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Monday, 27 November 2000

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

BUSINESS

Business of the Senate

Motion (by Senator Ellison) agreed to:

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.

VETERANS’ AFFAIRS LEGISLATION AMENDMENT (BUDGET MEASURES) BILL 2000

Second Reading

Debate resumed from 10 November, on motion by Senator Ellison:

That this bill be now read a second time.

Senator ABETZ (Tasmania—Parliamentary Secretary to the Minister for Defence) (12.31 p.m.)—I continue my summing up of the second reading debate on this legislation. The Veterans’ Affairs Legislation Amendment (Budget Measures) Bill 2000 provides to many Australians entitlements which had previously been denied to them. The bill extends full repatriation benefits, from 1 January next year, to more than 2,600 veterans who served in South-East Asia between 1955 and 1975. It also extends psychiatric assessment and counselling services to adult children and former partners of Vietnam veterans as one of the key initiatives in response to the Vietnam Veterans Health Study.

This bill is one that has received overwhelming support from the veteran community and the community generally. There has been the one issue in relation to whether or not the Veterans’ Entitlements Act should be extended to people that have not been under the direct service and control of the Australian defence forces. The government’s attitude on this is based on precedent and principle—that is, there is a need to ensure the integrity of the legislation. Certain claims were made during the second reading debate and I will try to deal with those in a way that is not as emotive as some opposite sought to portray the situation. People need to be subjected to military command or the strictures of military discipline to be able to fall under the Veterans’ Entitlements Act. It is noteworthy that Major General Peter Phillips, the National President of the RSL, is supportive of our view on this.

The cause of nurses has been taken up by the opposition and the Australian Democrats in this debate, but it is interesting that they do not seem to want to take up the cause of about 1,100 other Australian civilians who worked in Vietnam during the conflict. That includes privately contracted entertainers, non-accredited war correspondents, Qantas aircrew who transported troops to and from Vietnam, those who were involved in the private supply or contracting of trucks and mechanical support to trucks and bulldozers, and those employed at our embassies. The list goes on; there are about 1,100. You then have to ask the question: what is the distinguishing feature in relation to one lot of civilians, as opposed to all the other civilians, that makes them worthy of special consideration under the Veterans’ Entitlements Act?

A number of Australian civilians made a substantial contribution. Those that were engaged under the SEATO treaty arrangements were employed by the Commonwealth through the Department of Foreign Affairs and Trade. There is some suggestion that, because we are not going to extend veterans’ entitlements to those people, somehow they are devoid of any support whatsoever. That is wrong. As Commonwealth employees, the government owed a duty of care to them and, to this end, they were covered for compensation purposes under the Commonwealth Employees Compensation Act 1930—now the Safety, Rehabilitation and Compensation Act 1988.

It is interesting to note that six nurses have applied to the Department of Veterans’ Affairs for entitlements. Their claims have been rejected, but the interesting thing is that nine nurses have applied under Comcare and eight of them have had their claims accepted. The difficulty is that privacy considerations do not allow me to know whether the six that had applied to the DVA are part of the nine that applied under Comcare, so I am unable
to assist the Senate in that regard. Nevertheless, the nurses who have legitimate claims can bring them under the Safety, Rehabilitation and Compensation Act 1988. It is not that they are left completely uncovered. There is appropriate legislation which applies to every other Commonwealth or government employee that was involved in Vietnam during this period, other than our people who were under the strictures of defence discipline.

The situation for those nurses—not that I would ever suggest they would do it—was that, if the going got tough, they were at all times at liberty to leave whereas, if our Defence personnel had left, they would have been subjected to a court martial. There is a very significant difference in the treatment that was afforded to two different sets of circumstances, given their presence in Vietnam. The support for the nurses has come out of the Mohr report. Whilst I think all of us would agree that Justice Mohr has done an excellent job in his consideration of the matters that were put before him—and he has put those matters to the government for consideration, most of which we have adopted—I simply say that the issues he dealt with in relation to the nurses were not part of the terms of reference put before him. Therefore, the government was unable to appropriately respond fully to the suggestions that he made during the course of the hearing. As I have mentioned before, the one difficulty is that, if we are going to afford this extra cover to one lot of civilians, why not to all the other civilians as well? It is interesting that neither the Labor Party nor the Democrats have asserted that. What they have picked on is something that was put in front of Justice Mohr.

**Senator Schacht**—He made a recommendation. We have not picked on it; it is in the report. After careful study, we adopted the recommendations handed down by Mr Mohr.

**Senator ABETZ**—I take Senator Schacht's interjections. They have adopted or picked—

**Senator Schacht**—We did not pick it by chance; it was in the recommendations in the report that your government commissioned.

**Senator ABETZ**—I would have thought we could have had a friendly debate about something like this, but you can always count on Senator Schacht to demean the process. Yes, the Labor Party sought to adopt a recommendation from Justice Mohr that was not within the terms of reference put before him. As a result, due consideration was not given to the entitlements of all the other civilians who found themselves in Vietnam in similar circumstances.

I think that deals with the issues that were raised during the second reading debate. I thank honourable senators for their contribution. In conclusion, in relation to the issue of the SEATO nurses, the Minister for Veterans' Affairs, Mr Bruce Scott, has agreed to hold a meeting with those representatives, with appropriate staff from his department and with Comcare to see what the difficulties are and to see how Comcare can cover them. It is the government's view that it ought to be Comcare that looks after these civilian nurses, as opposed to the veterans' entitlements legislation. It is not that we are trying to be bloody-minded or hard-nosed in relation to the nurses—we want to ensure that they are properly cared for and catered for—but, if we do extend it to civilians who do not qualify under the Veterans Entitlements Act, the question remains: why not all the other civilians similarly engaged in Vietnam?

Having said that, I commend the bill to the Senate. This is an excellent piece of legislation which deals with the aspirations of many Vietnam veterans over a period of time. We commissioned a report which, with respect, should have been commissioned a lot earlier. It is nice to see the Labor Party coming on board and supporting a lot of these recommendations, keeping in mind that they had 13 years in which to deal with the question of justice for the Vietnam veterans. We have done so, and we have delivered by the spadeful for the Vietnam veterans. It is a pity that this debate has been somewhat diminished and sidetracked on this one issue in relation to the nurses, but let me say that we as a government are anxious to ensure that they do get proper care and cover. We believe they have that through Comcare.
Question resolved in the affirmative.
Bill read a second time.

In Committee

The bill.

Senator HOGG (Queensland) (12.44 p.m.)—I heard what the Parliamentary Secretary to the Minister for Defence had to say on the Veterans’ Affairs Legislation Amendment (Budget Measures) Bill 2000. Those who were in the chamber on the day of the second reading would know that I was in the chair and unable to speak, so I will make a few brief comments today, particularly about the nurses. As a member of the Senate Foreign Affairs Legislation Committee, I participated in the one-day hearing that reviewed this particular piece of legislation.

As has been stated already in this debate, the nurses were part of the SEATO aid program, committed by the Australian government, consisting of civilian and surgical teams serving in South Vietnam between 1964 and 1972. The report of the committee on this legislation gives a reasonably good rundown which shows that about 120 of the 450 individuals were nurses and approximately 330 were doctors, radiographers and other medical personnel. So it is not simply a question of nurses; there were other personnel involved as well. As has also been pointed out in this debate, Major General Mohr recommended in his review that Australian civilian surgical and medical teams operating in Vietnam during the Vietnam War be deemed as performing qualifying services for repatriation benefits. Yes, it is an extension of the benefits; there is no misunderstanding there.

In the dissenting report by Senator Schacht and me, there is a very good analysis—in a few brief sentences—arising out of the evidence presented to the committee on 14 August this year, of what took place for these people, the nurses in particular. Regarding the nurses, the report states:
They treated South Vietnamese, North Vietnamese and Vietcong soldiers as well as civilians in Vietnamese hospitals. They were often in danger and were advised on arrival in Vietnam that they had a large price on their heads. Apart from that advice, they received virtually no pre-service briefing and were offered no post-service coun-

selling, despite the traumatic conditions under which they operated. Although accommodation was provided, they only received an allowance of nine dollars a day while in Vietnam. They were allowed one week’s leave after six months...

These are the people who would have been applauded for their efforts in assisting our forces and a range of other people in Vietnam during the war that was taking place. Whilst it is an extension of the service, I think it is a reasonable extension under these circumstances. These people were in daily distress over their situation. Whilst Senator Abetz said that they were at liberty to leave, nonetheless they had a sense of duty which would in the main have kept them there. I think one would have to concede that many of these people were buoyed by the amount of support that they received from certain people throughout Australia. Whilst there were people opposed to the war, there were certainly people who were very much supportive of the war effort and would have openly supported these people.

The dilemma that these people are faced with is, I think, summed up in the evidence of Ms Angell before the committee on 14 August. At the opening of the session, on page 1 of the Hansard of that day, Ms Angell said:
Those members of the teams who are suffering from health conditions have gone through both the Department of Veterans’ Affairs and Comcare, and it is interesting to note that there is a very large discrepancy in the findings of these two pathways.

Ms Angell was raising the problem of going down the path of either Vets Affairs or Comcare and saying that there was a discrepancy in the way they were handled. She went on to outline the discrepancies. She said:

If I could use the example of the discrepancies, some members have been diagnosed as suffering from post-traumatic stress disorder in the veterans’ affairs pathway. When they have gone the Comcare pathway, although this condition is being recognised, they are being judged via the act of 1930 and this condition is not listed under that act.

That is not surprising. It is not listed and so, when they go down that path, they are being knocked back. Ms Angell went on to say:
I believe that this is something that has to be looked at very, very seriously. To put members through even the process of having to justify their medical conditions I think is detrimental to their health anyway. Within the 1930 act there is a clause, 16 I think it is, that says that you must have notified your condition within six months of becoming aware of those conditions. Again, I believe that this is quite ironic because it is well known that the conditions from Vietnam very often do not highlight until 25 to 30 years later.

That is the problem these people have. Many of the difficulties that they are facing do not highlight until some substantial period of time later. I think Major General Mohr, in his report, has recognised the dilemma that these people face. I have a background paper that was provided by the New South Wales Nurses Association, and I will go through some of the difficulties that are listed there. It says that many of these people:

...are very ill and suffering from illnesses such as non-Hodgkin’s lymphoma, thyroid disease, autoimmune disorders, multiple sclerosis and post-traumatic stress disorder. A variety of skin cancers and other cancerous growths have also been prevalent in this group.

It goes on:

Most of the nurses are also self-supporting and are struggling financially because they are either unable to work a sufficient number of hours or are not able to work at all.

In their background briefing paper, they then go on to say that they were disappointed with the government’s budget response to their plight. One can understand that. They believe they have special circumstances, that their circumstances should be recognised because of the support they gave in that theatre of war. Whilst one might argue that it is groundbreaking—and Senator Abetz raised the issue of the 1,100 other Australian citizens—I do not know if the other 1,100 Australian citizens that were involved had the same price tag on their head that applied to the nurses in this situation.

But it is not just the nurses; there are other medical people involved as well, including doctors, radiographers and so on. The nurses have been the most vocal in this case. While the others have not been to the fore, one has a degree of sympathy for their case. I do not think one should go down the emotive path that Senator Abetz mentioned. Just the pure practical path would lead you to the conclusion that these people have a very decent case indeed and a case that would see the government extending to them benefits which, I think it could reasonably be stated, they are entitled to. Added strength is given to that argument by the fact that Major General Mohr, in his consideration of the matter, determined that benefits should be extended to these people. When one looks at the type of evidence that was given to the committee—and there were some pages of it on that occasion—one sees that these nurses were placed in a very stressful and difficult position while on service in South Vietnam. I believe that the proposal of the opposition and the Democrats to include these people is fair and reasonable.

Senator WEST (New South Wales) (12.54 p.m.)—I need to put on the record that I am a member of the two colleges of nursing. I have actually discussed this issue with those colleges and with other nurses as a former nurse. I associate myself very clearly with the amendments being moved, but I think it is important that people be aware or remember that I actually do have a professional interest as a former nurse and as a member of those two colleges of nursing.

Senator SCHACHT (South Australia) (12.54 p.m.)—First of all, I congratulate Senator Hogg on his remarks. He and I signed the minority report on this Veterans’ Affairs Legislation Amendment (Budget Measures) Bill 2000, recommending that the civilian surgical teams in Vietnam be granted entitlements under the Veterans’ Entitlements Act, as recommended by Major General Mohr in his report. I thank the parliamentary secretary for his remarks in summing up the second reading debate and explaining why the government would not accept this amendment. I would like to make it very clear that the opposition supports all the amendments in this legislation. There are improvements to entitlements and provision of care for our veterans in a number of ways. I have already spoken about that in the second reading debate and I have made a number of public comments as shadow minister for veterans’ affairs. The only disappoint-
ment the opposition has is that the government did not accept the Mohr recommendation that the surgical teams get veterans’ entitlements.

The opposition has not taken a scatter gun approach to this issue—it was not that some ducks flew past and we took a shot at something and had a go at it. We picked this recommendation up because the Mohr report recommended it. I remind the parliamentary secretary that, at several Senate estimates hearings covering veterans—the foreign affairs, defence and trade committee—during 1999 and 2000, my colleagues Senator Hogg and Senator West and I raised on a number of occasions the various anomalies which affect Australian veterans who operated in South-East Asia that have existed for the last 30 or 40 years. As a result of those questions and from pressure from the veterans’ organisations, the government decided to institute what is now called the Mohr inquiry, and we welcomed that inquiry. I accept that, in the 13 years that we were in government, we did not deal with all of these issues. We could be criticised for that, but issues move on. I would have to refute, though, the comments from the parliamentary secretary, who implied that in our 13 years we did nothing, or hardly anything, for veterans. Mr Sciacca and Senator Faulkner and my former colleagues Senator Gietzelt and Mr Humphreys all extended services and benefits to veterans in many different ways. So we are proud of our record. On any issue, though, you have to review what you have done, and events and issues keep coming up and you have to deal with them.

I thought that the naval people who served in the Far Eastern Strategic Reserve had a very good case to get entitlements. I think they were the major group pushing, but there were other smaller groups. One group was the civilian surgical team. When the public inquiry took place, they took the opportunity to put a submission in. The parliamentary secretary has mentioned other groups—entertainers, et cetera—who provided service to our service people. They may have made a submission, but I cannot see a recommendation in the Mohr report dealing with entertainers or with other civilians who may have been employed by the private sector. I look forward to evidence that anyone wants to raise. I am not averse to having an open mind on anybody else who has served, but I would be cautious about extending entitlements. Way back in 1973-74 I was a senior private secretary to the then Minister for Repatriation in the Whitlam government, Senator Bishop. At that time a large number of representations were made that Australian merchant seamen should get entitlements under the act. We took the position that all governments, including the previous coalition government, did and said ‘No, you weren’t under direct military command.’ I think another argument was that merchant seamen got paid a lot more money for putting their lives at risk on ammunition ships, oil tankers, et cetera, and that that was their compensation. I have to say that, by comparison, the wages even then were not overly generous, but they were more than those that someone serving in the Australian Navy got.

So that was rejected. That battle went on for a long time. It was not until 1994 that Minister Sciacca agreed to amend the act to grant merchant seamen qualifying service. I think we all recognise that that was a significant step in the entitlement of merchant seamen. I do not think anyone disagreed with it in the end. I do not know how many merchant seamen have been given the entitlement or how much it has cost the Australian taxpayer, but I do not think anybody would begrudge it for those merchant seamen who served in extremely hazardous areas at times on those convoys around the world. They got the entitlement in 1994. I do not think the Veterans’ Entitlements Act has been swamped, nor has it been the end of Christianity or motherhood for the act to have let those merchant seamen get their entitlement. When a reasonable case has been established, it has been granted. I do not want to compare the service of the civilian surgical teams, which include nurses, doctors, radiologists and others, to that of the merchant seamen in the Second World War, but it is quite clear in all the evidence—and no-one refutes it—that they served in appalling conditions, their lives were at risk and they did it in the service of this country as part of our political and military objectives in Vietnam.
My colleague Senator Hogg has mentioned the evidence that Ms Angell gave at the hearing in August in which she described arriving in Vietnam without any proper briefing. I think she said that she left the Austin Hospital on a Friday, arrived in Vietnam by Sunday and was in the field by the Monday. The only briefing she got was late on the Saturday afternoon from a foreign affairs—then called external affairs—officer based at our embassy who said, ‘You have to be aware that you have a price on your head for providing this service.’ She was then sent out in the field. In the evidence given and in the article of the Melbourne Age on 23 September this year, she describes the appalling conditions. She says that she thought she was going to an equivalent hospital to the Austin Hospital; instead, she was sent to a surgical unit which was, she says:

...a provincial hospital where it was at best primitive. The surgical suites had been built in 1963 by the Americans but in the intervening years had been used as a public toilet and a place where the locals kept their ducks. There were two operating theatres and a recovery room. There was supposed to be a five-bed ward, but on the first weekend we arrived, we had 20 people in there. There were two adult patients to a bed and three children to a bed. The medical staff worked with less than reliable electricity; at times doctors performed surgery by torchlight or the headlights of the car. There was one cold water tap.

I have to say that the facilities alone in which they were working ought to indicate that they were doing something rather special. As I said, they were told they had a price on their head and, in other evidence given by Ms Angell, she described how on a number of occasions some of them were in places where they were very close to the action and were at risk of injury from the military fighting going on. Some of the nurses and doctors did provide assistance to Australian service people, but not all the time, as that was not their main job. But they were required to provide medical assistance to the Vietnamese civilian population and to Vietnamese soldiers on both sides.

The point we would make to the parliamentary secretary and to the government is that even with all that evidence I doubt whether the opposition would have put forward this amendment to give them entitlement, if it had not been for the recommendation of Major General Mohr. The evidence in chapter 7, which leads to his recommendation, is overwhelming. Major General Mohr, in cross-examining the Department of Veterans’ Affairs, shows some incredulity at the response from the department to his question of how members of the surgical team could get the Australian Active Service Medal because, as he said on page 75:

Know well that is what I am getting at. That was the basis on which they were awarded the AASM. Does their integration with the Australian Defence Force in performing like functions over an extended period equate them with the members of Defence Force?

That is why he made the recommendation. In the evidence given to the inquiry, which was not refuted by the department, they got the medal because they performed functions over an extended period that equated them with members of the Defence Force. He did not throw a dart at the board to get a recommendation or draw one from a hat; he based it on the cross-examination of the department. I draw the attention of the parliamentary secretary and the government’s advisers to the transcript of evidence on page 73, 74 and 75 of the report in which Major General Mohr concludes:

It is my opinion that:

• noting that they were awarded the AASM due to the fact that they were integrated with the Australian Defence Force and performed like functions;

• and the anecdotal evidence presented.

He continues:

It is recommended the Australian civilian surgical and medical teams operating in Vietnam during the Vietnam War be deemed as performing qualifying service for repatriation benefits.

I would have thought that evidence, backing up that recommendation, was game, set and match for the government, and I still, for the life of me, after hearing the parliamentary secretary and being given the brief from the minister and his advisers, do not know why he has not refuted that evidence. I know that they will argue this broader principle—the argument of the Australian Defence Force that they were not under direct command—and that we do not want to breach the princi-
ple that you have to be a member of the Australian Defence Force, under direct command, to get the entitlements of the VEA. Major General Mohr has refuted that quite clearly.

If that principle is gone, because they were under a form of integrated control of the Australian Defence Force, that is the end of it. It does not establish a principle or a precedent for every other group of people who were associated as a civilian with any other involvement in any other service in conflicts in which Australians have been involved, including recent peacekeeping forces. But I would have to say, as a practical anecdotal comment, that the Australian members of the Australian surgical teams in Vietnam were more at risk than a number of our people who volunteered to be in recent peacekeeping forces in the world. I have no qualms at all—I fully support—that they get veterans’ entitlements. The argument is overwhelming. I am staggered that the government does not accept it. In concluding my remarks, I formally move:

That the House of Representatives be requested to make the following amendment.

(1) Page 20 (after line 21), at the end of the Bill, add:

Schedule 6—Amendment extending veterans’ benefits to members of medical or surgical teams who served in Vietnam

Veterans’ Entitlements Act 1986

1 After subsection 5C(2)

Insert:

Members of medical or surgical teams under the SEATO program

(2A) For the purposes of this Act, a person who rendered service outside Australia, in an area described in item 8 of Schedule 2 (in column 1) during the period specified in column 2 of that Schedule opposite to that description, as a member of a medical or surgical team provided by the Commonwealth at the request of the Republic of South Vietnam under the South East Asian Treaty Organisation aid program, is taken to have been serving as a member of the Defence Force while rendering that service.

The amendment, which was circulated several weeks ago, is a request that the act be amended so that the surgical teams get the entitlement. This involves just over 400 people. I would be interested to hear whether the Parliamentary Secretary to the Minister for Defence has any advice as to whether the department has estimated what it thinks it would cost on outlays to have these 400-odd people given full entitlements to veterans’ benefits. I do not think it would be a staggeringly large figure. It might be $1 million or $2 million if every one of them claimed sickness or ill health. That is not a very large figure at all; it is one the government can surely afford. As these people who served get into their mid- to late fifties, sixties and even seventies they clearly have medical care needs that should be met by the Veterans’ Entitlements Act.

(Time expired)

Senator BARTLETT (Queensland) (1.09 p.m.)—I would like to speak on behalf of the Democrats in relation to Senator Schacht’s request and more broadly on the legislation. As has been stated, the Veterans’ Affairs Legislation Amendment (Budget Measures) Bill 2000 largely enacts budget measures—and there are some quite significant ones, including to extend health and counselling services for Vietnam veterans and dependants in response to the Vietnam veterans health study, and it is important to acknowledge that—and to enact recommendations of the Mohr Review of service entitlement anomalies in respect of South-East Asian service from 1955-75. The Mohr review has been referred to frequently by speakers in this debate.

The Democrats welcome the recommendations of the Mohr review, which was released in March this year. It was an independent review and examined a number of issues, including coordination between the Department of Veterans’ Affairs and the Department of Defence, as well as looking at what I think everyone would acknowledge as an ongoing, eternal debate: what constitutes war-like service, active service or qualifying service? It is one of the important tasks of this parliament, as well as governments of the day, to determine where those lines are drawn. Obviously, when you do draw a line,
you can have argument about whether it should be moved and about the things that fall on the wrong side of it. That is why the Mohr review, as an independent review, was so important in helping us as legislators to get an independent assessment of the definitions.

The issue here is the recommendations that were made in regard to extending eligibility to medals and/or repatriation benefits. Just some of the groups that were recognised and will benefit are seagoing naval personnel who were part of the Far East Strategic Reserve during the Malayan emergency, radio operators in Singapore, official uniformed war correspondents who served with ADF personnel during the Malayan emergency, Ubon veterans who served between June 1965 and August 1968, and Army and RAAF personnel who served on the Malay Peninsula between 1964 and 1967.

All of the recommendations of the review except one were accepted and acted on in the budget and through this legislation. The exception is the one that the amendment addresses—that Australian civilian surgical and medical teams operating in Vietnam during the Vietnam War be deemed to have qualifying service for repatriation benefits. Senator Schacht has outlined the rationale of why that recommendation was made. He quoted extensively and referred to the evidence taken in the Mohr review. The government’s only argument, it seems from the budget fact sheets, is that repatriation benefits for civilians require that they be attached to the Australian Defence Force. The Australian civilian surgical and medical teams worked under the then Department of External Affairs. The Australian civilian and medical teams worked under the then Department of External Affairs. That obviously made no difference to their exposure to herbicides, stress or war-related injuries, as they worked side by side with service personnel. Many of the civilian nurses who served in Vietnam are suffering from the same illnesses and medical conditions as the troops. Some of these nurses have been awarded service medals, as Senator Schacht has said, on the basis that they were integrated with the ADF for extended periods of time and performed similar functions to those of their ADF counterparts. That has been acknowledged by the Department of Veterans’ Affairs, and civilians serving in war zones have on occasion in the past been included under the Veterans’ Entitlements Act.

This is all explored in some depth in the Mohr review so it is not simply an assertion that senators in this chamber are making as part of this debate. Those are the reasons why the Democrats are very supportive of Senator Schacht’s request to amend the bill to enact the recommendation. This was initially debated by the Senate on 10 November and, like Senator Hogg, despite ongoing interest in legislation, that was a day when I was not able to be here as I had a longstanding commitment to address a youth affairs conference in Queensland. I thank my colleague Senator Stott Despoja for speaking on behalf of the Democrats at the second reading stage. I will not repeat the points she raised, but I urge those who are following this debate to read her speech from that time. I also think it is important personally to acknowledge the work of the Australian Nursing Federation and Dot Angell, President, Civilian Nurses, Australian Surgical Teams, Vietnam, 1964-72. They have made submissions to the Mohr review and to the parliamentary committee, and there are ongoing attempts to have the very real issues facing this group of people considered and addressed by parliamentarians and to increase community awareness about both their contribution to our nation and also the circumstances they have found themselves in since. That is part of a proper use of the political and public policy debate process.

Particularly when we are looking at an injustice and an anomaly such as this, it is appropriate to run effective campaigns to try and increase awareness and try and get injustices corrected. The Minister for Veterans’ Affairs, Minister Scott, obviously felt the campaign they were running was having significant enough impact for him to go on the John Laws show to explain and defend the government’s position. But what the minister, in my view, has not explained is why recognition and repatriation for these people is the only major recommendation of the Mohr review that the government has refused to act on. The minister told the Laws pro-
gram and his listening audience that the nurses needed to be directed to the Safety, Rehabilitation and Compensation Act. The parliamentary secretary has referred a bit to that in his contribution to date. But it has to be acknowledged that that act has already failed nurses. Senator Abetz mentioned that there were eight or nine cases where some assistance has been provided, and that is obviously welcome. I also note his commitment on behalf of the minister to meet with the nurses and medical personnel to see if there are other ways to address some of the gaps in servicing the needs of these people, and that is also welcomed by the Democrats.

We need to look at some of the fundamental reasons why the Safety, Rehabilitation and Compensation Act is not appropriate and is not likely to adequately deliver the same assistance. There are a number of reasons why Comcare is not the appropriate agency. The Safety, Rehabilitation and Compensation Act is a workers compensation scheme, and payments therefore cease when the person reaches retirement age. The Veterans' Entitlements Act contains a more reasonable standard of proof: determinations under the compensation act require the civil standard of proof on the balance of probabilities, whilst the VEA prescribes a more lenient and, I think all of us would agree, a more appropriate standard of a ‘reasonable hypothesis’. There is no entitlement for lump sum payments for permanent damage in relation to post-traumatic stress disorder and other conditions affecting internal organs, skin cancers and various injuries to the neck and back. Appeal mechanisms are more beneficial under the Veterans’ Entitlements Act under the current arrangements, and under what is proposed under the new Administrative Review Tribunal if that legislation does get accepted by the parliament. Once accepted under the Veterans’ Entitlements Act that is the end of the process, whereas to continue to receive benefits under Comcare the person must satisfy the requirements of an ongoing review process. There is easier administration of medical expenses under the VEA, by virtue of a treatment card, compared with submitting medical expenses to Comcare for them to refund. Benefits are extended to eligible dependants and spouses under the Veterans’ Entitlements Act. Veterans’ entitlement pension recipients can also receive rental assistance and assistance with travel, medical, telephone and utility payments, which is not directly available under the compensation act either. Even for those who perhaps have received assistance, it is clear that it is a lower standard of assistance.

It is also a matter of recognition of the service that these people have given. As has been stated, that service has already been recognised by the awarding of medals—which is good—but there is more to recognising service than giving a medal. The difference between the Veterans’ Entitlements Act and the compensation act recognises the particular medical and psychological conditions which are bound up with service in a military conflict and the special obligation owed to those who served this nation at war. The Veterans’ Entitlements Act is specifically designed to recognise war related conditions; the Safety, Rehabilitation and Compensation Act is not, so to pass the buck across to that act is passing the buck to nowhere: it is not what it is there for. Minister Scott said on the Laws program that there could have been a bureaucratic stuff-up in relation to nurses not being appropriately cared for under Comcare. His commitment to consult further is a welcome development in terms of him trying to ensure that those gaps get plugged, but it is still not an adequate way of addressing this injustice that has been identified. These people are clearly falling through the gap between Veterans’ Affairs and the Public Service compensation system, which does not recognise war related conditions which may appear long after a period of service.

Some of the medical personnel are clearly suffering from the same illnesses and medical conditions as the troops who served in Vietnam. The Vietnam Veterans Health Study showed the tragic consequences of this war not just for the veterans but for their children—consequences that have been passed on to the next generation in many
respects in relation to Vietnam service in particular, again giving extra weight to why this is important. I note a joint press release last week by Minister Scott and the health minister, Michael Wooldridge, about a new health program for Vietnam veterans’ children, particularly those suffering from spina bifida and cleft lip or palate. The Vietnam Veterans Health Study found a number of negative health impacts that were evident in Vietnam veterans’ children, and this program is obviously welcome and will help meet the costs of treatment and provision of medical aids. However, because the government is—to date, anyway—refusing to accept the amendment we are now debating, any civilian nurses and doctors whose children have these conditions would not be eligible for this positive program that has just been announced. This is just one of a number of programs that are being offered to meet a need identified by the health study, which showed so clearly the ongoing health problems for many veterans and their families. In this context, it seems quite incomprehensible why this group of medical personnel should not be seen as veterans for the purposes of programs such as these. This is just another reason why the compensation act is an insufficient mechanism to deal with the ongoing cost of war in the lives of those who were there.

I would emphasise again that there are many positive aspects to the bill. It is certainly not the Democrats’ intention to delay the implementation of those positive measures. In many respects, people have already waited too long to get these entitlements and their service recognised. Nonetheless, it is important for this additional improvement to be made. It is not some sort of ambit claim, as Senator Schacht said. It is based quite specifically on a recommendation from the Mohr review and, from the Democrats’ point of view, is very much worthy of support.

Senator ABETZ (Tasmania—Parliamentary Secretary to the Minister for Defence) (1.22 p.m.)—Possibly a good starting point is to go right back to the terms of reference of the Review of service entitlement anomalies in respect of South-East Asian service 1955-75. In paragraph 1, we are told that the Australian government intends to review possible anomalies in service entitlements affecting—and these are the crucial words—‘those members of the Australian Defence Force’. Clearly, the people that are being referred to in this debate—the civilian nurses and members of surgical teams—do not fall within the category of ‘members of the Australian Defence Force’. Therefore, if there was some implied criticism of departmental officials in front of Justice Mohr—not necessarily giving full answers to particular questions—it was because they had prepared themselves within the terms of reference to deal with the issues that were, in fact, put before Justice Mohr as opposed to this extraneous issue that arose. They were not members of the Australian defence forces—

Senator Schacht—What about active service medals?

Senator ABETZ—Let us get to that because that is a very good point. The Australian Active Service Medal was, in fact, extended to members of the medical and surgical teams in 1998. This was on the basis that they had already received the Vietnam Logistics Support Medal, not because their service was equated in any way with military service in the ADF.

Senator Schacht—That is an extraordinary explanation.

Senator ABETZ—The unfortunate thing is that when you put logic and facts in front of Senator Schacht and his argument disappears, he has to start interjecting. At page XII of his report, Justice Mohr said—and this is very interesting:

It is my opinion that for the future a policy should be clearly laid down that the recommendation for the award of a campaign medal and the subsequent award of such a medal does not carry with it any entitlement to repatriation benefits.

That was Justice Mohr’s own recommendation, that all this talk about the receiving of a medal should be of no consequence when it comes to repatriation benefits. Yet Senator Schacht, who seems to fully adopt Justice Mohr’s report, conveniently overlooks that
which is on page XII—which is Justice Mohr’s view—that the awarding of a campaign medal is unrelated and should be unrelated, and should not carry with it any entitlement to repatriation benefits. Having said that, it is somewhat of a surprise to the government when, later in the report, the same person tells us:

... in my opinion that, noting that they were awarded the AASM ...

He goes on to say that they should be covered by the repatriation benefits, whereas on page XII he makes a very—

Senator Schacht—Isn’t that page 12?

Senator ABETZ—Roman numeral page XII. He makes, I think, the very telling and proper point that the fact that you are awarded a campaign medal does not carry with it any entitlement to repatriation benefits. We, as a government, say that we agree with Justice Mohr on that, but he seems to unfortunately overlook his previous recommendation in noting, on page 75 in his first dot point, that they were awarded this particular medal, whereas before the awarding of medals should not be taken—

Senator Schacht—I think it is on page Roman numeral XIII of the one I have—repatriation benefits.

Senator ABETZ—No, I think it is page 12. It is, in fact, page 42.

Senator Denman—It is page 42.

Senator ABETZ—Thank you, Senator Denman. I did learn something at school. That is nice to know. So it is on page XLII, and not XII. It is approximately at the middle of the page. The view that was expressed by Justice Mohr there is one that we, as a government, say is the correct policy position to take. He then goes on to say that because they were awarded the service medal, they ought to get repatriation benefits. But, if you try to read it consistently, what it really means is, ‘For this one group, we’ll do it, but never again because it is bad public policy,’ We say that, if we are to accept what he said at page XLII, it ought to be carried all the way through. Of course, he says further on that the other reason is the anecdotal evidence presented. The fact that they received a medal, which he discounts previously on the basis of some anecdotal evidence, does not make out a strong case for his recommendation, especially when one considers that it falls outside the terms of reference that he was provided. So I think the government does have quite a strong argument, a strong case, to say that this particular recommendation is not worthy of support, albeit we fully acknowledge the excellent hard work that he did work, shown by the fact that we have picked up all his other recommendations.

Senator Hogg in his contribution made some comments about whether or not these people in the civilian nursing and surgical teams were properly looked after. That is an issue that I think it is appropriate to address, but the question then is: who should bear that responsibility? It seems somewhat strange that the Department of Foreign Affairs and Trade can send people overseas and, if what Senator Schacht and Senator Hogg have said is correct, and there is no reason to doubt that, without proper preparation and without appropriate debriefing afterwards, and then the consequences of that are lumbered onto another department. Quite frankly, for good orderly government I cannot understand why one would seek to do that. If anything, the opposition should be moving appropriate amendments to Comcare legislation or whatever. But can I say, in relation to Senator Hogg’s comments about post-traumatic stress disorder, that it is in fact recognised under Comcare and under the 1930s legislation to which he referred. Proof of that, of course, is the claims made by people on the Voyager who had their claims recognised. So, clearly, post-traumatic stress disorder is covered by the Comcare legislation.

The reason that some of their claims to Comcare have been knocked back is that, as I understand it, they cannot necessarily make the connection to their service, and that is something that has to be considered on an individual basis. Each individual claim by a member of the civilian nursing and surgical teams will be assessed on the basis that, if they can substantiate their claim and satisfy the requirement that they were under the direct control of the Australian Defence Force, clearly they would be entitled, and individual cases in the past, I understand, have been
dealt with on that basis. But these people, despite the excellent work that they did, cannot satisfy that criterion.

Senator Schacht says that there was no submission from other groups and therefore, I dare say by implication, that should be dismissed. Senator Schacht was in government for long enough to know that once you set a precedent in the legislation because one group has made a specific claim then all the others will come out of the woodwork as well. As a government you not only have to look at the one group making the claim but you also need to ask: what would be the consequences if this claim were to be recognised and how many other groups and how many other people would then similarly build a claim on that precedent? Clearly that is what has exercised our minds, and we are comforted in our stance on this that Major General Peter Phillips, the National President of the RSL, is supportive of the Veterans’ Entitlements Act being preserved as the domain for those who have actually served our nation in the defence forces and under the direct control of the defence forces.

Senator Bartlett asked why the government would not accept this one particular recommendation, and I think, with respect to Senator Bartlett, I dealt with that in my initial comments. We believe that the recommendation of Justice Mohr in that regard was one outside the terms of reference and in fact was inconsistent with some of his other suggestions within that report.

Senator Schacht asked a question about what the associated costs might be. A figure of $3.5 million per annum has been indicated to me. I am not sure how rubbery a figure that is. That is what I am advised, and I suppose it is not the figure that is so much of concern but the precedent that it may set for a whole host of other people who were serving their nation as well in Vietnam but not under the direct control of the Australian defence forces. Clearly, on the evidence, there were prices on the heads of these medical teams and, if that is the case, one simply wonders what about, let us say, the Ambassador to South Vietnam at the time—

Senator Schacht—He got paid a heck of a lot more than the nurses.

Senator ABETZ—Yes, but should he also be entitled under the veterans’ entitlements legislation, or should the guards outside the embassy, who, as I understand it, at times were not actually members of the defence forces, similarly be entitled to that compensation? They are the sorts of questions that a serious government have to ask about the policy considerations that confront us from time to time. We say that it is appropriate to retain the Veterans’ Entitlements Act as the preserve and the domain of members of the Australian defence forces or those that have been subjected to the strictures of defence discipline.

Senator Bartlett asked why the government would not accept this one particular recommendation, and I think, with respect to Senator Bartlett, I dealt with that in my initial comments. We believe that the recommendation of Justice Mohr in that regard was one outside the terms of reference and in fact was inconsistent with some of his other suggestions within that report.
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Australian Service Medal for non-warlike service. The findings of the inquiry would need to stand alongside decisions to award these medals for particular service. It would be most unusual to recommend qualifying service, for example, for a deployment where the medal entitlement was the Australian Service Medal.

