil society. It is still dominated to a large extent by its great public institutions—the spider web of the bureaucracy, big business and political parties, particularly the Liberal Democratic Party. Their influence on all aspects of life is complemented by the private sphere: the extended Japanese family and its social support. However, Japanese attention to the great benefits of a healthy civil society was awakened amidst the destruction of the Kobe earthquake in January 1995. More than 1.3 million volunteers and a large number of non-governmental organisations converged on the city. Their success in offering relief and assistance to their victims was in stark contrast to the ostensibly inefficient and bureaucratic performance of government aid efforts. In another context, roles such as policy advice, once exclusively the province
of the bureaucracy, have also been challenged by the development of independent think tanks. Harnessing this aptitude and appetite for a strong civil society and better governance is one of the goals of our sponsors, the Japan Centre for International Exchange.

Even when the memory of the briefings and the marvellous hospitality of our Japanese hosts begins to fade, none of us will forget the inspiring individuals whom we met. First, Mr Tadashi Yamamoto, the President of the Japan Centre for International Exchange. Here was a man, schooled in the United States and inspired by the liberal internationalism of President John Kennedy and Senator Robert Kennedy in the 1960s, who upon returning to his native Japan was determined to make a difference. Tadashi Yamamoto established the Japan Centre for International Exchange as a means of fostering international understanding. He has achieved that. He has truly lived Robert Kennedy’s challenge to his generation:

Few will have the greatness to bend history itself, but each of us can work to change a small portion of events, and in the total of all those acts will be written the history of this generation.

Tadashi Yamamoto is a proud son of Japan but also a committed citizen of the world.

Secondly, I must mention Mr Naoto Kitamura. Mr Kitamura is a member of the Liberal Democratic Party and represents a constituency in Hokkaido Prefecture in the House of Representatives. The Japanese are very great hosts. But Mr Kitamura massaged this cultural trait to grand heights. We were treated with great respect and deference and enjoyed hospitality I know I will never enjoy in this country—and perhaps that is a very good thing. Hokkaido is a strikingly beautiful island and we enjoyed its bounty immensely. But I am indebted to this enthusiastic, charming and, most of all, generous man. He is a great friend of Australia.

Finally, I must thank my fellow delegates for their marvellous company and strong support—Ms Elizabeth Penfold, Mr Charles Gillies, Ms Mick Scheider, Ms Jan Field and Ms Lyn Dengate. They were a credit not only to their respective political parties but also, more importantly, to their country. I am indebted also to Mr Daryl Wight, the Secretary of the Australian Political Exchange Council, for his gentle but artful prodding. Sincere thanks also to my federal parliamentary colleague the member for Melbourne Ports, Mr Michael Danby, and Mr David Williams, the senior adviser to the Leader of the Opposition in the Senate, Senator John Faulkner. Both Michael and David were great support on the trip, and no matter how often I embarrassed them they smiled—even so gently, almost in the fashion of our hosts.

Civil Justice Reform

Senator LUDWIG (Queensland) (10.39 p.m.)—I rise in the adjournment debate this evening to speak briefly on the matter of civil justice reform. On the back of a review into the federal civil justice system is a development in the courts of England which is quietly doing the rounds of most of the solicitors and barristers in Australia. It is a novel concept: courtroom advocacy attracts immunity and this immunity is from civil suit for negligence—in short, they cannot be sued for wrongdoing or negligence in the courtroom. Thus, a barrister or courtroom advocate could do such a hopeless job of defending their client in court, or the defence could be so hopelessly inadequate, that it left open the door to the client to sue the barrister for negligence. However, in Australia a client seeking to sue would be met with a defence that, up to now, has been practically impenetrable. The defence is based on the case of Rondel v. Worsley, a case that goes back to 1969. In short, this case stood for the rule that public policy dictates that a barrister does not owe a duty of care to clients of solicitors who engage them to act on their behalf in litigation. Thus, a barrister has immunity from a charge of professional negligence in courtroom matters. In the United States and Canada, no such immunity exists. Like doctors, they can be sued for professional negligence.

In England, the case of Rondel v. Worsley—and as further explained in the case of Sydney Mitchell and Co. in 1980—was reconsidered in the House of Lords decision in Hall v. Simons in July this year. This case also considered the issue of the interrelated principle barring a collateral attack in a civil
action on the decision of the criminal court. The upshot of the House of the Lords decision was to remove the immunity of suit for barristers and courtroom advocates in England. This matter was addressed in some detail in the *Bulletin* in August 2000 in an article called ‘Winging the legal eagles’ by Ted Wright, who is the Professor of Legal Ethics at the University of Newcastle. It seems that the professor has, at least since the Victorian Law Reform Commission’s report in 1992, been recommending its abolition. It seems that he was at least heard in England.

It seems that there are at least two paths that can be followed at this point. The government may, as part of the legal reform agenda, legislate or it may wait for a case to rise in the High Court to see if the High Court will follow the English decision of Hall v. Simons. This later course is not certain to ensure that the existing case in Australia where the rule is found in the Australian setting will be addressed in the foreseeable future. The case reflecting the earlier English decision is referred to as Giannarelli v. Wraith. This case basically stands for the principle that, under Australian law, an immunity exists at common law both for acts or omissions done in respect of court work and certain pre-trial work. The rule has persisted notwithstanding that professional people have had an expansion in the scope of the duty of care owed. The recent report *Managing justice: a review of the federal civil justice system* is very quiet on the issue. The report is strident when it talks about education, training and accountability for lawyers, but lacks cogency when it fails to talk about one of those issues that will focus the mind of barristers and courtroom solicitors, that is, the issues of education, training and accountability. It would seem quite logical to free up this rule as part of a coherent plan to improve the civil justice system by ensuring that the system allows openness and access by people and is not obscure to clients nor prevents them from accessing their right justice.

The policy reasons for maintaining the immunity are varied. For example, they are based on immunity or public policy grounds that were supported and identified in the case of Rondel, as earlier mentioned. They go to matters such as the administration of justice requiring that barristers should be able to work without concerns about liability in tort for professional negligence. In short, they should be able to act fearlessly in court—so the case goes. Another public interest consideration arises where the advocate’s duty to the court and the client intersect. In other words, the advocate has a duty to the court and also to the client, but he must maintain his duty to the court first. It is also in the public interest to avoid lengthy litigation and to bring about finality to proceedings—in other words, to truncate proceedings if there is negligence rather than to have them re-heard. Barristers also have a rule known as the ‘cab rank rule’, which obliges them to accept instructions from a client irrespective of their views about the client. In short, that means that barristers are required to accept briefs in order as they appear before them. The immunity ensures that a professional person is not answerable to a client for any loss caused to the client by any lack of skill and care expected from such a professional person.

In England, as I stated earlier, these public interest issues were no longer strong enough to maintain the immunity. Dissatisfied litigants can now bring proceedings against their solicitors and barristers for negligence in the conduct of all civil and criminal proceedings, except for collateral attacks in criminal proceedings where, as I understand it, it could constitute an abuse of process and therefore would not need the immunity doctrine. In England, Patrick Gaul said in the *Law Society Guardian Gazette* that he sees this as a radical step by the House of Lords. He said:

It has put solicitors on an equal footing with barristers.

He goes on to say:

Further, we can now deal sensibly with apportionment of liability in claims for negligent arising from the conduct of litigation.

He concluded in his article:

This is one of those rare cases where the judgment should actually lead to the law becoming clearer and easier to apply in practice.

It would seem logical that this rule was now removed. It is argued elsewhere that the
House of Lords may have gotten rid of this rule in order to comply with the new European focus.

In the case Osmond v. the United Kingdom, decided by the European Court of Human Rights, the court found that the imposition of a blanket immunity exempting police from suit on public policy grounds can amount to a breach of article 6 of the European Convention on Human Rights and Fundamental Freedoms. Obviously the similarities are there. Clearly England, as part of the European Union, should now conform to that convention and not be open to attacks that it might have failed, at least to the extent of article 6. In the end, however, the House of Lords did not rely on this to remove the immunity. Whether it played a role, we will never know. What is clear from their judgment in Hall v. Simons is that the public policy grounds which maintain the immunity are no longer sufficient weight to win the day.

Turning to Australia, given the reasoning in Hall v. Simons and recent developments in the areas of civil liberties and human rights, a blanket immunity from suit should now be reconsidered as part of Australian law. To try to allay the fears of barristers about removing this immunity, experience has shown that fear of actions in negligence against barristers would not undermine public interest and cause a floodgate of litigation; it may strengthen the present excellent bars around Australia. In Giannarelli v. Wraith, Justice Deane, as he then was, dissented when he said that in balancing the competing interests of the administration of justice and the public detriment that would result from persons who were adversely affected by the negligence of the advocate he took the view that the policy considerations simply did not outweigh or balance that injustice. Clearly, in his view, every wrong should attract a remedy.

Cogent reasons have been given elsewhere for the barristerial immunity to be abolished. Probably the easiest way by which this may be achieved is through legislative fiat. The closest this has come to being accomplished was, as I said earlier, the recommendation to this effect by the Law Reform Commission of Victoria. However, any hope of that recommendation becoming law in Victoria was dashed when the recently enacted Legal Practice Act 1996 in Victoria stipulated that

... abrogates any immunity from liability for negligence enjoyed by legal practitioners.

So it would appear that the matter would have to be addressed on a federal basis to ensure that the matter of Hall v. Simons in England would also allow consumers, clients and end users of the civil justice system to benefit from courtroom fairness.

Taxation Reform: Goods and Services Tax Revenue

Senator MURRAY (Western Australia) (10.48 p.m.)—More than at any time since 1996, the pressure is on for the government to spend more money on education, training, research, health, the environment, infrastructure, industry programs, tax relief and defence. The government has budgetary pressures from new and necessary commitments on salinity programs and extra commitments of at least $500 million and $600 million respectively on the aged persons bonus and the private health rebate. Well over $2 billion of private health rebate is an inefficient policy tool after certain incentive thresholds have passed. If only the government had listened to the Democrats’ call for capping and means testing. The Treasurer and the Prime Minister are quite right to resist at this time those pressures to spend extra. Those pressures are fed by a general belief that Australia’s revenue flow will be greater than forecast. But it will not be until the end of November that the ATO will be able to give Treasury an indication of what the new tax system and the Ralph reforms mean in terms of actual revenue expectations. By the end of November just about every tax paying entity will have given in a return of one sort or another—a business activity statement, an instalment activity statement or an income tax return. The Democrats do expect a GST windfall, which could remove the requirement of the Commonwealth to top up all or some of the states, depending on the size of the windfall. The Commonwealth will get money back, in other words. The current Commonwealth-
states agreement, which includes the top-up, is based on a conservative forecast of GST. On current budget forecasts, New South Wales will not be better off until 2007. But if the GST raises 15 per cent more than forecast, New South Wales, along with all other states, will be better off in this financial year.

Why would GST revenue be higher? GST registrations were 35 per cent higher than forecast. ABN registrations have pulled hundreds of thousands of new tax targets into the net. The economy is strong. In Canada and New Zealand, the GST forecasts were between 20 and 40 per cent less than realised. A 20 per cent underestimate of GST would mean a budget boost of $2.7 billion to the Commonwealth government saved from the top-up and $2.1 billion to the states. A 30 per cent underestimate of GST revenues leaves the states $4.5 billion better off, which would allow for significant extra expenditure by the states on education or infrastructure. The Treasurer says that if revenue does turn out to be greater than forecast he would spend the resulting surplus on debt redemption. He keeps saying, ‘If you spend it, it’s not a surplus.’ I wish he would get his language right. If he does not spend it, it means he keeps it as a reserve. If he spends it on debt, he has spent it. Got it?

In September the government announced that it had exceeded its budgeted surplus by over $4 billion. Surpluses are the new sign of orthodox fiscal responsibility, and rightly so. But we need to get a bit of perspective about them. It used to be the balanced budget which was all the rage. That is still a proper measure of fiscal respectability, but surpluses now represent the higher bar. It is a higher bar, because a balanced budget means getting expenditure and income to balance while surpluses require income to exceed expenditure.

There are a few good reasons for the new orthodoxy. Firstly, a surplus means the government is on top of its revenue stream and is prudently ahead of expenditure expectations. Secondly, even with the best will and techniques, Treasury just cannot estimate expenditure and income accurately, and a standard error of a few per cent makes a balanced budget hard to achieve. In a budget Australia’s size that can mean a couple of billion dollars, and it might be on the downside. So prudent budgeting needs to err on the income side and budget for a surplus. Anyway there are always unexpected costs, and surpluses act as a contingency reserve.

Thirdly, the arrival of accrual accounting in government finances brings with it private sector influence. In their parlance a successful company produces profits. For governments read: surpluses; ergo, the financial markets like surpluses for successful governments, and that matters from the perspective of our dollar and our credit rating, particularly when we have such huge current account deficits.

However, while industry sectors have established benchmarks for what is an acceptable, good or excellent profit picture for companies, the markets have not done the same for governments. So the Treasurer gets little guidance as to what size of surplus is desirable. At the lower end it is obvious: a surplus should at least cover the standard error expected in budgeting, so it should be at least a few billion. But what about the upper end?

Some help can be gained from private sector analysis. It depends on what you want profits or surpluses for. It depends on how you will spend your profits or surpluses. Firstly, companies separate capital expenditure budgets from operating budgets. The latter is catered for by the profit and loss statement; the former usually by a judicious mix of equity, debt and reserves, adjudicated by the gearing ratio and adjusted for cash flow.

When companies make profits they distribute some as dividends, or if they are awash with cash they might repay capital to their shareholders or reduce their debt. The government equivalent of these activities is debt reductions, or income tax cuts, or payments in kind as a greater than expected expenditure on essential services—or there may be a mix of all three. Prudent companies put aside a portion of profits on a cumulative basis as reserves, for balance sheet health, for acquisitions, or for lumpy expenditure such as periodic and expensive replacement of existing plant. Governments have the
same needs, with high periodic investment required in infrastructure or defence.

In arguing the case for the size of surpluses this financial year and in future federal budgets and what is to be done with them we need a good dose of commonsense. Apart from the not inconsiderable merit of showing good fiscal managerial skills through the maintenance and regular achievement of a modest—few billion—budget surplus, what should we be doing with any surplus that exceeds that?

Do we need to reduce debt further? We already have the fourth lowest level of public sector debt in the OECD, so lowering our debt is not a high priority. In this world economic climate, however, we also need to avoid raising it. If there are large surpluses in prospect the question is: do we spend them or keep them? We do badly need to lift our level of ongoing investment in key areas such as education and the environment. Global warming and salinity should be scaring us all. Then there are the periodic big-ticket lumpy expenditures, such as defence or rail. We have heavy contingent liabilities, such as Commonwealth superannuation. Some of these may need a prudent level of reserves set aside.

Lastly, if we really do look set to deliver permanently big surpluses—and I stress the word ‘permanently’—largely as a result of tax reform, then and only then should we look at spending some of those surpluses on tax cuts, but to those at the bottom. A $1 dollar cut to the threshold tax level benefits rich and poor by the same amount but has far more impact on the poor. Greater rewards for the poorer in our society will give us a positive and much-needed social return, a good investment in anyone’s language.

If we achieve a substantial surplus, the Democrats have put in their bids. But, of course, the government of the day will make that decision. Our bids include: in education to reverse federal higher education cuts by $1 billion and to improve government schools, another $1 billion; or to bring forward the abolition of the bank accounts debit tax from 2005 to 2001-02, which would cost $1 billion; or to invest in urgently needed infrastructure and upgrading for public hospitals; or to have the states absorb the GST on public transport fares, rather than passing it on, which would be $½ billion; or to invest in environmental repair to expand Landcare and to fund the retention of existing vegetation to prevent further land degradation, which is $½ billion. But none of this can occur unless tax reform does genuinely deliver us permanently large surpluses.

Oil and Gas Projects

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (10.58 p.m.)—I am sure all members and senators in the federal parliament are well aware that for the last four or five years in the Northern Territory there has been a focus on the project development of what has become known as the Alice Springs to Darwin railway. It was very interesting to note in the last month or so that this project has now reached major status with the signing of an important agreement by the Prime Minister on behalf of the Commonwealth government, the Premier of South Australia, Mr Olsen; and the Chief Minister of the Northern Territory, Mr Denis Burke. I fully anticipate that in the next few weeks we will see the financial agreements come to their conclusion, and probably a few weeks after that we will see actual physical construction. That project is important. For the last four or five years many of us have worked tirelessly to ensure that it will happen, and I know that you, Mr Acting Deputy President Chapman, in South Australia and many of your colleagues and certainly my colleagues in the Northern Territory and here in the federal parliament can take a great deal of pride in that.

I want to concentrate on the next four or five years and on the very important oil and gas supply development that will focus on the Northern Territory. I received a letter yesterday from Senator the Hon. Nick Minchin, the Minister for Industry, Science and Resources. In the letter, Senator Minchin says:

I am writing to inform you of my decision to grant Major Project Facilitation (MPF) status to Epic Energy for its proposed Timor Sea Domestic Gas Project. A copy of my letter to Mr E.J. Holm,
Chief Executive Officer, Epic Energy is enclosed for your information.

The purpose of the MPF service is to achieve timely and efficient approvals for the proposed development. Through this process, my Department will ensure that:

- information on government approvals processes is provided promptly to the proponent;
- all relevant government processes are coordinated so that, as far as possible, they occur simultaneously and without duplication;
- the government responds promptly to issues that are raised by the proponent; and
- assistance in identifying and accessing Government support programs is provided.

The announcement is very good news. This project, based on the production of a $1 billion, 2,000-kilometre high-pressure gas pipeline from Darwin to the Moomba gas hub in South Australia, will transport large quantities of Timor Sea natural gas into southern and eastern Australian markets, providing the first commercialisation of gas from the Timor Sea. The first gas deliveries are expected in 2004. This will be not only a boon to the facilitation of very important new projects for Timor, in partnership with Australian interests, but also a boon for the port of Darwin and, in this case, subsequently, for Alice Springs and Central Australia, which will benefit from this development.

As big as that project is, it is only one of several billion dollar energy developments trailing through the Territory at the moment. There are more projects to come—projects that will bring to the whole of the Territory in general, and to the Top End in particular, enormous opportunities for Territorians and for Australia. Darwin is about to make a huge mark on Australia’s oil and gas industry. Darwin is becoming increasingly important as a regional service and supply centre for the oil and gas industry. Darwin is developing as an export centre for the Asia-Pacific region. This will stimulate economic growth, springboarding into other areas of industry and creating other new developments—for example, population growth and the development of new urban centres in the Darwin-Palmerston region, such as the proposed town of Waddell. Palmerston has become a city and is now the fastest growing centre in Australia. This fast paced growth in the Northern Territory brings with it tremendous economic advantages.