He points out the difference between the two medals and what they stand for. Then he goes on with the evidence of his own inquiry:

Now we come to this question of medals ... question 24. Is the converse of this statement true: that if an AASM has been awarded, does this mean that the recipient not to have satisfied the qualifying service criteria for the service pension, especially when the medal is awarded to those who rendered service in warlike operations?

The DVA response was:

Well, yes, the converse should be true for medals awarded after the categorisation of warlike and non-warlike service came into place and after the AASM and ASM came into place.

Did you say it would be true? It would be unusual not to have rendered qualifying service if you have got the AASM—

asked Judge Mohr. The DVA said:

Yes, correct. The norm is that if it is warlike service you get an AASM and so if you rendered warlike service you might expect to get an AASM—

and so it goes on. I would have thought it was pretty clear, from examination of this evidence, that the judge has clearly reached a view that the difference in the two medals awarded determined warlike service, and therefore that is why he made the recommendation. He also recommends to the government—and I think it is a good recommendation—that the government should make an absolutely clear statement, if they do not want to accept medals and indications for receiving repatriation benefits, and it should be made in black and white and put up in lights. Clearly, he believes that is not understood in the veterans’ community. I agree with him on that.

I want to go to the nurses issue. I note that the minister, in his second reading speech—and this was referred to by Senator Bartlett—said that the government had offered to have a discussion with the nurses and their advisers to see whether they can get a better deal under Comcare. I have discussed this issue with the Australian Nursing Federation only this morning and I want to take a couple of minutes to read the comment I have just got back from the federation, which was given to me while the debate was taking place. It says:

The Government is saying that 9 claims have been received from civilian nurses and eight accepted by Comcare. We have information in relation to six of the nine claims marked A to F in the attachment.

While Comcare has accepted liability in relation to some claims, the question that needs to be asked is, what is the tangible benefit that has been paid? For example, claims for PTSD have been accepted but applications for lump sum payments refused because of the 1930 Act.

Those cases are not listed here; they have used the nom de plume of ‘B2, D2’. It goes on:

(See also E2, whose claim for PTSD was accepted but is not eligible for compensation for incapacity because she had to cease work in 1982 as a result of physical conditions arising from her time in Vietnam which have not been accepted by Comcare to date. She has not received a response since sending off the information requested to their letter.)

In relation to C1 Comcare have denied the claims for PTSD and other physical conditions. This is the case that has already been assessed and accepted as PTSD by Veterans Affairs, but rejected on the basis that the claimant was not a veteran.

Also note that except for F2, the claims for physical conditions have been rejected. Even in this case the claim for permanent impairment is yet to be accepted. I have also attached the letter from the Veterans Review Board which rejected the claim on the basis of the current requirements of the Act but their comments on the last page are interesting.

I do not think the nurses federation or the individuals concerned would mind having the attached series of letters provided in confidence to the government for discussion. But because they are confidential letters I do not think it is appropriate for them to be tabled as part of this debate. The other part of the argument is that Comcare is not designed to deal with war related injuries, and there is
certainly a perception that those who administer DVA are far easier to deal with and communicate with compared with Comcare. I do not think there is any doubt that the DVA is much more proactive, and that is why we congratulate them on the work they provide for veterans. It goes on:

**Issues in relation to Comcare:**
- The SRC Act is a workers compensation scheme and therefore payments cease when the person reaches retirement age.
- The VEA contains a more beneficial standard of proof. Determinations under the SRC Act require the civil standard of proof, ‘on the balance of probabilities’, while the VEA prescribes a more lenient standard, ‘reasonable hypothesis’.
- There is no entitlement for lump sum payments for permanent damage in relation to PTDS and other conditions affecting internal organs; skin cancers and various injuries to the neck and back. (As determined under the 1930 Act.)
- Appeal mechanisms are more beneficial under the VEA under the current arrangements and what is proposed under the new Administrative Review Tribunal.
- Once accepted under the VEA that is the end of the process whereas to continue to receive benefits under Comcare you must satisfy the requirements of an ongoing review process.
- There is an easier administration of medical expenses under the VEA by virtue of a treatment card compared to submitting medical expenses to Comcare for them to refund.
- Benefits are extended to eligible dependants and spouse under the VEA.

The final point in this range of dot points is:
- VEA pension recipients can also receive rental assistance and assistance with travel, medical, telephone and utility payments. This is not available under the SRC Act.

My colleague Senator Bartlett made the point that the range of benefits and ancillary benefits under the VEA are certainly more extensive than under Comcare. The final point that the Nursing Federation wishes to point out is that the Vietnam Veterans Association carried the following resolution at their national council meeting on 29 October this year:

That the support of this Association be given to the Civilian nurses in their endeavours to obtain their entitlements.

I have not seen a copy of that resolution, but I was informed by the Nursing Federation that it was carried by the VVA. May I say to the Parliamentary Secretary to the Minister for Defence that those comments underline the difference in the benefits and show why the surgical team members, in particular the nurses, are arguing that the benefits under the VEA are more substantial, more widespread and more caring than you can get under Comcare in Australia. With regard to the offer by the minister to undertake consultation, I would have to do a lot more groundwork because I do not think the minister can break the Comcare act by giving a direction to send a few extra dollars to these wonderful nurses and so on if the act precludes it. The Nursing Federation says the act clearly precludes them from getting those benefits.

The final point I wish to make—and, again, the minister may clarify this—relates to a question I asked in estimates in May of this year. I asked whether other benefits would be precluded from being provided from 1 January if the current bill to amend the Veterans’ Entitlement Act were not passed because of an argument such as the one we are having—I anticipated this argument. The answer from the department and the minister to my question in *Hansard*, page 231, is that there are three areas:

The following initiatives require electoral amendments before benefits can be provided:
- provision of psychiatric assessment to partners and children up to their 36th birthday;
- provision of counselling through the Vietnam Veterans Counselling Service to ex-partners and children up to their 36th birthday; and
- extending access to Veterans’ Children Education Assistance Scheme to children of Vietnam veterans who are vulnerable to self-harm as a result of their families’ circumstances.

I understand that all the other recommendations from the morbidity study on Vietnam veterans can be adopted without amendment to the act, according to that answer. Therefore, I believe that the government should accept this amendment. We do not want to delay even those benefits past 1 January to those deserving people. We accept that recommendation. I believe that, all in all, this is an excellent amendment which will enhance the standing of veterans in our community and will show that the parliament and the government care for those who provided excellent service to Australia way back in the Vietnam War.
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Senator ABETZ (Tasmania—Parliamentary Secretary to the Minister for Defence) (1.50 p.m.)—First of all, can I draw Senator Schacht’s attention to page 73, where he quoted at some length the exchange between Judge Mohr and DVA—question 24—as to warlike and non-warlike service and the awarding of medals. If you go nearly to the bottom of the page, you see that Judge Mohr asks:

Judge Mohr: Everybody that goes up there?
DVA: Everybody.
Judge Mohr: You mean civilians too?
DVA: No, because civilians are not ADF members so I cannot answer for civilians. My comment was meant to relate to the military.

With respect to Senator Schacht quoting sections of the transcript, it would be very handy if he would put them into context. I dare say Senator Schacht was hoping that I had not read the full transcript and that I was not aware of that little qualifying rider, which is a fairly significant rider, in relation to the DVA’s commentary.

As to the nurses’ communication with Senator Schacht—I think Senator Bartlett made this comment as well—there was no lump sum payment available for post-traumatic stress disorder under Comcare. As I understand it, there is no such payment under the Veterans’ Entitlements Act either. Why on earth point to the lack of lump sum compensation under Comcare when they would not get it under the Veterans’ Entitlements Act? It seems to be something that Senator Bartlett has raised and that the Nursing Federation has raised with Senator Schacht. It is a benefit which, very simply, is not there.

That deals with the two matters of substance that Senator Schacht raised. I conclude my remarks by saying that the government will be opposing the amendment.

The committee divided. [1.57 p.m.]
(The Chairman—Senator S.M. West)

Ayes………… 28
Noes………… 26
Majority……… 2

AYES
Bartlett, A.J.J.  Bolkus, N.
Bourne, V.W.  Buckland, G.
Carr, K.J.  Collins, J.M.A.
Cook, P.F.S.  Denman, K.J *
Evans, C.V.  Faulkner, J.P.
Forshaw, M.G.  Greig, B.
Harradine, B.  Hogg, J.J.
Hutchesons, S.P.  Ludwig, J.W.
Lundv, K.A.  Mackay, S.M.
McLucas, J.E.  Murphy, S.M.
Murray, A.J.M.  O’Brien, K.W.K.
Ray, R.F.  Ridgeway, A.D.
Schacht, C.C.  Sherry, N.J.
West, S.M.  Woodley, J.

NOES
Abetz, E.  Brandis, G.H.
Chapman, H.G.P.  Coonan, H.L *
Crane, A.W.  Ellison, C.M.
Heffernan, W.  Herron, J.J.
Hill, R.M.  Kemp, C.R.
Knowles, S.C.  Lightfoot, P.R.
Macdonald, J.A.L.  Mason, B.J.
McGauran, J.J.J.  Minchin, N.H.
Newman, J.M.  Patterson, K.C.
Payne, M.A.  Reid, M.E.
Tambling, G.E.  Tchen, T.
Tieney, J.W.  Troeth, J.M.
Vanstone, A.E.  Watson, J.O.W.

PAIRS
Bishop, T.M.  Boswell, R.L.D.
Conroy, S.M.  Alston, R.K.R.
Cooney, B.C.  Ferguson, A.B.
Crossin, P.M.  Ferris, J.M.
Gibbs, B.  Campbell, I.G.
Stott Despoja, N.  Macdonald, I.

* denotes teller

Question so resolved in the affirmative.
Bill agreed to, subject to a request.
Bill reported with a request; report adopted.

QUESTIONS WITHOUT NOTICE

Rural and Regional Australia: Fuel Prices

Senator FORSHAW (2.02 p.m.)—My question is directed to Senator Kemp, the Assistant Treasurer. If, as the Treasurer claims, ‘the farmers have probably had the best deal out of fuel taxation of any group in Australia’, how does the government explain...
the call by the National Farmers Federation, backed by all of its affiliate groups at its recent national council meeting in Canberra, for a freeze on the February fuel excise increase?

Senator KEMP—I thank Senator Forshaw for that question. It is true that the rural sector has been given special attention by this government in relation to fuel. You can mention a number of things which have been of enormous benefit to the rural sector and to the wider Australian community. One is the Diesel and Alternative Fuels Grants Scheme, which has been very effective in helping to cut the effective rate of excise on large transports. It has delivered very large benefits to rural Australia. The fuel grants scheme, which was established to make sure that the margin between city and rural prices was cut back, cost the last budget some $500 million. It has been another effective scheme. There are a number of very important schemes which have been effective in the farming sector. I recall that, in some of the comments that the leader of the National Farmers Federation has made on fuel excise, he has talked about the wider community issues. We share those concerns. We share the concerns of the rural sector and city people about the high prices of petrol. The reason we have high petrol prices is due to the fact that world prices have soared in the last year and a half. There is no secret about that: that is the reason. I think farmers will be particularly interested when I bring to their attention what Senator Cook said—

Senator Crane interjecting—

Senator KEMP—I regret to say there are some further quotes from Senator Cook that I do feel compelled to bring to the attention of the Senate. There was a very famous report that Senator Cook signed in relation to the cuts in fuel excise which this government announced as part of the new tax system. Senator Cook chaired a committee into the new tax system. Among other things, Senator Cook bemoaned the fact that this government had cut excise by too much.

Senator Cook—What was the recommendation I made?

Senator KEMP—You can shake your head all you like, Senator Cook, but I happen to have your quotes here. Listen to what you signed on to:

The government’s proposed tax changes will encourage business to use more heavily polluting petroleum fuels at the expense of LPG, LNG and other more environmentally friendly fuels.

What was he complaining about then? What was the mood of the government?

Senator Sherry—You destroyed the gas industry.

Senator KEMP—Don’t be embarrassed, Senator Sherry. What was the mood that Senator Cook was complaining about?

Senator Knowles—Tax reductions.

Senator KEMP—He was complaining about the fact that we have cut the excise on fuels. He would know that not only was there a cut in the excise but also people in business can claim an input tax credit for the GST paid on fuels. That was the Labor Party position. When we had this bill—

Senator Cook—It was not.

Senator KEMP—I am actually reading from your words, Senator Cook.

Senator Cook—No, you’re not.

Senator KEMP—Under ‘Transport and the environment’ this is what Senator Cook said—

Senator Cook—No, no; tell the truth for once in your life.

The PRESIDENT—Senator Cook, you can have an opportunity to debate the matter.

Senator KEMP—Oh dear, so early in the parliamentary fortnight.

Senator Knowles—Why don’t you tell us his most famous quote?

Senator KEMP—I will not tell you Senator Cook’s most famous quote. I will stick to my last—(Time expired)

Senator FORSHAW—Madam President, I ask a supplementary question. I thank the minister for that answer. The problem, Minister, is that the NFF just does not believe you. I point to the recent statement by the President of the NFF, Mr Ian Donges—and you can listen to this, Senator Boswell;
you’re a member of the government—who said:

It seems that some people in the government cannot accept the fact that, on fuel, the NFF is speaking for the community when we call for a freeze on the February fuel excise increase.

I ask: what is the government’s response to that statement by the NFF president, Mr Donges? Will the government ignore the NFF and the community and proceed with the February increase in fuel excise?

Senator Kemp—Thank you for the supplementary question. You quoted the comment which I quoted in my earlier remarks—that Mr Donges was speaking about wider community concerns. We share those concerns. That is the response. The fact of the matter is that the price of fuel has gone up because world prices have gone up.

Senator Forshaw—Madam President, I rise on a point of order. My point of order is that I did quote Mr Donges, and I quoted Mr Donges when he said he would call for a freeze on the February fuel excise. My question was specifically: does this minister agree with that call by Mr Donges for a freeze on fuel excise? Madam President, could you ask the minister, as he feels it appropriate to quote what I quoted from, to answer the very question regarding Mr Donges’s comments?

The President—There is no point of order.

Senator Kemp—I assume you were talking about Mr Donges, not ‘Mr Dongers’. Mr Donges, I think, was the person you meant to talk about. If you purport to quote someone, you should try to get their name correct. Mr Donges will be particularly upset when he reads what the Labor Party said about the cuts to fuel excise, in particular Senator Cook’s position. Senator Cook and the Labor Party bemoan the fact, and you cannot hide from this—(Time expired)

Roads: Funding

Senator Calvert (2.09 p.m.)—My question is to the Minister for Regional Services, Territories and Local Government, Senator Ian Macdonald. Given the Howard government’s strong commitment to nation building, will the minister outline any new and substantial initiatives to improve local roads infrastructure? Will the minister advise the Senate of the benefits to each state?

Senator Ian Macdonald—I am delighted to tell the Senate and Senator Calvert, a former distinguished warden of Clarence Council, of the great new initiative from the Howard government announced by the Prime Minister at 11.30 a.m. today. The Howard government is putting an additional $1.6 billion into nation building, towards our nation’s roads. Of that, $1.2 billion goes to local roads—roads that local councils know need repairing but have not been able to do it from their own resources. The Howard government and all of my colleagues here have had representations from councils, from local groups, from rural groups and from farming groups on the need for additional funding. Because of our good management of the economy—because we have the budget in the black—we are able to make that investment into local roads. In addition to that, there will be $0.4 billion for the national highway and Roads of National Importance.

It is important to understand that this additional $1.2 billion for road funding goes to all councils right across Australia. Once it gets to the various states, that money is divided up amongst all councils by the independent state grants commission in each state. This means that every council will share in the Howard government’s investment in infrastructure in Australia. It is worth recognising that every export within Australia starts on a local road. It is also worth knowing that the state of local roads in many parts of Australia means that basic things like children getting to school cannot happen, because the roads are not good enough. This investment will help those people out. Better roads means better fuel economy for all of us who drive on roads which, at the present time, are substandard.

This investment is part of nation building. The new work that will evolve from this investment will mean new jobs in the road construction and maintenance industry. It will allow councils to forward plan for the next four years for additional jobs to do these new works. Each state shares in the Howard government’s new investment—New South Wales, an extra $340 million; Victoria and
Queensland, $250 million; and Western Australia, $180 million. Because of the quirks of the formula adopted by the previous government, South Australia has missed out for a long time and will get an extra $100 million in road funding. Tasmania will receive an additional $40 million, which Senator Calvert will be very pleased about. The Northern Territory will receive $20 million and the ACT $20 million.

What did our opponents say about this? Mr Beazley called it a boondoggle. He said that, whenever people start talking about local roads, there is likely to be a smell of pork. I hope Mr Beazley will be encouraging those councils in his electorate which get $4 million, $5 million or $6 million to hand that money back because, according to Mr Beazley, the councils in his electorate are getting some pork-barrelling. I am sure that Councillor Soorley, the Labor Lord Mayor of Brisbane, will be keen to know that Mr Beazley thinks that the extra $26 million the Brisbane City Council—a Labor council—is getting is simply pork-barrelling. (Time expired)

Social Welfare: Reform

Senator CHRIS EVANS (2.14 p.m.)—My question is directed to Senator Newman, the Minister for Family and Community Services. Will the minister take this opportunity to clear up the confusion and speculation surrounding the government’s much anticipated and much delayed response to the McClure report? Will the government’s response be announced before Christmas? Or will Mr Reith, Mr Abbott and Mr Moore-Wilton get their way and have it deferred until the minister is safely in retirement? If it is to be announced before Christmas, will it be a detailed and funded response, as sought by the minister?

Senator NEWMAN—The answer is pretty simple, really. Cabinet has considered the McClure report, and I will be making a ministerial statement next week.

Senator CHRIS EVANS—Madam President, I ask a supplementary question. Can the minister confirm that it will be announced next week and that it will not be delayed again, as on a previous occasion? Her announcements about when it will be announced have been weekly. Will the minister assure the Senate that she will not permit the new welfare programs for sole parents and disability pensioners to be handed over to the architects of the Job Network fiasco and Employment National’s destruction, Mr Reith and Mr Abbott?

Senator NEWMAN—I am sorry that I cannot give the opposition a sneak preview.

Greenhouse Gases: Emissions

Senator TCHEN (2.15 p.m.)—My question is to the Minister for the Environment and Heritage, Senator Hill. The minister has been in The Hague fighting for Australia’s interests. Will the minister inform the Senate of the outcome of the climate change talks held in The Hague last week? How will Australia further build on its efforts to reduce its domestic greenhouse gas emissions and contribute to a better global outcome?

Senator HILL—What we were seeking was further progress on a global solution to the greenhouse gas problem, in a way that was fair to all nation states which had to basically bear the costs—in particular costs of reducing emissions, costs of abatement—that is, the developed nations. This meeting was intended to try to settle the rules that remained unresolved after the Kyoto protocol was negotiated in November 1997. The rules included areas such as the flexibility mechanisms which were designed to enable nation states to achieve abatement at least cost; rules relating to sinks—what sinks were eligible, how they should be defined and how sinks should work in practice—rules in relation to compliance, because obviously countries would wish to know the consequences of a failure to meet targets; and matters relating to developing country participation, because as emissions from developing countries are about to pass emissions from developed countries, it is obviously important that everyone is playing their part and carrying their weight in achieving this better global outcome.

When ministers arrived for the second week of negotiations, they found that the highly complex text still had many areas of disagreement. In fact, someone counted over
1,500 sets of brackets still remaining. So there were over 1,500 matters unresolved when ministers were being asked to reach final agreement. There had to be a consensus outcome from 180 different countries, all with different economic interests, which is the cost aspect to this complex debate.

Notwithstanding the difficulty, ministers sought to reach agreement on the text and, by the middle of last week, it was obvious that that could not be achieved. There was just too much work undone at the time of the commencement of the meeting. An attempt was then made to reach an agreement on issues of principle, and the president, the Dutch Minister Pronk, brought what he called a compromise agreement to ministers about 24 hours before the end of the meeting. About 25 countries were given the opportunity to negotiate that agreement in a closed room, and they met from about 4 p.m. on Friday through to about 9 a.m. on Saturday, when Minister Pronk finally decided that agreement even on principle could not be reached. As a result of that, the meeting has been suspended until late May of next year. It is trusted that, at that time, issues of not only principle but also detail will be settled.

What was heartening was statements that countries better understood each other’s perspectives in this matter. Countries now recognise that domestic action is being taken across the world to reduce emissions and to enhance sinks in terms of their sequestration capacity. Furthermore, willingness and determination were expressed by all parties to reach the agreement that would settle the Kyoto rules and allow the historic Kyoto protocol to come into legal operation. That is heartening, despite the fact that so many differences still remain. Key differences remain on the issue of sinks, and, in particular, what additional sinks will be legitimate and whether they should be capped. Key differences still remain in relation to some of the flexibility mechanisms; for example, whether the clean development mechanisms should include sinks. Differences still remain on compliance, but at least progress has been made.

Senator TCHEN—Madam President, I ask a supplementary question. Could the minister further elucidate Australia’s continuing efforts to reduce domestic greenhouse gas emissions in the light of this international situation?

Senator HILL—It was good to hear that countries that had in the past been sceptical of Australia’s domestic contribution recognised that the Howard government had contributed some $1 billion towards greenhouse abatement programs. If only that international recognition could be reciprocated within this country, where the Australian Labor Party and the Australian Democrats are blocking the government’s renewable energy bill, which would introduce a further $2 billion of investment in the renewable energy industry in Australia. If the opposition and the Democrats were to support the government’s leadership in that regard, the government would be able to deliver an even better outcome in relation to renewable energy. This government is putting in $350 million up-front into renewable energy, but it needs the added impetus from the compulsory purchase of an extra two per cent of renewable energy. If we could get that through the Senate, and if the Democrats and the Labor Party would agree before the end of this session, we would take a major step in the right direction. (Time expired)

Greenhouse Gases: Sinks

Senator BOLKUS (2.21 p.m.)—My question is also to Senator Hill. I would say to the minister that that legislation could pass today if he were able to override the objections of his colleague Senator Minchin. Minister, can you explain why Australia supported the expansion of the definition of additional sinks under article 3.4 of the Kyoto protocol at the recent climate change negotiations in The Hague? Why did Australia take such a hard line on this definition, when the minister knows full well that this definition effectively allows states to renegotiate targets set under the Kyoto protocol? Is it not a fact that revegetation represents just a few per cent of Australia’s overall emissions? Minister, why shouldn’t the Australian government take some responsibility for the failure of the talks when, together with Japan, Canada and the United States, our support for the expansion of sinks was the major ob-
stacle to an agreement—yet revegetation, the government’s proposal, represents such a small percentage of our overall emissions?

Senator HILL—I welcome an environment question from the opposition spokesman, since it is 283 days since I have had one. In fact, the last time I received a question on greenhouse from the opposition spokesman was last year—and we are only up to November of the subsequent year. If that indicates that the Labor Party is finally becoming interested in these issues, then I welcome it and I welcome the increased work rate of the environment spokesman for the Labor Party.

The problem is that the Labor spokesman has not read the Kyoto protocol. If he reads article 3.4, he will find that it specifically provides for additional sinks and circumstances in which additional sinks can apply to the first accounting period. Those additional sinks had to be negotiated at a conference of the parties, and certain countries brought along options for additional sinks. Australia brought along an option. It was an option for revegetation—not many tonnes of carbon, but a very useful contribution to a better environmental outcome in Australia. I would have thought Senator Bolkus, if he knew anything about this matter, would have applauded that. It is true that the United States, Canada and Japan also brought along propositions in relation to forest management, crop lands and grazing lands. They were entitled to put those and to seek to have them adopted because they had a good scientific basis for them.

I think Senator Bolkus should start from scratch in these matters and start by reading the core documents. If he does, he will find that the protocol and the convention acknowledge sinks as a legitimate way to reduce net greenhouse gases in the atmosphere. You can do it through reducing emissions at source, through enhancement of sinks or through a combination of both. The United States argued that there were ways in which it could contribute to a better global greenhouse outcome through utilisation of those additional sinks, and it made out a scientific case. The interesting thing—because Senator Bolkus has just swallowed the Greens’ line; I am surprised I am not getting this from Senator Bob Brown—is that, in the end, the Europeans, who are quoted as the principal objectors, were not objecting to the characterisation of those sinks at all. It came down to a debate on tonnage and the question as to whether that tonnage was a legitimate ask within the first accounting period.

Nobody who knows anything about this matter questions the availability of additional sinks, but you have to justify them on the science and you also have to justify them in terms of being reasonable in all the political circumstances. For the Europeans that was too much of an ask at the moment, and in the end they were not prepared to accept the detail. But they did accept the direction that was being taken, and they expressed a willingness to continue the negotiations until we jointly achieve a good outcome—that is, rules that are settled and can be acted upon in the first accounting period and which can bring into operation a protocol which, for the first time, will apply a legally binding target to all industrialised countries.

Senator BOLKUS—Madam President, I ask a supplementary question. I note in asking my supplementary question that the minister’s response confirms my point, and that is that the Australian government’s proposal with respect to sinks was one of the sticking points. Minister, is it not a fact that the Australian government’s position on the inclusion of nuclear technology in the clean development mechanism, supported by only Japan and Canada, further isolated Australia during the talks at a time when we should have been building bridges towards an outcome! In an endeavour to assist in the achievement of an international agreement next time round, will the minister now drop his position on nuclear technology—a position he knows has no chance of success in the international community?

Senator HILL—The hypocrisy of the Labor Party knows no bounds. Under the Labor Party in government the output of Australia’s uranium mines doubled. Yet Senator Bolkus is saying here today that the Australian Labor Party should oppose the take-up of nuclear technology by major developing countries. That is what Senator
Bolkus is saying. He is saying that they should not have the same opportunity that developed countries, such as Britain, the US, France, Germany, et cetera, have to choose a low greenhouse gas alternative. That is the point. The CDM allows the use of technologies that will give a greenhouse gas benefit—Senator Bolkus might not understand that—and nuclear technology is an option that does that. So it would be illogical to argue that nuclear technology should be specifically excluded from that option. That is the position that we took. It is sound and we stand by it. (Time expired)

Disability Support: Funding

Senator LEES (2.28 p.m.)—My question is to Senator Newman, the Minister for Family and Community Services. I ask the minister if she is aware that yesterday the Prime Minister told the Australian public:

I am not going to lead a government that is going to make it harder for the poor in Australian society.

He went on to say:

And nothing I will do, nothing this government will do in this area, is going to hurt the poor.

Minister, how can this statement be reconciled with the actions of this government which have indeed hurt some of the most disadvantaged in our community, particularly people with a disability? Is it not the case, Minister, that this government has cut job programs for the disabled by six per cent, cut workplace modification funding by 50 per cent and also cut the annual wage subsidy for people with disabilities? Can we take it that the Prime Minister’s statement means that each of these policy actions, which make it harder and harder for people with disabilities to find work, will now be reversed?

Senator NEWMAN—I thank Senator Lees for the Dorothy Dixier. It gives me the opportunity to put on the record just a selection of some of the things that this government has done for people with disabilities. For example, the Commonwealth disability strategy has been revised to help ensure that people with disabilities enjoy the same rights as other Australians. The disability support pension legislation, if you recall, was introduced by this government to maintain pensions at 25 per cent of male total average weekly earnings. So there are two benchmarks—the CPI and the MTawe—which has been a substantial benefit to pensioners. The second CSDA was signed in 1998 and is much less restrictive than the first agreement between the Commonwealth and the states. With regard to unmet need, have you got such a short memory, Senator, that you would forget the commitment by the Commonwealth on the basis of the states bringing in matching funds? The government has now released $510 million in new money in Commonwealth-state funding over these two years to meet what was a build-up in unmet need for accommodation services. This has been an area of responsibility of the states but has been an unmet need that has built up over something like 20 years. Have you forgotten that, since 1998, there has been over $525 million for new funding for carers, including increased respite care support as well as the establishment of carer resource centres and carer respite centres?

With regard to welfare reform, I have made it very clear that it is designed to provide more opportunities for people with disabilities to participate in an economic and social life. As far as employment services are concerned, there has been a 20 per cent increase in the number of people with disabilities placed in my department funded employment services between 1995 and 1998. There are new assessment and streaming arrangements for job seekers with disabilities to target specialised employment assistance to those most in need. I introduced a case based funding trial to better link funding to outcomes—long overdue. In the past, lump sums have been paid to organisations to assist with employment for people with disabilities but with no focus on requiring them to produce outcomes at all. The quality assurance trial, which will provide a formal accreditation system for disability employment providers, will ensure that service quality goes to consumers.

Do not forget the assessment and contestability trial which will better identify the abilities and needs of people with disabilities and match them to support services and will test the capacity of the private sector to pro-
vide rehabilitation services—badly needed, in my view. There is the business services review, which is to examine issues facing services as the employers of people with disabilities and as viable survival enterprises. And, of course, the transport accessibility standards got no press coverage whatsoever when I announced that there would be a range of transport types that would require public and private operators to meet accessibility targets progressively over the next 30 years, with many of them coming into effect within five years and staged at 10 and 15 and 20 years. The vast majority of public transport will become accessible within 15 to 20 years. It is still a long time but it was not achieved under the previous administration of Labor. I think that Senator Lees has forgotten some of the important things that this government has done in a range of areas in barely 4 ½ years to improve the lot of people with disabilities.

Senator LEES—By way of introduction to my supplementary question, I must say to the minister that, given the range of programs that she has now outlined, we are still a long way short of adequate accommodation for people with disabilities and nowhere near the opportunities that people with disabilities should be able to enjoy if they were directly assisted, for example, with programs that support them in the workplace. I ask the minister: given the range of initiatives that you have just outlined and your mention of welfare reform, can we now presume that there will be no penalties included in your options for people with disabilities; that you will actually go down the road of increasing opportunities for people with disabilities, and that we will not see the punitive measures that are now in place for people who are unemployed transferred across and made requirements for people with disabilities?

Senator NEWMAN—There is still even more that I could say by way of answer to that question, and it raises a number of other areas that I have been working in, like community housing. But, in the time available, let me emphasise, as I have just done to Senator Evans—or as I have emphasised to the Senate over and over again—that it is about opportunities. The welfare reform is all about opportunities. When it comes to people with disabilities, we are talking about matching people’s capacities to the opportunities, to the assistance and to the investment in those people. Senator Lees, just as the Labor Party will have to wait until I make the statement, so also, I am afraid, will you. But let me assure you that this is not about punitive treatment of people—

Senator Woodley interjecting—

Senator NEWMAN—Senator Woodley, if you would wait until next week, I will let you know. It is not about punitive action. There are many people who have disabilities, even quite severe disabilities, in this community these days who have chosen and are able to work. We want to see all people who want to work get the opportunity. (Time expired)

Woomera Detention Centre: Allegations

Senator MCKIERNAN (2.34 p.m.)—My question is directed to Senator Vanstone in her capacity as Minister representing the Minister for Immigration and Multicultural Affairs. Can the minister confirm that, on 22 November, Minister Ruddock admitted that he had wrongly assured the Australian public that there was no substance in allegations of child abuse at the Woomera Detention Centre? Why then is the minister again going out on a limb in assuring the Australian public that there is no substance in the most recent allegations concerning the Woomera Detention Centre; namely, that child abuse and sexual abuse is rife at the centre and is not limited to the single case which formed the initial allegations? Given the seriousness of the allegations of cover-ups and criminal conduct, why won’t the minister do what appears blindingly necessary and insist on an inquiry with powers to compel witnesses and to subpoena documents rather than the narrowly focused Flood inquiry without these powers?

Senator VANSTONE—I thank the senator for his question. I understand, as I am sure every senator and member does, your concern in relation to these issues. The government shares that concern. The minister for immigration has already announced an inquiry to look at some specific issues that are
associated with the procedures in detention centres for reporting and following up allegations of child abuse. I mention that because the inquiry is not being asked to investigate issues of child abuse in themselves, because the proper authority to deal with those questions is Family and Youth Services in South Australia and possibly the South Australian police. So the minister set up an inquiry specifically to look at whether the procedures in detention centres for reporting and following up of those matters are appropriate, because, after all, that is the mechanism that will get any allegation or suspicion to the appropriate authorities. He has appointed Mr Philip Flood to conduct that inquiry. Mr Flood is, as you know, a distinguished Australian with a long history in the Public Service and in the foreign affairs department.

The inquiry is going to look at the processes in place for identifying, dealing with, reporting on and following up allegations, instances or situations where there is reasonable suspicion of child abuse in immigration detention centres. It will also examine the specific case currently under investigation by the South Australian Family and Youth Services department to determine whether all relevant information or documents were provided to the responsible authorities at the appropriate time and any instances of failure to follow appropriate procedures. The minister is not seeking simply to have an inquiry that looks at procedures for the future; the inquiry will also look at the procedures that were followed in relation to the particular matter that is now of interest. It will not investigate the allegations in themselves; they are for proper authorities to investigate.

Senator McKIERNAN—I thank the minister for her response to my question and ask, by way of supplementary question, whether the minister has followed up claims that his office and the Department of Immigration and Multicultural Affairs were informed of details of the alleged sexual abuse of a 12-year-old boy as early as April of this year. Don’t these claims contradict evidence to an estimates committee hearing last week that the department was not aware of the case until July? Has the minister sought an explanation from the department about this discrepancy? If so, what is the explanation? If not, why not?

Senator VANSTONE—I do not know the answers to those questions. The Hansard record will speak for itself; so will any public statements that anybody has made. I will ask the minister if he has got any comments to make for you vis-a-vis any discrepancy in relation to public comments and those at the estimates committee hearing.

Unpaid Work: Mothers

Senator HARRADINE (2.39 p.m.)—My question is to the Minister for Family and Community Services. I refer to the minister’s comments earlier this month, casting reflection—no doubt unintentionally—on ‘stay-at-home mums’. Has any arm of the government undertaken an estimate of the worth and economic value of the unpaid work performed by these mothers in school, community and local organisations? Given the fact that the high rate of unemployment means that there are more people in or seeking paid work than there are jobs available, what social or economic sense is there in devising programs such as the Centrelink program, which really is designed to push mothers into the paid work force against their will?

Senator NEWMAN—I am not quite sure which program forcing mothers into the work force against their will the senator is talking about. If he is talking about people whose youngest child has turned 16, there has for some years been a requirement on people to move off a pension and start looking for work. I do not know when it was introduced, but it was not introduced by this government. Most mothers these days are in the paid work force. There are jobs for people. Women have taken up something like 400,000 new jobs since this government has been in office; about half of those are full-time jobs and about half of them are part time. I know that for many years mothers in particular have looked for, wished for, hoped for and found it difficult to find part-time work so that it would balance with their family responsibilities. As women are given more and more education these days, that wish for combining work and family has grown amongst mothers. There is no push by
this government to force women to work at
all—in fact, quite the contrary. The tax re-
form system, if you recall, has provided for
families who have one income provider to
get special tax assistance while their children
are very young. I cannot endorse the basis of
your question.

Senator HARRADINE—I am very sur-
prised that the minister has some ignorance
of something that she referred to on 30 Octo-
ber in this chamber, about a Centrelink pro-
gram, a pilot program, where people on par-
eting payments, both partnered and single,
were invited to interviews. They were on
parenting payment. Your answer has got
nothing at all to do with the question that I
asked. Would you please answer the question
and in your statement next week give priority
to the important work of mothers in the
home.

Senator NEWMAN—I am sorry that
Senator Harradine did not make it as clear in
the question as he did in the supplementary.
It is true that Centrelink has been doing some
research on the wishes and the goals of par-
ents for their future once their main child-
bearing years are behind them. I announced
in, I think, July the results of a pilot program
which had invited women to come into Cen-
trelink to be interviewed about what they
think of as their future. Some were required
to come in. Of those who were required to
come in, a very significant majority found
that the exercise was very worth while. They
found that the people in Centrelink who were
there to interview them were very helpful; they
found that they were getting help when
they did not know that there was assistance
in there to help them identify what they
might like to do in the years ahead, what
training opportunities there were for them
and what assistance there was for child care.
It was not compulsory that they undertake
these things; they were simply asked to talk
about them. (Time expired)

Member for Kennedy: Telecard

Senator FAULKNER (2.43 p.m.)—My
question is directed to Senator Ellison, the
Special Minister of State. Minister, in the
light of Mr Katter’s admission today that his
telecard was stolen in 1997 and charges of
$13,000 incurred, why did the minister state
on Radio National on 11 October that he was
unaware of any case of misuse of a telecard
other than Mr Reith’s? When was the minis-
ter informed of Mr Katter’s claims, and why
wasn’t the answer to my question on notice
about telecard usage footnoted to explain Mr
Katter’s case?

Senator ELLISON—In relation to the
footnote, when the circular went out to
members and senators they were invited to
make whatever footnote they thought appro-
priate, and the department carried out that
request where it was reasonable. In relation
to the question that Senator Faulkner refers
to and the radio interview, I think he has
misunderstood the interview which did take
place. From recollection, that would have
been the Fran Kelly interview I am referring
to, where I was asked about what had been
done last year in relation to telecard and I
had said there had been monitoring intro-
duced by the department in relation to indi-
vidual members and senators. I was asked, in
the context of that, whether there were any
other matters that I was aware of, and I said
no I was not.