The development is centred on the Timor Sea gas fields, and these are well known to many in this place in the context of the important Timor Gap Treaty and the emerging country of Timor. The development will generate an exciting new gas based energy industry for the Northern Territory, including mineral processing and gas based manufacturing, gas to liquids and gas exports to interstate markets. Associated with this will be other developments. Already under way is the development of the new east arm port within Darwin Harbour, and Northern Territory government expenditure in that area is currently in the order of $100 million. There is the proposed Austral-Asia railway and, as I have mentioned, the link that is so important between Darwin and Alice Springs, which will then be extended to link to Adelaide and to Melbourne. All of these will augment the development of the main resources industry and ensure that Darwin becomes the northern hub in terms of transport and mining.

I was very pleased to attend an important occasion at Parliament House on 10 October, when a consortium comprising Shell, Woodside and Methanex—three very important resource companies—drew participants’ attention to the very important proposals for what had become known as the Sunrise and Methanex projects. The Sunrise project is a partnership between Woodside Energy, Shell Development Australia, Phillips Petroleum and Osaka Gas. The Sunrise gas project in the Timor Sea has also been granted major project facilitation status by the federal government. It will develop a gas resource in the Timor Sea and pipe gas to Darwin for use by Methanex in its new methanol syngas project, which I hope will come to fruition in the next few months. It is proposed that natural gas from these fields will also be piped to the Nabalco alumina refinery at Gove. That will replace around 500,000 tonnes per annum of imported fuel oil and will go to other electricity generators and industrial consumers in Northern Australia.
The Sunrise gas project and the Methanex project together comprise a $4.7 billion offshore Timor Sea gas production, and the methanol synthesis gas development proposed for the Gunn Point Peninsula near Darwin and other developments will create up to 3,400 permanent jobs across Australia, with significant regional employment in the Northern Territory. The project also involves a $2.5 billion development of the Sunrise and Troubadour gas fields in the Timor Sea, which we hope will be associated with the proposed Methanex $1.5 billion methanol syngas plant near Darwin. All of this adds up to tremendous advantages in capital works. It will add $760 million a year to Australia’s export revenue. Tax revenue to the Commonwealth and the Northern Territory governments is forecast to reach $2.1 billion over the operations phase to 2025. During peak construction, an on-site work force of about 1,000 will be needed to bring gas onshore. During operations, there will be at least 1,000 direct and indirect jobs. Over the five-year construction phase, there will be an additional 2,760 jobs for the Northern Territory.

All of this development means it will become Australia’s fourth major gas production hub and the first major petrochemical export hub. It also has the potential to be a significant source of income to our newest and nearest neighbour, East Timor. There are environmental benefits as well. The Sunrise gas project will increase the availability of natural gas to Australia’s largest cities, improve air quality by reducing the use of high emission fuels and help us meet our greenhouse obligations. In these projects, coupled with those that are being dreamed about and planned for Methanex, there will be further employees, potential and opportunities within the Asian market and the attraction of additional capital areas.

We are also aware of other developments. Last September, an agreement was signed to build a 500-kilometre subsea pipeline from the Bayu-Undan gas fields. Construction on this is expected to start in early 2002, with the first gas deliveries forecast for 2005. Work has already begun on the $1.4 billion development of the 400-million barrel Bayu-Undan field owned by Phillips, Santos, Impex Sahul, Kerr-McGee, Petroz and British Borneo. Phillips Petroleum has confirmed that it is in the final stages of negotiations for an exclusive deal in these areas. These projects augur well. As I said at the outset, the railway is important, but I believe far more significant is going to be this oil and gas supply development project across Northern Australia. (Time expired)

Senate adjourned at 11.09 p.m.

DOCUMENTS

Tabling

The following documents were tabled by the Clerk:

Product Ruling—

Wildlife Protection (Regulation of Exports and Imports) Act—Declaration under section 9—Amendment to Schedule—
1, 2 and 2A, dated 30 July 2000.
1 and 2, dated 4 November 2000.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

**Prime Minister: Direct Mail Letters**

(Question No. 2343)

Senator Robert Ray asked the Assistant Treasurer, upon notice, on 13 June 2000:

(1) Since the meeting of the Economics Legislation Committee on 29 May 2000, has the Australian Taxation Office become aware of any information as to who suggested the concept of a direct mail out including the Prime Minister’s letter.

(2) Has a search been undertaken of all relevant written records in relation to this matter.

(3) Have e-mail records been examined in order to determine who may have suggested a direct mail out letter from the Prime Minister.

Senator Kemp—The answer to the honourable senator’s question is as follows:

(1), (2) and (3) The Australian Taxation Office (ATO) has searched all relevant records in relation to this matter.

The concept of a household mailout was suggested during the pitching process for the community information and awareness campaign by Whybin TBWA, the agency subsequently appointed as campaign agency. They presented a booklet concept to the ATO with a direct mailout as a suggested delivery option.

**Taxation Commissioner: Correspondence**

(Question No. 2344)

Senator Robert Ray asked the Assistant Treasurer, upon notice, on 9 June 2000:

Has the Tax Commissioner replied to correspondence of 6 June 2000 from the Victorian Attorney-General; if so, when did he do so.

Senator Kemp—The answer to the honourable senator’s question is as follows:

No.

**Taxation Commissioner: Correspondence**

(Question No. 2345)

Senator Robert Ray asked the Assistant Treasurer, upon notice, on 13 June 2000:

(1) Has the Tax Commissioner’s correspondence to the Australian Electoral Commission of 19 April 2000 been responded to by Mr Becker; if so, when did Mr Becker respond.

(2) Was Mr Becker’s response brought to the attention of the Tax Commissioner; if not, who in the Australian Taxation Office dealt with Mr Becker’s reply.

Senator Kemp—The answer to the honourable senator’s question is as follows:

(1) Yes, Mr Dacey, Acting Deputy Electoral Commissioner responded to the Tax Commissioner’s letter on 19 April 2000, and Mr Becker replied on 28 April 2000.

(2) Yes.

**Department of Health and Aged Care: Missing Laptop Computers**

(Question No. 2506)

Senator Faulkner asked the Minister representing the Minister for Health and Aged Care, upon notice, on 29 June 2000:

(1) Since 1 January 1999, have there been any laptop computers lost or stolen from the possession of any officer of the department and/or any agencies within the portfolio; if so (a) how many have been lost; (b) how many have been stolen; (c) what is the total value of these computers; (d) what is the average replacement value per computer; and (e) have these computers been recovered or replaced.
(2) Have the police been requested to investigate any of these incidents; if so: (a) how many were the subject of police investigation; (b) how many police investigations have been concluded; (c) in how many cases has legal action commenced; and (d) in how many cases has action been concluded and with what result.

(3) How many of the lost or stolen computers had, on their hard disc drives, or in the form of floppy disc, CD-ROM or any other storage device, departmental documents, content or information other than operating software.

(4) How many of the documents etc. referred to in (3) were classified for security or any other purpose and, if any, what was the security classification involved.

(5) (a) How many of the documents etc. referred to in (3) have been recovered; and (b) how many documents etc. referred to in (4) have been recovered.

(6) What departmental disciplinary or others actions have been taken in regard to the computers referred to in (1) or in relation to the documents etc. referred to in (3) or (4).

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

(1) Since January 1999
   (a) Three laptop computers have been lost.
   (b) Nineteen laptop computers have been stolen.
   (c) Total value $72,391.00.
   (d) Average replacement value per computer is $4,549.00.
   (e) Ten of the computers have been replaced/recovered.

(2) Yes, seventeen of the computers were reported to the police.
   (a) It has been identified that three cases have been subject to police investigation.
   (b) Three cases have been concluded.
   (c) There are no cases of legal action.
   (d) Not applicable.

(3) There was only one laptop computer that contained departmental documents, content or information other than operating software.

(4) No documents were classified for security or any other purpose.

(5)(a) No documents have been recovered.
   (b) Not applicable.
   (6) No action taken.

**Department of Health and Aged Care: Missing Computer Equipment**

**Question No. 2525**

**Senator Faulkner** asked the Minister representing the Minister for Health and Aged Care, upon notice, on 29 June 2000:

(1) Since 1 January 1999, have there been any desktop computers, or any other item of computer hardware, other than laptop computers, lost or stolen from the possession of any officer of the department and/or any agencies within the portfolio; if so: (a) what and how many have been lost; (b) what and how many have been stolen; (c) what is the total value of these items; (d) what is the normal replacement value per item; and (e) have these computers been recovered or replaced.

(2) Have the police been requested to investigate any of these incidents; if so: (a) how many were the subject of police investigation; (b) how many police investigations have been concluded; (c) in how many cases has legal action been commenced; and (d) in how many cases has action been concluded and with what result.
(3) How many of the lost or stolen items had, on their hard disc drives, or in the form of a floppy disc, CD-ROM or any other storage device, departmental documents, content or information other than operating software.

(4) How many of the documents etc. referred to in (3) were classified for security or any other purpose and, if any, what was the security classification involved.

(5) How many of the documents etc. referred to in (3) have been recovered; and (b) how many documents etc. referred to in (4) have been recovered.

(6) What departmental disciplinary or other actions have been taken in regard to the items referred to in (1) or in relation to the documents etc. referred to in (3) and (4).

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

(1) Since January 1999,
(a) One “Palm Pilot” has been lost.
(b) One desktop computer, one data projector, one printer and two “Palm V organisers” stolen.
(c) Total value $11,697.00
(d) Normal replacement value of the:
   desktop computer is $2,200.00
   data projector is $7,109.00
   printer is $1,004.00
   Palm Pilot is $536.00
   Palm V organisers is $1,614.00
(e) One desktop computer and the data projector have been replaced.

(2) Yes.
(a) All items identified as being stolen were subject to police investigation.
(b) The Department has not been advised whether or not the cases have been concluded.
(c) There are no cases of legal action in any of these events.
(d) Not applicable.

(3) There were no known departmental documents, content or information on any storage device.

(4) Not applicable.

(5)(a) Not applicable.
(b) Not applicable.

(6) No action taken.

Genetic Manipulation: Small Scale Contained Research
(Question No. 2558)

Senator Brown asked the Minister representing the Minister for Health and Aged Care, upon notice, on 13 July 2000:

What species of eucalypt, acacia and pine are subject to ‘small scale contained research’ and for each species: (a) who is doing the research and where; (b) why and using what genetic components; (c) what attributes are being sought or modified; and (d) when and where are field trials contemplated.

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

From a search of Genetic Manipulation Advisory Committee’s (GMAC’s) records using the keywords ‘eucalyptus’, ‘pinus’ and ‘acacia’, there are currently four small scale proposals involving genetic modification of eucalypt species and no current proposals involving modification of acacia and
pine. Eucalypt species including *Eucalyptus grandis*, *E. dunnii*, *E. nitens*, *E. globulus*, and *E. camaldulensis* are currently subject to small scale contained research.

(a) Monash University in Clayton, Victoria; University of Tasmania in Ridgley, Tasmania; CSIRO Plant Industry in Canberra, ACT.

(b) Monash University is conducting a project to improve the rooting capacity of eucalypt trees (*E. grandis*, *E. dunnii*, *E. nitens*) after micropropagation *in vitro* using genes from a bacterium (*Agrobacterium rhizogenes*). The University of Tasmania is looking at facilitating root induction and regeneration of genetically transformed eucalypts (*E. nitens*, *E. globulus*) in the laboratory using genes from *Agrobacterium rhizogenes* (*rol* genes) and *Agrobacterium tumefaciens* (auxin biosynthesis genes). A marker gene (kanamycin resistance) and reporter gene (β-glucuronidase) from *Escherichia coli* have also been transferred to the plants. In another project, the University of Tasmania is looking at rooting ability in eucalypts (*E. nitens*, *E. globulus*) by transferring genes from *A. rhizogenes*.

The CSIRO Plant Industry has a small scale project which aims to: develop ways of ensuring sterility of transgenic trees by disrupting key genes in the flowering pathway; improve rooting ability of eucalypt cuttings; and improve the tolerance of eucalypt trees to insects and biodegradable herbicides. Various species of *Eucalyptus* comprising *E. camaldulensis*, *E. globulus*, *E. nitens* and *E. grandis* and various hybrids of these have been transformed with: insecticidal genes from the bacterium *Bacillus thuringiensis* (CryIAc(c) and CryIIA); herbicide (Basta) tolerance genes from the bacterium *Streptomyces hygroscopicus*; herbicide (glyphosate) tolerance genes from the bacterium *Agrobacterium tumefaciens*; antibiotic (hygromycin, kanamycin) resistance marker genes from the bacterium *Escherichia coli*; β-glucuronidase reporter gene from *E. coli*, green fluorescent protein reporter gene from jellyfish; sense and antisense versions of eucalyptus flower regulatory genes or their *Arabidopsis* (a plant) equivalents; and genes involved in root development from *Arabidopsis* or their *Eucalyptus* equivalents.

(c) Refer answer to part (b).

(d) GMAC’s records contain no information on if, when and where field trials are contemplated for these small scale contained projects.

**Natural Heritage Trust: Molonglo River**

(Question No. 2591)

**Senator Faulkner** asked the Minister for the Environment and Heritage, upon notice, on 24 July 2000:

1. At any time since March 1996, have there been any applications of proposals for funding through the Natural Heritage Trust, or any other Commonwealth environment program, to assist rehabilitation or improvement to the Molonglo River, its corridor or related rivers.

2. If an application(s) or proposal(s) for funding has been received or considered, in each case: (a) what date was the application received; (b) how much funding was applied for; (c) has a decision been made and what date was it made; and (d) what was the outcome of the decision and what date was it announced.

3. Is the Minister or the department considering any proposal to improve the Molonglo River or its catchment in the Captains Flat region.

4. Has the Minister been approached by the Member for Eden-Monaro to provide funding for improvements to the Molonglo River catchment.

**Senator Hill**—The answer to the honourable senator’s question is as follows:

1. A number of proposals for Commonwealth environment program funding pertaining to the Molonglo River, its corridor or related rivers have been put forward since 1996.
(2) (a) to (d)

The information sought by the honourable senator for these proposals is most efficiently presented in tabular form. A copy of the table has been provided to the honourable senator and further copies are available from the Senate Table Office. Announcement of successful projects is made each year through joint media releases in each State and Territory by the Minister for the Environment and Heritage and the Minister for Agriculture, Fisheries and Forestry, followed closely by letters to project proponents. Proponents for projects recommended to the Commonwealth, but not approved by the Natural Heritage Trust Board, are similarly advised by letter. Where projects have not been recommended to the Commonwealth by the responsible State or Territory Government, the convention is for that State or Territory to advise proponents that projects have not been successful.

(3) Proposals for Natural Heritage Trust funding for the 2000-01 funding round submitted by the responsible State and Territory Governments are presently under consideration. Nil project proposals pertaining to improvements to the Molonglo River or its catchment, in the Captains Flat region, are being considered as part of the current Natural Heritage Trust assessment process for the 2000-01 funding round.

(4) The Member for Eden-Monaro, Mr Gary Nairn MP, wrote to me on 24 February 1999 on behalf of constituents of Mines Road Captains Flat regarding problems with the quality of the water supply in their village and other environmental concerns. While Mr Nairn recognised that the issue of replacing water supply pipes was the responsibility of both the State and Local Governments, Mr Nairn inquired if there was any possibility of funding being obtained to assist the rehabilitation of the mine and whether the Natural Heritage Trust would be an appropriate program for the residents to access. In my reply to Mr Nairn, I indicated that the Natural Heritage Trust is one possible avenue for securing Commonwealth support; and that another appropriate funding source for works at the mine site is the mine rehabilitation program run by the New South Wales Department of Mineral Resources.

Department of Health and Aged Care: Salaries
(Question No. 2612)

Senator Faulkner asked the Minister representing the Minister for Health and Aged Care, upon notice, on 25 July 2000:

(1) What was the Department’s total outlay on salaries and salary-related costs in the financial years:
(a) 1996-97; (b) 1997-98; (c) 1998-99; and (d) 1999-00.

(2) As a dollar amount and as a percentage of the Department’s total outlay on salaries, what was the cost of contracts for outsourced services and functions in the financial years: (a) 1996-97; (b) 1997-98; (c) 1998-99; and (d) 1999-00.

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

(1) Total outlay on salaries and salary-related expenses

<table>
<thead>
<tr>
<th></th>
<th>Department of Family Services 1996-97 $’000</th>
<th>Health and Aged Care 1997-98 $’000</th>
<th>Department of Health and Aged Care 1998-99 $’000</th>
<th>Health and Aged Care 1999-2000 $’000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Remuneration</td>
<td>181,775</td>
<td>185,491</td>
<td>158,945</td>
<td>173,118</td>
</tr>
<tr>
<td>Separation &amp; redundancy expenses</td>
<td>4,888</td>
<td>3,584</td>
<td>2,968</td>
<td>5,000</td>
</tr>
<tr>
<td>Other employee expenses</td>
<td>713</td>
<td>4,097</td>
<td>27,094</td>
<td>28,860</td>
</tr>
<tr>
<td>Total employee expenses</td>
<td>187,376</td>
<td>193,172</td>
<td>189,007</td>
<td>206,978</td>
</tr>
</tbody>
</table>
(2) Cost of contracts for outsourced services and functions

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$'000</td>
<td>$'000</td>
<td>$'000</td>
<td>$'000</td>
</tr>
<tr>
<td></td>
<td>11,021</td>
<td>11,675</td>
<td>11,901</td>
<td>11,964</td>
</tr>
</tbody>
</table>

As a percentage of total salary outlays

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>%</td>
<td>%</td>
<td>%</td>
<td>%</td>
</tr>
<tr>
<td>Percentage of remuneration</td>
<td>6.1</td>
<td>6.3</td>
<td>7.5</td>
<td>6.9</td>
</tr>
<tr>
<td>Percentage of total employee expenses</td>
<td>5.9</td>
<td>6.0</td>
<td>6.3</td>
<td>5.8</td>
</tr>
</tbody>
</table>

Department of Employment, Workplace Relations and Small Business: Value of Corporate Services
(Question No. 2636)

Senator Faulkner asked the Minister representing the Minister for Employment, Workplace Relations and Small Business, upon notice, on 9 August 2000:

With reference to the department and each agency in the portfolio, what were the city or town location, number of employees and annual salary values of all corporate services as at 30 June 1996 and 30 June 2000, for the following functional areas: (a) human resources; (b) property and office services; (c) financial and accounting services; (d) fleet management; (e) occupational health and safety; (f) workplace and industrial relations; (g) parliamentary communications; (h) payroll; (i) personnel services; (j) printing and photo copying; (k) auditing; (l) executive services; (m) legal and fraud; and any other corporate services (please specify).

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

Department of Employment, Workplace Relations and Small Business

The Department of Employment, Workplace Relations and Small Business was formed in October 1998 through the merging of the former Department of Workplace Relations and Small Business and the employment elements of the former Department of Employment, Education, Training and Youth Affairs. I am advised by my department that the information on corporate services staffing numbers and annual salary values as at 30 June 1996 would be too resource intensive to obtain and would not be comparable due to the abovementioned machinery of government change.