Subsequently, the 7.30 Report raised the
matter concerning Mr Nicholls, which is the
subject of litigation. They said that I had
misled Ms Kelly in that interview. I wrote to
the 7.30 Report, pointing out to them that if
they had read the transcript they would have
seen that I was answering the question in the
context of the regular monitoring that the
department had introduced. So I would say
similarly to Senator Faulkner that when I
answered that question I was answering the
question in the context of whether other
matters had come to light as a result of that
monitoring. The investigation in relation to
Mr Katter I was advised of only recently; I
will check on the date and get back to the
Senate. I understand there was an investiga-
tion into that matter and that it was resolved
satisfactorily. That was the advice that I re-
ceived from the department. I will get back
to the Senate and advise it if there are any
further details.

Senator FAULKNER—I thank the min-
ister for offering to come back to the Senate
with some details on this question. I ask, as a
supplementary question, Madam President:
could the minister explain to the Senate or advise the Senate if Mr Katter has repaid the $13,000 or if he has been asked to repay the $13,000?

Senator ELLISON—The situation concerning Mr Katter arose before I was minister in the portfolio. I will check on that and get back to the Senate. I can say that the matter was looked into at the time and I was advised by the department that it was resolved. But, as I say, if there is any further detail that I need to get back to the Senate with, I will.

Electoral Matters: Queensland Fraud Allegations

Senator BRANDIS (2.47 p.m.)—Will the Special Minister of State, Senator Ellison, advise the Senate how the latest allegations of electoral fraud in Queensland are threatening the public’s confidence in the integrity of the Australian electoral system? What are the federal implications of the ALP’s electoral rorting in Queensland?

Senator ELLISON—I thank Senator Brandis for that very important question. It is no secret as to what is going on in Queensland. When I last informed the Senate, on 6 November this year, of events, little did we know of the serious events that would take place after that and which have taken place. Let us look at them. Firstly, we have had the resignation of the Deputy Premier of Queensland over this issue. Mr Jim Elder resigned. It was so serious that the Premier of the Labor government in Queensland had to cut short his visit to Japan to come home to sort out this crisis. Just this morning the CJC announced that the Shepherdson inquiry had extended its terms of reference:

The extension now enables the inquiry “to conduct an investigation into any alleged official misconduct, which constitutes or could constitute a criminal offence or offences, by Peter James Elder in respect of matters affecting the electoral roll”.

Today, as a result of that, the CJC has announced an extension of the terms of the Shepherdson inquiry’s reference which touches squarely on Mr Elder, the former Deputy Premier of Queensland. We also have breaking news today the allegation that there was an exchange of money—differing amounts; we are still to get to the bottom of this—of between $500 and $1,400 with the Democrats as an offer to induce them to provide preferences in the seat of Lilley. This is a serious allegation and it has not been before the CJC to date. It should be looked into by the Joint Standing Committee on Electoral Matters. More importantly, I referred those press comments to the Australian Electoral Commission today, and they have informed me that they have referred this matter to the Commonwealth Director of Public Prosecutions for preliminary advice. Section 326 of the Commonwealth Electoral Act deals with the sort of situation which is contemplated here. It states:

(2) A person shall not, in order to influence or affect:

(c) any support of… a group of candidates or a political party by another person;

………

give or confer, or promise or offer to give or confer, any property or benefit of any kind to that other person or to a third person.

Another part of that section deals with conferring, or offering to confer, any benefit in relation to preferences. That is even more specific in this section of the Commonwealth Electoral Act. These are serious matters. They deal squarely with the federal jurisdiction. I am writing today to the chair of the Joint Standing Committee on Electoral Matters, Mr Pyne, asking him to have a look at this very matter. This is an extension of what is going on in Queensland in relation to electoral fraud. If the opposition were serious, it would join with this government in supporting our proposed regulations which deal with electoral reform—regulations which protect the integrity of the enrolment process. We have had absolutely no support—in fact we have had nothing but opposition—from Labor, both federally and at the state level. We have had criticism from the Queensland Labor government in this regard.

Just recently we have seen their committee hand down a report which was an absolute whitewash—an interim report which went nowhere. It is interesting to note that the chairman of that committee which looked into this is Mr Fenlon, who himself has been
named in the Shepherdson inquiry. If Labor were serious about electoral reform it would support us. (Time expired)

Defence: Intelligence

Senator Faulkner (2.51 p.m.)—My question is directed to Senator Newman, representing the Minister for Defence. Can the minister confirm reports that a turf war between the Defence Intelligence Organisation and the Office of National Assessments over who should provide Australian intelligence to the CIA, together with inappropriate heavy-handed questioning by officials from the departments of defence and foreign affairs, contributed to the tragic death last year of DIO’s senior liaison officer in Washington, Mr Merv Jenkins? What action has the government taken against those responsible for this state of affairs and to prevent any repetition in the future?

Senator Newman—I shall ask the Minister for Defence to see if he has anything in response to your question.

Senator Faulkner—Madam President, I ask a supplementary question. Given the fact that this particular matter has received substantial publicity in the newspaper, I suggest that that is an absolutely unsatisfactory answer on an important issue from the Acting Minister for Defence, albeit it is her usual approach. I ask Senator Newman, when she raises the issue with the Minister for Defence, to ask him to consider taking the opportunity that an answer to the supplementary question would enable to apologise on behalf of the government for its initial claim that Mr Jenkins’s suicide was due to ‘personal reasons’.

Senator Newman—I shall also ask the Minister for Defence to see if he has anything in response to your question.

Transport: Funding

Senator Greig (2.53 p.m.)—My question is to Senator Ian Macdonald, representing the Minister for Transport and Regional Services, and is in the context of today’s road funding announcement and, in particular, how it would relate to greenhouse gas abatement commitments. Is the minister aware that there has been an 18 per cent increase in greenhouse emissions from transport since 1990 and that these emissions are growing at a steady rate, particularly in our cities? Is the minister also aware that Australia spends some 20 times more on roads than on rail? Minister, why has the government not implemented recommendations from the House of Representatives Standing Committee on Communications, Transport and the Arts which called for an investment of some $750 million before July 2001 and an additional $2 billion over the next 10 years to upgrade interstate mainline track for rail? I ask the minister: when will the government develop a properly integrated transport system to actually reduce reliance on petrol and diesel, rather than making one-off road-focused announcements?

Senator Ian Macdonald—I assume from Senator Greig’s question that the Democrats are opposed to the package that has been announced today for rural and regional Australians—in fact, for all Australians and all councils. Senator Greig, one of the reasons we have to help construct local roads and maintain them is—in case you are not aware—that there are many parts of Australia that are quite a long distance away from railways. If you live in remote Australia—in rural and regional Australia—you will find that you will need decent roads to get produce to the local railway station or to the port. You will need decent roads as well. Senator Greig, to actually get the kids to school. There are many parts of Australia at the present time where, because of the state of our local roads, children cannot enjoy the basic right of getting to school.

Senator Murray interjecting—

Senator Ian Macdonald—Senator Murray says, ‘Send them on the train.’ Well, I am sorry, Senator Murray, there are no railway lines in many parts of rural and regional Australia that go to the nearest school. You have got to actually go on roads. We as a government are very proud of this massive investment in roads. That does not mean to say that we have ignored rail; in fact, you would be aware that the government has been looking for some time at reform of the railway system. A lot of work has already been done with the track and with the enhancement of the rail lines around Australia. We have also substantially reduced the ex-
cise on fuel used on railways and we have made a considerable investment into the investigations into the Melbourne to Darwin inland route. You are aware, of course, Senator Greig, that this government, along with the Northern Territory government and the South Australian government, has made a massive investment of almost $500 million in the Alice to Darwin railway system because we think that is good for Australia. It is part of nation building, but it is also getting goods off the roads. When it is constructed, goods from Melbourne and Adelaide will be able to go by rail to Darwin, on to the ports and across to Asia and wherever else we trade. So we have not forgotten rail. There is a lot of work being done. The Prime Minister has even said that there will be other announcements about various other projects in the not too distant future. So rail is certainly on the agenda. Reduction in the cost of fuel for rail is certainly something achieved by this government—with your party’s help, I might say. That does not alter the fact that Australia desperately needs massive investment in local roads and that is why I am very proud of what the Prime Minister has been able to announce today.

Senator Greig—Madam President, I ask a supplementary question. I thank the minister for his reply. I acknowledge the difficulties of extending rail to rural and regional areas, but I would point out that the Senate’s environment committee, which is looking into greenhouse gas abatement, recently made the strong recommendation that all transport moneys ought to be in a central pool and that road and rail should compete for that on a greenhouse gas essential basis. Minister, will your government be implementing that recommendation?

Senator Ian MacDonald—Our government is very conscious of the impact of greenhouse gases. In fact, Senator Hill has mentioned that. He has been doing an absolutely mighty job for our nation in that area in difficult circumstances over the last couple of weeks. So, obviously, we are doing that. But I do not think that there is one senator on that committee that you referred to who would begrudge Australians the investment in local roads that this government has today announced. As I said before—and you made the point—rail is important. Whilst we acknowledge that it is important, and that is why we are doing things about it, we have to have a look at integrated transport. That is what this government is doing. I say again, without trying to let my pride exude too much, we as a government are very pleased with the way that the Prime Minister and the Deputy Prime Minister have been able to put this package together.

Senator Bolkus—My question is to Minister Hill, the Minister for the Environment and Heritage. Can the minister explain why on the eve of his departure for COP6 at The Hague he released draft regulations for a greenhouse trigger requiring environmental assessment of new industrial projects which emit more than 500,000 tonnes of carbon dioxide a year? Was it a desperate attempt to gain some credibility with the environment movement, or was it a serious attempt by the minister to put pressure on Senator Minchin and other ministerial colleagues within the government to agree to such a trigger? Has the trigger actually been killed off by the government, or is it alive still?

Senator Hill—This is exciting: two questions in a day from Senator Bolkus on environment matters! The last one was in March.

Senator Bolkus—No, it wasn’t.

Senator Hill—The last question to me on the environment was in March of this year. And all of a sudden we get two in a day. I think this is really promising! This might suggest some policy coming up soon, or would that be far too much to expect? To be fair to Senator Bolkus, he did prepare a draft platform on the environment for the national meeting of the Labor Party, but it was changed before he could present it. He was not even allowed to have his say on that particular matter.

This government has a comprehensive response to the greenhouse gas issue, and part of that response is to investigate and consult as to whether there should be a greenhouse trigger under the Environment Protection...
(Biodiversity Conservation) Act. As you would know, Madam President, that act provides for additional matters of national environmental significance, subject to consultation with the states. Some time ago the Prime Minister announced that we would be consulting with the states on that particular issue and that I should pursue it and make recommendations to cabinet, which would ultimately make the decision in that regard. I have been carrying out those consultations for some time. I have got to the stage of preparing what would be the form of regulation if it were to be adopted by this government, and that has now been sent to the states, as Senator Bolkus reminds us. That will help progress the consultation process that I am engaged in.

The advantage of a greenhouse trigger would be that in relation to major projects in terms of greenhouse gas emissions in this country the Commonwealth government, which of course is the party to the convention, would have to approve those projects, which would enable the Commonwealth to influence the design of the projects in as good a greenhouse gas fashion as possible. So there is a strong argument for the Commonwealth to have such a power. In all instances these projects are already assessed by the states, and one would therefore believe that there would be no additional cost to industry; it would simply give the power of approval to the level of government that many would think is most appropriate because, as I said, it is the national government that has contracted to the obligation of net greenhouse gases not exceeding a rise of more than eight per cent during the accounting period 2008-12. But the ultimate decision on whether the government progresses that matter is, as I have said, to be determined by cabinet in due course. I thank Senator Bolkus for giving me the opportunity of reminding the Senate of the comprehensive program of response the Australian government does have to the greenhouse gas issues.

Senator BOLKUS—Madam President, I have a supplementary question. I refer the minister to the Deputy Prime Minister’s comment the day that the greenhouse trigger was released by the minister where Mr Anderson killed off the option. Minister, I know it is hard for you to address policy: you took 35 advisers to The Hague and still got it wrong. But can you tell us what your response is to the reaction of your colleague Mr Andrew Thomson in his public release on the greenhouse trigger regulations? Is the minister aware that Mr Thomson attacked the proposal as strongly against the national interest and another example of treaty creep and asked, ‘Who can fathom Senator Hill’s mind?’

Senator HILL—Madam President, I have misled the Senate and I apologise. It was not March that I got the last question from Senator Bolkus, it was February—17 February, so from 17 February until 27 November. That is not a bad work rate for a shadow spokesman, I would have thought. My advice to Senator Bolkus would be to pass the government’s renewable energy legislation, attract the investment of $2 billion in renewable energy for this country and stop blocking this government from taking good environmental initiatives.

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The PRESIDENT—I am sure the minister is aware of the question.

Senator Bolkus—Madam President, the question relates to the government’s greenhouse response, and that is now in the hands of the Labor Party. If it keeps blocking the government’s initiatives, what result can it expect?

Senator Bolkus—I have another point of order, Madam President. The minister must definitely be jetlagged. I know it is a surprise for him to be in the Senate, he is away so often, but the question relates to the greenhouse trigger—a trigger that was killed off by the Deputy Prime Minister within minutes of this minister announcing it. Is it alive or is it dead? What does he say to Mr Andrew Thomson’s point, which is basically: who can fathom Senator Hill’s mind?
The PRESIDENT—There is no point of order.

Senator HILL—I have no response to that part of the question. Madam President, I ask that further questions be placed on the Notice Paper.

ANSWERS TO QUESTIONS WITHOUT NOTICE

Nursing Homes: Hindmarsh

Senator HERRON (Queensland—Minister for Aboriginal and Torres Strait Islander Affairs) (3.06 p.m.)—On 9 November Senator Bolkus asked me for further information in relation to a question that he had asked on 7 November in relation to the aged care accountability of funds used for accreditation and certification. I have received a response from the minister, which I seek leave to incorporate in Hansard.

Leave granted.

The answer read as follows—

Senator BOLKUS (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.

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

As mentioned in my previous answer, the accreditation and certification standards introduced by this Government are the way we ensure accountability for use of these funds. Focussing on certification and accreditation as the end products for use of these funds ensures that the emphasis is placed on outputs and outcomes, as it should be. Services which are closing down, such as Hindmarsh Nursing Home, are a tiny minority of services. Such services can be expected to either not be seeking accreditation or to have been refused accreditation. However, they will certainly have capital-related expenses such as depreciation, for which accommodation charges are a source of funds.

HIGHER EDUCATION (FUNDING AMENDMENT) LEGISLATION

Senator ELLISON (Western Australia—Special Minister of State) (3.06 p.m.)—I was asked a number of questions which were taken on notice from Senator Carr during the Higher Education (Funding Amendment) Bill 2000. I table those answers to questions on notice and seek leave to have them incorporated in Hansard.

Leave granted.

The answers read as follows—

QUESTIONS ON NOTICE FROM THE SENATE CONSIDERATION IN DETAIL OF THE HIGHER EDUCATION FUNDING AMENDMENT BILL 2000


ANU and Noel Butlin Archives Centre

Question: Is it the case that there is a statutory function of the ANU to encourage and to provide facilities for research and postgraduate study both generally and in relation to subjects of national importance to Australia?

Answer: Yes. The Australian National University Act 1991 provides that ‘The functions of the University include: . . . (b) encouraging . . . and providing facilities for, research and postgraduate study, both generally and in relation to subjects of national importance to Australia;’ (subsection 5(1)(b)) and that, ‘(2) In the performance of its functions, the University must pay attention to its national and international roles and to the needs of the Australian Capital Territory and the surrounding regions’ (subsection 5(2)).

Question: Is it the case that this Parliament currently appropriates some $155 million to the ANU for these particular functions?

Answer: In 2000 the total operating grant of the ANU is $240.4 million. A proportion of this, estimated at around $150 million, is provided for the Institute of Advanced Studies (IAS) (Source: Science and Technology Budget Statement 2000-2001). The IAS is a unique, block-funded research institute which has a special responsibility to be a resource for the Australian, higher education system and on research issues of particular importance to Australia.

Question: Is the Minister aware of the Vice Chancellor’s Plan for Growth, which has recently attracted some media attention and which is a document that proposes—amongst other things—that the Commonwealth ‘provides a block grant to us’ to support the particular statutory functions of the University?

Answer: The Government is aware of the university’s Plan for Growth. The document acknowledges that the Commonwealth provides a block grant to the ANU, as outlined above, and that this is to support particular statutory functions.

Question: Is the Minister aware that there is a shortfall—according to the ANU management—of $150,000 and that this is the cause for them to
restrict access to the Noel Butlin Archives Centre to the level they are proposing?

**Answer:** The Government is aware that the future of the Noel Butlin Archives Centre has been under consideration by the University for some time. The university proposes a new method of managing the archive, with access being made available by appointment. The university has indicated that this is in response to financial constraints as well as declining numbers of people regularly using the archive.

**Question:** In a budget of $155m that this Parliament appropriates to the ANU, do you think it is reasonable that $150,000 extra be found for the Noel Butlin Archives Centre?

**Answer:** The allocation of block grant funding to fulfil the statutory purposes of the University is the sole responsibility of the Council of the Australian National University as detailed in subsection 9(1) of the Australian National University Act 1991 which provides that “(1) Subject to this Act and the Statutes, the Council has the entire control and management of the University”.

**Question:** Will the Government take up the issue of the Noel Butlin Archives Centre with the University management?

**Answer:** The Government has no plans to raise the issue with the University. The University has advised that the Centre is to remain open with changed access arrangements.

**Question:** If it is the case that $155 million is already provided to the ANU, I am wondering whether there is a case for additional moneys to be provided specifically to the ANU to meet its charter obligations?

**Answer:** The Government does not consider that there is any case for additional funding to the ANU to fulfil its charter obligations.

**Question:** Have you had any representations from the ANU that its statutory obligations are not being met and that additional moneys are required so that it can fulfil these particular functions?

**Answer:** No.

**University commercial arms**

**Question:** Is the Minister aware that Unisearch Ltd, which is a wholly owned company of the University of New South Wales, received a loan of $10 million from the University last year in order to keep it afloat.

**Answer:** The New South Wales Auditor-General’s report indicates that the University of New South Wales provided Unisearch Ltd with an interest free subordinated loan of $10.0 million during 1999 of which $4.0 million had been drawn down at year end.

**Question:** Minister, are you aware that four of the six so-called sandstone universities that have private commercial arms have had serious financial difficulties?

**Answer:** Taking ‘sandstone universities’ to refer to the University of Sydney, University of Melbourne, University of Queensland, University of Adelaide, University of Western Australia and University of Tasmania, three of these universities have controlled entities that reported a deficit in the past year or so.

**Question:** Are you able to give an assurance that there are no public moneys involved in the bailout of any of these so-called sandstone universities with private arms, four of which are reported to have had serious financial troubles over the last year or so?

**Answer:** The Government has processes in place to ensure that the Commonwealth obtains the services from Universities for which it pays. Universities are required to comply with the conditions of the Higher Education Funding Act (HEFA) and to achieve agreed outcomes in return for financial assistance. They are required to lodge their audited financial reports with the Commonwealth each year. The Commonwealth and State/Territories Auditors-General conduct the annual audits. These are used to: acquit the financial assistance paid to universities and to monitor their overall financial position—including that of their subsidiaries. The acquittals are used to ensure that universities have spent an amount at least equal to the financial assistance provided under HEFA for the purposes for which it was provided.

The Commonwealth can and does recover unspent amounts where a university has not achieved a funded outcome and can and does impose financial penalties, for example, if a university fails to fill the agreed number of student places.

The overall financial position of a university is assessed and discussed with them at least annually.
Universities receive on average around one third of their income from sources other than the Commonwealth. In 2000 that is estimated to be around $3 billion. Taking ‘sandstone universities’ to refer to the University of Sydney, University of Melbourne, University of Queensland, University of Adelaide, University of Western Australia and University of Tasmania, these universities receive between 39 per cent (University of Western Australia) and 60 per cent (University of Tasmania) of their revenue from Commonwealth funds. If HECS is included as Commonwealth funding the percentages would be 51 per cent and 78 per cent respectively. Thus a substantial portion of these universities’ income is received from non-Commonwealth government sources.

The Commonwealth is satisfied that in 1999 the above universities expended their Commonwealth funding in accordance with the granting conditions.

ANSWERS TO QUESTIONS WITHOUT NOTICE

Social Welfare: Reform

Senator CHRIS EVANS (Western Australia) (3.07 p.m.)—I move:

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

It is interesting to note that the minister received three questions today about the welfare reform process—one from me, one from Senator Lees and one from Senator Harradine—and the minister had nothing to say. The minister could not help us with what is happening with the welfare reform process. She said she could not give us a sneak preview. This is the thing that is supposed to be her crowning achievement and this is the thing that causes her to refuse to resign, as she promised the Prime Minister, until she gets her way with it, but she is unable to inform the Senate of what is happening with the issue.

All we know is what we read in the papers: that the Prime Minister says there are some differing views at the cabinet table about what to do about the welfare reform process. Apparently, it is the difference between hard and harder—those who want to hit the poor hard and those who want to hit the poor even harder—and they are having some sort of ideological debate about how hard one ought to hit the poor and how hard one ought to hit people on disability pensions et cetera. But the minister is unable to share any of that with us today and unable to share with us when she will be responding to the McClure report and when she will be giving us any more detail, other than to say ‘hopefully next week’, because, quite frankly, she does not know. She does not know the answer because the Prime Minister has not told her what she is allowed to say or what the government is going to do. The Prime Minister is talking about after Christmas; the minister is talking about maybe next week.

This minister has cancelled more appointments at the National Press Club than most of you have had hot dinners in the last year. I do not know what the fee is for a cancellation or a postponement at the National Press Club but if it is any more than $100 the taxpayers of this country are going to start feeling the pinch. People might remember that the minister was not going to have a review process; she was actually going to release the white paper on welfare reform. That was until the Prime Minister’s office got hold of it, and she had to rearrange her plans. I think she cancelled or postponed at the Press Club at least twice, and finally she announced that she was forming a committee. She could not name the committee or tell us its terms of reference, but the supposedly huge announcement on welfare reform became her saying she was forming a committee. Eventually, it transpired that that committee was the McClure committee. They found Mr McClure to chair it and finally it got under way. As we know, its report was delayed by some months and the government’s response to that report continues to be delayed.

We know that there have been another couple of postponements at the Press Club, another couple of postponement fees charged to the Australian taxpayer, as the minister again waits for the Prime Minister, Mr Abbott and Mr Reith to let her know what her policy is. Until then, if you try to get into the Press Club in the next few weeks, you will find that you cannot: every date is booked for Senator Newman; she might be giving a
speech about welfare reform. So, if you want
to do something at the Press Club, do not
bother: you have to get an alternative venue
because it is all booked to Senator Newman
because her speech is coming soon.

Senator Ian Campbell—That is what
they tell you, Chris.

Senator CHRIS EVANS—What we
know, Senator Campbell, is that you have no
chance of making it into the ministry until
she goes, and she is not going until they let
her make her speech. So you have to hope, as
must Senator Patterson, that she gets to give
her speech soon, because you have no chance
of making the ministry until then.

I am making light of this but it is really a
very serious issue. The welfare reform proc-
ess is being completely bungled by this gov-
ernment. They really are seriously contempt-
ating letting Mr Abbott, who has done so
much to wreck the whole Job Network and
Employment National, loose on the welfare
recipients of this country, the people who
need a social welfare safety net. I think that
would be disastrous for social justice in this
country. It is of great concern to many peo-
ple, including many people in the govern-
ment and in the Liberal Party.

We know now that the minister does not
know when she will be allowed to say
something about welfare reform or what she
will be allowed to say. We know that she is
threatening to not resign until they let her put
her imprimatur on the reforms, but at this
stage she does not know what that imprima-
tur will be. We know that, at the weekend, in
the list of the most overtly powerful Aus-
trali ans, we saw that my leader, Senator John
Faulkner, was at No. 7 with a bullet and
Senator Newman was equal 10th and falling,
because she has completely lost control of
the agenda. She has been overruled by the
Mr Abbotts and the Mr Reiths of this gov-
ernment and they are driving the social wel-
fare agenda, which is to kick the poor, to
reduce welfare payments and to run a much
harder policy than even Senator Newman is
prepared to run. It is very strange when you
find yourself thinking that Senator Newman
is the caring face of the government, but ap-
parently that is the case inside cabinet: she is

the voice of concern, apparently, surprising
as that may be. (Time expired)

Senator PATTERSON (Victoria—Par-
liamentary Secretary to the Minister for Im-
migration and Multicultural Affairs and Par-
liamentary Secretary to the Minister for For-
eign Affairs) (3.12 p.m.)—I find it really
hypocritical that the Labor Party stand up
here and comment when they have abso-
lutely no policies except that they are going
to roll back the GST. That is about their only
policy, and then they are equivocal about
that: one day they are going to roll it back;
the next day they are not going to roll it
back. Yet they come in here and are critical
of the Liberal Party and the coalition in re-
gard to social welfare policy. When we came
into government, we inherited a ramshackle
system. Senator Richardson, when he was
minister for social security, had said it was a
trim, taut and terrific social security program
and that nothing else could be done to it at
all. In fact, we found that lots could be done
to it. We found, for example, that there were
a number of youth payments and that, be-
cause there were so many different pay-
ments, young people were being given con-
flicting advice. So Senator Newman in fact
reformed the whole of those youth payments
and reduced the number of youth pay-
ments—and I have forgotten how many there
were—down to a limited number, so that
there were less likely to be errors. All sorts
of reforms were put into place.

Labor have the gall to come in here and
criticise, when they went to the 1993 election
saying they were going to take all pensioners
out of the taxation system. This was part of
their social welfare policy. That is what they
went to the 1993 election telling people; that
was what they went to the 1993 election telling people; that
was to be their policy when they were in
government. What did they do straight after
the election? They said, ‘We made a mistake.
We did not mean to say that.’

What was one of their other brilliant ideas
in social welfare reform? One of the things
that they said in 1992 was that they were
going to—and they did, they put legislation
through this place—treat capital gains on
shares as income for the purposes of assess-
ing the pension, so that when shares fluctu-
ated older people’s pensions went down. We
told them over and over and over again that it would not work. But Labor pressed on with this ridiculous policy—this is how good they are at social welfare reform; this is the sort of thing that they do under social welfare reform—and in fact they had to renege on it in the end because it was totally unworkable. The fluctuations in pensions were totally unacceptable and unworkable. That is the sort of reform that the Labor Party tried to bring in. One part of the reform was that they would take all older people out of the taxation system, and then they failed by withdrawing that immediately after the election.

When we came into government, what did we find? That a billion dollars of the $10 billion Beazley black hole was being spent on social security fraud and overpayment. The Labor Party were borrowing $1 billion from overseas, against the future of young Australians, to pay for fraud and overpayment. People were getting jobs and saying, ‘Don’t bother going and telling anybody that you’ve got a job because Social Security never follows you up.’ This is the wonderful system they had: ‘Just work for six or seven weeks and then go and tell Social Security that you’ve got a job. They won’t get the money back; they won’t follow it up.’ They were not following it up—

Senator Crowley—That is not true.

Senator PATTERTON—Senator Crowley, it is absolutely true. In the first year that we were in government, there were $47 million a week in savings on social security fraud and overpayment. That is $47 million a week—not a year—that was recuperated from social security fraud and overpayment. The Labor Party were borrowing $1 billion dollars a year to pay for social security fraud and overpayment, so do not tell me about welfare reform, because you were incapable of it. When you put in a reform like treating unrealised capital gains as shares, you had to withdraw it. Then the Labor Party lied, telling pensioners that they would be taken out of the tax system.

The DEPUTY PRESIDENT—Order! Senator Patterson, would you address the chair, please.

Senator SCHACHT—(South Australia) (3.16 p.m.)—I rise to support the motion moved by my colleague Senator Evans that we take note of the answers—if you can call them that—given by Senator Newman on the question of social welfare policy in this country. As has been pointed out by Senator Evans and by the media, those interested in social welfare have been waiting now not just the odd couple of months but a good 12 months for this minister to front up with what was speculated to be a major policy statement, properly costed, on reforming social welfare in this country. It has always been put back—‘no, not quite’—and its presentation cancelled. The National Press Club luncheon was cancelled, and presentations were cancelled, delayed and deferred. There was speculation in the press and leaks from the government: ‘It’s not quite ready; we’re still discussing it.’

During all the time that this was going on, as Senator Evans pointed out, the only form of action that we got was that finally the minister commissioned the McClure review. The review took place, and when the report was released it was promoted as the major benchmark, the major stepping stone, for the most dramatic change to social welfare ‘reform’ in Australia’s history. Since then, we have waited with bated breath. Now what is emerging is that this minister is being consistently rolled by others in her own government—even by her junior minister, Mr Abbott, and others who do not want her to be in charge and to get any kudos, if you could call it that, for making a major costed statement on social welfare reform. What is clear is that Mr Abbott wants the job of minister for social security or Minister for Family and Community Services—whatever title they will drum up to suit his ambition, as long he will be the cabinet minister in charge. What he wants to do is to get the present minister, Senator Newman, out of the job so that he
Speculation has been put in the press—I suppose by Mr Abbott and his acolytes—that Senator Newman is to go off to greener pastures: to be the Governor-General maybe or an ambassador or administrator. I suppose they might create the position of Administrator of Heard Island—one of our dependencies in the Southern Ocean and a place where the ability of Senator Newman could be put effectively to work representing the interests of penguins and albatrosses. Obviously, something is being lined up for her. I found it astonishing to read an article in the Sydney Morning Herald only last Saturday in which Senator Newman was written up as being a bleeding heart in favour of social welfare, as the one in the government who has the most empathy with the social welfare lobby groups. After sitting here for four years opposite Senator Newman, I have to say that that is an astonishing description of the woman we describe as Mrs Bucket—Senator Carr—Hyacinth.

The DEPUTY PRESIDENT—Order, Senator! Please refer to the minister by her correct title and name.

Senator SCHACHT—Nevertheless, Minister Newman has never let up in this place, standing up here and delighting and glowing in the fact that she has taken the pension off some poor person in this country. Yet this is not good enough for the Tony Abbotts of the world. They want to be even harder, and they are out there now leaking that she has got to go before this statement is made on reform. Mr Abbott, the man who left the seminary before he would have become a frocked priest, is now out there attacking the St Vincent de Paul Society because it is defending the poor too much, saying it does not understand. An article says:

He cited papal doctrine in his attack on the St Vincent de Paul Society.

The St Vincent de Paul Society has done more over the decades to help poor people in this country than Tony Abbott could do if he lived a million years, even if he were the social security minister or the Minister for Family and Community Services. (Time expired)

Senator EGGLESTON (Western Australia) (3.21 p.m.)—What an incredible and pointless debate this is. We had Senator Evans demanding to have a preview from the minister when the minister made it quite plain that this new policy would be available next week. Senator Evans has delusions of grandeur; he thinks he is more important than any member of the cabinet. He wants to have a preview before anybody else—

Senator Schacht interjecting—

Senator EGGLESTON—I know you would like to have a preview, too, Senator Schacht. I am sure Senator Crowley and Senator Carr would like to have previews but, like the rest of us and like Senator Evans, you are going to have to wait until it has been to cabinet and the government has released this report.

Senator Carr—It is an albatross!

Senator EGGLESTON—This report is not an albatross. It is a very important report which is going to set a new direction for social welfare in Australia. We have to think about why we need this new reform agenda. Why does it all have to be changed? It has to be changed because for years and years we have had a social welfare system under which people got onto social welfare and never got off it. They were there without review and simply became the faceless people in society who were welfare dependent under the policies of the previous government. When this government got into office, a system of review of those who were on social security was introduced. If we all can recall, every week millions of dollars are being saved in social security payments because it was found that a lot of people were no longer in need of social security. This government has introduced the concept of mutual obligation so that people who are on social security have an obligation to the community to provide something in return for the social security benefits which they receive—if they are able to give something back. For that reason, we have introduced a work for the dole scheme, which means that people who are on
unemployment benefits do community work, instead of lying around at home.

Senator Calvert—Which the opposition support.

Senator EGGLESTON—As Senator Calvert says, which the opposition oppose.

Senator Calvert—No, support.

Senator EGGLESTON—They do support, but they opposed it in the beginning.

Senator Carr interjecting—Senator EGGLESTON—No, not on Heard Island. If the Labor Party could, they would probably enrol all the penguins and have them vote in a seat in Brisbane to help them get elected. Mutual obligation, through work for the dole, has been very successful. We are trying to overcome the whole issue of people not being able to use their abilities and, instead, getting into welfare dependency because their disabilities are emphasised. That is a completely different focus of the social welfare system. The whole of the reform is based on the five themes, which have been mentioned before, proposed by the reference group: individualised service delivery, a simple and responsive income support structure, incentives and financial assistance, mutual obligation, and social partnership.

We on this side of the Senate believe that we need to have this reform of our social welfare system so that there is an integrated approach to the provision of social welfare. Nobody at all denies that the need exists for some people to be on social welfare and for the community as a whole to provide for those who, for some reason, are unable to work or to support themselves. But we do need to have a consistent and integrated approach which means that people on social welfare are encouraged to identify their abilities and to use them in a constructive way so that, where possible, they can support themselves to some degree while receiving support from the government. The government has made it quite plain that nobody would be disadvantaged by this reform of the social welfare program. The kind of nonsense which the opposition are coming out with in matters like this motion to take note of the answers given by the minister is only undermining the public credibility of what will be a very effective policy. It is important that people with disabilities emphasise the positives. It is quite wrong of the opposition to mock the process of reform because they have been responsible for many people over the years wallowing in welfare dependency. (Time expired)

Senator CROWLEY (South Australia) (3.26 p.m.)—I am pleased to add my thoughts and words to the motion to take note of the answers by Senator Newman today. I do not find it very helpful in this place when the government deliberately, I have to say, misrepresents the policies of the previous Labor government. The fact that we did not solve everything may be something you could do us on, but to suggest that we never hunted down overpayments or never looked for fraud is absolutely wrong. There were any number of great initiatives in social security under the previous Labor government which deserve your applause. We will not get applause, but at least we might stop the misrepresentation. For example, it was Brian Howe, as minister, who introduced the benchmark payments for children up to 13 and for children from 13 to 16. It was the Labor government which carried through the child support legislation, which made a huge difference—legislation which Peter Durack might have wanted to introduce in the previous Fraser Liberal government, but he was too busy, as we understand, dealing with the bottom of the harbour. Reform is a process that continues, but this government is pushing more and more people off welfare into poverty.

Here are some of the figures. There are 2.4 million Australians now living in poverty, and one in four poor Australians are members of the working poor. Officially, 2,500 people sleep rough in Sydney streets, but that is probably only one-third of the real figure. The Productivity Commission revealed that between 1990 and 1998 the earnings of the 10 per cent of the most highly paid men leapt above middle income earners by as much as 162 per cent, while the income of the top 10 per cent of women soared by as much as 150 per cent. At the same time, blue-collar workers’ wages slipped from 71 per cent to 68 per cent of middle-class white-
collar wages. In other words, the poor are getting poorer and the rich are getting very rich indeed. The gap is opening. Since your government has come to office, that gap has only widened. That is the concern. Then we have Mr Abbott suggesting that the real problem is St Vincent de Paul and that, really, people should understand the principle of subsidiarity, and some of us might have a sense of what that means, but the rest of us do not—that is, devolving the task to those organisations closest to the problem.

There may be something in that. If you really wanted to work in conjunction with St Vincent de Paul, the Smith Family or Anglicare, why would you, at the same time, significantly cut government funding to those organisations? That is exactly what you have done. You have pushed people off welfare payments. They are then forced to go to the charitable organisations at the same time as you have significantly cut payments to welfare. That is what Minister Newman is sitting over. That is what the government is sitting over. That is why we get up and legitimately complain.

We also complain bitterly about the number of people who have been breached—in other words, had their unemployment benefits and payments cut. Of the 474,435 breaches imposed on job seekers in the last financial year, 172,000 were overturned on appeal. Something like 40 per cent of the people who were breached were found, on appeal, to be eligible for continuing payment—a mistake had been made. What is the policy? What is the welfare approach? What is in this government’s heart if it is breaching people, cutting their payments? We found the evidence at the estimates the other night: something like 38 to 40 per cent of those breaches were overturned before they even went to an official appeal. These are the people who suddenly find themselves without any money. You cannot get the department or Centrelink to change the decision overnight and, if it happens on a Friday, you are stuck with no money for two days—so you go and see St Vincent de Paul and you arrive there just in time to find that they too have had their funding cut significantly.

If the government were serious about caring for the poor, it would not be boasting about how many people it has got off payments, especially when so many of them are eligible. It would be actually talking about how much money it had given to St Vincent de Paul or to people to make sure that they were not pushed into poverty. We are finding that more and more people are pushed into poverty—more and more people are pushed into the degrading business of having absolutely no money and having to find somewhere they can go to get that kind of assistance. That is not the sort of Australia we want. The GST has contributed to making people poor. Petrol prices are doing it too. At the moment, when you are on a pension and have a $7 increase under the GST, if you fill your petrol tank once you have just spent an extra $10—the $7 you gained for the week has gone. (Time expired)

Question resolved in the affirmative.

Transport: Funding

Senator GREIG (Western Australia) (3.32 p.m.)—I move:

That the Senate take note of the answer given by the Minister for Regional Services, Territories and Local Government (Senator Ian Macdonald), to a question without notice asked by Senator Greig today, relating to road funding.

In his answer today, Senator Ian Macdonald said from the outset that he assumed, from my question, that the Australian Democrats were opposed to the road funding announcement, or road funding per se. Let me make it clear that we are not. What we are trying to do, once again, is to point to what we believe to be the poor priorities shown by the government in terms of its rural and regional infrastructure, particularly in relation to transport.

The $1.6 billion package of road funding announced today is only one side of the story in responding to higher world petrol prices, and it really does fail to address the need to reduce the reliance on petrol and diesel in road transport. That is what is at the core here. It is no secret, I think, that the Prime Minister and the government have made it quite clear that, in response to very real concern and anger in some sections of the Australian community over rising petrol prices,
the way to pacify that is to provide the bitumen road infrastructure that many people, most particularly in rural and regional areas but also in city areas, have long been calling for. In effect, all that is doing is perpetuating the cycle. All it is doing is responding to the cycle of burning fossil fuels and seeking more and, at the same time, trying to argue in The Hague that Australia ought to have further consideration and compensation for its extraordinarily high levels of greenhouse gas emissions given the size of its population.

Given that there has been an 18 per cent increase in greenhouse gas emissions since 1990, specifically from the transport sector, in my question today I was trying to ascertain why it is that the government’s response today, in terms of transport infrastructure, was focused purely on roads. The Democrats have long argued the case for substantial and urgent need for railway infrastructure. In the minister’s answer to my question, Senator Ian Macdonald responded by saying, ‘It is not that easy. You can’t simply send the kids to school on the train.’ We are not saying that a train must run past everybody’s door. Clearly, that would be impossible and impractical. What is often overlooked in this debate is not that rail is necessarily the best form—although it can be—of population shifting, particularly in rural and regional areas, although it has played and can play a strong role in that in the cities; the issue here is more the question of freight and the shipping of freight, both interstate and intrastate. Much of the clamour for better roads within the cities is not so much to facilitate transport for city dwellers and those living in urban areas but to get the larger trucks, particularly the larger diesel trucks, off local roads and intercity streets—to have bypass opportunities. Madam Deputy President, you may be aware of the arguments before the government at the moment regarding Sydney and the Albury-Wodonga region in terms of ring-roads: to move the much heavier diesel powered traffic from those urban and outer urban areas off the local roads and onto wider streets.

In essence, the challenge of bringing the integrated transport system together, matching both road and rail through not so much the level of funding but the way in which that funding is provided, has not been met by the government. The initial call by the Senate’s environment committee recommending that the government demonstrate vision, leadership and long-term commitment to achieving an integrated and sustainable transport solution has not been met. While it is very easy to pour a bucket of money into the electorate, particularly in an election year, on the topical issue of roads, it is not any way to run a long-term and sustainable future for Australia’s pressing transport needs.

Question resolved in the affirmative.

CONDOLENCES

Webb, Mr Charles Harry

The DEPUTY PRESIDENT—It is with deep regret that I inform the Senate of the death on 15 November 2000 of Charles Harry Webb, a former member of the House of Representatives for the division of Swan, Western Australia from 1954 to 1955 and for the division of Stirling, Western Australia from 1955 to 1958 and 1961 to 1972.

PETITIONS

The Clerk—A petition has been lodged for presentation as follows:

Political Asylum

To the Speaker and Members of the Senate in Parliament assembled:

Whereas the 1998 Synod of the Anglican Diocese of Melbourne carried without dissent the following Motion:

That this Synod regrets the Government’s adoption of procedures for certain people seeking political asylum in Australia which exclude them from all public income support while withholding permission to work, thereby creating a group of beggars dependent on the Churches and charities for food and the necessities of life;

and calls upon the Federal government to review such procedures immediately and remove all practices which are manifestly inhumane and in some cases in contravention of our national obligations as a signatory of the UN Covenant on Civil and Political Rights.

We, therefore, the individual, undersigned Members of St Mary’s Anglican Church, Caulfield, Victoria 3161, petition the Senate in support of the abovementioned Motion.

by Senator Kemp (from 42 citizens).

Petition received.
NOTICES

Presentation

Senators Patterson, Lees and Crowley to move, on the next day of sitting:

That the Senate—

(a) notes:

(i) that 25 November 2000 was White Ribbon Day, which marked the International Day for the Elimination of Violence Against Women, and that human rights abuses against women and girls are practised in countries across the world, including the Asia-Pacific region,

(ii) that such abuses and violence towards women include rape, trafficking in women, forced prostitution, sexual slavery, 'honour killings', sexual mutilation and the use of girls as child soldiers, and

(iii) that rape and other forms of sexual abuse are used as torture tactics and strategies of war;

(b) condemns all forms of violence towards women and encourages parties involved in armed conflict to respect international human rights law and protect women and girls, especially refugees and internally displaced persons who are particularly vulnerable to attack; and

(c) calls on all governments in the Asia-Pacific region to take positive measures to stamp out violence toward and torture of women and girls by encouraging an end to impunity and by prosecuting those responsible for violence against women.

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

That the Rural and Regional Affairs and Transport Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on 30 November 2000, from 7.45 pm, to resume its supplementary hearings on the 2000-01 Budget estimates.

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

That the time for the presentation of the report of the Select Committee for an inquiry into the contract for a new reactor at Lucas Heights be extended to 4 April 2001.

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

That the order of the Senate of 10 May 2000, as amended, referring the provisions of the Family Law Legislation Amendment (Superannuation) Bill 2000 to the Select Committee on Superannuation and Financial Services, be varied to provide that the committee present an interim report on 28 November 2000 and a final report on 8 February 2001.

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

That the Finance and Public Administration Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on 28 November 2000, from 7.30 pm to 11 pm, to resume its supplementary hearings on the 2000-01 Budget estimates.

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

That the Environment, Communications, Information Technology and the Arts Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on 30 November 2000, from 5 pm to 10 pm, to resume its supplementary hearings on the 2000-01 Budget estimates.

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

That the Senate—
(a) notes:
(i) that the New South Wales Australian Labor Party Government has adopted a pick and choose approach to helping workers who have lost their entitlements, after providing financial assistance to workers from National Textiles and then deciding not to help workers from Scone Fresh Meats, and
(ii) that the New South Wales Minister for Industrial Relations (Mr Della Bosca) has met with workers from Steel, Tank and Pipe to discuss their entitlement concerns, while workers from Scone Fresh Meats have been forgotten; and
(b) condemns the half-baked approach of the New South Wales Government on worker entitlement policy and its lack of support for the first federal scheme to protect workers’ entitlements, the Employee Entitlement Support Scheme.

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (3.37 p.m.)—I give notice that, on the next day of sitting, I shall move:
That the provisions of paragraphs (5) to (7) of standing order 111 not apply to the Jurisdiction of Courts (Miscellaneous Amendments) Bill 2000, allowing it to be considered during this period of sittings.

I also table a statement of reasons justifying the need for the bill to be considered during these sittings. I seek leave to have that statement incorporated in Hansard.

Leave granted.

The statement read as follows—

Purpose of the Bill

A question has been raised concerning the jurisdiction of the Federal Magistrates Service to hear Administrative Decisions (Judicial Review) Act 1977 (ADJR Act) matters transferred to it by the Federal Court and matrimonial causes transferred to it by the Family Court. The Solicitor-General has advised that as certainty is important in this matter, it would be desirable to clarify the jurisdiction of the Federal Magistrates Service.

To avoid any uncertainty in this matter the legislation would also validate orders made by the Federal Magistrates Service in ADJR matters or matrimonial causes transferred from the relevant superior court.

A related matter concerns section 86AA of the Trade Practices Act 1974 which limits award the amount of damages that the Federal Magistrates Service can award in relation to proceedings instituted in the Federal Magistrates Service to $200,000 or such other amount as is prescribed. It is proposed to amend the Trade Practices Act to ensure that the same restriction applies to matters transferred to the Federal Magistrates Service by the Federal Court as already applies to trade practices matters commenced in the Federal Magistrates Service.

Reasons for Urgency
As the Federal Magistrates Service is an inferior court it is possible that orders made by it without jurisdiction would be held null and void if successfully challenged. It is possible, for example, that some litigants who have had decrees nisi granted by the Federal Magistrates Service have since remarried. While it is only a possibility that a court would find that the Federal Magistrates Service did not have jurisdiction to make a decree nisi, it is not tenable to have an uncertainty about the validity of marriages.

(Circulated, by authority of the Attorney-General)

Senator CAL VERT (Tasmania) (3.38 p.m.)—On behalf of the Standing Committee on Regulations and Ordinances, I give notice that, on the next day of sitting, I shall withdraw Business of the Senate notices of motion Nos 1 and 2 standing in my name for two sitting days after today for the disallowance of the Environment Protection and Biodiversity Conservation Regulations 2000, as contained in Statutory Rules 2000 No. 181, and the National Food Authority Amendment Regulations 2000 No. 1, as contained in Statutory Rules 2000 No. 122. I seek leave to incorporate in Hansard the committee’s correspondence concerning these regulations and a previous matter.

Leave granted.

The correspondence read as follows—
17 August 2000
Senator the Hon Robert Hill
Minister for Environment and Heritage
Parliament House
CANBERRA ACT 2600
Dear Minister


As a general comment the Explanatory Statement does little more than paraphrase the Regulations. It does not explain key aspects of the new regulations, as indicated in the following comments.

Regulations 7.01 and 7.02 list the criteria for listing a native species as critically endangered, endangered or vulnerable. The criteria are defined broadly and include 'very severe', 'severe', 'substantial', 'very low', 'low', 'limited' etc. The Explanatory Statement does not, however, explain how these criteria are to be defined and the Committee would appreciate clarification of this process.

The Regulations expressly create a number of strict liability offences. Some of these offences were not previously strict liability offences under the previous National Parks and Wildlife Regulations 1975 (new regulations 12.14, 12.28, 12.29, 12.43, 12.44, 12.48 and 12.54). Others are newly introduced strict liability offences (new regulations 12.50 to 12.52 and 12.55). No explanation is given in the Explanatory Statement for these changes. The Committee would appreciate your advice on the reason why it has been decided that these offences should carry strict liability.

Regulation 12.10, read in conjunction with Part 17, deals with permits for scientific research. The previous National Parks and Wildlife Regulations 1975 imposed a requirement for consultation with the Aboriginal owners of the land before a permit could be issued allowing research on land on which a sacred site is situated (old regulation 27(2)). The Committee would appreciate your assurance that the new regulations do not involve any leniency in this consultation requirement.

Regulation 12.13 sets a penalty of 50 penalty units where a person damages, defaces, moves, possesses or interferes with heritage. Heritage is defined broadly and includes 'objects that have aesthetic, archaeological, historic, scientific or social significance or other special value'. It is quite possible that a person may not know whether an object falls within this broad definition. The Committee would therefore appreciate your advice as to whether this Regulation is intended to be a strict liability offence or, if not, whether it should be confined to intentional acts.

Regulation 12.24 imposes a penalty of 50 penalty units on a person who captures an image in or of a Commonwealth reserve in contravention of a prohibition or restriction imposed by the Director. The Committee would appreciate your advice about the following matters in relation to this Regulation:

1. What is the reason for the imposition of the maximum number of penalty units (as prescribed by subsection 520(2) of the Act) for this offence?

2. The heading to the regulation refers to 'capturing images or recording sound', yet the regulation does not refer specifically to 'recording sound'. Should these words be deleted from the heading?

3. How extensive will the publication of a prohibition or notice under subregulation 12.24 (4) be?

4. Where the 'device or means used' to capture the image has been confiscated by the Director, ranger or warden, under subregulation 12.24 (5), what provision is made for the subsequent return of the property?

5. Does the expression 'device or means used to capture the image' include cameras used by tourists?

Subregulation 12.36(2) extends the prohibition on commercial activity in a Commonwealth reserve to include 'a commercial activity being carried out in the reserve, whether or not the activity took place in the reserve'. The distinction between 'being carried out in' and 'took place in' is not self-evident and the Explanatory Statement sheds no light on what is meant by this subregulation. The Committee would therefore appreciate receiving further information clarifying the intent of this provision.

Regulation 12.38 states that a person must not 'use a captured image of a Commonwealth reserve to derive commercial gain'. The prohibition is not restricted to the person who initially captures the image and extends to subsequent users of the image. However, a subsequent user of the image for commercial gain may not know whether the image is 'of a Commonwealth reserve', in which case the Regulation may have a strict liability effect. The Committee would also appreciate clarification of the intent of this provision.

Subregulation 14.03(4) provides that an infringement notice may be served on a person not more than 12 months after the alleged offence. This appears to be a long period in which to serve a notice and perhaps a shorter period may be preferable. The Committee would appreciate your advice on this matter.
The Committee would be grateful for your advice as soon as possible but before 9 October 2000 when disallowance action may be initiated.

Yours sincerely
Helen Coonan
Chair

3 OCT 2000
Senator Helen Coonan
Chair
Senate Standing Committee on Regulations and Ordinances
Parliament House
CANBERRA ACT 2600
Dear Senator Coonan
Thank you for your letter of 17 August 2000, concerning the Environment Protection and Biodiversity Conservation Regulations 2000 (EPBC regulations).

I have considered comments made by the Committee on the EPBC regulations. Please find attached to this letter, my response to the comments raised.

The information contained in the attachment provides the explanations and clarifications sought by the Committee in relation to particular EPBC regulations.

Yours sincerely
Robert Hill

ATTACHMENT
RESPONSE TO COMMENTS BY THE SENATE STANDING COMMITTEE ON REGULATIONS AND ORDINANCES ON THE ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION REGULATIONS 2000

1. STANDING COMMITTEE COMMENT

Regulations 7.01 and 7.02 list the criteria for listing a native species as critically endangered, endangered or vulnerable. The criteria are defined by using terms such as ‘very severe’, ‘severe’, ‘substantial’, ‘very low’, ‘low’, ‘limited’ etc. The Explanatory Statement does not, however, explain how these criteria are to be defined and the Committee would appreciate clarification of this process.

RESPONSE

These terms are further clarified in guidelines (see Attachment A and at the following Internet site: http://www.environment.gov.au/bg/wildlife/lists/nominations/index.html) developed by the Threatened Species Scientific Committee (TSSC) which are provided with the nomination forms for threatened species, threatened ecological communities and key threatening processes. The terms are also closely aligned with the detailed criteria used by The World Conservation Union Red List categories. The criteria are subject to change as assessment methods develop. The guidelines will be reviewed and updated by the TSSC as required, to ensure that listing procedures are consistent with current scientific thinking.

2. STANDING COMMITTEE COMMENT

The regulations expressly create a number of strict liability offences. Some of these offences were not previously strict liability offences under the previous National Parks and Wildlife Regulations 1975 (NPWS regulations) (new regulations 12.14, 12.28, 12.29, 12.43, 12.44, 12.48 and 12.54). Others are newly introduced strict liability offences (new regulations 12.50 to 12.52 and 12.55). No explanation is given in the Explanatory Statement for these changes. The Committee would appreciate your advice on the reason why it has been decided that these offences should carry strict liability.

RESPONSE

The NPWS regulations did not have strict liability offences as they predated the Criminal Code Act 1995. Those offences that are strict liability in the EPBC regulations, in accordance with the Criminal Code, have clear cut physical elements. During the development of the EPBC regulations, the Attorney General’s Department examined the offence provisions referred to above and advised that strict liability could be attached to each one. Please note the matters dealt with by EPBC regulations 12.50 to 12.52 were previously covered by the NPWS, regulations (regulations 60E-H - see Attachment B).

3. STANDING COMMITTEE COMMENT

Regulation 12.10, read in conjunction with Part 17, deals with permits for scientific research. The previous NPWS regulations imposed a requirement for consultation with the Aboriginal owners of the land before a permit could be issued, allowing research on land on which a sacred site is situated (old regulation 27(2)). The Committee would appreciate your assurance that the new regulations do not involve any lessening of this consultation requirement.
RESPONSE
Permits are issued by the Director of National Parks. Section 514D(2) of the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) requires that in relation to Commonwealth reserves or conservation zones, the Director is to "consult and have regard to the views of" Chairpersons of Aboriginal land councils and community councils for particular reserves in respect to the performance of the Directors functions and exercise of powers. This requirement goes beyond the item-by-item requirements for consultation in the previous NPWS regulations. When coupled with the circumstances required under regulation 17.05 (items 1 and 2 for permitting any activity) it is considered that requirements for consulting with Indigenous owners of land have been extended under the EPBC regulations.

4. STANDING COMMITTEE COMMENT
Regulation 12.13 sets a penalty of 50 penalty units where a person damages, defaces, moves, possesses or interferes with heritage. Heritage is defined broadly and includes 'objects that have aesthetic, archaeological, historic, scientific or social significance or other special value'. It is quite possible that a person may not know whether an object falls within this broad definition. The Committee would therefore appreciate your advice as to whether this regulation is intended to be a strict liability offence or, if not, whether it should be confined to intentional acts.

RESPONSE
The offence provision is not strict liability. This regulation is designed to both broaden and simplify protection of heritage in a reserve. The previous NPWS regulations required specific identification of an archaeological site or identification and labelling of an historic site. This approach had the potential to draw undue attention to known heritage items and their location in a manner that could be either culturally insensitive or detrimental to heritage protection, or both. In addition, heritage items of which the Director was not aware (for cultural reasons for example) could not be protected. The approach taken in the EPBC regulations overcomes these problems. However, in recognition that persons may, through an honest and reasonable mistake of fact, damage and interfere with heritage, it is not appropriate to apply a strict liability offence. The approach that has been adopted establishes and promotes a regime encouraging awareness and understanding of the need to not damage any heritage in Commonwealth Reserves.

5. STANDING COMMITTEE COMMENT
Regulation 12.24 imposes a penalty of 50 penalty units on a person who captures an image in, or of, a Commonwealth reserve, in contravention of a prohibition or restriction imposed by the Director. The Committee would appreciate your advice about the following matters in relation to this regulation:

(a) What is the reason for the imposition of the maximum number of penalty units (as prescribed by subsection 520(2) of the Act for this offence?

RESPONSE
Offences committed in relation to this regulation generally relate to acute cultural sensitivity regarding image (either visual or sound) capture. In such cases the maximum penalty is appropriate.

(b) The heading to the regulations refers to 'capturing images or recording sound', yet the regulation does not refer specifically to 'recording sound'. Should these words be deleted from the heading?

RESPONSE
The reference in the regulation to 'image' covers both visual and sound images.

(c) How extensive will the publication of a prohibition or notice under subregulation 12.24 (4) be?

RESPONSE
Regulation 12.05 provides that unless otherwise specified, publication would be in the Gazette. However, in accordance with the aim of promoting compliance through awareness development and education, determinations by the Director will generally be widely advertised, for example, in: local media, training and guidelines for tour operators, information handed out at entrance stations, by appropriate signage, and in management plans.

(d) Where the 'device or means used' to capture the image has been confiscated by the Director, ranger or warden, under subregulation 12.24(5), what provision is made for the subsequent return of the property?

RESPONSE
The handling of images and devices under subregulation 12.24(5) is to be addressed in guidelines for wardens and rangers. The intent is to have the device surrendered, have the medium processed and then return the device together with any images that were not captured in a place or manner prohibited by the regulations. Any prohibited images would be destroyed unless required for evidence.

(e) Does the expression 'device or means used to capture the image' include cameras used by tourists?
RESPONSE

The expression ‘device or means used to capture the image’ includes cameras used by tourists. However, this applies only where the Director has made a determination that images are not to be captured in a particular area. Such a restriction or prohibition will generally be widely publicised as stated above in response to comment (c). In practice, ‘image capture’ in parts of Uluru-Kata Tjuta National Park has, for some years, been limited. This situation is now reflected in the EPBC regulations.

6. STANDING COMMITTEE COMMENT

Subregulation 12.36(2) extends the prohibition on commercial activity in a Commonwealth reserve to include ‘a commercial activity being carried out in the reserve, whether or not the activity took place in the reserve’. The distinction between ‘being carried out in’ and ‘took place in’ is not self-evident and the Explanatory Statement sheds no light on what is meant by this subregulation. The Committee would therefore appreciate receiving further information clarifying the intent of this provision.

RESPONSE

There are instances where transactions for commercial activities take place outside (sometimes immediately outside) the reserve with the express intent of resulting in an activity within the reserve, for example, hire of boats adjacent to the boundary of Kakadu National Park for use on waterways within the reserve or joy flights over Uluru-Kata Tjuta National Park. The NPWS regulations provided no capacity to regulate these activities which impact on the reserve. Enforcement of EPBC regulation 12.36(2) would require evidence that the commercial activity includes advertising or other promotion of an activity within the reserve, or that (due to location) the commercial activity could not effectively take place other than in the reserve. Where this can be established, a permit would be required in the same way as if the transaction took place within the reserve.

7. STANDING COMMITTEE COMMENT

Regulation 12.38 states that a person must not ‘use a captured image of a Commonwealth reserve to derive commercial gain’. The prohibition is not restricted to the person who initially captures the image and extends to subsequent users of the image. However, a subsequent user of the image for commercial gain may not know whether the image is ‘of a Commonwealth reserve’, in which case the regulation may have a strict liability effect. The Committee would also appreciate clarification of the intent of this provision.

RESPONSE

Previously the NPWS regulations sought to regulate only overt commercial image capture. This was based on assumptions that images captured for commercial use had a wider reach and exposure than privately captured images and there was relatively limited scope for a privately captured image to enter the commercial realm. Regulation 12.38 recognises that privately captured images are now capable of being widely shared, for example, through the Internet. Though such sources, commercial interests can now easily obtain images that they would not have been authorised to capture themselves. They would then be free to use such images without any regulation, regardless of for example, the potential cultural offence that may be caused. The EPBC regulation seeks to impose an obligation on a person to gain authorisation to derive commercial gain in this way. This applies to any person who ‘on-sells’ an image that was captured privately and lawfully, whether or not they are the person who captured the image in the first place. Again, priority is placed on preventing or limiting exposure of images that are culturally offensive, through awareness and education rather than enforcement.

8. STANDING COMMITTEE COMMENT

Subregulation 14.03(4) provides that an infringement notice may be served on a person not more than 12 months after the alleged offence. This appears to be a long period in which to serve a notice and perhaps a shorter period may be preferable. The Committee would appreciate your advice on this matter.

RESPONSE

Prosecution for offences against the EPBC regulations can be commenced within one year of the offence being committed. It is therefore appropriate that an infringement notice could be served within that time to give the alleged offender the maximum opportunity to take advantage of the infringement notice option. Any shorter period for service of an infringement notice would seem to be unfair to an alleged offender.
Thank you for your reply dated 3 October 2000 in response to the Committee’s concerns with the Environment Protection and Biodiversity Conservation Regulations 2000. The Committee considered your response at its meeting today and agreed that it met most of its concerns.

However, the Committee remains concerned with certain regulations and would appreciate further information on the following matters.

Response to Standing Committee comment number 2. The Committee notes your advice that the Attorney-General examined the offence provisions and strict liability was attached to each one. However, the Committee would appreciate your advice on the reasons why it was decided that each of these provisions should carry strict liability.

Response to Standing Committee comment number 4. In relation to regulation 12.13, you advised that it had been broadened to protect heritage sites generally to include those known and those of which the Director was unaware. Given the broad definition of 'heritage' and the fact that the Director may be unaware that sites exist, the Committee reiterates its view that it may be appropriate to confine the regulation to intentional acts.

Response to Standing Committee comment number 5(b). The Committee’s research indicates a drafting distinction has been drawn between visual images and sound and suggests that the inclusion of ‘recording sound’ would overcome any potential confusion that may arise from the application of this provision.

Response to Standing Committee comment number 5(d). The Committee notes your advice and would appreciate receiving a copy of the guidelines concerning the handling of images and devices.

Please note that in order to protect its options in relation to this instrument, the Committee has agreed to give notice of motion to disallow on Monday, 9 October 2000.

Yours sincerely
Robert Hill

RESPONSES TO COMMENTS BY THE SENATE STANDING COMMITTEE ON REGULATIONS AND ORDINANCES ON THE ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION REGULATIONS 2000

1. The Committee asked why certain offences are strict liability.

RESPONSE:
The offences referred to are strict liability where compliance is a matter over which those who are potentially criminally liable have control. They are also concerned with the protection or conservation of Commonwealth reserves and the biodiversity within them.

Regulations 12.28, 12.29, 12.43, 12.44, 12.48, 12.54 and 12.55 provide for notice to be given to the public about the activities which are covered by these regulations. The park management requirements are provided in the form of published notices, signs, directions given by park staff, etc. Compliance with those regulations is therefore a very simple matter and clearly within the direct control of potential offenders. In relation to Regulations 12.14, 12.50, 12.51 and 12.52, it is reasonable to say that compliance with those regulations would be within the control of potential offenders. It should be reasonably obvious to anyone that a person ought not to interfere with parking permits or vouchers, interfere with voucher machines, install voucher machines without approval or dump waste or litter in a Commonwealth reserve.

The activities to which these regulations apply - littering, camping, speeding, parking, and obeying signs - are essentially regulatory in nature and the regulations impose only minor penalties. The maximum penalties for these offences (with the exception of Regulations 12.14(2) and (3)) are at the lower end (3 to 10 penalty units) of the range of penalties that may be imposed for offences against the Regulations. Activities such as litter-
ing, parking, speeding etc are now commonly the subject of strict liability offences in State and Territory legislation.

Having regard to the above matters it is appropriate for the particular offences to be strict liability offences.

In addition, the offences that carry strict liability - Regulations 12.14, 12.28, 12.29, 12.43, 12.44, 12.48, 12.50, 12.51, 12.52, 12.54 and 12.55 - are offences to which the infringement notice provisions apply as prescribed in Schedule 10 of the EPBC Regulations. With the exception of Regulations 12.28, 12.29 and 12.54 equivalent offences were subject to the infringement notice provisions in the former National Parks and Wildlife Regulations. It is appropriate to continue this regulatory regime.

In transferring the regulatory regime to the new EPBC Regulations, it was appropriate to include camping and failure of vehicles to stop (Regulations 12.28, 12.29 and 12.54) as offences for which infringement notices can be issued. Having the capacity to issue infringement notices for these common, minor offences has the benefit of providing the defendant and Park staff with an alternative to court proceedings, namely the capacity to dispose of a matter expeditiously by payment of a lesser penalty than a court could impose.

The Criminal Law Division of the Attorney General’s Department advised that in accordance with Commonwealth criminal law policy, infringement notices should only underpin strict or absolute liability offences. The Attorney General’s Department examined the offences to which infringement notices can be issued. Having the capacity to issue infringement notices for these common, minor offences has the benefit of providing the defendant and Park staff with an alternative to court proceedings, namely the capacity to dispose of a matter expeditiously by payment of a lesser penalty than a court could impose.

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It is also noted that the offences are strict but not absolute liability and the defence of mistake of fact under Chapter 2 (s9.2) of the Criminal Code (as applied by s7 of the EPBC Act) will be available.

2. The Committee is of the view that it may be appropriate to confine Regulation 12.13 on damaging heritage to intentional acts.

RESPONSE:
It is unnecessary to confine regulation 12.13 to intentional acts as having regard to Chapter 2 of the Criminal Code, Regulation 12.13 would seem to be limited to intentionally damaging, defacing, moving, possessing or interfering with heritage. The physical element of the offence consists only of conduct as defined in s4.1 of the Code (and not a circumstance in which conduct occurs or a result of conduct). As the regulation does not specify a fault element for that physical element so by default intention is the fault element for the offence. Section 5.2 of the Code provides that a person has intention with respect to conduct if he or she means to engage in that conduct.

3. The Committee suggests that “recording sound” be included in the body as well as the heading of Regulation 12.24.

RESPONSE:
The Committee’s research indicating that, there is a drafting distinction between visual images and sound is acknowledged. While it is agreed that the Committee’s suggestion to including ‘recording sound’ in the body of the Regulation may overcome possible confusion about this provision, such an alteration would make no change to the application of this regulation.

4. The Committee requested copies of the guidelines concerning the handling of images and devices.

RESPONSE:
The guidelines are still being prepared. A copy will be forwarded as soon as they are finalised.

2 November 2000
Senator the Hon Robert Hill
Minister for Environment and Heritage
Parliament House
CANBERRA ACT 2600
Dear Minister
Thank you for your letters dated 3 and 27 October 2000 responding to the Committee’s concerns with the Environment Protection and Biodiversity Conservation Regulations 2000, Statutory Rules 2000 No.181. The Committee considered your responses at its meeting today and agreed that your advice has answered most of its concerns with these Regulations.

The Committee, however, has a continuing concern with the drafting of regulation 12.24 relating to the capturing of images or recording sound. In your response of 27 October 2000, you acknowledged that there was a drafting distinction between visual images and sound. You advised that the inclusion of the words ‘recording sound’ would make no change to the application of the regulation but agreed that it may overcome possible confusion about this provision. After considering your response, the Committee is still of the view that a reference to recording sound should be included in the body of the regulation, thereby avoiding any confusion.

The Committee would appreciate your response as soon as possible as the last day for the Senate to resolve this notice of notion to disallow is 15
sitting days after 9 October 2000. Correspondence should be directed to the Chair, Senate Standing Committee on Regulations and Ordinances, Room 3G 49, Parliament House, Canberra.

Yours sincerely
Helen Coonan
Chair

9 Nov 2000
Senator Helen Coonan
Chair, Senate Standing Committee on Regulations and Ordinances
Parliament House
CANBERRA ACT 2600

Dear Senator Coonan


I have considered the Committee’s further request and, as previously indicated, agree with the Committee’s suggestion that including ‘recording sound’ in the body of the Regulation 12.24 may overcome possible confusion about this provision. Accordingly I undertake to amend this regulation at the next most appropriate opportunity.

Yours sincerely
Robert Hill

New subregulation 8(2) deems that the application fee (if any) for an application is taken to accompany the application if it is paid ‘without delay’ when the applicant receives notification under paragraph 13A(2)(a) of the Act that the application has been accepted. The Committee is concerned that the words ‘without delay’ do not give the applicant sufficiently clear guidance about the time for payment and would appreciate your advice on whether it would be more appropriate if a time limit should be specified for payment of the application fee.

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

New regulation 14 provides for the review of decisions under subsection 13A(2) or (3) of the Act. Subregulation (1) does not specify any time limit within which the applicant must apply for reconsideration of a decision. Subregulation (2) does not set any time limit within which the Authority must reconsider the matter. The Committee would appreciate your advice on whether time limits should be specified for these matters.

Schedule 3 sets out the charges payable in relation to full assessment, drafting and inquiry. The Risk Impact Statement explains that these fees are based upon ‘an estimate of anticipated costs’. The Committee would appreciate your advice on how this estimate has been made.

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

Yours sincerely
Helen Coonan
Chair

New subregulation 8(1) fixes a fee for an application of $2,800. Whilst a note to the subregulation explains the components of the fee, the Explanatory Statement does not explain the basis for these components nor for the total amount. The Committee would appreciate your advice on the basis for the fee.

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

Dear Senator Coonan

I refer to the National Food Authority Amendment Regulations 2000 (No.1), Statutory Rules 2000 No.122

17 August 2000
Senator the Hon Grant Tambling
Parliamentary Secretary to the Minister for Health and Aged Care
Parliament House
CANBERRA ACT 2600

Dear Parliamentary Secretary

I have considered the Committee’s further request and, as previously indicated, agree with the Committee’s suggestion that including ‘recording sound’ in the body of the Regulation 12.24 may overcome possible confusion about this provision. Accordingly I undertake to amend this regulation at the next most appropriate opportunity.

Yours sincerely
Robert Hill

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

Dear Senator Coonan


I have considered the Committee’s further request and, as previously indicated, agree with the Committee’s suggestion that including ‘recording sound’ in the body of the Regulation 12.24 may overcome possible confusion about this provision. Accordingly I undertake to amend this regulation at the next most appropriate opportunity.

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Robert Hill

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

Yours sincerely
Helen Coonan
Chair

New subregulation 8(1) fixes a fee for an application of $2,800. Whilst a note to the subregulation explains the components of the fee, the Explanatory Statement does not explain the basis for these components nor for the total amount. The Committee would appreciate your advice on the basis for the fee.
Thank you for your letter of 17 August 2000 in which you presented a range of questions that the committee has raised in connection with the National Food Authority Amendment Regulations 2000 (No. 1), Statutory Rules 2000 No. 122. I apologise for the delay in responding.

Our responses to your questions are below.

What is the basis for the application fee fixed in new subregulation 8(1)?

The fee of $2,800 referred to in the new subregulation 8(1) is intended to cover the work undertaken by the Australia New Zealand Food Authority (ANZFA) in determining whether the application complies with section 12 of the Australia New Zealand Food Authority Act 1991 (the Act), in carrying out a preliminary assessment of the application under section 13 of the Act, as well as the work required under sections 13A and 14 of the Act in relation to notifying the applicant, the public, appropriate government bodies and any other appropriate bodies or persons.

In making a preliminary assessment of the application, ANZFA must consider amongst other matters, whether the application relates to a matter that may be developed as a food regulatory measure, or whether the application is so similar to a previous application that it ought not to be accepted. In addition, consideration needs to be given as to whether costs that would arise from a food regulatory measure developed or varied as a result of the application, outweigh the direct and indirect benefits to the community, government or industry that would arise from the measure or variation, whether other measures would be more cost effective as well as any other relevant matters.

The relevant matters that are considered during preliminary assessment include: the category of assessment that the application will fit into; and whether the application may result in an exclusive capturable commercial benefit to the applicant.

The fee of $2,800 has been established based on extensive past experience and reflects the total costs to ANZFA based on an average of the total staff time that would be involved in this work.

The Committee is concerned about the words ‘without delay’ in relation to payment of the application fee after the applicant receives notification that the application has been accepted. Should a time limit be specified for payment of the application fee?

As indicated in the explanatory memorandum, subregulation 8(2) constitutes a deeming provision in relation to acceptance of an application fee because a determination as to whether a charge is applicable cannot be made until after the acceptance of an application (in contrast to “all comers pay fees” type systems). The application will not be deemed to have been received until payment of the fee is received. The term “without delay” is intended to signify to the applicant that under subsection 15(2) of the Act, a full assessment cannot commence until the Authority receives the charge fixed. In the letter of notification to the applicant, it will be made clear that any delay in receipt of the charge will delay the commencement of the full assessment stage. In my view, a time limit does not need to be specified for payment of the application fee.

In relation to the refund of fees how is it to be determined whether half of the work has been completed, and who is to make that decision?

The question of the amount of a refund in the case of a withdrawal has been carefully considered. ANZFA has advised that in practice few applications are withdrawn in the middle of the full assessment stage, the usual practice being for them to be withdrawn at either the start or the end of that stage.

Regulations have provided for a refund to be made if an applicant withdraws their application during the full assessment stage. The work required to be undertaken by ANZFA during the full assessment stage will vary for applications depending on their complexity. The halfway stage is generally reached when drafting instructions are first issued to the legal team to prepare a draft standard or draft variation. ANZFA will err on the side of caution and provide a 50% refund to the applicant if they withdraw their application before formal drafting instructions are issued, as this point would signify a point in time at which significant assessment has been undertaken but which significant work is still required to be undertaken to finalise ANZFA’s assessment.

As yet, ANZFA has not issued any invoices to applicants under these Regulations. When it does, the applicant will be provided with detailed administrative information on ANZFA’s charging, refund and appeal arrangements.

Sections 12B and 15A of the Act make provision for ANZFA to have the power to refund charges. The ANZFA Board recently delegated the power to make decisions in relation to refunds to the Managing Director and General Managers of the Authority. In practice, it will be the relevant General Manager who will be the decision maker on the amount of a refund and that decision will be based on advice from the Project Manager.

In the case of a dispute occurring over the decision, the normal line of review will take place as
it would for any other decision made by ANZFA in relation to application matters.

In relation to an application for reconsideration of a decision as provided for in new regulation 14, should there be a time limit within which the applicant must apply for reconsideration of a decision, and should there be a time limit in which ANZFA must reconsider the matter?

I have considered this matter and ANZFA has given me an undertaking to amend the regulations to include a 28 day time limit for the lodging of an application for reconsideration of a decision under subsections 13A(2) and (3) of the Act. The regulations will also be amended to require ANZFA to notify the applicant of its reconsideration decision within 28 days of receipt of the application for reconsideration.

How has the estimate of anticipated costs been arrived at?

The fees have been set based on years of experience in dealing with applications. The applications that ANZFA receives can vary from very simple, involving half a dozen pages, through to highly complex ones accompanied by anything up to 40 boxes of supporting scientific evidence. Following extensive discussion with all stakeholders including major industry bodies, it was agreed that in the interests of fairness and simplicity for all involved, a five-tier charging structure applying equally to all applicants, including small business, be established. It was agreed that this would represent the most efficient and cost effective method of recovering costs.

The charges include all salary and associated administrative costs related to varying a standard or having a product or process approved through to the final decision making stage.

There will be regular reviews of the level of fees to ensure they are appropriate and also to ensure that any improvements in the efficiency of applications processing is passed on to applicants.

Yours sincerely

GRANT TAMBLING
24 October 2000

2 November 2000
Senator the Hon Grant Tambling
Parliamentary Secretary to the Minister for Health and Aged Care
Parliament House
CANBERRA ACT 2600
Dear Parliamentary Secretary

Thank you for your letter dated 24 October 2000 responding to the Committee’s concerns with the National Food Authority Amendment Regulations 2000 (No. 1), Statutory Rules 2000 No. 122.