With regard to the information sought on corporate services functions as at 30 June 2000, my department has advised that it is unable to provide information broken down into the specific functional areas identified; those functions are, however, included in the information shown in the attached table. The table does not include IT facilities and applications.

Table: Approximate staffing numbers and annual salary values for corporate services functions at 30 June 2000

<table>
<thead>
<tr>
<th>Organisational Group</th>
<th>Type of service</th>
<th>Location</th>
<th>No. of staff</th>
<th>Total Annual salary (1)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Financial Management</td>
<td>Financial and accounting advice and services; property and security management</td>
<td>Canberra</td>
<td>51</td>
<td>$2.7m</td>
</tr>
<tr>
<td>People and Performance</td>
<td>Communications and public affairs; human resources management including personnel</td>
<td>Canberra</td>
<td>119</td>
<td>$5.9m</td>
</tr>
<tr>
<td>Management</td>
<td>services, recruitment, occupational health and safety, payroll and workplace</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>relations; organisational performance and business planning; business services</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>including office services, information and records management and advice on</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>procurement and contracting for office services</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Corporate</td>
<td>Legal, audit and governance advice and services</td>
<td>Canberra</td>
<td>67</td>
<td>$3.8m</td>
</tr>
</tbody>
</table>
## Organisational Group

<table>
<thead>
<tr>
<th>Organisational Group</th>
<th>Type of service</th>
<th>Location</th>
<th>No. of staff</th>
<th>Total Annual salary (1)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parliamentary and Audit Services</td>
<td>including fraud; parliamentary and ministerial liaison services</td>
<td>Sydney 14</td>
<td>$0.6m</td>
<td></td>
</tr>
<tr>
<td>State Offices</td>
<td>Administrative support including financial, personnel and office services</td>
<td>Melbourne 12</td>
<td>$0.5m</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Brisbane 10</td>
<td>$0.5m</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Perth 8</td>
<td>$0.4m</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Adelaide 6</td>
<td>$0.3m</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Hobart 5</td>
<td>$0.3m</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Darwin 5</td>
<td>$0.2m</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Sub-total 60</td>
<td>$2.8m</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Total 317</td>
<td>$15.2m</td>
<td></td>
</tr>
</tbody>
</table>

Notes:
(1) Salary figures exclude accrual costs (long service leave, superannuation)

### Office of the Employment Advocate

As at 30 June 1996, Nil.
As at 30 June 2000:
Location: Sydney,
Staff: 10
Salary: $436 909
(a) $26 214
(b) $26 214
(c) $78 630
(d) $5242
(e) $5242
(f) $13 105
(g) $2621
(h) $0
(i) $0
(j) $13 105
(k) $26 210
(l) $52 420
(m) $13 105
(n) other – IT $174 801

### Australian Industrial Registry

- In providing the figures the following should also be noted:
- the registry has never had any dedicated ‘parliamentary communications’ resource;
- printing and photocopying has been outsourced;
- the registry has never had an internal audit resource, simply an Audit Committee which meets 2-3 times a year or as necessary; and
- the registry does not have any dedicated legal and fraud resources; legal requirements are met through outsourced arrangements, primarily to the Australian Government Solicitor.
- Because of the limited numbers, the crossover of functionality, transfer of functions to other areas and reorganisation (including shift to team structures and changes in skills profiles) that have
taken place between 1996 and 2000, it has also been necessary to combine several of the components to provide meaningful salary figures.

**Human Resources Salaries**

<table>
<thead>
<tr>
<th>FUNCTION</th>
<th>LOCATION</th>
<th>Nos.</th>
<th>1996 Cost $’000</th>
<th>Nos.</th>
<th>2000 Cost $’000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Human Resources (^1)</td>
<td>Melbourne</td>
<td>13</td>
<td>517</td>
<td>7</td>
<td>317</td>
</tr>
<tr>
<td></td>
<td>Sydney</td>
<td>1</td>
<td>40</td>
<td>1</td>
<td>45</td>
</tr>
<tr>
<td>Personnel/Payroll Services (^2)</td>
<td>Melbourne</td>
<td>9</td>
<td>322</td>
<td>4</td>
<td>160</td>
</tr>
</tbody>
</table>

**Notes:**

\(^1\) The Human Resources salary figures above are total salary figures (that is they include the personnel and some payroll services other than those payroll services that are outsourced) across the Australian Industrial Registry for employees with direct human resources responsibilities, which include:

- strategic/advisory/policy;
- occupational health and safety;
- workplace and industrial relations;
- personnel services;
- payroll;
- staff development and training (1 person in Melbourne and 1 person in Sydney);
- workplace diversity/equal employment opportunity;
- recruitment; and
- human resource management systems management/maintenance.

\(^2\) The salary figures for personnel/payroll services are included in the Human Resources figures above but can also be identified separately - functions include:

- payroll;
- conditions of service;
- compensation;
- superannuation; and
- recruitment.

**Executive Corporate Services Salaries**

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Executive Services (^1)</td>
<td>Melbourne</td>
<td>2</td>
<td>109</td>
<td>Nil</td>
<td>Nil</td>
</tr>
</tbody>
</table>

**Note:**

\(^1\) Executive Corporate Services comprised an SES Band 1 heading up the Corporate Services Branch (comprising the Human Resources, Resources Management and Information Technology Sections) and an APS 2 assistant position. Both positions were abolished in July 1999.

**Resources Management Salaries**

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Property and Services</td>
<td>Melbourne/Sydney</td>
<td>13(^3)</td>
<td>391</td>
<td>13(^3)</td>
<td>503</td>
</tr>
</tbody>
</table>
---|---|---|---|---|---
Finance  | Melbourne  | 11<sup>(1)</sup> | 422 | 2<sup>(2)</sup> | 132

Notes:

<sup>(1)</sup> As at 30 June 1996 responsibilities included:
- asset management;
- fleet management;
- purchasing;
- project management;
- building maintenance/OH & S issues;
- records management; and
- management of property leases.

<sup>(2)</sup> As at 30 June 1996 responsibilities included:
- external and internal financial reporting;
- budget preparation;
- advice on accounting, budgetary and financial matters;
- travel;
- system development and management; and
- accounts payable and receivable.

As at 30 June 2000 responsibilities were changed to reflect a reorganisation of the previous Property and Services and Finance Sections. Revised responsibilities included the following.

<sup>(3)</sup> Property and Services:
- asset management;
- fleet management;
- purchasing;
- project management;
- building maintenance/OH & S issues;
- records management;
- travel;
- system development and management; and
- accounts payable and receivable.

<sup>(4)</sup> Finance (now Accounting Services):
- external and internal financial reporting;
- budget preparation;
- advice on accounting and budgetary matters; and
- management of property leases.

**Comcare**

Given that Comcare is a small agency, and the integrated nature of the functions identified, Comcare is unable to disaggregate its information into all the categories given in a way which would give any meaningful comparison over time. Consequently, the information has been grouped into broader functional categories.
Corporate service City 30 June 1996 30 June 2000

<table>
<thead>
<tr>
<th>Staff (operative FTE)</th>
<th>Annual salary values $m</th>
<th>Staff (operative FTE)</th>
<th>Annual salary values $m</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) human resources</td>
<td>Canberra 14</td>
<td>0.583</td>
<td>10.6</td>
</tr>
<tr>
<td>(e) occupational health and safety</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(f) workplace and industrial relations</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(b) payroll</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(i) personnel services</td>
<td>Canberra 24</td>
<td>1.007</td>
<td>26</td>
</tr>
<tr>
<td>(c) financial and accounting services</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(d) fleet management</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(j) printing and photocopying</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(k) auditing</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(g) parliamentary communications</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(l) executive services</td>
<td>Canberra 5</td>
<td>0.291</td>
<td>9</td>
</tr>
<tr>
<td>(m) legal and fraud</td>
<td>Brisbane 1</td>
<td>0.054</td>
<td>-</td>
</tr>
</tbody>
</table>

Equal Opportunity for Women in the Workplace Agency

The agency is unable to disaggregate the number of employees and annual salary values of corporate services to the level of the individual functions specified in the question. Several of the functions are small components of cost centres and it is not considered cost beneficial to record employee time and cost to that level of detail.

(i) As at 30 June 1996 for functional areas (a)-(m) the following details are applicable.

Location – Sydney
Number of staff – 3
Annual salary values – $125 524

(ii) As at 30 June 2000 for functional areas (a)-(m) the following details are applicable.

Location – Sydney
Number of staff – 3
Annual salary values – $147 988

National Occupational Health and Safety Commission

The National Occupational Health and Safety Commission is unable to disaggregate the number of employees and annual salary values of corporate services to the level of the individual functions specified in the question. Several of the functions are small components of cost centres and it is not considered cost beneficial to record employee time and cost to that level of detail. The following table provides information disaggregated to the greatest practical extent.

Many of the cost centres included in the following table also undertook functions in addition to those identified in the question. It has not been possible to separate the costs associated with these. As the extent and number of these additional functions varied substantially between 1996 and 2000, the data in the following table are not comparable between years.