The Committee considered your response at its meeting today and welcomes your undertaking to amend the Regulations to specify a time limit for the lodging of applications for reconsideration of decisions and to notify applicants of the reconsidered decision.

The Committee, however, has a continuing concern with the term ‘without delay’ in relation to payment of the application fee in subregulation 8(2). The Committee is of the view that this creates uncertainty with the operation of this provision and that advising the applicant by letter of the need to pay without delay may not be the most satisfactory means of achieving its intended purpose. It may therefore be more appropriate to specify a time limit for the payment of the application fee, thus giving applicants clear guidance and certainty as to the requirements of this provision.

The Committee would appreciate your advice as soon as possible as the last day for the Senate to resolve this notice of notion to disallow is 15 sitting days after 9 October 2000. Correspondence should be directed to the Chair, Senate Standing Committee on Regulations and Ordinances, Room SG 49, Parliament House, Canberra.

Yours sincerely

Helen Coonan
Chair
1. those that will confer an exclusive capturable commercial (ECCB) benefit on the applicant;
2. those where an applicant chooses to pay a fee in order to have processing of a non-ECCB application commence earlier than would otherwise be the case based on its place in ANZFA’s work plan.

A result of this system is that ANZFA must first receive and then assess whether an application falls into the ECCB category and then advise the applicant before the applicant can know whether charges (and what amount) will be levied. In the case of a non-ECCB application the applicant will be advised as to the scheduled start date of the application according to its allotted place on the work plan. Places are allotted on the work plan to give priority to matters involving public health and safety and other matters are then listed in the order in which they are received. This currently means that non-ECCB applicants are usually advised of a due date two to three years in the future.

In both of the above cases, applicants cannot know whether they are required to pay a charge or whether they have a choice to pay a charge until after their applications have been lodged.

This situation differs somewhat from the norm as, generally speaking, in situations where a fee is required to process an application of some kind, the usual practice is that the fee is paid upon lodgement of the application; the consequences of not paying the fee being that the application is not accepted or that processing cannot proceed until the fee is paid. As noted above, this approach does not fit neatly in the case of ANZFA’s limited cost-recovery system.

Subregulations 8(2) and 8(3) have been drafted to work with paragraphs 13A(2) and 35(1) of the Act to deal with this situation. Subregulation 8(2) is a provision that deems an application fee to have accompanied the application once the application fee has been lodged. The words “without delay” were chosen to be purposely flexible, as stipulating a time period could encumber an applicant who was unable to meet the deadline for some reason. It may also have unintended flow on effects, including perhaps an obligation to re-lodge an application if the deadline for payment were missed. Specifying a time period would also raise questions regarding extensions of time, criteria for extensions, appeal rights for applicants if an extension were not granted, etc.

Notwithstanding the above, ANZFA accepts that the regulations could be improved by removing the “without delay” statement and remaining silent regarding a time limit for payment of the fee.

As it is clear from the legislation that processing of an application for which a fee is payable cannot progress until the fee is paid, the necessary arrangements regarding payment of the fee could be handled administratively.

ANZFA has given an undertaking to amend the regulations consistent with the above.

I trust that such action will remove the uncertainty that has been of concern to your Committee, whilst retaining a framework to allow fair appropriate handling of applications subject to fees.

Thank you again for your comments and interest in this matter.

Yours sincerely

GRANT TAMBLING

Therapeutic Goods Amendment Regulations 2000 (No.2)
Statutory Rules 2000 No.48

8 June 2000
Senator the Hon Grant Tambling
Parliamentary Secretary to the Minister for Health and Aged Care
Parliament House
CANBERRA ACT 2600

Dear Parliamentary Secretary

I refer to the Therapeutic Goods Amendment Regulations 2000 (No. 2), Statutory Rules 2000 No. 48, that implement recommendations relating to the therapeutic goods Advertising Code.

The amendment made by item 12 of the Schedule – which inserts new subregulation 5Q(5A) – permits the Secretary to the Department to delegate his or her power to withdraw approval for an advertisement to the chairperson of the Complaints Resolution Panel. However, new paragraph 42ZCAI(4)(a) permits that Panel to recommend to the Secretary that the latter “withdraw the approval of [an] advertisement”. The Committee considers that in the light of that latter paragraph, the power of delegation in new subregulation 5Q(5A) may not be appropriate.

New regulation 9, substituted by item 16 of the Schedule, permits the Secretary to the Department to publish orders either in the Gazette or on the Department’s web site. The Committee suggests that publication in both places might be preferable, as it would provide for wider dissemination of the orders.
New paragraphs 9R(1)(b) and (2)(b), inserted by item 18 of the Schedule, create an offence of publishing generic information about therapeutic goods if the publication "contains a claim that has not been verified". However, the regulations do not specify by whom the claim must be verified, nor the standard of proof to be applied to that verification. As they stand, it would appear to be relatively easy for the publisher of such information to avoid liability for that offence.

New Subdivision 2 of Division 3 of Part 6 of the Regulations, inserted by item 32 of the Schedule, regulates the procedure of the Complaints Resolution Panel. However, that Subdivision does not impose any time limits on the Panel in complying with that procedure. The Committee considers that the Panel should be under a statutory obligation to proceed with each step of dealing with a complaint within a specified time.

The Committee would be grateful for your advice as soon as possible to allow it to finalise these matters.

Yours sincerely
Helen Coonan
Chair

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

Dear Senator Coonan

Thank you for your letter of 8 June 2000 in which you raised four issues concerning the operation of the Therapeutic Goods Amendment Regulations 2000 (No2), Statutory Rules 2000 No 48.

The Committee raises the appropriateness of permitting the Secretary to delegate the power to withdraw approval of an advertisement to the Chairperson of the Complaints Resolution Panel (reg 5Q(5A)), when it is the Panel that recommends to the Secretary the withdrawal of approval (reg 42ZCA(4)(a)).

The Government accepted the recommendation of the Advertising Code Review that there is a need for speedy sanctions for breaches of the Code. The action of withdrawing approval of an advertisement is an effective way to prevent the reappearance of an advertisement that breaches the Code. As this is an administrative power, it resides appropriately with the Secretary. However, there will be circumstances where it is necessary to stop an offending advertisement as quickly as possible after the Panel has upheld a complaint about it. By delegating the power to the Panel Chair, it can be exercised quickly by a delegate who is fully aware of all the relevant facts and considerations. A decision of the Panel to withdraw an approval is ultimately subject to independent review by the Administrative Appeals Tribunal, as well as the Federal Court under the Administrative Decisions (Judicial Review) Act 1977.

Regulation 9 permits the publishing in the Gazette or on the Therapeutic Goods Administration (TGA) web site of orders permitting the use of restricted or prohibited representations. The Committee would prefer orders to be published in both places to allow their wider dissemination.

Regulation 9 orders are of key relevance, primarily to the medicines and advertising industries required to comply with such orders. These industries increasingly are utilising electronic media in transacting their business (indeed, applications for marketing approval of complementary medicines is mainly effected through electronic lodgements), and allowances for publications to be effected on Government web sites is consistent with the Government’s policy encouraging e-commerce. These industries have web access, as do consumer organisations and many public libraries. Bearing this in mind, and considering that the additional cost in administrative time and publishing fees must be borne ultimately by industry, I do not consider that every order needs to be published in the Gazette. However, I will ask the TGA to publish orders in the Gazette where the orders deal with significant public health and safety concerns.

I agree that the offence in regulation 9R about "a claim that has not been verified" could be improved. The changes that deal with generic information raised the most interest and debate with industry. The TGA has agreed to monitor the changes during a transition period to identify areas that require refining. This will be one of those areas.

The new regulations do not impose time limits on the Complaints Resolution Panel. The Panel meets regularly at six week intervals, although is prepared to meet more frequently should the need arise, through increased numbers of complaints for example. On average, it deals with complaints within a six week interval. Complaints come from both, industry and consumers, and both groups are represented on the Panel. Neither group pressed for time limits during the course of the Advertising Code Review. I would prefer the TGA to monitor the performance of the Panel during the transition period. I will introduce time limits if the Panel does not deal with complaints
in as timely a manner as the TGA, industry and consumers would like.
I am happy to provide more details on any of these issues if the Committee wishes.
Yours sincerely
GRANT TAMBLING
17 July 2000

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (3.39 p.m.)—I give notice that, on the next day of sitting, I shall move:

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

Horticulture Marketing and Research and Development Services Bill 2000

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

Leave granted.

The statement read as follows—

Purpose of the Bills
The Bills will create a new horticultural service company that will operate under the Corporations Law to provide marketing and research and development (R&D) services to the horticultural industry, replacing the current Australian Horticultural Corporation (AHC) and the Horticultural Research and Development Corporation (HRDC).
The new company has been requested by the horticultural industries in order to provide better synergies between marketing and R&D programs, to build, competitive and profitable horticultural industries and to provide efficiencies in program administration.

Reasons for Urgency
The horticulture industry has unanimously supported the proposal and requested that the new horticultural company be established by the Government as a matter of priority, to become operational as soon as possible.
The industry is concerned that ongoing uncertainty about the company start-up date will cause disruption to existing beneficial programs and potential loss of key staff. Delay in the start-up of the new company would give rise to costs as the new horticultural services company is also expected to provide annual administrative savings of $600,000 per annum by merging the two existing statutory corporations, the AHC and the HRDC into a single company.
The proposal has been fully evaluated by the Government. In order for the new company to meet its start-up date of December 2000, legislation will need to be introduced and passed in the 2000 Spring sittings.

(Circulated by authority of the Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry).

COMMITTEES
Legal and Constitutional Legislation Committee
Meeting

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

That the order of the Senate of 7 November 2000, authorising the Legal and Constitutional Legislation Committee to hold a public meeting during the sitting of the Senate on 28 November 2000, be varied to provide that the committee be authorised to meet from 4 pm.

NOTICES
Postponement

Items of business were postponed as follows:

Business of the Senate notice of motion no. 8 standing in the name of Senator Lundy for today, relating to the reference of a matter to the Finance and Public Administration References Committee, postponed till 29 November 2000.

ESSENDON AIRPORT

Motion (by Senator Allison) put:

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.

The Senate divided. [3.45 p.m.]

(The President—Senator the Hon. Margaret Reid)

Ayes………… 9
Noes………… 39
Majority…… 30

AYES

Allison, L.F. Bartlett, A.J.J.
Bourne, V.W * Greig, B.
Lees, M.H. Murray, A.J.M.
Ridgeway, A.D. Stott Despoja, N.
Woodley, J.

NOES

Bishop, T.M. Bolkus, N.
Brandis, G.H. Buckland, G.
Calvert, P.H. Campbell, G.
Campbell, J.G. Carr, K.J.
Collins, J.M.A. Cook, P.F.S.
Crane, A.W. Crossin, P.M.
Crowley, R.A. Denman, K.J.
Eggleston, A. Evans, C.V.
Forshaw, M.G. Gibbs, B.
Gibson, B.F. Hutchins, S.P.
Knowles, S.C. Ludwig, J.W.
Lundy, K.A. Mackay, S.M.
Mason, B.J. McGauran, J.J.J.
McKierman, J.P. McLucas, J.E.
Murphy, S.M. O’Brien, K.W.K *
Patterson, K.C. Payne, M.A.
Reid, M.E. Schacht, C.C.
Tamblyn, G.E. Tchen, T.

Tierney, J.W. Troeth, J.M.
West, S.M.

* denotes teller

Question so resolved in the negative.

UNITED STATES ELECTION: RALPH NADER

Senator BROWN (Tasmania) (3.48 p.m.)—I ask that general business notice of motion No. 762 standing in my name for today, congratulating Ralph Nader for the role he played in the US presidential election, be taken as a formal motion.

Leave not granted.

Senator BROWN—I don’t know where that objection came from—the Labor Party, wouldn’t you know?

Suspension of Standing Orders

Senator BROWN (Tasmania) (3.48 p.m.)—Pursuant to contingent notice, I move:

That so much of standing orders be suspended as would prevent Senator Brown moving a motion relating to the conduct of the business of the Senate, namely, a motion to give precedence to general business notice of motion No. 762.

I do so because this is an important motion.

Opposition senators interjecting—

Senator BROWN—Listen to the Labor Party cackle. Listen to them getting into defensive mode over there. The fact is that the Labor Party in some way—and they will be able to explain this—I am sure—feel defensive of the American Democrats, who are so much in the bailiwick of the multinational corporations. Maybe we will learn something about the Australian Labor Party through the contribution we are about to hear from them. Nevertheless, Ralph Nader, who is a consumer advocate, has the measure of the multinational corporations and has done for two or three decades now. He has come along and said, ‘Enough is enough.’ As far as the big parties in America—and in Europe and, no doubt, here in Australia—are concerned, he is saying, by inference, that it is time the big parties were taken on and we ended this duopoly of two parties who are economic rationalists, who tug their forelock to the big corporations, and who base their election campaigns on donations coming from those corporations. This is all to the detriment of
the average citizen, to the detriment of democracy, to the detriment of an equal society—which Labor used to stand for—and to the detriment of the global environment. My motion states that we congratulate Ralph Nader because he has offered the United States and the world honourable options to economic rationalism. Do Labor not support that? I suspect they do not.

Ralph Nader has offered an end to the corporate override of democracy and to the two-party duopoly bedevilling Western democracy. I have no doubt that Labor, like the coalition opposite, will be opposed to that. The motion calls for the Senate to recognise Mr Nader’s integrity, which has won nearly three million US votes. Who would oppose that? The motion calls for an end to the corporate donations to political parties in Australia. Here we are getting closer to the mark. No doubt both big political parties, which get about $30 million in each inter-election period from the corporate sector and other sectors, will be opposed to that component. Let’s hear it if that is what they have a cavil with, because that bombs democracy; that corrupts democracy. This donation system bends democracy against the interests of the average citizens, who are not the donors and who lose out because of the influence that goes to the big parties through that system.

Finally, we are asking for endorsement of Mr Nader’s assertion that the two parties need a jolt. Millions of Australians support that. They believe that there is less and less to be seen from the big parties on crucial issues like social justice, the environment, the administration of democracy and the need for separation between the wealthy influential corporate sector and the parliament. As Ralph Nader would say, the debate is clearly about who rules in our society. Is it the stock exchange, supported by Labor and the coalition, or is it the parliament, which the Greens are saying ought to have the pivotal place, ought to be the pilot of democracy? More and more that is not the case. It is interesting that it is the Labor Party that is howling objections in this debate. That is because the Labor Party feels vulnerable to this, because it touches a raw nerve, because the Labor Party no longer stands for the ethos that gave rise to its parliamentary power at the start of the last century.

We are facing a world with great opportunities but also great dangers. I would rather this world be in the hands of a democratic system, a multiparty system, a system of one person, one vote, one value, rather than the current system, which is completely nobbled by the power of the corporates. Good on Ralph Nader. I have invited him to come to Australia to attend the global conference of the Greens next year. I guarantee that he will take on any of these people in debate at that time. They have nobody to ask here. This scion of Green politics will be welcomed back in this country. He was here 20 years ago. At that time, he had a great deal to say for the benefit of all Australians about democracy, the environment and workers’ rights. Labor should be lauding a potential return visit. (Time expired)

Senator O’BRIEN (Tasmania) (3.54 p.m.)—I was listening intently to hear Senator Brown tell us why this motion was urgent. I am still waiting. I have not heard one word uttered by Senator Brown as to why the rest of today’s business—including seven of Senator Brown’s motions on the environment which were about to be debated—should be pushed down the order so that we can deal with a motion to congratulate Ralph Nader for apparently getting the Republicans into power. That is what Senator Brown is asking the Senate to do. Even if Senator Brown did not have seven motions on the Notice Paper today—and I see he is still having difficulty keeping a straight face—which dealt with his pet issue, the environment, the Senate could not have listened to his contribution and thought, ‘Yes, this is urgent; this is a matter we have to deal with.’

Only today we have heard that it is likely that Mr Bush will succeed. I would have thought the anathema of the sorts of policies that Senator Brown pursues—and, indeed, that Mr Ralph Nader pursues—will be delivered by the Republicans under George Bush. The appropriate time to debate that is when we debate this motion. When Senator Brown has general business no doubt he will bring this matter on as a matter of priority over every other issue he has and we will debate
it. We will have a great deal of difficulty, Senator Brown, in controlling our speakers list because I can assure you that there will be a great many senators on this side of the chamber who will want to contest the proposition that we ought to congratulate Ralph Nader. Sure he is entitled to stand, but the reality about his standing in the American electoral system is that the result that he may have achieved will be an anathema to the supporters of the environmental movement in the United States. However, we will debate this matter when Senator Brown brings it on and we will be listening intently. But nothing he said today in any way indicates that this matter is urgent.

Question resolved in the negative.

DOCUMENTS

Tabling

The DEPUTY PRESIDENT—Pursuant to standing orders 38 and 166, I present documents listed on today’s Order of Business at item No. 12, which were presented to the President and to various temporary chairmen of committees during the period 13 to 24 November 2000. In accordance with the terms of the standing orders, the publication of the documents was authorised.

The list read as follows—

Commissioner of Taxation—Report for 1999-2000—Erratum. [Received 22 November 2000]
Mid-year economic and fiscal outlook—2000-2001—Statement by the Treasurer (Mr Costello) and the Minister for Finance and Administration (Mr Fahey), November 2000. [Received on 15 November 2000]
National Rail Corporation Limited (National Rail)—Report for 1999-2000. [Received on 15 November 2000]
Productivity Commission—Report—No. 13—Review of legislation regulating the architectural profession, 4 August 2000. [Received on 16 November 2000]
Repatriation Commission, Department of Veterans’ Affairs and the National Treatment Monitoring Committee—Reports for 1999-2000, including reports pursuant to the Defence Service Homes Act 1918 and the War Graves 1980—Erratum. [Received on 22 November 2000]

BUDGET 2000-01
Consideration by Legislation Committees

Additional Information

The DEPUTY PRESIDENT—I table additional information received by the Rural and Regional Affairs and Transport Legislation Committee relating to hearings of the budget estimates for 2000-01.

PARLIAMENTARY ZONE
Proposal for Works

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (3.57 p.m.)—In accordance with the provisions of the Parliament Act 1974, I present three proposals for works within the Parliamentary Zone, together with supporting documentation relating to the construction of Commonwealth Place, the construction of the Magna Carta monument and temporary works associated with the second GMC 400 V8 Supercar race. I seek leave to give three notices of motion in relation to the proposals.

Leave granted.

Senator IAN CAMPBELL—I give notice that, on the next day of sitting, I shall move:

That, in accordance with section 5 of the Parliament Act 1974, the Senate approves the proposal by the National Capital Authority for capital works within the Parliamentary Zone, being the construction of Commonwealth Place.

That, in accordance with section 5 of the Parliament Act 1974, the Senate approves the proposal by the National Capital Authority for capital works within the Parliamentary Zone, being the construction of the Magna Carta monument.

That, in accordance with section 5 of the Parliament Act 1974, the Senate approves the proposal by the National Capital Authority for capital works within the Parliamentary Zone, being temporary works associated with the second GMC 400 V8 Supercar race.

BUDGET 2000-01
Consideration by Legislation Committees

Additional Information

Senator CALVERT (Tasmania) (3.58 p.m.)—On behalf of Senator Knowles I pres-
ent additional information and a transcript of evidence received by the Community Affairs Legislation Committee relating to hearings on the budget estimates for 2000-01.

COMMITTEES
Foreign Affairs, Defence and Trade Committee: Joint

Report
Senator PAYNE (New South Wales) (3.58 p.m.)—On behalf of the Joint Standing Committee on Foreign Affairs, Defence and Trade, I present a report of the committee entitled Conviction with compassion: A report on freedom of religion and belief, together with the Hansard record of the committee's proceedings, minutes of proceedings and submissions received by the committee. I seek leave to move a motion in relation to the report and to make a few remarks in relation to the report.

Leave granted.

Senator PAYNE—I move:

That the Senate take note of the report.

It is my pleasure to table this report Conviction with Compassion: A report on freedom of religion and belief, which is the product of a long process of inquiry into freedom of religion and belief dating back to the committee's original reference of April last year. The committee acknowledged at the outset that religion is an intensely personal issue for many people and that questions of religious freedom are by nature complex and intricate. Because of that complexity, inherent challenges are faced by any body inquiring into the provision of freedom in relation to religion.

The committee's view—well stated in previous remarks—is that rights such as freedom are universal and indivisible human rights and that any violations of human rights are to be condemned. Thus any violations of freedom of religion and belief are violations of fundamental human rights. The committee was asked by the Minister for Foreign Affairs to undertake an inquiry into Australia's efforts to promote and protect freedom of religion and belief. In fact, I think the chair of the subcommittee, Mr Peter Nugent, has in another place noted that the members of the committee themselves have a range of religious beliefs and views, as well as a range of views on notions of freedom. I see that Senator Schacht is in the chamber at the moment, and that was certainly the subject of a discussion at one particular hearing at which we were both present. So this report is reflective of the range of views on the matter which are then further represented across the spectrum of those who participated in the inquiry either by providing submissions or appearing as witnesses. I think it is important to thank in this place those Senate colleagues who participated either in part or in full in this inquiry—in particular Senators Bourne, Ferguson, Harradine, MacGibbon, Reynolds, Schacht and Synon—and to acknowledge the role and work of the committee secretariat, in particular Patrick Regan.

The committee received over 100 submissions ranging from those of individuals, religious scholars, theologians and religious organisations here in Australia. We received submissions from government departments and agencies, including the Department of Foreign Affairs and Trade and the Human Rights and Equal Opportunities Commission. Importantly, the committee held five public hearings in Canberra, Sydney and Melbourne, and heard from nearly 50 witnesses during the course of the hearings. The committee has made nine recommendations that broadly cover the issues of promoting religious freedom and also deal with the issue of cults. In brief, those recommendations firstly support the work of HREOC in the area of religious freedom and invite a response from government to the commission's 1997 report on religion and belief. They also call on Australian governments to ensure maximum protection of religious belief within their jurisdictions and, to that end, greater uniformity of human rights law and practices in Australia. The committee encourages the Commonwealth government to promote all human rights, specifically that of freedom of religious belief in our dealings with other nations. We note and support the work of the UN and other organisations, including the Centre for Democratic Institutions and the Australian Agency for International Development, in this area. Finally, the recommendations proposed include the convening of an
interfaith dialogue to formulate a set of minimum standards for the practices of cults.

What is important to take out of the inquiry and the report is a commitment to freedom of religious belief as an indivisible human right. In Australia, we are exceptionally lucky to have a society that is both accepting of, and home to, a number of religious organisations and systems of belief. And so through the process of migration, combined with what is essentially an egalitarian community, Australia is able to count amongst its population virtually every world religion. From Christianity to Hinduism, to Islam, to Judaism and many others in between, Australia’s towns and cities represent an enormous diversity of religions. In my own area of activity in Greater Western Sydney there are representatives of all these religions and more, whether it is the Hindu temple on the Great Western Highway or the synagogue on Victoria Road. As you drive around Greater Western Sydney, the diversity in that reasonably compact area is representative of the greater diversity throughout Australia. Of course, our rich cultural heritage also includes indigenous Australians who have their own long-held traditions and very different notions of spirituality and sacredness from other organised religions. Providing freedom of religious beliefs across the globe has to also take into consideration the beliefs of indigenous peoples as well as those more establish traditional churches.

In preparing this report, and indeed in thinking about some remarks that I might make today, it is impossible not to reflect on the inherent challenge that is associated with the coexistence of various religions that often have conflicting beliefs. Domestically, we are fortunate to have a very harmonious society in this regard, where largely religious conflict is minimal—although differences do exist, and we see those unfortunately perpetrated in some of our cities by people who persist in expressing racial or religious hate in various ways. It is not the case with all of our neighbours. I think the parliament is in a unique position to demonstrate to the nation—and this is a personal view—the breadth and diversity of religious practices in Australia and to indicate that that diversity is a positive thing for our nation and should be addressed in an inclusive manner. I often think that we have a great chance in this place and in the activities we carry out more broadly to demonstrate to members of faiths other than Christianity how important they are in the huge melting pot that is this nation. What is a greater challenge, though, is for that harmonious nature to extend beyond our borders. In concluding, I would say that would then go further to ensuring that religious freedom as a human right is truly indivisible.

**Senator SCHACHT (South Australia)**  
(4.05 p.m.)—I rise to support the resolution on the tabling of this report Conviction with compassion: a report on freedom of religion and belief by the Joint Standing Committee on Foreign Affairs, Defence and Trade. I am a member of the Human Rights Subcommittee of that committee which prepared this report for the full committee—and it was then adopted by the full committee without dissent. I must pay a tribute to, in particular, the chair, Mr Nugent, and the deputy chair, Mr Hollis, for their work on this committee. Because of my duties as shadow minister for veterans’ affairs I was not able to be as active on the committee as I would have liked, but I would like to make a couple of comments. The first is to take note of a section of the report on page 130 titled ‘The right not to believe’. Although the inquiry was about freedom of religion, there were a number of submissions from organisations such as the humanist societies of Queensland and Victoria and the Rationalists Society of New South Wales, all of which pointed out that the right not to believe is just as important as the right to believe and that freedom of religion is to be taken as a protection of the freedom not to believe in any religion.

I am very strongly of that view myself. As a member of the Labor Party’s informal caucus committee of humanists, I very strongly believe that that is the case. Often in societies where freedom of religion is trampled upon, it is those who are dissenters, those who are not true believers of the orthodox religion, who are the first to suffer the penalties and discrimination when religion is tied in with the power of the state in a theocratic
Therefore humanists have a very strong view that the separation of the state as a secular organisation from any form of official religion is a fundamental issue for democracy in our society. It is unfortunate, in my view, as a humanist, that some of the worst abuses of human rights occur where a nation has adopted a particular religion as the official religion of that country and then imposes that view on everybody without the right to dissent or have a different view.

These are the issues that arose 400 or 500 years ago in Western Europe at the time of the Reformation and the Renaissance, when there was the break-up of what you might call the monopoly the Roman Catholic Church had over the whole of Christianity. That was followed by the religious intolerance of Western Europe for the next couple of hundred years, when dreadful wars of religion were fought over who was the true believer in the following of Jesus Christ. Awful atrocities were committed not only in Europe but also in the new colonies of the New World. We still see today, in different parts of the world, people willing to kill each other on the basis of which religion they follow and which religion they wish to impose on others. We will not get full human rights and a democratic system adopted across the world where the right of the individual to dissent is guaranteed until all countries separate their religion from the government so that there is a complete separation.

We in Australia are lucky that we do have that separation, and it is a real strength of our democracy. It is a real strength of our democracy that people such as me, as a non-believer, with many others in our community—nearly 30 per cent, according to one calculation from the census—do not have to believe and can continue to participate in the full public life of Australia without restriction, without discrimination. That is a real strength of Australian democracy.

This report is very timely in that it deals with that issue. It also is a very good summary of the history of religious belief and rightful religious freedom as well as a summary of a number of the issues dealt with around the world at the moment. It makes some recommendations. A number of them relate to activities of appropriate areas of the United Nations and I certainly would urge the government to take note of those recommendations and adopt them. They strengthen our role as a democracy, as a country with a strong commitment to human rights, to further that advance in the rest of the world. I look forward to the government’s response and I hope it very seriously treats these recommendations with the weight they deserve. In view of the fact that the reference was given to the committee by the Minister for Foreign Affairs, I look forward to the response from the government. Again, in conclusion, I congratulate the members of the committee; the secretariat of the committee, especially Mr Regan for his work as secretary; and the people who made the nearly 100 submissions to the committee during the inquiry. I commend the report not only to the parliament but also to the Australian public.

Question resolved in the affirmative.

Membership

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

Motion (by Senator Ellison)—by leave—agreed to:
That Senator Forshaw be appointed a participating member of the Legal and Constitutional Legislation and References Committees.

EDUCATION SERVICES FOR OVERSEAS STUDENTS BILL 2000

First Reading

Bill received from the House of Representatives.

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

Bill read a first time.

Second Reading

Senator ELLISON (Western Australia—Special Minister of State) (4.13 p.m.)—I table a revised explanatory memorandum relating to the bill. I 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—

The Education Services for Overseas Students (or ESOS) Bill 2000 is being introduced with four other bills:

- the ESOS (Consequential and Transitional) Bill 2000
- the ESOS (Assurance Fund Contributions) Bill 2000
- the ESOS (Registration Charges) Amendment Bill 2000, and also
- the Migration Legislation Amendment (Overseas Students) Bill 2000

We are introducing these bills to provide a more effective regulatory framework for the education and training export industry, which we know to be of great value to Australia. The new ESOS Act will protect and enhance the industry's integrity and quality, and will assist in reducing abuse of the student visa program.

The industry strengthens our relations with the region and with countries from which students come. It yields valuable revenue. It provides a cross-fertilisation of ideas and cultures, and the internationalisation of education enhances the quality of education for all students. It is enjoying a record year, with over 180,000 international students enrolled with Australian institutions: fifteen per cent up on 1999. It now earns Australia $3.7 billion a year in export dollars, comparable to wool or wheat. The continuing value of the industry depends on the service it provides to overseas students, and on public confidence in its integrity and quality, and will assist in reducing abuse of the student visa program.

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The main ESOS Bill will replace the Education Services for Overseas Students (Registration of Providers and Financial Regulation) Act 1991 (the old ESOS Act). That Act was introduced to ensure:

- that international students in Australia are treated with equity and fairness;
- that there is a positive basis for promoting Australia’s international reputation as a provider of reliable, high quality education and training; and
- that taxpayers’ funds are not required to recompense international students who have been let down by individual education and training providers.

The old ESOS Act pursued protection of Australia’s international reputation by establishing key national elements for the regulation of the industry. It has been amended and extended since its introduction, increasing industry responsibility and improving protections for students. However, as the industry has developed, new regulatory challenges have emerged, and it has become clear that a more effective framework is required. We are introducing the Education Services for Overseas Students Bill 2000, building on the strengths of the old ESOS Act, but also providing new and more effective measures relating to both quality and integrity.

This bill has been developed following a review of the old ESOS Act, and a process of consultation with industry, States and Territories and the Department of Immigration and Multicultural Affairs (DIMA). The review considered the problems facing the industry: the uncertain financial protections for students’ pre-paid course fees; the emergence of a small minority of unscrupulous providers; nationally inconsistent quality assurance; and the need to strengthen public confidence in the integrity of the student visa programme.

Some successful measures to increase monitoring of student visa compliance were undertaken during 1999. As a result, the cancellation rate for breaches of student visa conditions has grown significantly. It increased by nineteen per cent during 1998-99 and by thirty-six per cent for 1999-2000. The bills will help to ensure that students admitted to Australia to study do just that, and that those students receive the education to which they are entitled.

The new ESOS Act will:

- provide overseas students with stronger protection for pre-paid fees and continuing education if their provider collapses, through an industry-based Assurance Fund;
- establish a legally enforceable national code providing nationally consistent standards for the registration and conduct of providers, which will deliver improved and more reliable quality assurance across the States and Territories;
- create new obligations for providers to report student breaches of their visa conditions through the electronic Confirmation of Enrolment system;
- make it an offence to be a bogus provider—that is, to fail to provide genuine courses to students and in doing so intentionally or recklessly facilitate visa breaches;
- provide powers for my Department to investigate possible breaches of the Act and of the national code; and
- allow greater powers to impose suspension and cancellation action and other conditions on providers that breach the provisions of the Act or the national code.

**Assurance Fund**

The ESOS Bill 2000 requires providers to belong to an assurance fund, which will be established under the Education Services for Overseas Students (Assurance Fund Contributions) Bill 2000. The ESOS Assurance Fund will provide greater
security for overseas students’ pre-paid course fees. It will replace the old ESOS Act requirement on providers to deposit pre-paid fees into a Notified Trust Account. Those accounts were open to abuse. When an unscrupulous provider collapsed, we found that the Trust Account was empty; it had failed to achieve the objective of the Act to protect student fees. The Assurance Fund will avoid that difficulty because an independent Fund Manager will control it.

National Code

The ESOS Bill 2000 establishes a new National Code of Practice, which will provide legally enforceable and nationally consistent standards for the registration and conduct of registered providers. Providers will be obliged to comply with it; the States will use it when considering initial and ongoing registration of providers; and DETYA will be able to take action where providers are not complying with the code. Dr Kemp published an exposure draft of the Code developed in a process of consultation with States and industry, and the Code has been revised in line with stakeholders’ comments.

Electronic Confirmation of Enrolment (eCoE)

The ESOS Bill 2000 places reporting requirements on providers concerning their students, through a new, secure electronic confirmation of enrolment system. This system is being developed co-operatively between the DETYA and the DIMA. It will bear down on the fraudsters that have been found to be misusing the old paper-based system that was introduced in 1995. The electronic system will also provide evidence as a basis for monitoring compliance with the new Act, and allow the two Departments to co-operate in minimising the presence in the industry of providers lacking integrity, or who facilitate student breaches of their visa conditions, or collude with non-genuine students.

With that aim in view the new electronic confirmation of enrolment system will, once fully operational, enable more effective exchange of information between relevant Commonwealth and State Government agencies. This ESOS Bill 2000 also obliges providers to report students who are not meeting course requirements or not attending classes. Complementary measures in the Migration Legislation Amendment (Overseas Students) Bill will then trigger automatic cancellation of the student’s visa in certain circumstances.

DETYA investigations

Under the ESOS Bill 2000 the States will retain first-line responsibility for the oversight of the providers whom they approve. But the bill will provide new powers for DETYA to investigate breaches of the Act and Code where States fail to act in a timely or adequate manner. These powers will be used to ensure that only education and training providers of high quality and integrity are allowed to provide services to overseas students, by identifying those against whom action should be taken.

This will mean the Commonwealth taking a more pro-active role in the registration and regulation of the education export industry, and will involve increased costs. The ESOS (Registration Charges) Amendment Bill 2000 will increase industry contributions in order to offset some of the additional costs that the Commonwealth will incur under the reforms. The maximum increase in registration charge per provider is $2864 a year.

Sanctions

The ESOS Bill 2000 provides powers for the Minister for Education, Training and Youth Affairs to suspend or cancel the registration of providers, in cases of breaches of the Act, the code, or of conditions of the provider’s registration.

Minister for Immigration’s emergency power

In addition, this bill provides an emergency power for the Minister for Immigration and Multicultural Affairs to issue a certificate suspending visa grants to students enrolled with a provider of concern for a period of six months. Such an emergency power is necessary to enable the Government to act quickly to safeguard the reputation of Australia’s education export industry.

The circumstances in which this power would be used will be identified in detail with the international education industry, which strongly supports this measure. They will cover those circumstances where a significant number of non-complying overseas students are identified with a particular provider of concern.

The six months suspension will allow the relevant authorities to undertake investigations and give the provider time to get its house in order.

Continuing provisions

The more effective requirements of the old ESOS Act will be maintained in the new one, including the obligation for providers to be registered on CRICOS (the Commonwealth Register of Institutions and Courses for Overseas Students), to belong to a tuition assurance scheme, to refrain from misleading or deceptive recruitment of students and to refund student money in cases of default.

The ESOS Consequential and Transitional Bill ensures that the transitional conditions relating to the new ESOS Act are unambiguously stated, and that the requirements for education and training providers are clearly stipulated, including:
• notification requirements for the starting day of obligations for registered providers;

• carry-over requirements for accepted international students and registered providers as the new ESOS Act is introduced;

• National Code compliance conditions;

• amendments to the Migration Act 1958 to allow for the disclosure of information to relevant agencies and the making of necessary regulations under that Act. It is intended that where such regulations involve the disclosure of personal information, they would be drafted in consultation with the Attorney-General.

Review Arrangements

The bills are intended to address problems in the industry. The ESOS Bill 2000 commits the Minister to having an independent evaluation of the ESOS Act 2000 commenced within 3 years of Royal Assent. The review will be comprehensive, covering its effectiveness and efficiency and the ongoing needs of the industry for regulation.

Conclusion

The five bills provide a new approach to regulating this industry. They protect students by replacing the notified trust account with the requirement to belong to the Assurance Fund. They establish a national code for the registration and conduct of providers and enable the Commonwealth to investigate and impose sanctions on providers who breach the Act or the National Code. They strengthen the operation of the student visa programme by requiring the electronic confirmation of enrolments. The migration amendments will improve monitoring and compliance in the overseas student industry, and streamline the process for student visa cancellation.

The financial impact of the bill will be minimal.

I commend the bill to the Senate.

Debate (on motion by Senator Ludwig) adjourned.

Ordered that this bill and the Education Services for Overseas Students (Assurance Fund Contributions) Bill 2000 and three related bills may be taken together for their remaining stages.

NATIONAL HEALTH AMENDMENT (IMPROVED MONITORING OF ENTITLEMENTS TO PHARMACEUTICAL BENEFITS) BILL 2000

First Reading

Bills received from the House of Representatives.

Senator ELLISON (Western Australia—Special Minister of State) (4.14 p.m.)—I indicate to the Senate that those bills which have just been announced are being introduced together. After debate on the motion for the second reading has been adjourned, I will be moving a motion to have the bills listed separately on the Notice Paper. I move:

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

Question resolved in the affirmative.

Bills read a first time.