<table>
<thead>
<tr>
<th>Function (As per question)</th>
<th>Full time equivalent employees at 30 June 1996 2000</th>
<th>Salary costs for the year ended 30 June ($’000) 1996 2000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Human resources; occupational health and safety; workplace and industrial relations; and personnel services</td>
<td>12 11</td>
<td>478.4 479.7</td>
</tr>
</tbody>
</table>
Senator Faulkner asked the Minister for Aboriginal and Torres Strait Islander Affairs, upon notice, on 9 August 2000:

With reference to the department and each agency in the portfolio, what were the state and city or town location, number of employees and annual salary values of all corporate services as at 30 June 1996 and 30 June 2000, for the following functional areas: (a) human resources; (b) property and office services; (c) financial and accounting services; (d) fleet management; (e) occupational health and safety; (f) workplace and industrial relations; (g) parliamentary communications; (h) payroll; (i) personnel services; (j) printing and photocopying; (k) auditing; (l) executive services; (m) legal and fraud; and (n) any other corporate services (please specify).

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:

The following should be noted in relation to the information supplied:
- Salary cost amounts are total expenditure recorded against a particular area for the entire FY.
- Staff numbers are the average paid staff employed in the particular area for the entire FY.
- Executive areas (ie. GM/AGM and their P/A’s have been excluded from National Office areas.
- Continuous Improvement has been excluded from the IT area, but the Library is included.
- Personnel includes, payroll, recruitment and case management.
- Due to organisation structures existing at the requested dates it has not been possible to provide a break-up of all the functions requested. However, where an area has responsibility for more than one function it is so indicated in the table.
- Similarly, it has not been possible to separate functions in former state offices, however, depending on the operation requirements of these offices, the figures could include property and office services, financial and accounting services, payroll, personnel services, printing and photocopying, ministerial liaison, training, and/or public affairs.
- Prior to the ATSIC 2000 Restructure all corporate service functions for each state where performed in the State Office, located in each capital city.
- There have been the following pay rises since 30 June 1996:
  -- 17 October 1996- 2%
  -- 20 August 1998- 4%
  -- 12 November 1998- 2%
  -- 8 June 2000- 4%

<table>
<thead>
<tr>
<th>Function (As per question)</th>
<th>Full time equivalent employees at 30 June 1996</th>
<th>Salary costs for the year ended 30 June ($'000) 1996</th>
<th>2000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Property and office services; fleet management; legal and fraud; and other (contract management)</td>
<td>9</td>
<td>392.5</td>
<td></td>
</tr>
<tr>
<td>Financial and accounting services</td>
<td>6</td>
<td>264.8</td>
<td>219.9</td>
</tr>
<tr>
<td>Parliamentary communications; auditing; and Other (commission secretariat)</td>
<td>6</td>
<td>305.0</td>
<td>193.3</td>
</tr>
<tr>
<td>Printing and photocopying</td>
<td>10</td>
<td>400.3</td>
<td>170.9</td>
</tr>
<tr>
<td>Executive services</td>
<td>8</td>
<td>373.7</td>
<td>241.7</td>
</tr>
</tbody>
</table>

**Aboriginal and Torres Strait Islander Commission: Value of Corporate Services**

(Question No. 2648)

<table>
<thead>
<tr>
<th>Question</th>
<th>State</th>
<th>Area/Location</th>
<th>1995 / 96</th>
<th>1999 / 00</th>
</tr>
</thead>
<tbody>
<tr>
<td>(b) (d) (j)</td>
<td>ACT</td>
<td>Corporate Support</td>
<td>$771,109</td>
<td>20.27</td>
</tr>
</tbody>
</table>
(1) Given that the Action Agenda for Australia’s forests and wood products industry which was to have been completed by 30 June 2000, can the Minister indicate where it is.

(2) What is the Minister’s response to the following comments in the Jaakko Poyry report entitled ‘The Need for Change - Positioning Australia’s Forest Industry for the Changes/Opportunities for Tomorrow’:

(a) ‘Australia has been generally successful at establishing plantations; initially softwood and more latterly hardwood. However, one of the main problems has been to sell all the available resource, particularly pulpwood.’ (p. 16);

(b) ‘With this background of oversupply and under-utilisation in many regions (eg Bombala, North Queensland, Oberon, Tumut, Latrobe, Green Triangle), the concept of trebling Australia’s plantation area under Vision 2020 is confounding, particularly for small private growers trying to access a market. Many private growers can correctly ask why is the government supporting expansion when they cannot sell what they have now?’ (pp 16,17); and

(c) ‘A concern with the strategy of the prospectus companies and joint ventures is that the Japanese woodchip market is limited. Growth in this market is limited. If the Japanese companies achieve their planting targets, they will supply nearly a third of Japan’s current import requirements. This leaves the prospectus companies and existing non-Japanese suppliers to fight for the remaining market share. New markets for pulpwood chips must be found and domestic processing may be a more viable alternative.’ (p.13)

Senator Hill—The Minister for Forestry and Conservation has provided the following answer to the honourable senator’s question:

(1) I expect to announce shortly the Action Agenda for Forest and Wood Products.
(2)(a) A full reading of the Jaakko Poyry report reveals that one of the reasons for Australia’s failure to attract investment in world scale processing facilities is that a critical mass of resource has not been available. The Jaakko Poyry report does however state that ‘despite impediments there exists an opportunity to build a bleached hardwood Kraft pulp mill in Australia’ (p21). Private growers will still need to recognise that distance to processing facilities is a significant factor in determining economic returns.

The expansion of Australia’s plantation estate in key regions will provide the volume of resource necessary for world scale processing facilities and provide benefits in particular for regional employment. Plantations also provide environmental benefits offered by tree planting (such as salinity mitigation and carbon sequestration).

(b) It is understandable that small private growers are not immediately aware of the need to provide the scale of resource necessary to attract investment in globally competitive processing facilities, as explained in (a) above.

(c) As Senator Brown’s quotation recognises, new uses may be found for Australian pulpwood production. Furthermore, there are also opportunities to manage the plantation resource to produce products of higher value than pulpwood - for example, sawlogs or veneer logs. The Jaakko Poyry report also acknowledges, as quoted by Senator Brown, that domestic processing may be a more viable alternative.

Department of Defence: Grants to Employer Organisations

(Question No. 2787)

Senator O’Brien asked the Minister representing the Minister for Defence, upon notice, on 24 August 2000:

(1) What grants or other payments were made to employer organisations by the department or any of its agencies in the 1996-97 financial year.

(2) In each case: (a) what was the purpose of the grant or other payment; (b) what was the actual value of the grant or other payment; and (c) was the grant or other payment made as a result of an application from the organisation.

(3) If the grant or other payment was made in response to an application from the organisation, in each case: (a) how was that application assessed; and (b) who approved the application.

Senator Newman—The Minister for Defence has provided the following answer to the honourable senator’s question:

(1) Department of Defence did not make any grant payments to employer organisations in 1996-97 but made other payments to two employer organisations in this financial year.

(2)(a) These payments were of an administrative nature.

(b) Employer Organisation Amount

Australian Hotels Association $135

Australian Pharmacy Guild $347

(c) None of these payments were made as a result of applications.

(3) (a) and (b) Not applicable, refer to 2(c) above.

Department of Health and Aged Care: Grants to Employer Organisations

(Question No. 2788)

Senator O’Brien asked the Minister representing the Minister for Health and Aged Care, upon notice, on 24 August 2000:

(1) What grants or other payments were made to employer organisations by the department or any of its agencies in the 1996-1997 financial year.
(2) In each case: (a) what was the purpose of the grant or other payment; (b) what was the actual value of the grant or other payment; and (c) was the grant or other payment made as a result of an application from the organisation.

(3) If the grant or other payment was made in response to an application from the organisation, in each case: (a) how was that application assessed; and (b) who approved the application.

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

In responding to the question a document sourced from the Workplace Relations Act 1996 from the Department of Employment, Workplace Relations and Small Business was used to provide examples of employer organisations.

Grants or payments made by the Department of Health and Aged Care and agencies for the financial year 1996-1997 include:

<table>
<thead>
<tr>
<th>Organisation</th>
<th>Purpose</th>
<th>Value of Grant/payment</th>
<th>By application</th>
<th>If yes, how assessed</th>
<th>Approved by</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australian Physiotherapy Association</td>
<td>Funding to develop a model for effective delivery of education and training to rural physiotherapists</td>
<td>$57,000</td>
<td>Application</td>
<td>Rural Health Support Education &amp; Training (RHSET) Advisory Committee</td>
<td>First Assistant, Secretary, NHMRC</td>
</tr>
<tr>
<td>Pharmacy Guild of Australia</td>
<td>Integrating &amp; improving pharmacy services to rural &amp; remote communities</td>
<td>$91,500</td>
<td>Application</td>
<td>Rural Health Education &amp; Training Advisory Committee</td>
<td>First Assistant Secretary, NHMRC</td>
</tr>
<tr>
<td>Rural Doctors Resource Network</td>
<td>Multi-disciplinary undergraduate rural health network</td>
<td>$64,259</td>
<td>Application</td>
<td>Rural Health Support &amp; Training (RHSET) Advisory Committee</td>
<td>First Assistant Secretary, NHMRC</td>
</tr>
<tr>
<td>Aged Care Australia</td>
<td>Community Organisations’ Support Program (COSP) funding to assist the organisation to undertake National Secretariat activities</td>
<td>$110,490</td>
<td>No</td>
<td>N/A</td>
<td>Minister for Health &amp; Aged Care</td>
</tr>
</tbody>
</table>

Department of Defence: Grants to Employer Organisations  
(Question No. 2806)

Senator O’Brien asked the Minister representing the Minister for Defence, upon notice, on 24 August 2000:

(1) What grants or other payments were made to employer organisations by the department or any of its agencies in the 1997-98 financial year.

(2) In each case: (a) what was the purpose of the grant or other payment; (b) what was the actual value of the grant or other payment; and (c) was the grant or other payment made as a result of an application from the organisation.

(3) If the grant or other payment was made in response to an application from the organisation, in each case: (a) how was that application assessed; and (b) who approved the application.

Senator Newman—The Minister for Defence has provided the following answer to the honourable senator’s question:
(1) Department of Defence did not make any grant payments to employer organisations in 1997-98 but made other payments to two employer organisations in this financial year.

(2)(a) These payments were of an administrative nature.

(b) Employer Organisation | Amount
--- | ---
Australian Hotels Association | $135
Australian Pharmacy Guild | $875

c) None of these payments were made as a result of applications.

(3) (a) and (b) Not applicable, refer to 2(c) above.

Department of Health and Aged Care: Grants to Employer Organisations
(Question No. 2807)

Senator O’Brien asked the Minister representing the Minister for Health and Aged Care, upon notice, on 24 August 2000:

What grants or other payments were made to employer organisations by the department or any of its agencies in the 1997-1998 financial year.

In each case: (a) what was the purpose of the grant or other payment; (b) what was the actual value of the grant or other payment; and (c) was the grant or other payment made as a result of an application from the organisation.

If the grant or other payment was made in response to an application from the organisation, in each case: (a) how was that application assessed; and (b) who approved the application.

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

In responding to the question a document sourced from the Workplace Relations Act 1996 from the Department of Employment, Workplace Relations and Small Business was used to provide examples of employer organisations.

Grants or payments made by the Department of Health and Aged Care and agencies for the financial year 1997-1998 include:

<table>
<thead>
<tr>
<th>Organisation</th>
<th>Purpose</th>
<th>Value of Grant/payment</th>
<th>By application</th>
<th>If yes, how assessed</th>
<th>Approved by</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aged Australia Care</td>
<td>Community Sector Support Scheme (CSSS) (formerly known as the Community Organisations’ Support Program (COSP)) funding to assist the organisation to undertake National Secretariat activities</td>
<td>$127,250</td>
<td>No</td>
<td>N/A</td>
<td>Minister for Health &amp; Aged Care</td>
</tr>
</tbody>
</table>

Department of Defence: Grants to Employer Organisations
(Question No. 2825)

Senator O’Brien asked the Minister representing the Minister for Defence, upon notice, on 24 August 2000:

(1) What grants or other payments were made to employer organisations by the department or any of its agencies in the 1998-99 financial year.

(2) In each case: (a) what was the purpose of the grant or other payment; (b) what was the actual value of the grant or other payment; and (c) was the grant or other payment made as a result of an application from the organisation.
(3) If the grant or other payment was made in response to an application from the organisation, in each case: (a) how was that application assessed; and (b) who approved the application.

Senator Newman—The Minister for Defence has provided the following answer to the honourable senator’s question:

(1) Department of Defence did not make any grant payments to employer organisations in 1998-99, but made other payments to two employer organisations in this financial year.

(2)(a) These payments were of an administrative nature.
(b) Employer Organisation Amount
   Australian Industry Group $5,175
   Master Builders Association $420

(c) None of these payments were made as a result of applications.

(3) (a) and (b) Not applicable, refer to 2(c) above.

Department of Health and Aged Care: Grants to Employer Organisations
(Question No. 2826)

Senator O’Brien asked the Minister representing the Minister for Health and Aged Care, upon notice, on 24 August 2000:

(1) What grants or other payments were made to employer organisations by the department or any of its agencies in the 1998-99 financial year.

(2) In each case: (a) what was the purpose of the grant or other payment; (b) what was the actual value of the grant or other payment; and (c) was the grant or other payment made as a result of an application from the organisation.

(3) If the grant or other payment was made in response to an application from the organisation, in each case: (a) how was that application assessed; and (b) who approved the application.

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

In responding to the question a document sourced from the Workplace Relations Act 1996 from the Department of Employment, Workplace Relations and Small Business was used to provide examples of employer organisations.

Grants or payments made by the Department of Health and Aged Care and agencies for the financial year 1998-1999 include:

<table>
<thead>
<tr>
<th>Organisation</th>
<th>Purpose</th>
<th>Value of Grant/payment</th>
<th>By application</th>
<th>If yes, how assessed</th>
<th>Approved by</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pharmacutica</td>
<td>Oversee &amp; study the restructuring of three rural Victorian pharmacies</td>
<td>$157,500</td>
<td>Application</td>
<td></td>
<td>Assistant Secretary, Rural Health Branch</td>
</tr>
<tr>
<td>l Society of Australia</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rural Doctors Resource Network</td>
<td>Additional funding for a multi-disciplinary undergraduate rural health network</td>
<td>$155,741</td>
<td>Application</td>
<td></td>
<td>First Assistant Secretary, NHMRC</td>
</tr>
<tr>
<td>Services for Australian Rural &amp; Remote</td>
<td>Funding to develop priority strategies for education &amp; training for allied</td>
<td>$71,700</td>
<td>Application</td>
<td></td>
<td>Assistant Secretary, Rural Health Branch</td>
</tr>
<tr>
<td>Organisation</td>
<td>Purpose</td>
<td>Value of Grant/payment</td>
<td>By application</td>
<td>If yes, how assessed</td>
<td>Approved by</td>
</tr>
<tr>
<td>--------------</td>
<td>---------</td>
<td>------------------------</td>
<td>----------------</td>
<td>---------------------</td>
<td>-------------</td>
</tr>
<tr>
<td>Services for Australian Rural &amp; Remote Allied Health</td>
<td>Funding for the 3rd annual SARRAH summit</td>
<td>$9,000</td>
<td>Request by letter</td>
<td>N/A</td>
<td>Director, Rural Health Section</td>
</tr>
<tr>
<td>National Farmers Federation of Australia</td>
<td>Scoping study for a national health services information platform</td>
<td>$500,000</td>
<td>Proposal</td>
<td>N/A</td>
<td>Assistant Secretary, Rural Health Branch</td>
</tr>
<tr>
<td>Australian Podiatry Association</td>
<td>Framework for continuing professional &amp; clinical development of rural &amp; remote podiatrists</td>
<td>$29,470</td>
<td>Application</td>
<td>Rural Health Support Education &amp; Training (RHSET) Advisory Committee</td>
<td>Assistant Secretary, Rural Health Branch</td>
</tr>
<tr>
<td>Pharmacy Guild of Australia</td>
<td>Produce and distribute Folic Acid starter packs and monitor sales of Folic Acid supplements</td>
<td>$72,300</td>
<td>No</td>
<td>N/A</td>
<td>Director, Primary Prevention Section</td>
</tr>
<tr>
<td>Aged &amp; Community Services of Australia (ASCA) - formerly known as Aged Care Australia</td>
<td>Community Sector Support Scheme (CSSS) funding to assist the organisation to undertake National Secretariat activities</td>
<td>$129,159</td>
<td>No</td>
<td>N/A</td>
<td>Minister for Health &amp; Aged Care</td>
</tr>
</tbody>
</table>

**Defence Review 2000**  
*(Question No. 2859)*

Senator Brown asked the Minister representing the Minister for Defence, upon notice, on 28 August 2000:

With reference to the ‘Defence Review 2000’ -

1. Will all submissions be made public; if not, why not.
2. Will a summary of the issues raised in the submissions and consultations be prepared and made public; if not, why not.
3. Will a response be prepared to the issues raised in the submissions and consultations; if not, why not.
4. What are the next stages in the consultation process after the deadline for submissions has closed.
5. (a) How many people attended each of the public meetings held as part of the review; and (b) what feedback will be provided to them and to those who made submissions.
6. Will the deadline for submissions be extended; if not, why not.
(7) What does the Minister consider to be the essential components of a genuine process of public consultation.

Senator Newman—The Minister for Defence has provided the following answer to the honourable senator’s question:

(1) The intention is that submissions will be made public. However, the provisions of the Privacy Act require that the department first obtain the permission of all the originators of the submissions before the department can release them publicly.

(2) (3) and (4) The Community Consultation Team has consolidated the issues raised by the Australian community and provided a report to the Government. This will inform the development of the Government’s Defence Policy Statement, which will respond to the issues raised. As stated in the Public Discussion Paper, both the report of the Community Consultation Team and the Government’s Defence Policy Statement will be released to the public.

(5) (a) Around 2,300 people attended the twenty eight public meetings held. The breakdown of attendance figures is as follows:

<table>
<thead>
<tr>
<th>Location</th>
<th>Attendance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adelaide</td>
<td>110</td>
</tr>
<tr>
<td>Whyalla</td>
<td>25</td>
</tr>
<tr>
<td>Alice Springs</td>
<td>13</td>
</tr>
<tr>
<td>Perth</td>
<td>135</td>
</tr>
<tr>
<td>Darwin</td>
<td>80</td>
</tr>
<tr>
<td>Port Hedland</td>
<td>20</td>
</tr>
<tr>
<td>Geraldton</td>
<td>22</td>
</tr>
<tr>
<td>Toowoomba</td>
<td>50</td>
</tr>
<tr>
<td>Brisbane</td>
<td>90</td>
</tr>
<tr>
<td>Townsville</td>
<td>45</td>
</tr>
<tr>
<td>Rockhampton</td>
<td>48</td>
</tr>
<tr>
<td>Cairns</td>
<td>70</td>
</tr>
<tr>
<td>Sydney</td>
<td>253</td>
</tr>
<tr>
<td>Dubbo</td>
<td>45</td>
</tr>
<tr>
<td>Armidale</td>
<td>70</td>
</tr>
<tr>
<td>Newcastle</td>
<td>120</td>
</tr>
<tr>
<td>Nowra</td>
<td>124</td>
</tr>
<tr>
<td>Canberra</td>
<td>152</td>
</tr>
<tr>
<td>Albury/Wodonga</td>
<td>21</td>
</tr>
<tr>
<td>Wagga Wagga</td>
<td>75</td>
</tr>
<tr>
<td>Bathurst</td>
<td>34</td>
</tr>
<tr>
<td>Melbourne</td>
<td>220</td>
</tr>
<tr>
<td>Bendigo</td>
<td>30</td>
</tr>
<tr>
<td>Geelong</td>
<td>20</td>
</tr>
<tr>
<td>Hobart</td>
<td>70</td>
</tr>
<tr>
<td>Launceston</td>
<td>25</td>
</tr>
<tr>
<td>Ballarat</td>
<td>15</td>
</tr>
<tr>
<td>Bunbury</td>
<td>36</td>
</tr>
</tbody>
</table>

(b) Those who provided a submission will be sent a copy of the Community Consultation Team’s report when it is released.