Second Reading

Senator ELLISON (Western Australia—Special Minister of State) (4.14 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—

NATIONAL HEALTH AMENDMENT (IMPROVED MONITORING OF ENTITLEMENTS TO PHARMACEUTICAL BENEFITS) BILL 2000

The National Health Amendment (Improved Monitoring of Entitlements to Pharmaceutical Benefits) Bill 2000 will require the inclusion of Medicare numbers on prescriptions for pharmaceutical benefits. This will help to ensure that only those persons entitled to pharmaceutical benefits under part VII of the National Health Act will receive them.

The Pharmaceutical Benefits Scheme (PBS) provides universal access to affordable medicines for all Australians. In any one year over 140 million PBS prescriptions are supplied to the Australian
community. Concessional patients pay $3.30 for PBS prescriptions, while general patients pay the first $20.60. In 2000 – 2001 the total cost of the PBS to taxpayers is estimated to be $3.8 billion.

This bill ensures that PBS medicines continue to be provided to those who are eligible, while strengthening our capacity to deny access to those who are ineligible.

It is estimated that approximately $20 million per annum is spent providing PBS medicines for patients who are in fact not eligible.

The new arrangements will be introduced in stages.

The first stage will commence with a communication campaign to ensure consumers are made aware of the new arrangements. Consumers will be encouraged to present their Medicare card as a normal part of having a prescription dispensed, and take their card to the pharmacy with their prescriptions.

From 1 January 2001, the pharmacist is required to ask all consumers for their Medicare number. There are no financial consequences, nor any disadvantage to consumers or pharmacists for non-compliance during this education phase.

The full impact of the changes does not come into effect until 1 July 2001 (or such later date as the Minister determines). After this date there will be no Government payment for prescriptions to the pharmacist unless the appropriate Medicare number is included with the claim, except in special circumstances. There are specific mechanisms designed to protect consumers and pharmacists from unreasonable legal and administrative requirements.

Special arrangements have been developed to ensure access for members of particular groups who are eligible for the PBS, but may not be able to provide Medicare numbers. For example, some consumers do not use a Medicare card to access services. These special numbers would also be used to provide subsidised medications in emergencies.

The bill allows the Minister to determine circumstances where the pharmacist will be paid for the legitimate supply of pharmaceuticals even though the Medicare number on the claim does not match the Medicare number in HIC records. This is to ensure that a pharmacist who, in good faith, complies in all respects with the legislation is not financially disadvantaged through a mismatching with HIC records.

These changes do not alter any of the existing arrangements within the PBS.

People will still be able to collect prescriptions on behalf of others and the bill will not change the current arrangements regarding the concessional status of a person.

Where a person does not have their Medicare card, has not previously supplied their Medicare number to the pharmacist and is not covered by any of the special provisions just described, the person would be able to pay full price for the prescription and claim reimbursement on providing proof of Medicare eligibility.

The bill gives a high priority to privacy protection as well as consumer access.

Implementation of the proposed arrangements will be founded on the well-established privacy principles under the National Health Act 1953. The National Health Amendment Bill not only maintains current levels of privacy. It extends protections under the National Health Act to cover all aspects of the use of the Medicare number, and other identifying data, for the purposes of pharmaceutical benefits entitlement monitoring.

The Privacy Commissioner has issued guidelines under section 135AA of the National Health Act that require data in medical claims information and pharmaceutical claims information to be kept separate. The Privacy Commissioner guidelines will apply to Medicare numbers stored with PBS claims data.

Further, Medicare numbers obtained under this bill can only be used for PBS purposes.

This bill ensure that PBS medicines continue to be provided to those who are eligible, while increasing our capacity to deny access to those who are not eligible. This bill preserves and strengthens the PBS, and the benefits it provides, for the Australian community.

FARM HOUSEHOLD SUPPORT AMENDMENT BILL 2000

‘Farm Help – Supporting Families Through Change’ is the Government’s key program for delivering income support to the farm sector. Farm Help is available to low income farm families who cannot borrow further against their assets and who wish to consider their future in the farm sector.

Farm Help is a proven, effective safety net for farm families if they fall into financial difficulties. The program helps farmers plan their future, on or off the farm. Since the scheme began in December 1997, nearly 4,600 farm families have received income support, nearly 4,700 professional advice sessions have been attended and
nearly 500 farm families have received re-establishment grants.

Assistance available through Farm Help is flexible and can be tailored to meet the needs of each farm family. The program elements include up to 12 months income support at the Newstart Allowance rate, professional advice to the value of $3,000 on a wide range of areas to suit individual needs (including financial, legal, business, career, or personal advice), and a re-establishment grant of up to $45,000 for those farmers who decide to leave farming.

The Government provided funding in the 2000-01 Budget to extend all elements of the Farm Help program to 30 November 2003 and for program enhancements. The program, formerly known as the Farm Family Restart Scheme (FFRS), has been renamed Farm Help to better reflect the intention of the program, which aims to provide support addressing the individual needs of farming families, whether they choose to remain on the farm or exit agriculture.

The enhancements to Farm Help include a retraining grant of $3,500, case management of Farm Help clients, and an increase in the net assets threshold for re-establishment grant recipients. The retraining grant will be available to those farmers, and their spouses, who receive a re-establishment grant. The $3,500 retraining grant will focus on skill development through accredited training, including vocational training, to assist farmers and their spouses in finding alternative careers to farming.

All Farm Help clients will be encouraged to participate in voluntary case management. This will involve the development of an activity plan which will help provide farmers with a plan of action that is much more closely aligned with their individual needs and circumstances. The development and follow-up of activity plans will be compulsory for non-viable farmers.

The net assets threshold for re-establishment grant recipients has been increased for receiving the maximum re-establishment grant from $90,000 to $100,000. This increases the total grant payable to those farmers with net assets of $100,000 from $38,333 to $45,000. The grant will be phased down by $2 for every $3 in assets above $100,000 and the grant will cease to be payable when assets exceed $167,500.

The Farm Household Support Amendment Bill 2000 includes amendments to reflect the extension of the Farm Help income support application deadline to 30 November 2003 from the current deadline of 30 November 2001, with payments being made until 30 November 2004. An amendment is also required for the provision for mandatory activity plans to be developed for those farmers who are assessed as non-viable. Amendments are also required for the renaming of the program to Farm Help. This will require the word “restart” to be replaced with ‘Farm Help’ in numerous sections of the FHS Act and consequential amendments will be required to the Bankruptcy Act 1966, the Health Insurance Act 1973, the Income Tax Assessment Act 1936, the Income Tax Assessment Act 1997, and the Social Security Act 1991.

The Farm Household Support Act 1992 Disallowable Instruments will require amendment to provide for the program name change, the retraining grants for re-establishment grant recipients and activity plan development for non-viable farmers. The development of activity plans for non-viable farmers and the issue of retraining grants for re-establishment grant recipients will commence upon Proclamation of the Farm Household Support Amendment Bill 2000.

The extension of the re-establishment grant application deadline to 30 November 2003 and the increase in the net assets threshold for the re-establishment grant have already been implemented through an amendment to the restart re-establishment grant disallowable instrument. The voluntary ‘case management’ of Farm Help clients will be phased in from 1 September 2000 through administrative procedures.

The proposed amendments to the FHS Act will continue to improve the Government’s support for farmers and their families and through them communities across rural and regional Australia.

Debate (on motion by Senator Ludwig) adjourned.

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

ASSENT TO LAWS

A message from His Excellency the Governor-General was reported informing the Senate that he had assented to the following laws:

Higher Education Funding Amendment Bill (No. 1) 2000
Telecommunications (Universal Service Levy) Amendment Bill 2000
Social Security and Veterans’ Entitlements Legislation Amendment (Private Trusts and Private Companies—Integrity of Means Testing) Bill 2000
ENVIRONMENT PROTECTION AND
BIODIVERSITY CONSERVATION
REGULATIONS 2000

Senator BOLKUS (South Australia) (4.16
p.m.)—I move:

That Part 3 of the Environment Protection and
Biodiversity Conservation Regulations 2000, as
contained in Statutory Rules 2000 No. 181 and
made under the Environment Protection and
Biodiversity Conservation Act 1999, be
disallowed.

Now is the right time to debate the govern-
ment’s environment credentials and the gov-
ernment’s environment activities. The envi-
ronment is an issue which I am sure will not
leave the public agenda. It is an issue which,
despite a degree of denial which is particu-
larly based in Canberra, is of increasing con-
cern to the Australian public as it is of in-
creasing concern to the public worldwide. In
this country, though we quite often have in-
sufficient addressing of environment issues,
time after time when one reads the newspoll
published in the *Australian* one sees that the
environment rates amongst the top four is-
suces of concern to the public. It is timely,
therefore, to look at this government’s ac-
tivities and this government’s legislation and
it is also the right time to address that legis-
lation and its inadequacies. It is timely be-
case this week and last week we have had
two international fora at which Australia’s
international credentials on the environment
were being addressed. The Conference of the
Parties at The Hague, which finished at the
weekend, was one forum in which Australia
participated and, I must admit, participated
very badly. At the moment in Cairns we have
another international forum, the World Heri-
tage Committee meeting to address the pro-
posed mine at Jabiluka in the Kakadu Na-
tional Park, another forum where Australia’s
credentials are being tested, addressed and
again found wanting.

At The Hague, what the world was crying
out for was for countries like Australia to be
involved in bridge building, to be involved in
the sorts of activities in which over the last
15 years or so—save the last five—this
country had developed an enormous interna-
tional reputation, one of being able to bridge
the gap between developing countries and
countries like America, one in which we ad-
dressed issues with creativity, with innova-
tiveness and with a degree of enthusiasm and
zeal. But we never got that at The Hague;
what we got at The Hague was basically a
government which was quite keen to see a
stalemate because a stalemate suited its
longer and shorter term political objectives—
that is, not to sign the Kyoto protocol. As a
consequence, we had a government which
not only took an extreme line in terms of the
agenda that it proposed to COP6 at The
Hague but, in the middle of the debate, in the
middle of a difficult process at a time when
bridge building was necessary, we had a
government who dropped in the nuclear op-
tion as a way to solve the world’s greenhouse
problems. The government knew that sort of
option would be provocative to the world
community, particularly Europe, but drop it
the government did, knowing it would make
it even more difficult to achieve the consen-
sus that was necessary. We had a government
which was not prepared to be involved in
bridge building, a government which showed
a degree of dereliction in terms of the issues
it raised, and a government which in a sense
was caught on the hop at The Hague be-
cause, as Senator Hill said, he went to The
Hague in the second week of discussions and
started to address the issues there. What this
government should have been doing was,
over the previous six months or so, engaging
not just with the US and Canada and Japan
but with a broad spectrum of countries to see
where bridges could be built in terms of
achieving an outcome. What was lacking at
The Hague, what was lacking before The
Hague, what is lacking in this government’s
legislation is any sense of creative national
leadership and creative international leader-
ship.

It is the same problem that we have with
the World Heritage Committee meeting in
Cairns at the moment to address the Kakadu
issue. The Kakadu National Park area has
been listed by the World Heritage Committee
as a matter of world heritage for two reasons,
cultural and environmental. Government has
been keen for the last few years to ensure a
new uranium mine be built in Kakadu. It has
spent millions of dollars to achieve an out-
come—an outcome which is contrary to the
cultural and environmental issues of the area. In doing so it has enlisted bureaucrats, public servants, in the foreign affairs department across the world to try and cajole, to try and undermine the processes of the World Heritage Committee. Instead of national leadership, international leadership, propping up the processes of the World Heritage Committee, we have had a government which has been engaged in undermining those processes—undermining them in recent days by, for instance, ensuring that the government insists on chairing the processes in Cairns when in previous times the convention has been for any government that has been the subject of an inquiry to stand aside from the chair and to let others take over to ensure no conflict of interest. Once again, where we needed national leadership we have a government prepared to undermine the world heritage conventions, its processes, its institutions, its mechanisms, its committees to achieve what is basically a grubby end and that is another uranium mine in Kakadu.

It is the same sort of dereliction of leadership that we see in those two issues that we find in the legislation before us today. The EPBC legislation will be remembered for two things: first of all, it was an abdication of national leadership which was embodied in the legislation; and, secondly, over a year after the legislation had been passed by the parliament, we have it hardly taking effect. We have a situation where bilaterals, which were supposed to have been entered into with all state governments, are not in effect. South Australia, for instance, in recent days, has announced that it would not sign up to a bilateral. Those bilaterals are very important in ensuring that the legislation has effect. So what we have is a legislative mess: inconsistency between the states in respect of bilaterals that kick off the state regimes; those bilaterals not being signed, not having effect; and now we have before us regulations from the government which also fail that very fundamental test of national leadership.

The EPBC legislation restricts the Commonwealth’s role in environmental assessment to six ‘matters of national environmental significance’, and then only to the extent that a proposal has a ‘significant impact on a matter of national significance’. In other words, the Commonwealth is prohibited under its own legislation from ever making a complete assessment of any proposal. It can only look at those aspects of a proposal which significantly affect one of the matters of national significance. It cannot look at, for instance, major roadworks or dams, even though the Commonwealth might be providing support in the form of tax break subsidies or direct funding. The act further allows the Commonwealth to delegate its assessment and decision making powers to the states and territories through bilateral agreements and management plans. We were concerned about this mechanism when the bill was before the parliament and we warned about the effect of it and how it would be used as an escape hatch for proper assessment processes. What we have before us today are the government’s plans to delegate such processes to the states in a very insufficient and inadequate way.

The regulations consist of 20 parts—regulations that were supposed to add rigour to the limited scope the Commonwealth has for involvement and which were expected and promised by the government to define best environmental practice. They fail to do this. The regulations were released during the parliamentary recess on 5 July and came into effect on 14 July when the act itself came into force. Although there are some minor issues with some parts of the regulations that are of concern to us, the major significant issues of concern are the regulations relating to assessment bilateral agreements. The Labor Party opposed bilateral agreements for approvals but were not opposed to the accreditation of state assessment processes. However, these regulations before us today do not deliver on the assurances of the government to the Senate that the states and territories would carry out assessment processes on behalf of the Commonwealth—according to what Senator Hill promised at the time, on 23 June 1999—to ‘best contemporary standards’. They do not do that and, for that reason, I am moving that we disallow those regulations.
regulations do not do this and they fail to ensure that assessments by states and territories of proposed actions are at least equivalent to those required of the Commonwealth under the EPBC legislation. Some 16 months after the legislation passed the parliament, what we have now is a patchwork of inconsistent state and territory implementation regimes engendering uncertainty for all stakeholders with any interest in our national environment laws.

In respect of part 3, we believe that these regulations should ensure standards for assessment which at least match the requirements that the Commonwealth is imposing on itself. However, the guidelines for assessment do not establish the essential features or benchmarks of state and territory assessment approaches. The regulations do not require state and territory environmental assessment processes to be in force under state or territory law. For instance, you expect that we would have had the force of law in terms of those processes, but what the regulations provide is for those regimes to be enforced under administrative guidelines as a prerequisite to accreditation. States and territories, therefore, need only establish a system of administrative guidelines rather than legislation or regulations in order to gain Commonwealth accreditation of an assessment process. Consequently, the states and territories will have the capacity to amend an assessment process by way of an administrative decision. There is no obligation on the states or territories to seek public comment on the guidelines for assessment before they come into effect.

What we have been asked to do here is to sign a blank cheque: guidelines as opposed to legislation. What is more, they are guidelines that can be changed at the drop of a hat by a state or territory government the minute that we approve them in this place. What could also happen is that the guidelines could be supplemented by public statements by the minister or by press statements, and they would also have to be taken into account in any court’s consideration of what the appropriate processes would be. This is just not good enough. For a minister who promised best practice, what we have here is basically a process by press statement or guideline, and that is in no way adequate. That is one of the major reasons that this afternoon we are moving a disallowance of part 3 of the bilateral agreements. The regulations do not ensure that state and territory assessment processes are controlled by government departments or bodies with a focus on planning and environment. For example, the draft Queensland bilateral agreement proposes to accredit procedures under the State Development and Public Works Organization Act 1971, which basically means that a state assessment process will be controlled by a department whose expertise and focus is primarily economic development rather than a department with objects similar to the objects of the EPBC legislation. Similarly, the regulations do not ensure that state and territory assessment bodies have the necessary level of expertise and resources to assess matters from a national perspective. We also feel that the regulations fail in that they do not allow for meaningful participation of indigenous people in state and territory assessment processes.

In essence, despite the promise of best practice in those processes, you do not have legislation to guarantee that. You have guidelines that may be altered and coloured by press statement and you have regulations providing for—in the case of at least one state—an inappropriate government body to make the assessment. So they are the major reasons for opposing the regulations in part 3. Senator Brown will also be moving some disallowance measures, and it probably would be an appropriate time for me to address those parts of the regulations at this particular stage and save the time of the Senate rather than speak later.

Part 2 relates to matters of national environmental significance. This defines ‘nuclear actions’, one of the matters defined as a matter of national environmental significance. It is in similar terms to the ARPANSA legislation, defining a nuclear installation by reference to a level of nuclear activity. I think Senator Brown’s concern is that waste can be diluted so that the activity level is below the regulated threshold, leading to a lower level of environmental assessment. Apparently, this device was used to avoid
proper public scrutiny on the issue of a licence to Maralinga under the ARPANSA legislation. Our concern is that it may be better to have this weaker level of provision than to have none at all. As a consequence, we are inclined at this stage not to support Senator Brown’s disallowance on part 2.

On preliminary information for assessment, subregulation 5.03(3) in effect provides that the information that must be included in the preliminary information to be provided to the minister does not have to be included if it would be unreasonable to expect the information to be so included. We have been thinking hard about this particular disallowance provision. I think at this stage it is fair to say that we are inclined to support Senator Brown on this one despite the fact that to disallow this schedule may leave us with no provision at all, but no provision at all is better than having the unreasonable test to be inserted by subregulation 5.03(3).

On division 5.2 and schedule 4, once again we are inclined to support Senator Brown, though by accepting disallowance there we do leave a nebulous situation. But what we leave is a situation under the act, rather than regulations which we feel water down the act. On regulation 10.01 and schedule 5, I cannot see us supporting Senator Brown.

I close off by saying one final thing. These disallowances are not moved lightly. The legislation is important legislation that does not just cover matters of interest to the environment movement but also governs matters of interest to the broader economy and broader industry groups. What we have under this legislation is what we always said was going to happen: a patchwork of inconsistent, inadequate provisions. What we have here is the capacity to try and determine an outcome, to try and get regulations in place that at least match the rhetoric of the minister’s promise to the Australian Democrats just a few months ago when they capitulated and supported the legislation in a guillotine process as part of a GST package.

What we have got today, though, is another matter of concern. I gather that the Australian Democrats, also with concerns about the legislation and the regulations, are now not prepared to support the disallowance motion because they have once again had some promise from the minister. I do not know whether that is right. I would like to be dissuaded by Senator Bartlett, but the information we have, advised as it is, is that the Australian Democrats once again are prepared to accept a promissory note from a minister whose last promissory note bounced. Where does this naivete end? If you are to go down this road, Senator Bartlett, how many times would you allow Senator Hill to keep on watering down national environmental legislation? How many times will the Democrat naivete allow them to accept a promise from the minister while the minister grandly goes off and has a frolic of his own in undermining that legislation? You were promised something last time and it was not delivered. You were promised something this time. I gather you have been promised a process which will mean that by next June the minister will come back with another set of regulations and to meet some of your concerns he will amend the regulations now before us. I say to you: don’t take this minister at his word, because he has not delivered in the past. Exert more pressure on the minister, and you exert that pressure by disallowing these regulations today. He then has to come back, after a fruitful negotiation process—and there was not one on this in respect to parties in this place—with some fair dinkum amendments and fair dinkum regulations.

Think also of what your process does to uncertainty in the broader community. Just because you have gone off and done a private deal with the minister, do you expect industry, for instance, to sit in anticipation of some secret arrangement, to second-guess the government in terms of what it might put up next and to second-guess you in terms of what you are extracting from the government? This is not a healthy democratic process that the Democrats are engaged in, and I suggest to them that they should take the opportunity now to disallow these regulations and tell the minister he has got to come back after a wholesale open process where we all have confidence in the regulations before us. Otherwise, what you are endorsing today is basically legislation by press state-
ment, assessment processes by press statement, and what you would be doing once again would be betraying an important part of the community and an important part of your claimed constituency which is concerned about the environment. I commend these disallowance motions to the Senate.

Senator BROWN (Tasmania) (4.34 p.m.)—Firstly, Mr Acting Deputy President, I seek leave from the Senate to withdraw my disallowance motion No. 6. I do that because it ought to have referred to a different regulation than the one stated there. I have made a mistake with that, and I therefore seek to withdraw it.

Leave granted.

Senator BROWN—I thank the Senate for that. I move business of the Senate notices of motion Nos 2 to 4 and 7:


I want to say here—I will be very brief—that what we have got is very weak regulations subsidiary to an act which very severely narrowed the issues that the Commonwealth could look at when it came to environmental assessments. We had that debate in June of last year when the Democrats supported the government in bringing through the Environment Protection and Diversity Conservation Act, which I strongly argued was weaker than its predecessor. It certainly narrowed the responsibilities of the Commonwealth to a list of six specific items: world heritage wetlands which are listed under the Ramsar agreement, threatened species, migratory species, marine environments. Those are the things that the Commonwealth could deal with under this legislation; everything else is excluded.

We are now in the situation where in dealing with those six items very weak regulations have been brought forward. Listening to Senator Bolkus, Labor is obviously in the same position. At what point do you say, ‘If you are going to bring in weak regulations like this, we are not going to support them’? It is not that they do five per cent of the job and you do not want that five per cent of the job done; it is that they have failed to do the other 95 per cent. They are not tight, they are not specific, they do not have teeth in them and they are not going to protect the environment. This legislation is about giving powers back to the states to protect the environment after the invidious record of the states over the last century and where there is no direction to the states which is going to maintain the standards that both the Democrats and the government said would come through in regulatory fashion when they backed, and guillotined debate on, the act itself in June of last year. I am not going to be part of that process. I am not going to support amendments which fail the promise even of the Democrats and the government in the debate last year, when they supported this legislation, that this was going to be the means by which the legislation would be given teeth. Wait and see, they said. We have waited and now we have seen, and this is totally unsatisfactory.

My disallowance motion No. 2 deals with division 5.2 of the regulations and schedule 4; that is, matters to be addressed by draft public environmental reports and environmental impact statements. Let me go straight to the matter here. The strength of the original environment legislation that preceded this act was that governments, when looking at doing an environmental assessment, were required to come up with practical and feasible alternatives; you had to say what else
could be done to avoid environmentally damaging projects. This simply says you have to describe alternatives. Here is a regulation saying that you do not have to come up with feasible and prudent alternatives: you do not have to consider those and see whether they are the best options; all you have to do is describe some alternatives. It is effectively a waste of time and it certainly guts a key provision in the stronger original legislation. Let me give you a history of this. That legislation, the environment impact of proposals legislation, came out of the flooding of Lake Pedder in 1972 by the destructive Reece Labor government in Tasmania. There was a federal parliamentary inquiry into that, under the then Whitlam government, and environment minister—

The ACTING DEPUTY PRESIDENT (Senator George Campbell)—Senator Brown, give them the proper title.

Senator BROWN—Which is what?

The ACTING DEPUTY PRESIDENT—Mr Whitlam.

Senator BROWN—The then Mr Whitlam government, if you like, Mr Acting Deputy President. That does not seem syntactically correct to me, but there you go. There was an inquiry under the then Mr Whitlam government and the environment minister of the time, Minister Cass. What was found there was that there were prudent alternatives to flooding Lake Pedder, that there were engineering alternatives which would have saved that national park and that absolute gem of world heritage, but they were not taken. They were turned down by the clods in the Reece Labor government and indeed the Liberals in Tasmania at the time and there were not teeth at federal level to do anything about that. So, when the federal legislation came along, this pioneering legislation, it was built into the legislation that in future you must, where federal government environmental impact assessments are concerned, look at feasible and prudent alternatives, assess them and, if necessary, act on them. They would have saved Lake Pedder but that would not happen here under this legislation because there is no need to really assess them, to analyse them and to see how prudent and feasible they are; all you have to do is describe them, put them on the shelf and that is the end of it. That is why I oppose that particular part of the regulations.

The third disallowance motion relates to regulation 10.01 and schedule 5, to do with world heritage management principles. This regulation reinforces the values approach to the management of world heritage, not the protection of the property as such but protection of world heritage values. For example, this was the let-out clause for the Franklin Dam: it was not going to damage the world heritage values of western Tasmania’s wilderness, it was argued, so it could go ahead. There are those that argue that the Jabiluka uranium mine is not going to damage the values of the Kakadu world heritage area, so let it go ahead. We should have instead a complete prohibition on anything that damages the property as such—it’s integrity, its landscape and its intactness. So disallowance motion No. 3 is for that reason.

Disallowance motion No. 4 seeks to disallow part 2, which is dealing with matters of national environmental significance and the part relating to nuclear actions. Already, Senator Bolkus has said he will not support this because it is better to have this, which may offer some protection in matters nuclear, and that a weak provision is better than none at all. I am not going to cavil with him on that; I just disagree. I think we should be forcing the government to come back with strong measures, and that is all there is to it.

As far as disallowance motion No. 5 is concerned, I agree with the ALP. Senator Bolkus has put the matter quite clearly there. The regulations here are so general as to be laughable. They have no definition, they have no teeth, they have no clear indication as to what the states should be doing, they give no clear control from the Commonwealth and they should be disallowed. It is an affront to the Senate that environment minister Robert Hill, who is not even here for this important matter, is putting forward such ridiculously general regulations when we need regulations which have real teeth in them.

As far as disallowance motion No. 7 is concerned, we have the problem where information is required in part 1 of schedule 3
and this includes alternatives to the proposed action—that alternatives to whatever it is that is going to affect the environment should be looked at. But then section 5.03 at subsection (3) says you do not have to include it if it would be unreasonable to do so; you do not have to provide that information if it would be unreasonable to do so. What a farce! I would ask those who drafted this particular subclause to have a look at it again to see if the average reader can make sense of it. It goes on, in subsection (3), to say:

However, information—

including information mentioned above in item 8 of part 1 of schedule 3—

does not have to be included if it would, in all the circumstances, be unreasonable to expect the information to be included.

So the information is there, but don’t include it if it is unreasonable to put it in there. What a farcical situation! I ask you to listen to clause 5.03, Mr Acting Deputy President:

What preliminary information must be given

(1) The information that must be given to the Minister is the information mentioned in:

(a) for information that must be given because of the operation of section 162 of the Act—Part 2 of Schedule 3 ...

Maybe the minister or his surrogate could get up and explain that—I would be very pleased. In fact, I will make the request through you, Mr Acting Deputy President, that the government explain what part 5, subdivision 5.03, subclause 1 means. Whatever it means, it is ridiculous to say that the information is there but that you do not have to put it up if it is unreasonable—in the minister’s opinion, presumably—to do so, whatever ‘unreasonable’ means. It is a farcical clause and it should be taken away and replaced by something that is clear, that is unambiguous and that has teeth.

A year down the line it is clear that this legislation is failing to do the job promised by the government and the Democrats. It is quite remarkable—I am sure Senator Bolkus will not mind all that much my saying this—that Labor is taking a stronger line on this than the Democrats. The Democrats ought to have been ensuring that these regulations had teeth. This legislation is their responsibility. I am mindful of the fact that under this legislation we are seeing the great forests of Tasmania being destroyed every day without any comeback. Look at pages 40 to 50 and you will find provision for that. The regional forest agreements remove the forests from even those matters that can be considered by the Commonwealth under this legislation. That is appalling, and it is thanks to the government and their allies on this legislation—the Democrats.

When these regulations came forward, I had thought that we would see this bill moving from being such an apparent failure to something that could be treated with some respect. Instead of that, we have regulations which remove whatever respect you might have expected from the act. It is an appalling set of regulations. The regulations make the act a failure, whereas we were told that they would remove doubt about the act and make it a success. They have to be taken away. The Democrats should give the government some lead. I would be interested to hear from the Democrat spokesperson about the regulations as they would like to see them, the regulations that are going to bring out the promise that they told us this legislation had in June last year. I would be very happy to consider them. While it is governments that put forward regulations, I suggest to the Democrats that they go around to Senator Hill and read him the riot act. Otherwise, the electorate is going to read the same act to them.

Senator EGGLESTON (Western Australia) (4.48 p.m.)—First of all, Senator Brown referred to the fact that Senator Hill, the Minister for the Environment and Heritage, is not here. Unfortunately, he has had to go to Cairns. As I am the chair of the Senate environment legislation committee, which did the hearings on the Environment Protection and Biodiversity Conservation Bill 1999, he asked me to represent him here. So that is why I am here.
Senator Bolkus—Because they couldn’t find a minister!

Senator Ellison—He’s the chair of the committee and a very good representative.

Senator EGGLESTON—I am the chair of the Senate environment legislation committee—I repeat—and I was the chair at the time of the hearings on this bill. Therefore, I have a fairly good understanding of the issues that were involved in the bill. When he opened, Senator Bolkus talked about the environment being a high priority issue in the view of the Australian people, and I could not agree more. It is a very high priority issue. It is an issue which all Australians regard as important. It is in recognition of that that the Commonwealth has been working for some years to create the Environment Protection and Biodiversity Conservation Act and its regulations—legislation which, for the first time since the Federation was created, will give the Commonwealth a role in environmental matters which previously have lain wholly within the jurisdiction of the state governments. As both Senator Bolkus and Senator Brown are well aware, they are matters of national environmental significance which extend beyond state boundaries and in which the Commonwealth has a legitimate interest in being involved.

As I said, the legislation is the result of years of cooperative work with the state governments. It was begun not by this government but by the previous government, the Keating government. Both the Keating government and the Howard government have had it as a goal to work towards the establishment of a Commonwealth role in environmental matters. The Environment Protection and Biodiversity Conservation Act defines the Commonwealth’s role by reference to certain matters of national environmental significance. At present, as Senator Brown has said, there are six of those, but they can be extended by regulation if required. Those six matters of national environmental significance are fairly comprehensive. This law ensures that there will be a seamless integration of Commonwealth and state laws through a transparent mechanism for Commonwealth accreditation of state processes.

Senator Bolkus made the comment that the accreditation of state processes amounted to an abdication of national leadership by the Howard government on issues to do with the environment. I found that an interesting comment because during the hearings which we conducted the Greens and the environmentalists accused the Commonwealth of abdicating power to the states and said that it was a sell-out to the states, whereas the Business Council of Australia and the mining industry all described the environment and biodiversity bill as a grab for power by the Commonwealth. However, the important thing is that, even though that great diversity of opinion exists, the Commonwealth now has a role in matters to do with the environment, and more particularly those matters of national environmental significance.

The point needs to be made that the Commonwealth’s role is properly limited, as it should be, because Australia is a federation. Perhaps Senator Bolkus forgets that point. By contrast, the government does respect the rights of the states, territories and local government to operate without undue interference from the Commonwealth. That is why we made the role of the Commonwealth government in this matter of the environment and biodiversity a fairly limited one—a very circumscribed and specific role. We did that because we believe that the proper role of the Commonwealth should be to work in association with the states and territories, not to override them.

The act, in concert with the regulations, will promote ecologically sustainable development, it will conserve biodiversity, it will ensure that the Commonwealth is equipped to deal with current and emerging environmental issues in accordance with contemporary approaches to environmental management, and it will enable the Commonwealth to join with the states and territories in providing a truly national scheme of environmental protection and biodiversity conservation. The act and the regulations provide the community with certainty as to the Commonwealth’s role and establish an efficient and timely environmental assessment and approval process. The act and the regulations provide the framework for an effective na-
tional approach to environmental management, ensuring that resources are focused on delivering better environmental outcomes at all levels of government.

The Commonwealth’s role in this national approach is for the first time ever clearly and logically defined. It provides for Commonwealth leadership on the environment, while also recognising and respecting the responsibility of the states for delivering on-ground natural resource management. The act establishes best practice benchmarks for accreditation of environmental assessment processes and focuses Commonwealth interest on matters of national environmental significance, establishing an integrated regime for biodiversity conservation and the management of important protected areas.

Senator Bolkus has been quite critical of this act, but let us have a look at what was said in some of the press about the act. An editorial in the *Australian Financial Review* on 25 June 1999 said:

... the existing system had become unworkable under the weight of growing community concern about environmental issues and the ad hoc expansion of federal legal power in recent years into what had traditionally been an area of State government administration.

Senator Bolkus also said that the indigenous people of Australia were not involved in this act. In fact, they were consulted widely about the implications of the act. Gatjil Djerrkura, Chairman of ATSIC, said on 22 June 1999 that Senator Hill, Senator Lees and Senator Allison:

... have clearly listened and taken on board key indigenous concerns about the proposed Bill in a series of meetings with Aboriginal and Torres Strait Islander groups, including ATSIC.

The World Wide Fund for Nature said on 22 June 1999:

For WWF, this agreement is the successful culmination of a decade of working for better legislation to protect threatened species and ecological communities, and four years of advocacy for better national environment legislation. [The new laws] will leave Australia with significantly stronger environmental protection.

They are very important points to note. Dealing with some of the specifics in these disallowance motions, Senator Bolkus and Senator Brown have both moved for the disallowance of the regulations regarding the content of bilateral agreements. The bilateral agreements are a cornerstone of this legislation. They are bilateral agreements with the states under which the federal government, if you like, licenses the states to carry out environmental assessments on its behalf. At the end of that process, the federal minister has the right to accept or reject the findings. If the motions regarding bilateral agreements are disallowed, this can only result in a lower standard of environmental protection and will mean that this act will, in effect, be very difficult to work. The regulations establish best practice benchmarks. State assessment processes must satisfy these benchmarks before they can be met. The important thing about the benchmarks in the bilateral agreement regulations is that it is the intent of the proposals put up by the states that is important, rather than anything else. It is very important that the intent be there for the Commonwealth to approve these state processes.

If these regulations are disallowed, there will be no minimum standards against which state processes can be evaluated. Disallowance would therefore reduce the level of environmental protection in Australia. It is a very surprising goal that Senator Bolkus and Senator Brown seem to be seeking to achieve by moving for the disallowance of these regulations. The intention of the bilateral agreements is to eliminate duplication between the Commonwealth and states in the environmental assessment process. This will expedite environmental assessment and mean that there are no undue delays.

More than anything else, the bilateral agreements and the regulations which govern them mean that proponents will be able to proceed with a project in the certain knowledge that a single assessment process run by the state will satisfy the requirements of both the state and Commonwealth governments. That is a very important point. As I said, this will reduce delays in environmental assessment, which has been a bone of contention between developers, pastoralists, miners and many other groups when environmental impact assessments have occurred.
The benchmarks in the regulations will ensure that, under a bilateral agreement, a comprehensive assessment will be applied to all projects, all matters of national environmental significance will be adequately addressed, all assessment documentation will be publicly available—in other words, the process will be very transparent—and there will be adequate opportunity for the public to comment on the assessment documentation, including special arrangements for groups with particular community needs. The public’s views on any environmental issue will have to be taken into account in the process of assessment and will be approved, or not approved, in the end by the federal minister. The benchmarks recognise that outcomes can be achieved differently in different states but those different processes may be equally effective. As I said, from the Commonwealth’s point of view, the intent of the state process rather than the detail of it is the important thing. These benchmarks will help lift the standard of environmental assessment across Australia. For the first time, a common set of high-level standards will apply in all jurisdictions.

Senator Bolkus wants a more prescriptive regime which will now allow for flexibility between the states. He wants to have a hard-line set of standards, which he would see the Commonwealth imposing on the states, to be considered in the assessment of all projects. That is not a very sensitive way to go. It means that the states would have to comply fully with a federal set of guidelines which may not suit their different needs. Senator Bolkus should bear it in mind that, under these regulations, the federal government will be the body approving the general state guidelines. If the guidelines which any state seeks to introduce do not meet the standards set by the federal environment minister, the bilateral agreement will no longer apply. Senator Bolkus also made the point that no bilateral agreements have been signed yet. The reality is that the conclusion of bilateral agreements is very close with several states. The draft agreements are well advanced. I think we can look forward to seeing bilateral agreements signed in the near future. In general terms, I think the federal government’s approach of having the flexibility to allow for differences in approach by the states is very important. It will provide for the best outcome for Australia.

Senator Brown has sought to disallow division 5.2 and schedule 4 which are guidelines for public environmental reports and environmental impact statements. If all of Senator Brown’s motions for disallowance were allowed, it would be very difficult to make this act work. The disallowance of the regulations which he proposes would only create confusion and difficulty and mean that it would be very hard to see any assessments being approved. It would lead to unnecessary delays, confusion and uncertainty. That perhaps is what Senator Brown’s political objective is today: to ensure that it is made impossible for this act to work, to ensure that there are delays, to ensure that there is confusion and to ensure that there is uncertainty. We on this side, however, want to see these regulations passed because they will provide an ordered mechanism for the assessment of environmental matters.

If Senator Brown’s first motion is allowed, it will mean the standard of environmental assessment procedures under the act will be diminished and proponents will not know in advance what information they may have to provide and what aspects of their proposals will be assessed. Disallowance will mean a lowering of the standard for environmental protection and additional uncertainty for industry. On those grounds, I hope that the Senate will reject Senator Brown’s first disallowance motion.

Senator Brown’s second motion concerns world heritage management principles. These regulations set out principles for the management of Australian world heritage properties. Disallowance of this regulation is counterproductive to the continuing protection of world heritage properties. Without these regulations, the framework for the management of world heritage properties will be significantly weakened and will result in uncertainty for both managers and users of these areas. The government’s position is that these principles are crucial in guiding the preparation of management plans for the protection and sensible use of world heritage properties.
Senator Brown’s third motion deals with nuclear actions and nuclear installations. Disallowance of this regulation, again, is counterproductive. The regulations in part 2 set the level of nuclear activity for which an action requires approval under the act. Without this regulation no activity level is specified, so nuclear actions will not trigger the act. Removal of the regulations will mean effectively that we cannot capture any nuclear activities as a trigger for the act. That will not be a useful outcome.

Motion 5 is about the basic provision of information, and it will enable the minister to decide whether or not the EPBC Act applies. The process of assessment follows from this basic application. Again, Senator Brown seems to want to make this act unworkable. Senator Hill has written a letter to the Democrats. I seek leave to table that letter, which sets out several proposed amendments

Leave granted.

Senator EGGLESTON—As I said at the beginning, this act and these regulations are very vital to the workings of the environment and biodiversity act. If they are disallowed, the environment and biodiversity act—

Senator Lundy—Mr Acting Deputy President, I rise on a point of order about the leave granted for the tabling of that document. I want to check that, consistent with protocols, the government has shown the opposition that letter.

The ACTING DEPUTY PRESIDENT (Senator Lightfoot)—I think it is too late. The permission was given for Senator Eggleston to table the document as there was no objection.

Senator Brown—Just to clarify that, you are right, Mr Acting Deputy President. Senator Lundy, I have asked for an immediate copy to come to me and I hope that one will come to you too. It ought to have been shown first up. Let us hope we get a copy very shortly.

The ACTING DEPUTY PRESIDENT—A copy will be distributed very shortly.

Senator EGGLESTON—I apologise for the fact that protocol was not followed in that matter. There was no mal-intent. It is very important that these regulations are passed. Unless they are, this act will become unworkable. With reference to Senator Brown’s clarification of regulation 5.03, as I read it, it is very clear and straightforward. It says:

(a) for information that must be given because of the operation of section 162 of the Act—Part 2 of Schedule; and

(b) in any other case—Part 1 of Schedule 3.

It is fairly clear that that is where those bits of information are to be found, so I really do not think there is a problem with that particular section. In conclusion, I urge senators not to support these disallowance motions. This act is very vital. (Time expired)

Senator BARTLETT (Queensland) (5.10 p.m.)—On behalf of the Australian Democrats, I rise to speak on the range of disallowance motions. At the outset, these particular sets of regulations have caused the Democrats significant concerns. As did other senators, I am sure, we received a lot of feedback from environmental organisations about the inadequacies within the regulations when they were first tabled. It does present to all of us as legislators a difficult dilemma in lots of ways because, despite what Senator Bolkus said in his contribution, we are not faced with a situation where we can disallow these and force the government to deliver a new set. We are faced with a situation where, if we disallow these, the government is not obliged to come back with anything at all, and that would leave a vacuum.

The issue then is whether to try to use a mechanism such as a disallowance motion to force further improvements, or to take an approach of throwing them out and trying to pressure the government, through other means, to generate improvements. Either way, we are forced into a situation of negotiating with or pressuring the government. Unfortunately, we are not in a position to amend regulations, and we are also not in the position to put forward our own proposals. As Senator Brown said earlier in his contribution, he would love to see the Democrats’ versions of what we would like. I would like to have the opportunity to do that myself. Were the Democrats in government, the environmental area would be one of the highest things on our agenda, but unfortunately we
are not in government—we are in the Senate as legislators—and we have to consider proposals that are put forward.

It is appropriate to highlight the flaws in the regulations. The views expressed by Senator Bolkus when speaking to his disallowance motion of part 3 of the regulations were quite appropriate. His criticisms were quite appropriate, and the criticisms more broadly of the federal government’s performance in some areas of the environment were also completely appropriate. As the primary environmental party in this country, the Democrats spend a lot of time highlighting the flaws and the failings of this government in the environmental area and the need for them to do better. We will certainly continue to do that.

The other aspect of our role in the parliament and in the Senate is to do more where possible than to point out the flaws in others: we will look at where we can generate improvement in legislation and regulations. That is the approach that the Democrats take in this area. We have had input from a number of environment groups, including the Australian Conservation Foundation, the international World Wide Fund for Nature, and the Environmental Defenders’ Office. They have provided very useful assessments of these regulations and were all unanimous in rejecting them as inadequate, which is a view I share. The approach therefore, having decided they are inadequate, is to look at the outcome if they were disallowed. Would we be guaranteed a better outcome down the track?

Senator Bolkus made comments about the naivety of the Democrats in relying on the government’s word in relation to this, and I note the tabling, by the government’s spokesperson, of commitments from the minister to further improve these regulations. I believe that the ministerial commitment that has been made to the Senate is a recognition that the regulations as they stand are inadequate and need significant improvement. An important part of the aim of the Environment Protection and Biodiversity Conservation Act is to use that to push the states to improve their performance and the adequacy of their environmental assessments. That is what these regulations and the act are intended to achieve. It is quite clear that, as they stand, they do not ensure it—they do not prevent it, but they do not ensure it—and we need to ensure as much as possible that that action happens.

If we are looking at the performance of state governments and the statements by Senator Bolkus about the supposed concerns of the ALP about this, let us not forget which party is in power in four states in Australia at the moment, with quite a strong possibility of being power in the other two states within the next 12 months. If the ALP are as serious as they say they are about the need to ensure that state environmental assessment comes up to scratch, let’s get a commitment from Senator Bolkus. Let’s get a commitment from Mr Beazley. Let him show us some of that ticker that he keeps assuring us he has got, that backbone he keeps assuring us that he has got, and the leadership that he keeps assuring us that he shows. Let him show some leadership and force the state Labor governments to bring things up to the standard that they say states should apply. It is simply not good enough to criticise the federal government for being inadequate whilst doing nothing to ensure that your own party, which holds power in so many states, is performing up to scratch. If there is any genuineness in the concerns expressed by the ALP, let us see some attempt to force the state Labor governments to perform better.

Some of the concerns that have been raised, and there are probably a few particularly significant ones which the Democrats share in relation to the regulations as they stand, are about the adequacy or otherwise of the regulations to ensure higher standards—standards now comparable with those required by the Commonwealth government of its own processes for environmental impacts to be better assessed by state governments under bilateral agreements. In trying to get a better outcome, I was keen to ensure that there would be amendments made to strengthen that requirement. Concerns were also expressed about the adequacy of protection of flora and fauna on Commonwealth lands and borders. Again, the new EPBC Act provides an opportunity for significantly ex-
panding Commonwealth powers. I think it is worth emphasising that time and time again.

One of the positives in the ALP’s position on this—which hopefully will flow through if they find themselves in government also at federal level in the next 12 months—is that they will follow through on this new-found concern and use the potential that exists in the act. Now that the act has come into force, the environment groups—which work so hard and so commendably throughout the country trying to ensure the protection of our ecosystems and our ecology—are seeing the potential of the act to prevent inappropriate developments.

As an aside, I note the recent decision made through the state Labor government in Queensland on an issue that had been referred for assessment under the federal act as well—that is, in relation to the Naturelink cableway proposal on the Gold Coast hinterland in my home state of Queensland, a proposal that clearly had the potential to negatively impact on the world heritage values of that area. There are lots of problems with it; but among other things it is a clear threat to world heritage values. That proposal has been stopped, and I think the extra pressure of Commonwealth power for intervention played a significant part in that. Having criticised the Queensland state government many times about their inadequacies in the environment, I should take this opportunity to congratulate them on their decision in that regard. More importantly, I congratulate the many people who did wonderful work at the community level to highlight the flaws and dangers of that particular proposal.

Coming back to some of the other specific concerns with these regulations, another area of concern to the Democrats relates to the involvement of indigenous people in the assessment process. One of the other advances in the EPBC Act is the provision that the minister may enter into a bilateral agreement only if he or she has considered the role of indigenous peoples in promoting the conservation and ecologically sustainable use of natural resources in the context of the proposed agreement, taking into account Australia’s relevant obligations under the Biodiversity Convention.

The objects of the act also require recognition of the role of indigenous people in the conservation and ecologically sustainable use of Australia’s biodiversity and promotion of the use of indigenous people’s knowledge of biodiversity with the involvement of, and in cooperation with, the owners of the knowledge. Those are very significant advances that are contained in the new act and in its objects. The concern that the Democrats had in relation to these regulations is that they do not ensure that section 49A of the act and the objectives will be implemented in practice in bilateral agreements. Again, it is about trying to ensure, as much as possible, that government action meets the objects and content of the act without requiring people to perpetually force the government through the courts to live up to their own legal obligations.

One of the things that the Democrats are pleased about in terms of the commitment from the government, which has just been highlighted, is that the indigenous advisory committee will now be required to review the first 12 months operation of the assessment and bilateral agreements and to provide advice about any additional measures that could be taken to further promote the achievement of the objects of the act. That is a significant commitment and, if you are looking at issues such as that, none of us are in a position to do anything other than get commitments from the government and then do everything possible to hold them to it. But it will provide a mechanism for overseeing whether or not the operation of these regulations does meet the objects of the act. If it does not, it provides an opportunity to improve the situation in relation to that area. So it puts in place that particular area of activity.

The commitment to the time line of 30 June next year to review part 9 of the regulations—which is actually not subject to a disallowance motion—is an extra commitment the government has given in relation to the conservation of biodiversity in Commonwealth areas. This is another area where the act provides the potential for significant expansion in Commonwealth oversight and protection of the environment. That will also be reviewed to ensure that it comes up to scratch.
Certainly from my point of view—and I think from the Democrats’ point of view overall—the performance of the government in adequately meeting its commitments since the act was passed, and even the level of seriousness in attention that seems to be paid to this matter by the minister, give enormous cause for concern. As I have said a number of times, in the role of parliamentarian or legislator, all one can do is pass laws that provide the best opportunity for protection. You cannot force the government to act on those laws. That is where other political pressure—pressure through speaking in this place and through working with community organisations—comes into play in forcing the government to meet its commitments. Whether it is a commitment to the chamber or a commitment given via the acceptance of legislation, they are all commitments that the government must be forced to meet. In that sense I think it is important to note the important role that groups such as ACF, WWF and HSI continue to play in highlighting the need for better performance in this area.

It is worth emphasising that, from the contact I continue to have with a huge range of environmental organisations, there is no opposition to the potential adoption of assessment bilaterals between state and federal governments. That is something which is recognised as appropriate. The issue, of course, is the adequacy of the assessment regime. That is where the concerns that have quite properly been expressed by Senator Bolkus, Senator Brown and a range of environmental organisations come into play. The extra aspects that will be put in place with the government’s commitment to further amend these regulations will go a long way—not all the way, but a long way—towards meeting the concerns that have been expressed. Much higher standards will be set for environmental impacts to be better assessed by state governments. The government says that this would happen anyway, and maybe it would happen. But, clearly, we have to try to use whatever mechanisms are available to us to ensure, as much as is humanly and legislatively possible, that it will happen anyway.

The government’s commitment is still not 100 per cent ideal in terms of ensuring that the states are forced up to the Commonwealth’s standard, but it is a significant step forward. The crucial point with respect to the situation that the Senate finds itself in is that that commitment could not be guaranteed if these parts of the regulations were thrown out in total, and we would again be in a position of having to pressure the government to come up with something better, or indeed to come up with anything at all. The government is not required to have regulations. The regulations are there to build on the commitments given and the content within the act. As Senator Eggleston said in relation to a couple of things—and indeed Senator Bolkus also said it in terms of his views on a number of the disallowance motions that we are considering today—what you would be left with would be a vacuum which may or may not be filled with something better. I accept the argument and the view that a possible pathway would be to ratchet up the political pressure. I think Senator Bolkus was basically saying that, if these parts of the regulations were thrown out, the pressure on the government would be increased markedly and it would be forced back to the drawing board and would be forced, shamed and humiliated into coming up with something better—and possibly it would.

The Democrats have sought—and have indeed managed—to pressure the government via this disallowance motion. I think it is a good approach to move disallowance motions and force the spotlight on this issue through the legislative process in as much as is able to be done via the slightly less ideal process of considering regulations as opposed to primary legislation. That is the bottom line from the Democrats’ point of view. As I said at the outset, we can and do criticise, complain and highlight the flaws of the government’s actions repeatedly. But we also have to look at what the best approach would be to get the best legislative outcome that is achievable in the circumstances. If the Democrats were in government, with our priority for environmental issues I have no doubt that we would produce better legislative outcomes. But at this stage we are not in government, and we are in a position where
we have to consider what the best legislative outcome is that we can get as part of this. It is of significant concern to the Democrats that the regulations the government initially produced were inadequate in ensuring that the government’s commitments were met. The commitment that the government has now given to make further amendments to the regulations goes a significant step forward in ensuring that better outcome. It is a situation where one has to assess whether this is better than nothing. Clearly, it is better than nothing—and nothing is what we would be left with if these disallowance motions were to go through.

This new act was passed over 12 months ago but has been in force only since July. It is important to note that, in the first four months of the operation of the act, we have already had significant advances with respect to greater scrutiny of projects, including referrals and consideration of things such as cotton expansion, extra Ramsar wetlands, aquaculture facilities, the cableway, vegetation clearance for residential development—all of these areas that would never have come into the purview of the Commonwealth government before. As we are in the process of continuing to implement and operate the act, and environmental organisations are seeing more and more the opportunities it presents, I think it is important not to halt that process. That is another significant consideration that needs to be weighed up in deciding this issue. In conclusion, while the Democrats agree with the criticisms of the regulations, we believe that the commitments the government has given will provide a significant advance. (Time expired)

Senator BROWN (Tasmania) (5.30 p.m.)—What an extraordinary contribution that was. Here we have the Democrats, who are totally responsible for this inadequate legislation, which sold out the environment in Australia, now saying that they have been sold out by the government in turn because these regulations are inadequate, because the performance of the government is appalling, and ‘What can we do about it?’—wringing their hands. The naivety is breathtaking.

The Democrats should never have allowed this legislation to come forward without knowing what the regulations were and without being absolutely sure that the regulations had teeth in them. The regulations have been almost 18 months in coming, they have been five months in coming after the act was in force, and the Democrats are now saying, ‘What can we do about it? We have been duded.’ It is much more important for us to understand that it is the environment of Australia that is being duded. The Democrats bear total responsibility for that because without them this legislation and these inadequate regulations would not be in play and we would have the Environment Protection (Impact of Proposals) Act—the one that preceded this one—which at least forced governments in unsavoury environmental project assessments to come forward with prudent and feasible alternatives.

The Democrats should have said, in dealing with Senator Hill and Mr Howard last year, ‘We want to see the whole suite of empowerments that this legislation gives the Commonwealth to defend the national environment.’ But they did not do that. Worse than that, they came in here and guillotined this legislation through and cut off a whole stack of improvements to the legislation from the Greens and the Labor Party at the time. They guillotined them without debate. And
now the opportunity for doing something about improving that act has gone, because the Senate cannot amend it. It has to rely on the House of Representatives, where the government has the majority and, therefore, the veto.

The whole nation is left without environmental laws with teeth because of the Democrats. The hand wringing is remarkable. What an extraordinary inability to understand politics—if not the environment. When you go into an arrangement with a government like this, which has set its face against the environment, you know what the outcome is going to be and you ensure that that whole arrangement is before you. But the Democrats did not do that. They did not use the leverage they had. They simply thought, with the GST package in hand—the two things went through in tandem in the last week of June last year, and both of them were guillotined—‘We are in an arrangement with the government which gives us some power here.’ How quickly that power has evaporated. We have Senator Bartlett saying, ‘We are not in a situation to amend the regulations or to draw up our own.’ I will tell you why they are not—they sold out on themselves in June last year by not insisting that the regulations were there before them, agreed to and on the public record when this legislation through.

Senator Hill now says, ‘My intention is to amend the regulations by 30 June next year.’ He has an intention there. That is all the Democrats are left with—an intention from this minister for the environment somewhere in the run-up to the elections next year. I would advise them not to hold their breath. Even if the intentions did come to fruition, they would fail to do the job. For example, they fail in the requirement which there should be under this legislation to insist on the assessment of prudent and feasible alternatives when the government is looking at projects which damage the environment. They fail, for example, to give the right to people in states other than the state where the project is being built or where the impact on the environment is occurring to have a say automatically in the process. Migratory birds, for example, tend to end up in a number of states, not in one state. People from other states should be drawn into that process automatically, and so should the states involved and so on.

I am amazed by this process. Senator Bartlett said, ‘All I can do is highlight the flaws in the regulations and look at where we can generate improvements.’ That is a wholesale capitulation, a washing of hands of the responsibility that the Democrats have for this legislation. Senator Hill has flown off to Cairns this afternoon; he is not even here to address this matter. These regulations could have been dealt with at some other time. Senator Hill could have approached us and we could have made sure he was in the chamber. He is not even here, because he knows he has the Democrats sewn up.

I feel sorry for them, because they are going to get the stick from the environment movement. Senator Bartlett read out the names of key environment groups—Humane Society International, World Wide Fund for Nature—which were amongst the four environmental groups in this country which supported the legislation last year. Hundreds opposed it. He is down to two now. Those two are saying that these regulations are appalling, that we do not want these regulations. All I can say to the Humane Society International and the World Wide Fund for Nature is that the Democrats led you into this situation; they got you into it and they have got no way of getting you out of it. It would not be so bad if it were not for the fact that it is Australia’s environment that is at stake. This is some of the weakest legislation—grand ideas, but no teeth—you will see for any comparable nation on the face of the earth.

I want to add to that that I am mindful every day of the week that this legislation, this act which the Democrats put through, eliminates the ability for the Commonwealth to make laws on the environment—or the states, for that matter—to be involved in what is happening in our forests. I am talking about the despicable destruction of the forests in Tasmania—150,000 log trucks this year going to the woodchip mills out of the grandest forests in the Southern Hemisphere. Senator Calvert interjecting—
Senator BROWN—I think Senator Calvert opposite interjected to support me in what I said there. As a Tasmanian, he would know. I presume that his mind has been changed by the recent *60 Minutes* program, which is drawing this nation’s attention to the heinous destruction of those grand forests in Tasmania. But what did the Democrats do about it? Instead of following through on their own heartfelt concern about those forests, they got into legislation that said that these forests cannot be protected by the Commonwealth in the next 20 years. I ask you! Is this what Senator Bartlett calls the primary environment party? It has become the primary sell-out party on the environment. That is what it is. Primary environment party, my foot!

I quote Senator Bartlett again: ‘All I can do is highlight the flaws in the regulations.’ He is totally disempowered now. He was totally empowered 15 months ago but is now totally disempowered because of political naivety. I do not believe the Democrats wish the environment harm. I do not believe they are not concerned about the environment. I just believe that they are babes in the woods. And they were taken into the woods, I can tell you, by this government last year. It is inexcusable that for a quick grab at power—and they lost out on that—they sold out the environment and then were left only to stand on the sidelines wringing their hands and saying, ‘What can we do but support the regulations, oppose this disallowance motion, knowing those regulations are’—to quote Senator Bartlett—‘totally inadequate?’

What a remarkable situation for the Democrats to be in. Again I say to Senator Bartlett that it is worth emphasising time and time again that the EPBC Act offers significant improvements in environment laws. But we will have to hope that the Labor Party fixes it up, that it can get into power and put the teeth into this legislation. The Democrats did not do it. Senator Bartlett gave a description of how poor the Labor Party is in the four states where it is in government. I could not help but agree with him. But now the Democrats say, ‘Our prayer is that, with the appalling record of those Labor governments at state level’—and remember that this bill was about giving powers to those governments, giving the powers back to the states—‘Labor will get in nationally and rescue our reputation.’ Again, all I can say is ‘Don’t hold your breath.’

These regulations are pathetic. So are the people who drew them up. So is this government. So are the Democrats. This is a period of great environmental controversy and great environmental danger. Here in Australia we have one of the most erudite and concerned environmental communities anywhere in the world. With the collapse over the last week of the talks in The Hague about global warming, we see not only that the government is a disgrace in terms of representing that environmental concern by Australians, but also that it has turned out to be one of the worst performers in the world. This legislation is commensurate with that performance on the global stage.

Let me give some advice to the Democrats. If you are going to rescue yourselves out of this, you have to stand up to this government. This government is not an environmental government; it is a government of coalminers, aluminium smelters and woodchippers. If you go to the table trying to get something out of that lot, you are going to lose. You have learned that by experience, and you have to change tack. The Democrats have lost their way when it comes to the environment. They may have been what Senator Bartlett calls the primary environment party back down the line when there was nobody else about, but that is why the Greens are here now.

The next federal election is going to be, amongst other things, about the environment. The environment is back on the agenda. The run-up to the second effort to secure a preliminary global agreement on global warming is going to be at Bonn, the former capital of Germany, where the government is a coalition of Social Democrats and the Greens. The minister for the environment, along with the foreign minister and a number of others, are Greens. They are not going to back-pedal from even the weak situation of the European Union when it comes to those talks. They are not going to back-pedal because
Robert Hill goes over there and sides with polluters like Japan, the USA and Russia.

Nor is the French government. We had the extraordinary situation during the last week where France, which relies for two-thirds of its power on nuclear energy, said, ‘We won’t countenance nuclear energy being part of the offset to global warming.’ But there was Senator Hill pushing for it. What an extraordinary situation! That is the minister for the environment that the Democrats have had truck with. By the time of the Bonn conference, which will be on the eve of the next federal election, there is going to be a heightened world anxiety about global warming. It is going to be much heightened in Europe and amongst the electorates of Europe. The going is going to be tougher on those who do not want to really act on their responsibility to turn around global warming, with its massive economic and environmental penalties for the next generation if we do not act.

Let me remind the Senate again that Australia is failing to sign a Kyoto agreement which says, ‘You can increase greenhouse gas outputs by eight per cent in the run-up to the year 2020.’ What the world’s scientists have told the Senate select committee into the matter is that Australia has to decrease global warming gases by in excess of 70 per cent if we are going to maintain the status quo as far as the world’s climate is concerned. Let us get that into our heads: decrease by 70 per cent on 1990 levels. Yet we have a government that won’t sign up to an increase of eight per cent as a starting point. The world is in very serious straits when it comes to global warming. The performance by governments, including our own, in The Hague is appalling. It is an indictment of the short-term mentality of this materialist age and the failure to undertake responsibility for coming generations of human beings, let alone our fellow creatures on this planet. It is governments thumbing the nose at the rights of future generations of our own kith and kin to live with security and safety. It is extraordinary, ostrich-like behaviour.

We have here an opportunity to have some environmental legislation which is bad enough on the face of it attended by some regulations which count—and what are the Democrats going to do? They are going to support regulations which further weaken the promise of that legislation. They weaken the environmental laws in Australia. We do not have before us a regulation saying, ‘Let’s bring on global warming,’ as a matter the Commonwealth has to consider; that is not even here. Robert Hill promised that last year, but it is not here. Now he is saying he will do other things. He might do; he intends to do! The Democrats are saying, ‘Well, we’ll depend on that next.’ He failed on the last commitment, but we are going to depend on that in the run to the date of 30 June next year.’ Well, I can tell them they are not going to get what they want. Robert Hill is not going to come good on the environment, because the Prime Minister, Mr Howard, is an anti-environmentalist and he sees the good of this nation as being what goes on on the stock exchange, not the air that the next generation is going to breathe or the water it is going to drink or the land it is going to inherit. There is a small-mindedness there which sets its face against the future of this country, and the lifestyle and the security that future Australians as well as people around the rest of the world will inherit. It is written large in these regulations and this legislation. This is pathetic stuff. This is a cop-out. Better that we not change the legislation than be entertaining this. Yet it is not only going to be entertained; it is going to be passed because of the once-environmental party called the Democrats. We do not have the numbers here at the moment to change that, but let me give a warning to all those in this place: if you do not accept your environmental responsibilities the tide will turn electorally. This electorate, the Australian people, are way ahead of the political community at state or federal level as far as concern about the environment is concerned. Anxiety is rising. Action is required, and what we are seeing instead of action here is blancmange. It won’t do. It is not fair to the electorate. The electorate will change this set of politicians if the politicians do not rise to those legitimate concerns that all Australians have.

Senator BARTLETT (Queensland) (5.49 p.m.)—I will be brief. In relation to comments by Senator Brown, if I was to outline
all the parts where he seems to have misunderstood my speech I would be speaking for another 20 minutes, which I will refrain from doing. To go to the core of one of the misunderstandings or misquotings or selective quotations of my comments, where he stated that all I am able to do and the Democrats are able to do is complain about the government, what I specifically said was that all we were able to do is complain about the government and seek to use the legislative process to improve the legislation and laws. Senator Brown is very good at complaining about the government, but the Democrats also seek to get concrete outcomes. That was one of the fundamental points of my contribution which seems to have been misunderstood or misquoted.

The ACTING DEPUTY PRESIDENT (Senator Lightfoot)—I remind the honourable senators that the business before the house is the Environment Protection and Biodiversity Conservation Regulations from the act of the same name. As is required by the order of the Senate agreed to earlier this day, I shall now put the seven motions separately. The question is that disallowance motion No. 1, standing in the name of Senator Bolkus, be agreed to.

The Senate divided. [5.56 p.m.]

(The Acting Deputy President—Senator P.R. Lightfoot)

Ayes………… 23
Noes………… 38
Majority……. 15

AYES
Bishop, T.M.  Brown, B.J.
Buckland, G.  Campbell, G.
Carr, K.J.  Collins, J.M.A.
Crossin, P.M.  Crowley, R.A.
Denman, K.J.  Evans, C.V.
Forshaw, M.G.  Gibbs, B.
Hutchins, S.P.  Ludwig, J.W.
Lundy, K.A.  Mackay, S.M.
McKierman, J.P.  Mackay, S.M.
Murphy, S.M.  O’Brien, K.W.K *
Ray, R.F.  Schacht, C.C.
West, S.M.  

NOES
Aberz, E.  Allison, L.F.
Alston, R.K.R.  Bartlett, A.J.J.

Boswell, R.L.D.  Bourne, V.W.
Brandis, G.H.  Calvert, P.H *
Campbell, I.G.  Chapman, H.G.P.
Coonan, H.L.  Crane, A.W.
Eggleston, A.  Gibson, B.F.
Greig, B.  Harradine, B.
Herron, J.J.  Kemp, C.R.
Knowles, S.C.  Lees, M.H.
Lightfoot, P.R.  Macdonald, I.
Macdonald, J.A.L.  Mason, B.J.
McGauran, J.J.  Minchin, N.H.
Murray, A.J.M.  Newman, J.M.
Patterson, K.C.  Payne, M.A.
Ridgeway, A.D.  Stott Despoja, N.
Tambling, G.E.  Tchen, T.
Tierney, J.W.  Troeth, J.M.
Vanson, J.E.  Woodley, J.

PAIRS
Bolkus, N.  Ferris, J.M.
Conroy, S.M.  Reid, M.E.
Cook, P.F.S.  Ellison, C.M.
Conney, B.C.  Ferguson, A.B.
Faulkner, J.P.  Heffernan, W.
Hogg, J.J.  Watson, J.O.W.
Sherry, N.J.  Hill, R.M.

* denotes teller

Question so resolved in the negative.

The ACTING DEPUTY PRESIDENT—I will put disallowance motion No. 2 standing in the name of Senator Brown. The question is that the motion be agreed to.

Question resolved in the negative.

The ACTING DEPUTY PRESIDENT—I will put disallowance motion No. 3 standing in the name of Senator Brown. The question is that the motion be agreed to.

Question resolved in the negative.

The ACTING DEPUTY PRESIDENT—I will put disallowance motion No. 4 standing in the name of Senator Brown. The question is that the motion be agreed to.

Question resolved in the negative.

The ACTING DEPUTY PRESIDENT—Disallowance motion No. 5 has been disposed of and I do not propose to put that again. Disallowance motion No. 6 has been withdrawn. The next motion is Senator Brown’s disallowance motion No. 7. The question is that that motion be agreed to.

Question put.

The Senate divided. [6.02 p.m.]
for the production of documents relating to heavy trucks specifications:

Transport—Heavy trucks specifications—Correspondence, reports, investigations and other information and documentation from the Federal Office of Road Safety (FORS) relating to heavy trucks specifications [5 vols].

TAXATION LAWS AMENDMENT BILL
(No. 7) 2000

Second Reading

Debate resumed from 28 August, on motion by Senator Ian Campbell:

That this bill be now read a second time.

Senator ROBERT RAY (Victoria) (6.06 p.m.)—The bill we have before us at the moment, the Taxation Laws Amendment Bill (No. 7) 2000, is quite a complex bill. It will be no shock to the Senate that it is about taxation. I can see that Senator Calvert on the other side is paying very learned attention. In my experience over the years, he has followed tax bills with an intensity only exceeded by 30 or 40 other senators in this place. I think that is fair to say, isn't it, Senator Vanstone?

Senator Vanstone—I think you are being unkind, Senator Ray.

Senator ROBERT RAY—But I have to say he knows more about it than I do, so I am not being that unkind. These complex bills, however, are an increasing pattern before this chamber. I think we just have to face it that time and time again tax bills are going to be changed, and constantly changed. It is something we have to live with. Every time I get my tax done by my accountant, I always get a beaming welcome. I am really asked to do two things: keep the tax changes coming and concentrate on changing superannuation on a weekly, monthly or yearly basis, and their kids will continue to go to private schools and attend Derby Day races. I am not going to extend my speech any longer for the risk of embarrassing Senator Cook with my expertise. It is an old political lesson that you never outshine the frontbench, so I would like to invite Senator Cook to address the chamber.

The ACTING DEPUTY PRESIDENT (Senator Crowley)—We thank you, Senator Ray, for an excellent little interlude.
Senator COOK (Western Australia—Deputy Leader of the Opposition in the Senate) (6.07 p.m.)—Let me say straight off that Senator Ray is welcome at any time to outshine the frontbench, something that I am sure he is ably capable of doing and would have done on this occasion had he completed his speech. I accept the compliment and am prepared to proceed. The legislation before us is Taxation Laws Amendment Bill (No. 7) 2000 and this is the resumption of the second reading debate on this bill. This bill involves a number of changes to taxation legislation in Australia. Among the five major changes are additions to the list of community organisations which will become gift deductible entities—that is the formal term—and donations to them of $2 or more will be tax deductible. There is a list of some seven or eight new organisations about which I will speak in a moment.

Secondly, there are amendments to the pay-as-you-go, or PAYG, system for trusts. Thirdly, there are corrections to the rewriting of tax legislation into simple English. When that was done last time, some simple mistakes were found in the text and this bill remedies those changes. I will not be saying anything more about those other than what I have just said. Fourthly, the legislation is correcting the operation of capital gains tax provisions and, fifthly, there is a single technical correction to the legislation which denies tax deductibility for bribes paid to public officials, and that goes to enforcement issues. We are not opposing any of these measures although we have, through the agency of the Senate Economics Legislation Committee in particular, paid special attention to the fourth change that I mentioned: correcting the operation of capital gains tax provisions. We are not going to oppose any of these changes and we are now satisfied that the changes to the capital gains tax provisions do not weaken the tax base. The pay-as-you-go amendments, which I have referred to, are further evidence of the government rolling back—and I use that word explicitly—its own tax package by continuing to make further amendments to that package.

Let me start with the gift deductible entities. The income tax law provides that donations to eligible bodies receive tax deductible status. Eligibility is determined by whether or not the recipient body is an endorsed gift deductible entity. The Treasurer issues a release from time to time that certain bodies will have gift deductible entity status and these names are then consolidated into an amending bill. This bill proposes that new bodies be granted gift deductible status and, as I have said, there are about seven or eight that are now to be listed. I do not propose to read out their names; they are in the legislation. However, I do propose to refer to one of them, which is the Community Disaster Relief (Sydney Hail Storm Assistance) Fund. This is a fund to which people donate to ease the difficulties created by the hailstorm that unroofed parts of Sydney and created difficulties not only for householders but for local governments. People’s donations to this fund will of course now be able to attract the tax deduction.

My reason for singling this out, though, is to point to another major disaster in Australia. The overflow of the Namoi River in New South Wales has flooded Tamworth, Walgett and Wee Waa and has created, as I have read in one account, at least $600 million worth of losses to rural producers in that area. I mention this because it is in some senses, although not entirely, analogous to the Sydney hailstorm assistance fund. I also mention it to say that, should the minister deem it appropriate to list any body similar to the Sydney hailstorm assistance fund for the Namoi River overflow for the damage to Tamworth, Walgett and Wee Waa that might attract any donations, Labor would be prepared to support that legislation and would encourage that such a step be taken. It is a major rural catastrophe, one that inflicts considerable loss on private land-holders and one that requires remedial works to be done, not the least of which is flood mitigation. It seems that, if the soliciting of public support for the massive amount of clean-up that is necessary were to occur, donations to that end should attract the tax deduction.

As to the PAYG amendments, the system of PAYG is the new integrated system of...
income tax instalments and withholding taxes, the system that is claimed by the government to be simpler but is in fact highly complex. The system has already been subject to many hundreds of amendments. This bill proposes even more, this time in the area of instalments paid by certain trusts. In keeping with past practice, Labor do not oppose these changes. This ensures that Labor cannot be blamed for the complexities and the growing body of red tape that businesses face in Australia. We are supporting this legislation because the government wants it, the government is asking for it and the government will have to accept the responsibility for the complexity that it introduces. However, we should strongly point out that this is in fact the government proposing yet more roll-back on its tax package. Ironically, the second reading speech introducing this legislation admits that the aims of the amendments are to ‘simplify the way beneficiaries work out their instalment income and minimise the compliance burden on the trustees of those trusts’. This is precisely what roll-back is about: making the new tax changes simpler.

With regard to the capital gains tax provision, the explanatory memorandum describes these changes as consistent with the intended policy and it claims there is nil financial impact. However, at least some of these measures change the rules to benefit taxpayers; therefore, there is in fact some cost to revenue. That is not quantified. Maybe it is not quantifiable, but it is important to note that there is some cost to revenue as a consequence of the CGT changes.

There is a variety of highly complex and technical changes, some of which are difficult to evaluate on the limited information that has been provided. Non-controversial ones include correcting the unintended double counting of assets and correcting an inaccurate heading. We took the view of recommending that this be inquired into by a Senate committee and that has been done. The other provision that I refer to under this heading is the discount capital gains. The business tax reforms, the BTRs, introduced a new system of taxing capital gains based on 50 per cent of the nominal gain being taxable for individuals where an asset was held for at least 12 months rather than 100 per cent of the inflation indexed gain. I could go on and talk about this but it is something that the Senate committee examined.

I have already explained the rewrite corrections. The bribery provisions relate to Australian businesses overseas not claiming tax deductions for business related bribery. In certain economies, they might pay bribes to public officials. We do not believe that that should be tax deductible. We do not endorse or encourage that view. We believe that trying to make the economies and the rule of law in developing countries work is a fundamentally important thing, and corporate responsibility is such that Australian companies should not be engaged in any bribery activities. That is a wider issue, but these provisions mean that if they were doing this they now cannot claim it as a tax deduction.

That is a quick summary of what this legislation is about. As I have said, we are not opposing it. However, I would like to take the opportunity this afternoon to move an amendment to the bill. I believe this amendment has been circulated in the chamber.

The ACTING DEPUTY PRESIDENT—That is correct, Senator.

Senator COOK—I move the following amendment to the second reading motion:
At the end of the motion, add:

“but the Senate notes the serious impact of the taxation regime on Australian households and calls on the Government to remove the effect of the GST from the fuel excise indexation adjustment in February 2001”.

These words would be added after the motion ‘That the bill be now read a second time’. In moving it and now speaking to it, can I say that this is quite an important amendment. For the last two weeks, I have spent the entire time—apart from the two days I was in Canberra for estimates—in regional Australia as chairman of the Australian Labor Party’s petrol price review committee.

Senator McGauran—it’s not serious.

Senator COOK—This is a very serious inquiry. This chamber will recall that I took
the opportunity some time back to move that the Senate should conduct an inquiry into petrol pricing. Nonetheless, this chamber, with the numbers of the government and the Democrats, ill-advisedly voted down the idea that there ought to be a Senate inquiry into petrol pricing. As a consequence of that decision, the Labor Party decided, 'If the Senate's got it wrong, we'll get it right—we'll conduct our own inquiry.' As a consequence, I have spent the last two weeks, as I said, travelling throughout regional Australia—sometimes in capital cities, sometimes in the country—receiving, with my colleagues on the inquiry, submissions on petrol pricing.

The first thing that I should say about that is that anger in Australia, outside of this building, is white-hot about the higher petrol prices that people are having to pay. The story that the government puts is that it is not its fault; it is all the fault of the Arab oil sheikhs and OPEC limiting production and therefore pushing up prices. It is not a story that is accepted in whole as the total explanation for why oil and petrol prices at the pump—and LPG and diesel prices—are so high in Australia. The government should heed these remarks because the government is virulently attacked in regional Australia because it has made a tax windfall gain out of the higher prices.