(6) No. The deadline for submissions will not be extended, as the Community Consultation Team’s Report has been delivered to the Government.

(7) The essential component of a genuine process of public consultation is that all Australians have the opportunity to comment on the policy issues being examined. This consultation process was accessible to all members of the public. Twenty-eight public meetings were held in capital cities and major regional centres. Approximately 2,300 members of the public attended. The public was also given the opportunity to deliver submissions via telephone, internet or mail. Access to information was a key part of the consultation. In this case the internet site received 179,745 hits, approximately 17,900
copies of the Public Discussion Paper were sent out and 6,453 were downloaded from the web site. Over 1,100 written submissions were received.

Kimberley Tidal Power Project
(Question No. 2898)

Senator Cook asked the Minister for the Environment and Heritage, upon notice, on 6 September 2000:

(1) Has the Government conducted a due diligence study into the Kimberley Tidal Power Project; if so, what are the findings of that study and when will they be publicly released.

(2) If the Government is not planning to publicly release the report, will the Minister provide detailed reasons why.

(3) Has the Government made, or will the Government be making, any offers of financial support for the project; if so: (a) how much financial support will be offered: and (b) in what form will that financial support be.

(4) If an offer of financial support has been made, what has been the response of the Western Australian Government to the Commonwealth’s offer of financial support for the project.

(5) Has the Western Australian Premier advised the Government whether the State Government supports the project; if so, when was that advice received.

(6)(a) Does the Commonwealth expect the full support of the Western Australian Government in regard to the project; and (b) has the Federal Government received any indications that the State Government will be supporting the project.

(7) Has the Commonwealth received any indication of support from the Western Australian Minister for Energy as to whether he supports the project or not.

Senator Hill—The answer to the honourable senator’s question is as follows:

(1) Yes. The Government has not published the findings of the study. It is disinclined to publish.

(2) Reasons for withholding publication of the report were presented to the Senate on 5 October in response to a Return to Order.

(3) The Government offered up to $1 million to the Derby tidal energy project proponents under the Renewable Energy Commercialisation Program in April 1999. The Government has not offered any further financial support at this time.

(4) The offer in April was to the proponent and not the State Government. The State Government therefore has not responded.

(5) There have been discussions between the Premier and the Prime Minister which remain confidential.

(6)(a) The Government has no expectations either way.

(b) No.

(7) No.

Education: Demand for Higher Education Places
(Question No. 2906)

Senator Carr asked the Minister representing the Minister for Education, Training and Youth Affairs, upon notice, on 8 September 2000:

(1) Given that the demand in the Lilydale region for the higher education places has not been met, and given the fact that the over enrolment subsidy provided to Swinburne provides for marginal costs only, what action does the Government plan to take to address the need for further higher education places in Melbourne’s outer eastern suburbs.

(2) Will the Government convert Swinburne, Lilydale’s ‘over-enrolment’ equivalent full-time student unit (EFTSU) to fully-funded EFTSU and increase the campus’ total fully-funded load to 2000 EFTSU.
(3) In order to achieve efficiency and economy in higher education provision and to ensure that universities meet specific needs of other parts of the economy, will the Government reintroduce a scheme similar to the Commonwealth Industry Places Scheme.

(4) Will the Government introduce funding matching schemes to encourage sponsorship by industry and other extra-institutional agencies and organisations of undergraduate places in targeted areas such as information technology, e-commerce, tourism and teacher education.

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

(1) The Government has increased flexibility for higher education institutions, enabling them to open up additional study opportunities and to diversify their income sources through a range of measures. For instance, universities are able to generate revenue by offering fee-paying courses at the undergraduate and post-graduate level and by linking up with industry.

(2) No. The Government’s view is that institutions should aim to meet load targets as closely as possible, though it accepted that a small over-enrolment margin is warranted to ensure against under-performance. Any over-enrolment above this margin is entirely at the discretion of universities. With regard to the Outer Eastern Planning Council’s request that the number of funded places at the Lilydale campus be increased, no additional funding is available for higher education at this time. You should note that the Commonwealth has already taken action to improve the University’s funding rate per fully funded student.

(3) The Government has no plans to re-introduce the Commonwealth Industry Place Scheme (CIPS). The decision to abolish CIPS was made as part of the 1997 Budget in recognition of the fact that the Government had introduced other measures to enable institutions to provide additional student places and meet employer demand for higher education courses. Since 1998 the Government has paid institutions the minimum up-front HECS payment for all HECS-liable undergraduate students enrolled above target load. Employers may also fully fund award courses or buy places in award courses under the current fee-paying arrangements.

(4) In addition to the action identified in (3) above the Government will continue to encourage collaboration between industry, universities and other providers in terms of places, infrastructure, and Research and Research Training.

Immigration: Burmese Visa Applications

(Question No. 2951)

Senator Brown asked the Minister representing the Minister for Immigration and Multicultural Affairs, upon notice, on 22 September 2000:

With reference to the Australian Embassy in Bangkok:

(1) Are Burmese citizens making applications for visas or refugee status requested to queue out on the street; if so, why.
(2) Is this queue in full view of Burmese Embassy staff.
(3) What danger does this situation pose for the Burmese citizen.
(4) In each of the past 5 years, how many Burmese have been allowed into Australia and what is the quota in 2000.

Senator Vanstone—The Minister for Immigration and Multicultural Affairs has provided the following answer to the honourable senator’s question:

(1) There is no queue of Burmese visa applicants in the street outside the Australian Embassy in Bangkok. Very few Burmese applicants come to the Embassy – only two or three a week.

At the time of the sieges by Burmese in Thailand (at the Burmese Embassy in Bangkok in October 1999 and the Ratchburi Hospital in January 2000), public threats were made that Burmese nationals would enter the Australian Embassy and not leave, thus creating a potential hostage situation. Because of these threats, measures were introduced whereby the identity of Burmese nationals wishing to enter the Embassy is ascertained by the security guards at the Embassy gate. This process takes only a few minutes and most then enter the Embassy. If there are doubts about the intentions of any persons
identified as Burmese, then they can leave their application with the guards at the gate who then pass it to the Visa Office.

(2) The Burmese Embassy in Bangkok is located a few kilometres from the Australian Embassy and is not within sight. The residence of the Burmese Ambassador is within sight of the Australian Embassy (across the road and some distance down the road) and the Embassy would be partly visible from the grounds of the residence.

(3) The entrance to the Australian Embassy is off a very busy public street in Central Bangkok. People can be observed entering and departing but it is not possible to ascertain the danger, if any, this poses for any particular group.

(4) The number of visas granted to Burmese nationals under the Special Assistance Category (SAC) of the Humanitarian Program in program years 1995-1996 to 1999-2000 is shown in the table below. No program places were allocated to the Refugee and Special Humanitarian (SHP) categories of the program in these years.

<table>
<thead>
<tr>
<th>SAC visa class</th>
<th>Program year</th>
<th></th>
<th></th>
<th></th>
<th></th>
<th>Class total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>95-96</td>
<td>96-97</td>
<td>97-98</td>
<td>98-99</td>
<td>99-00</td>
<td></td>
</tr>
<tr>
<td>Burmese in Burma (subclass 211)</td>
<td>210</td>
<td>46</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>256</td>
</tr>
<tr>
<td>Burmese in Thailand (subclass 213)</td>
<td>266</td>
<td>195</td>
<td>100</td>
<td>100</td>
<td>40</td>
<td>701</td>
</tr>
<tr>
<td>Year total</td>
<td>476</td>
<td>241</td>
<td>100</td>
<td>100</td>
<td>40</td>
<td>957</td>
</tr>
</tbody>
</table>

Burmese SAC visa grants by visa class and program year

In 2000-01, 2 and 48 places have been set aside for the Burmese in the Burma SAC and the Burmese in Thailand SAC respectively. This year is the final year of operation of all SACs. In future, Australia will address the humanitarian resettlement needs of Burmese nationals through allocations under the Refugee and SHP categories of the Humanitarian Program. This program year the Australian Embassy in Bangkok has been allocated 50 Refugee and 70 SHP places which in the main are intended for Burmese nationals.

**Australian Defence Force: Fort Queenscliffe, Victoria**

(Question No. 3100)

_Senator Allison_ asked the Minister representing the Minister for Defence, upon notice, on 9 October 2000:

(1) Has a decision been made on the future use of the Fort at Queenscliffe, Victoria; if so, what was it; if not, when will a decision be made.

(2) What, if any, companies are being considered for location at Queenscliffe.

_Senator Newman_—The Minister for Defence has provided the following answer to the honourable senator’s questions:

(1) and (2) Defence is currently considering a number of options for the continued use of Fort Queenscliff. No decision has yet been made.