It is particularly ironic that, although the Prime Minister announced at 11.30 this morning a package of proposals for building new roads in Australia—partly to answer the criticism that this government has received because of higher petrol prices—most people in country Australia do not accept a road building program as being any sort of answer to the higher petrol prices they are paying. Let me cite an independent authority that we in the Labor Party would not often refer to in this context. The National Farmers Federation today put out a statement welcoming the roads expenditure, the $1.6 billion to be spent over the next four years on improving roads, and LPG and diesel prices—are so high in Australia. The government should heed these remarks because the government is virulently attacked in regional Australia because it has made a tax windfall gain out of the higher prices.

The people of Australia are also resentful of the fact that they are constantly told that that is not true. They were constantly told this by none other of an authority than the Treasurer, who blandly looks down the lens of every television camera pointed in his direction and says, 'But excise has not gone up.' No-one is fooled by that. Excise is indexed on a six-monthly basis, and in the last six months it has not gone up. The excise amount has remained the same. The next indexation of excise is due on 1 February. What has gone up is the price of petrol, and what has gone up as a consequence is the GST rake-off by virtue of that increase in price.

It is simple arithmetic. If you apply 10 per cent to a higher price, then that 10 per cent is worth a greater value than 10 per cent applied to a lower price. As a consequence of higher petrol prices, the government is taking out of the pockets of Australian motorists more GST revenue than it had anticipated. That is not the only area of windfall gain either. We all know that the resource rent tax, which mirrors international parity pricing, has been a windfall area for the government too. No lesser authority than the Australian Automobile Association, in evidence before the committee in this building on Thursday a fortnight ago, took their time to tell us that, on their objective and impartial calculation, the windfall gain to government revenue as a consequence of higher petrol prices was no less than $A1.5 billion this calender year. It is not surprising that I see now that the roads package is valued at $1.6 billion but over four years. So there is a bit of jiggery-pokery going on here. If what the AAA, the body that represents all of the motoring organisations in each of the states, says is correct—that is, in one year there is a rake-off of $1.5 billion—then no doubt in the debate that will ensue over the next few weeks there will be an attempt by the government to pretend that $1.6 billion over four years is somehow fair compensation. Of course, the truth is that the jig is up; people understand it is not fair.
During our inquiry, we asked witnesses, ‘Once we are able to establish what the total windfall is, do you want it handed back or should it remain in government revenue?’ and the unanimous response was, ‘It should be handed back.’ The next question to our witnesses was, ‘How would you like it handed back? Would you like it handed back in lower petrol prices at the bowser; would you like it handed back in more roads; would you like it handed back in R&D expenditure on finding an alternative fuel to petrol, which might mean lower prices in the future?’ More than three-quarters of the people who came before us said that they wanted it handed back in lower prices. It is true that local government authorities have come before us and said, ‘We would like these bridges built or that road repaired,’ and there was some combination of ‘Handed back,’ ‘In lower prices,’ and ‘In new roads,’ but overwhelmingly people said, ‘We want it back in lower prices.’

When the government put this current budget to bed in May this year, they calculated fuel prices on the basis of an exchange rate for the Australian dollar at US60c and the barrel price of crude oil in the world at around $US20 a barrel. We know the exchange rate is around US52c and the price of crude oil is around $US30 per barrel. Those differences mean a huge windfall gain for the government, and it is coming out of our pockets.

The reason they wanted it handed back is particularly evident in the country. In country Australia, you fill up your petrol tank more often than you do in the city, you travel further and you do not have access to public transport either. We know that tax in the form of the GST on petrol is a tax on distance: the further you are from a capital city, the more the petrol price is. And because the GST is a percentage tax, the more the petrol price is, the higher tax you are paying in GST off the higher base price for the petrol. People in country Australia know that they are being discriminated against. The amendment which I have moved to the second reading should be unanimously supported in this chamber.

I know that many honourable senators on the other side, government senators, mind opposition electorates in the hope that they might win those seats in the next election. One of them I ran into in McMillan was from Senator Troeth’s office, trying to win McMillan, which is a marginal seat with a wafer-thin majority in favour of the Labor candidate. There is absolutely no doubt, having had hearings in McMillan, that most of those people will be voting for a relief on petrol. This is an opportunity for Senator Troeth to vote with those constituents she wants to impress. It is also an opportunity for the rest of the government senators in this chamber to vote for lower petrol prices by carrying this resolution. (Time expired)

Sitting suspended from 6.28 p.m. to 7.30 p.m.

Senator MURRAY (Western Australia) (7.30 p.m.)—Earlier in the debate on the Taxation Laws Amendment Bill (No. 7) 2000 I thought I heard Senator Cook say, ‘Here we have yet more amendments to the GST and the new tax system regime.’ Frankly, it is the opinion of the Australian Democrats that the government would be delinquent if it was not bringing forward amendments to the tax legislation. I cannot see that any piece of our legislation, even our venerable old Constitution, is a perfect document. I would be glad to see as many amendments as possible, including to the Constitution. I certainly do not draw any criticism to the government as a result of having a tax laws amendment bill before us.

The bill contains some 35-odd pages and has a very thick explanatory memorandum. It amends income tax deductions for gifts by adding eight foundations or funds to the list of organisations, donations to which are tax deductible. It also amends pay-as-you-go instalments legislation for certain beneficiaries of trusts. The bill will require a beneficiary of a trust who has a fixed interest in the assets and the income of a trust to include in the beneficiary’s instalment income his or her share of the income of the trust for the period. The bill corrects errors in capital gains tax small business concessions. The bill corrects the capital gains tax provisions, rewritten as part of the taxation law im-
provement project. The bill makes some minor technical changes and improves integrity measures.

None of those changes or provisions require much commentary. There were no significant concerns raised when the bill was considered by the Senate Economics Legislation Committee, and neither the Labor Party nor the Democrats submitted a minority or supplementary report. Indeed, in the way that the Senate deals with these matters, the bill could well have been dealt with on a non-controversial basis since there are no amendments before us, other than the second reading amendment which could have been taken on the voices anyway. However, here we are debating it in normal Senate time. I am not being critical of that. Any tax bill is worthy of detailed and proper consideration if that needs to occur. However, the Democrats can say little more about this bill than that we intend to support it. Therefore, it may be appropriate in my speech in this second reading stage to deal with Senator Cook’s second reading amendment, which might be the only controversial thing we have before us. Senator Cook’s amendment has two parts. The first part reads:

... but the Senate notes the serious impact of the taxation regime on Australian households ...

I presume that means the Australian taxation regime. That is an extraordinarily vague statement. In some respects it states the bleeding obvious—if I may use a colloquialism. I would like to know what taxation regime anywhere in the world does not have a serious impact on the households in the country. It would be a strange taxation system which had a minimal or a negligible impact. What serious impact is Senator Cook referring to? I am not so naive as to think that he is referring to positive impacts. I suspect he is referring to negative impacts. Is it a reference to price increases as a result of the imposition of the goods and services tax? Is it a reference to the GST generally or just on petrol? Is it a reference to our income tax regime and the fact that bracket creep impacts upon people’s disposable income? Is it a reference to the fact that taxation takes a goodly slice of everybody’s pay packet?

To disagree that the taxation regime has a serious impact on Australian households would be a strange thing because the alternative to that would be to suggest that the taxation regime has a funny, comical or trivial impact on Australian households. We all know that is not the case. We ask the question: what taxation regime does not have serious impacts on the people who are the subject of it? Perhaps Senator Cook should have been far more careful with his words. If he meant ‘negative’ he should have had the words ‘serious negative impact’. The taxation regime covers every aspect of taxation which is in our tax regime, so he would need to qualify it. What aspects of the tax regime does he refer to? Which parts of the total system, much of which his government had a hand in, does he refer to?

In summary, when you look at the first line of Senator Cook’s amendment, it is simply too vague for us to be able to understand what is meant by it. One wonders why the second part follows on from that.

The second part of the suggested second reading amendment does deserve more serious attention since the first just states the obvious. The second part of the amendment reads:

... and calls on the Government to remove the effect of the GST from the fuel excise indexation adjustment in February 2001.

That would occur on 1 February. The difficulty you have with a specific call on petrol is that the indexation affects fuels—not just petrol but all fuels. It affects cigarettes, it affects beer and it affects spirits. I believe it is unfortunate that it does not affect wine, because I have always believed that we should have wine on excise and not on WET, but let us move on from that. Indexation was introduced by the Labor Party. Indexation of excise is a direct inflationary mechanism. Any serious policy person in the economics field will tell you that it passes on an inflationary effect and that it continues that inflationary effect. It is obvious; it is mathematical. I am one of those who would have argued and would still argue against that as a policy. But I now recognise that it is so embedded in our taxation system and it is so interlinked to other mechanisms and meas-
ures within our social security, taxation and administration system that it would be very difficult to change that system. So we have indexation courtesy of the Labor Party. It is a continuing policy supported by the government. So it is a bipartisan policy, certainly, and it might even be a multiparty policy.

There is no suggestion from Senator Cook that indexation should not be continued. What he has suggested is that the fuel excise indexation adjustment, but only that portion of it occasioned by the GST spike and not by other forms of inflation, should be withdrawn. We ought to know what the costs of that would be and what the effect would be. The figures that I have been able to calculate are that the overall cost would be about $350 million, which I suspect is about 0.8c a litre. The Democrats, amongst others, have said that they believe the government is shy on its promise to cut petrol excise by about $1.5c. Those of you who heard the Prime Minister’s remarks on Sunday would know that he acknowledged that that was a claim against the government. Anyway, if you did what Senator Cook suggested and removed the GST indexation spike from the fuel excise indexation adjustment on 1 February, it would have the effect for consumers of a cut of about $350 million, which I think would be about 0.8c a litre. Those are my figures. I suggest that, if you were to pursue such a policy, you could not do it in isolation. You could in theory but it would be wrong in policy terms.

So what would happen if you took the GST indexation spike off all the excises that are up for grabs? I think the figures move to about $600 million as a cost, of which about $50 million would be for beer, about $30 million would be for spirits and about $170 million would be for tobacco. We also have a government promise on the beer side. I remember that the brewers said they would be prepared to cop about $200 million worth of tax increases with the new tax system, and they reckon they were coping about $467 million. Then the Treasurer in his budget this year adjusted excise, in which we had a part in terms of our submissions to the government, by about $150 million, and beer was the beneficiary by about $120 million. So if we take that figure of $467 million that the brewers felt they were being copped with and knock off $200 million, it leaves you with $267 million. If you knock off another $120 million, you have around $147 million left. If you take out the GST index spike you would be down to a figure of about $100 million, which people were quarrelling about for beer. So you go some way to fulfilling what is known as the beer promise.

So you might kill some of those birds with one stone, both on the petroleum side and on the beer side. Spirits, however, would get a nice $30 million free kick, so you must consider whether you think that is worth while. They would not squeal; they would be happy. Then there is tobacco. Strangely enough for a party that is vigorously anti-tobacco, I think—and I suspect my colleagues also recognise the fact—that tobacco is pretty fully priced right now. The idea of raising the price of tobacco is to limit consumption. Again, anyone with an economic background knows that, in marginal cost theory, once you get to a certain price, an additional price increase will not result in a change in consumption behaviour in the way you want to see it happen. In other words, if you loaded tobacco with any further price increases, I suspect that demand would fall by such a great amount that you would actually earn less revenue. So if you gave tobacco a free hit of $170 million by withdrawing it from the GST indexation spike, it might not be that bad in policy terms but it is an awful lot of money to give away.

Let me go back to the heart of what I’m discussing here. I think it is a legitimate policy proposal that the GST indexation spike on excise should be considered for removal. But I do not think it is a legitimate policy proposal that it should only be for petrols. Either you do it for the lot or you do not do it for any. If you do it for the lot, you have to be aware of what the effects and benefits are. From a consumer point of view, it is a $600 million benefit, all told. From a policy point of view, in terms of beer and petrol it might well be meeting some of the government’s promises. In terms of spirits and tobacco, it is just a free kick. It is for the government to decide what their policy shall be on GST indexation spikes, but if the Labor Party are
going to offer up this second reading amendment as a serious policy suggestion, I would have expected to hear costings from Senator Cook, and I would have expected to hear a rational argument as to why this proposal is constrained in this way and what benefit it would deliver to the community. Unless I missed it—and I might have missed it—I did not hear that from Senator Cook.

Senator McGauran—Senator Sherry will do it.

Senator MURRAY—Perhaps Senator Sherry will. Sometimes Senator Sherry is very much the politician but at other times he is very much the policy man. So he might deliver a policy speech. We will hear. I do not think, therefore, that this is a serious amendment. That is my quarrel with it. I have tried to analyse it and react to it in a way which gives it some numbers and perhaps some rationale, if it was framed in another way. I am not committing the Democrats—certainly not at this stage—to one policy or another. All we have told the government consistently is that we think they are shy of 1½c on petroleum products excise in terms of our understanding of their promise, and we think they are shy on the beer side. Addressing the GST indexation spike might in fact address that particular problem but, for the rest, there we are.

I presume that people listening to those remarks would have got the hint by now that I am not going to support the second reading amendment. I think the first line is nonsensical, and I think the second line is deficient in a policy sense. Perhaps Senator Sherry will be able to make some sense out of it which I have not yet been able to.

Senator SHERRY (Tasmania) (7.47 p.m.)—The amendment we are considering on the Taxation Laws Amendment Bill (No. 7) 2000 is perfectly sensible. I did not hear all of your contribution, Senator Murray, but I will come to some specifics on the amendment shortly.

The legislation covers a variety of areas of tax law. It covers new additions to the list of community organisations which will become gift deductible entities. For example, donations to them of $2 or more will be tax deductible. It covers further amendments to the pay-as-you-go system for trusts, the rewriting of tax legislation into simple English, corrections to the operation of some capital gains tax provisions, and a technical correction to legislation, which denies tax deductibility for bribes paid to public officials. So there is a wide range of amendments that impact on a wide range of the Australian tax base, and the Labor Party—as I am sure has been indicated—will be supporting the legislation.

On the issue of the Commonwealth’s tax base, which the legislation deals with in part, I draw to the attention of the Senate the Midyear economic and fiscal outlook that was released during the past fortnight.

Senator McGauran interjecting—

Senator SHERRY—I have raised this issue with you, Senator McGauran, and I am going to raise some issues with respect to the National Party’s performance on petrol taxes a little later. I would like to draw the Senate’s attention to page 168, table F2. I have remarked on previous occasions that the Liberal-National Party government is a high tax government. It is high tax not just in terms of total revenue collected—and the legislation we are considering is important to maximising revenue collection—but also in respect of percentage of gross domestic product. Of course, the legislation we are considering adds to tax collection.

Table F2 shows that, in the 2000-01 financial year, tax as a percentage of gross domestic product will be 21 per cent; the following financial year it will be 21.2 per cent; the following financial year it will be 21.1 per cent; and in the final year for which projections are given, 2003-04, it will be 21.2 per cent. That is tax as a percentage of gross domestic product—which is the most important relative comparison. Now, let’s look at the last three or four Labor years. In 1991-92, tax as a percentage of gross domestic product was 21.5 per cent; in 1994-95 it was 22.2 per cent, and in 1995-96 it was 22.8 per cent. Of course, the Labor government was defeated, as I am sure we are all aware.
At first glance, this table shows tax as a percentage of gross domestic product, for this year and following years—

Senator McGauran interjecting—

Senator SHERRY—Senator McGauran is interjecting. I am glad he has interjected; it is unruly but I will take the interjection. He is saying it is fine. It is less: 21 per cent. However, it does not include the GST revenue, which we know is a Commonwealth tax, a Commonwealth head of power. It is collected by the Commonwealth and passed through to the states, but it is Commonwealth revenue. The Commonwealth collects it. Indeed, the Liberal-National Party are proud that they collect a GST. They might be giving it to the states, or at least a large part of it. Why isn’t the goods and services tax revenue in this figure? If it were included, as it should be—

Senator McGauran—It is too early.

Senator SHERRY—No, for 2000-01 and 2001-02. It is not in there for those out years, Senator McGauran. If we include what are considered to be relatively conservative estimates, in the first year of collection it would be $26 billion. That is your estimate, Senator McGauran, and the Treasurer’s estimate. That would take tax as a percentage of gross domestic product to between 23 per cent and 24 per cent, which is almost certainly an increase on the last couple of years of the Liberal and National coalition government and certainly an increase over and above the last three or four years of the Labor government. I want to draw the Senate’s attention to the deliberate exclusion of the GST revenue. I do not know whether Senator Murray knows these figures. I have read them out to the Senate before, and I do so again in the context of this debate. Before the recent increase in world oil, gas and diesel prices, the excise on petroleum products and crude oil in 1999-2000 was $11.419 billion. In 2000-01 the estimate is $12.968 billion—an increase of 13.6 per cent.

In going back to the midyear economic review, it was interesting to note that we have had revealed, at least in part, the additional revenues as a result of a number of taxes. The midyear economic review reveals that the resource rent tax—which, in this case, is based on the price of oil—has collected for the Commonwealth an additional windfall of about $½ billion. So we know that so far. But when you look at the midyear economic and fiscal outlook, you should try to find the GST revenue collected, particularly the GST revenue collected from higher fuel prices. GST is a percentage tax. A percentage on a higher base—a higher base coming about because of higher world oil prices—collects more revenue for the government. It might interest Senator Murray and, particularly Senator McGauran, to know that the Treasurer did say that he expected to release these GST collection figures in the midyear economic and fiscal outlook. But—surprise, surprise—the midyear economic and fiscal outlook was somewhat earlier this year than previous years and we did not get the figures. So we could not ask Treasury what the revenue would be from the GST collected on petrol, diesel and gas.

Senator Murray—Or anything else.

Senator SHERRY—That is right. I suspect that we will not be able to question Treasury on these figures until after the budget is handed down next year. I would argue that this has been done quite deliberately to hide the second aspect of the wind-
fall that the government has collected using the GST on higher fuel. In Senate estimates last week, Mr Evans, the head of Treasury, to the embarrassment of the Prime Minister and the Assistant Treasurer, Senator Kemp, who was there, did admit that the GST was the culprit with respect to at least part of the increase in petrol prices around the country, particularly in rural and regional areas. My colleague Senator Cook said to Mr Evans:

So my point is then that now we are paying more in tax when the price goes up. That is true, isn’t it?

Mr Evans replied, ‘Yes.’ We do know that when the price goes over the high 80s or low 90s the GST, being a percentage tax, collects more tax than the excise. Senator Murray quite rightly referred to the third area of windfall that the Commonwealth has collected through the GST. That has been in short-changing, particularly people in rural and regional Australia, with the reduction in the excise and then the addition of the GST, and collecting more tax. It obviously varies depending on where you live in Australia, but it has particularly hurt people in rural and regional Australia.

A number of statements have been made by members of the government in recent times arguing that you cannot reduce fuel taxes, that you cannot do anything in this area because of world oil prices. The Prime Minister and the Treasurer have argued that, if you reduce the budget surplus—which we now know is higher than initially predicted in the budget earlier this year—interest rates will go up or there will be an even worse run on the dollar than we currently have.

Senator McGauran—Are you arguing that?

Senator SHERRY—No, that is your argument, Senator McGauran. That is the Prime Minister’s and the Treasurer’s argument. Today we had a roads announcement—over a billion dollars over three years.

Senator Alston—Do you oppose that?

Senator SHERRY—Just listen, Senator Alston, to the argument. The Prime Minister and the Treasurer are saying, ‘If we increase expenditure, if we eat into the budget surplus, there will be a further decline in the currency and interest rates will go up.’ On that argument, how could you announce today a roads package that will eat into the surplus?

Senator Alston—So you are opposed to it?

Senator SHERRY—No, I am saying that your argument is inconsistent, Senator Alston. I am pointing out the inconsistency of the argument advanced by the Prime Minister and the Treasurer. We know from the midyear economic and fiscal outlook that the surplus has increased. So I would argue that there is sufficient surplus revenue projected to spend money on roads, defence or reducing taxes on fuel. The Prime Minister and the Treasurer are putting a false argument. I have not checked the currency value today. Did it go down after the roads funding was announced? Did interest rates go up? I have been in the Senate superannuation committee for the last seven hours, so I do not know. I suggest we check to see if the Prime Minister’s and Treasurer’s views are correct. We know that the Liberal and National parties are touchy about the issue of fuel prices. I am a member of the Labor Party’s fuel inquiry.

Senator McGauran interjecting—

Senator SHERRY—I hear Senator McGauran scoff. Actually, we were in your part of the country, Senator McGauran. We were in rural and regional Victoria.

Senator McGauran interjecting—

Senator SHERRY—We were! I understand Senator McGauran’s office is now in Benalla. It was in Collins Street in Melbourne for 10 years, which I have mentioned occasionally. We were in your area, Senator McGauran. We had some hearings, and 15 to 20 people turned up to give us their views on fuel prices. Sure, people accept that a major contributing factor to higher fuel costs has been the higher world fuel prices—that is accepted; and the lower dollar has increased the import costs—that is certainly true. The extent to which the lower dollar is a reflection of government economic policies is a debate for another time. Let us put that to one side. However, what is really aggravating people in rural and regional Australia and in outer suburbia is that they believe that
they were short-changed with respect to the GST and the reduction in excise. Senator Murray has touched on it, and I touched on it earlier. I would argue that they have been short-changed and I know Senator Murray shares that view, but they believe they have been short-changed. Secondly, those that understand the relationship between the excise being indexed know that it moves with inflation every six months and that it will move next February. They also understand that, because of the GST, inflation is higher than it would normally be. So why should the GST—a new tax—lead quite directly to an increase in CPI and to a further increase in excise on the fuel? Why should that happen?

Senator Kemp, the Assistant Treasurer—who avoids answering the questions we put to him—says, ‘We are just doing what Labor did.’ It is your government’s GST. You have introduced it. It is your policy; it is your problem. Certainly, in the past Labor has indexed excise but it has also recognised that there were special circumstances. In 1988 it made sure that, because of special economic circumstances, the increase in general excise should not be equivalent to the CPI. In fact, a 50 per cent discount applied. So the Labor Party, where special circumstances called for it, have done that in the past. That is the issue that our amendment, moved by Senator Cook and spoken to by Senator Conroy, goes to. I think it is quite simple, it is quite effective, it is quite logical and consistent in policy terms, and it is important that the Senate pass this amendment. I think we have passed a resolution with respect to beer excise and the short-changing of beer drinkers in this country—and you have touched on that, Senator Murray. So why should we not pass a resolution with respect to the GST and fuel excise indexation from February next year?

This government has to deal with the legitimate concerns of Australians about higher fuel prices. It is not just petrol; it is also diesel and gas. We received, I might say, very angry submissions and evidence from a wide range of people in the community. I notice Senator McGauran is leaving the chamber. They did not have much to say about the National Party that was very complimentary. In fact, it would be unparliamentary for me to repeat some of the things they said about the National Party. This was coming from people who normally support the National Party. I think the Liberal-National Party government is making a grave mistake if it believes that it can ignore the legitimate concern, which I have at least outlined in part in this debate tonight, about higher fuel prices. The public believe—and they believe rightly—that they were misled with respect to the GST offsetting the excise. The government has not done that. It has more than offset it; it has increased fuel prices in some areas of Australia. They do not see why the GST spike, as it is known, should be included in the indexation of excise next year. It is important that the Senate makes its view about this issue very clear. Through some sort of disallowance process regulations, we will be debating this issue in the Senate next year.

If the Democrats do not want to support lower fuel costs, if the Democrats do not want to hold the Prime Minister to his word—and Senator Murray has confirmed that he believes that the Prime Minister has short-changed the Australian community—if the Democrats do not want to do that, so be it. We will remind the public that it is not just the Liberal-National Party that is responsible for higher fuel prices; it is also the Australian Democrats. I have refrained from that criticism so far, Senator Murray. If you join forces with this government, which has been gravely misleading on this issue to the Australian public, then you are the ones who will effectively provide for an increase in fuel excise when that indexation occurs next year.

Just one other point before I conclude: the government are getting very sensitive at the moment. We noticed that during the last two weeks apparently some anonymous minister accused farm leaders of being whingers. You know a government is in trouble when it starts abusing people like that, particularly its own supporters. It is not whingeing to complain about the short-changing of people in rural and regional Australia with respect to the tax arrangements on fuel. People in rural and regional Australia should not be treated contemptuously like this by the Liberal-
National Party. The National Party have not stood up for people in rural and regional Australia for many years. They just do what the Liberal Party tells them, and that is why there is so much disillusionment in these regions about the position of the National Party. So I hope the amendment before the Senate is supported.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (8.07 p.m.)—I thank senators for their contributions to the debate. I do not have anything further to add.

Amendment not agreed to.

Original question resolved in the affirmative.

Bill read a second time, and passed through its remaining stages without amendment or debate.

AGED CARE AMENDMENT BILL 2000

Second Reading

Debate resumed from 12 October, on motion by Senator Troeth:

That this bill be now read a second time.

Senator CHRIS EVANS (Western Australia) (8.09 p.m.)—The Aged Care Amendment Bill 2000 is the first aged care bill to come before this parliament in almost a year. We rarely see from this government legislation relating to aged care, and the serious and complex nature of problems in our aged care system suggests we should be seeing more. Since the 1997 aged care so-called reforms fiasco, I think there has been a deliberate policy to try to keep aged care off the agenda, and a decision by the government not to tackle the many problems that have emerged since the passage of the previous bill. That is why we have the failure in this bill to take up the many issues that need addressing in terms of both the legislation and the problems of the sector.

I welcome the opportunity to debate the issues contained in this bill. They are important issues, and I will come to the detail in a moment. But there are a number of important aged care issues that this parliament should be debating, and most of them are missing from the legislation before us. Labor is eager to engage in debate and work to improve the system, because we are committed to providing quality care for our frail aged. I find it sad that the government does not seem to share that commitment but continues to operate a policy of damage control through inaction in aged care.

Back in 1998 the government responded to concern about the financing of the aged care system. The sector was under pressure, providers were telling the Minister for Aged Care that funding arrangements needed to be reviewed, and a reference was finally given to the Productivity Commission. The commission took its time to undertake detailed analysis and make recommendations, and the minister took her time to read the report. When the report was finally made public in January 1999, the commission’s recommendations were totally ignored. They are still being ignored today.

The Productivity Commission proposed a new funding model for aged care based on a national benchmark of care. This will be the funding model of the next Labor government. We have made a public commitment to its development and implementation, because our primary concern is the provision of quality care in aged care. A national benchmark of care will set minimum standards on the level and nature of care to be delivered to all older Australians in residential aged care facilities. Residents and families will know what level of care they should expect to receive, providers will know what level of care they are required to provide, and the funding they receive will enable them to meet those standards. Funding based on a national benchmark of care is the way forward. It will be Labor’s way. Sadly, the government remains committed to funding arrangements in which care is the balancing item after everything else is paid for, not the guiding principle.

I wish the bill before us tackled that major issue of linking Commonwealth funding with the cost of providing care. It does not. I wish the bill responded to the Productivity Commission’s calls to review the adequacy of indexation arrangements and the funding of the costs of workers compensation. It does not. I am pleased that the Productivity Commission is a tenacious creature, as the
weight of its message has not diminished with time. New modelling from the commission estimates the cost increase in aged care for 1999-2000 to be 3.4 per cent, clearly greater than the indexation of 1.4 per cent provided under current funding arrangements. In 2001, accreditation will impose an additional one-off cost of $200 million on the sector, but no extra funds will flow from the government. The corollary can only be further pressure on care standards. Unlike the government, Labor will address issues relating to funding, because we believe that inadequate funding is hostile to high quality care. The government seems to believe that accreditation is a necessary and sufficient condition for quality care. Necessary, yes. Sufficient? Not on your life.

Clearly the bill before us does not tackle funding problems; nor does it attack waiting times. The frail aged in our community and their families want reassurance from the minister that when an aged care assessment team finds that an elderly relative requires residential care a bed will be available. They do not want to be told that they will have to wait for three months. They do not want to be told that the only bed available is away from their family and friends. They do not want to be told they will have to wait in an acute care bed, placing further pressure on the public hospital system.

The minister does not like to talk about such things, but the figures show that these are the outcomes that her aged care system is delivering. As at 30 June this year, there was a national shortage of 9,700 aged care beds relative to the government’s own targets. There are many regions across the country where shortages are chronic. The minister is fond of claiming that Labor’s analysis has ignored the beds provided for in the year 2000 allocation round. I think there are three points to make there: firstly, the allocation will not make up the shortfall; secondly, the bed licences have yet to be assigned to providers, who then have up to two years to get those beds up and operational; and, thirdly, there will be more growth in demand in the meantime, so the demand will again outstrip the supply. The minister’s allocation does not offer relief to families struggling to find a bed now. It does not offer relief to families who visit facility after facility and leave not with a place but with their name added to another waiting list.

In 1996-97 the average wait for a nursing home bed was 31 days. Three years on, it has blown out to 55. Access to residential aged care has declined every year under the Howard government and is now at an all-time low. But the bill before us does not address this: it does not even engage with the issue. A responsible government would have grabbed this chance to make changes, because things are only going to get worse come 1 January 2001, the date by which all residential care facilities must be accredited or lose Commonwealth funding. The standards and accreditation agency told last week’s Senate estimates hearing that up to 50 facilities may close by New Year’s Eve. These include the 31 facilities that have failed accreditation. As I said earlier, the lag between a facility closing and the licences becoming operational elsewhere can span two years. The expected closures will thus create significant bed shortages over an extended period. The department also confirmed that there are already 1,800 transfer beds that are not currently operating. How will the government ensure continuity of care for residents at a time when we have long waiting lists, not surplus beds? The minister continues to keep her own counsel on this critical problem, which is very much of her own making.

It is important to ask why we are in a situation where we are talking about the need for crisis management and contingency plans. The answer is the inability of this government and this minister to manage change in a competent and timely manner. Let me remind the Senate that the legislation dealing with the accreditation process was rushed through parliament in December 1998. We rushed because the government said it needed to get accreditation on the road, yet the minister took nine months to develop a simple accreditation fee schedule and did not sign off on enabling regulations until September 1999. As a result, the aged care sector and the accreditation agency are now under enormous pressure just five weeks out from
the 1 January deadline. The last-minute rush is proving problematic for the facilities that have failed or will fail accreditation. Time will not permit second efforts, and more closures will result than need to have been the case. I am sure the residents in these facilities will lament the nine months lost to ministerial indecision. While Labor has supported accreditation as a means to promote quality care, the mismanagement of its introduction has indeed been lamentable. The government has seemed incapable of achieving any of the outcomes to which its reforms aspired. The government’s aged care system has not delivered quality of care to all residents nor adequately protected their rights. The government also planned to raise substantial income from aged care fees but has failed there too. The reforms introduced in 1997 were designed to generate savings. This was a primary, albeit unstated, goal. The income tested fees introduced in March 1998 were meant to have raised $250 million by June 2000, but when 30 June arrived only $30 million was raised. Similarly, the government aimed to have 27 per cent of residents accorded concessional status. They now have over 50 per cent at that status, at an annual cost of $300 million. The minister likes to trumpet this as evidence of additional spending on aged care. It is more accurately cast as evidence of her failure to manage the aged care budget.

The bill before us tinkers at the edges of aged care at a time when there is a clear need to address what are very serious and systemic problems in the aged care system. The problems have been identified and the government has received sound advice on how they may be addressed, yet the government prefers inactivity. Before I go on with the details of the bill, let me quickly summarise what it does not contain and what it will not do. It will not introduce a funding system based on a national benchmark of care, as recommended by the Productivity Commission. It will not ameliorate growing shortages of aged care beds in many regions and the flight from aged care of qualified nursing staff. It will not ensure proper monitoring of care standards. It will not implement the Commonwealth Ombudsman’s recommendations to repair the complaints resolution scheme. It will not set out how the government will ensure continuity of care for old Australians resident in facilities that fail to meet the accreditation deadline of 1 January. In failing to address any of these issues the government has done nothing to rebuild the sagging confidence in our aged care system at a time when there is increasing community concern.

This bill serves to highlight the difference in approach between the government and Labor in relation to aged care and responding to providers who fail to provide adequate care. The government is very much focused on a punishment through economic sanctions approach, and it has been applying that particularly since the failure of the Riverside intervention. I think the minister is too scared to again go down the path of closing a nursing home. Labor’s focus is very much on the care of residents. The government seeks to enforce care standards by imposing financial penalties on providers. Labor’s priority would be to enforce standards by intervening immediately to ensure the proper management of resident care. After all, it is the care of those residents that are at risk that is the government’s primary responsibility to respond to. It now seems clear to us that the government’s approach does not work. Cutting the funding to a substandard nursing home is not the way to get care standards to improve. It failed to work at Riverside; it failed to work at Kenilworth; and it has failed in a number of other instances which I could detail. Getting independent professionals into the nursing home to ensure that the care of residents is managed properly should be the government’s and this parliament’s priority. There needs to be scope for immediate intervention when residents are found to be at risk. That is what the sector has been calling for; that is what the Labor amendments will do. Our amendments will be adding to the minister’s powers to ensure she has every power at her disposal to make sure residents get proper care.

Despite our concerns over the effectiveness of the government’s punitive approach, we will not be attempting to block their amendments. We will give them all the powers they think they need to protect residents,
and more. While the government’s amendments are more of the same, our amendments we think will for the first time allow the government to intervene immediately to appoint an administrator where a nursing home has breached care standards and put residents at risk. We do not get many chances to amend the Aged Care Act. It is therefore important that the Senate takes this opportunity to make at least some improvements to the government’s failed system to ensure that care standards are better maintained. That must be our priority here. I want the minister to be satisfied that this bill provides her with all the powers she needs to ensure that nursing home residents are properly cared for. In terms of the specific provisions in the bill, the minister has claimed that the first amendment contained in her bill will:

... allow the Department to give notice to residents and relatives of action to be taken which would result in the revocation of approved provider status and bed licences ... and the probable closure of a home. It will also give the power to revoke bed licences, as beds become vacant.

Labor agrees totally with the need to provide notice to residents and families about the closure of a facility. On 20 June this year, I tabled a letter from a family of a resident evacuated from Riverside. That letter graphically describes the confusion and distress suffered by that family. They were not informed about what was happening and were not consulted about their relative’s care. Unfortunately, this bill comes nine months too late for that family.

The proposed revocation of beds is yet another financial penalty imposed on providers who fail to provide care. It is more of the government’s current approach to maintaining care standards which have so clearly failed in a number of instances. Nowhere is that failure clearer than in the case of the Kenilworth Nursing Home in Victoria. Like Riverside, it had a history of failing care standards. Reports on the nursing home in April 1999, and in March, September and October of this year, all identified serious risks to residents. Unlike Riverside, on this occasion the government decided to impose financial penalties on Kenilworth in an attempt to enforce care standards. It is now clear that this approach has simply left residents in that nursing home at serious risk for a period of over 18 months. Those risks continued throughout the government’s range of penalties being applied to that nursing home. A report from the standards agency confirms that the penalties recently imposed on the nursing home actually contributed to the risks faced by residents. This is not an acceptable outcome.

The Kenilworth Nursing Home provides a powerful argument for the minister to reconsider the government’s failed approach to enforcing care standards. It is important to note that the powers the minister is looking forward to in this bill—the revocation of places as they become vacant—is exactly the same penalty as that imposed on the Kenilworth Nursing Home. This bill is more of the same. What the government has not done at Kenilworth is to intervene to ensure the proper protection of residents. After four separate serious risk reports, dating back to April last year, residents remain in the care of a provider who has repeatedly failed to meet care standards. Labor’s amendment would allow an administrator to be appointed within three days to manage the care of residents in the Kenilworth Nursing Home and in any other nursing that is breaching care standards. Labor’s amendment reflects calls from across the aged care sector for a different approach to ensuring care standards. It seems that everyone but the government now realises that the current arrangements have failed to meet the prime criteria: ensuring the proper care of the residents in the home.

The bill also includes new provisions aimed at people who might be considered unsuitable. In her media release announcing the bill, the minister states that this amendment:

... will allow action to be taken against approved providers who have ‘key personnel’, including company directors, who have been convicted of an indictable offence, are of unsound mind or become bankrupt.

What the minister did not say was that under the existing legislation there are already provisions on the suitability of providers and key personnel. The main change contained in
the bill is to shift the responsibility for checking personnel suitability from the department to individual providers. As a result of this legislation, providers will be required to effectively police the suitability requirements of the act and will be liable for hefty fines if they fail in that responsibility. This is interesting, given the government’s record on this issue.

In a Senate estimates hearing on 23 May this year, the department indicated that it had received allegations in May 1998 about an approved provider who had a conviction for an indictable offence. The department then admitted that it had not bothered to investigate that allegation until December 1999. Apparently, it had been put on the file and forgotten about. As at the May 2000 hearings, the department had still not ascertained the truth of the allegations it received in May 1998. If the department was subject to the provisions now being introduced, it could be argued that it had not taken all reasonable steps to check the background of the provider concerned and, therefore, would be liable for a fine of up to $33,000 a day. On my reckoning, the department would owe about $24 million over the last two years on its own criteria. This failure to check the background of a provider is not an isolated case. The Ombudsman, in his report on aged care, noted the inadequate procedures to ensure that such checks were carried out. Having categorically failed to fulfil its responsibilities in relation to this issue, the government is now proposing that the responsibility be shifted to providers: ‘If we can’t do it, we’ll get you to do it for us.’

Submissions to the bill inquiry raised serious concerns about the actual implementation of these provisions which will require providers to assess the soundness of a person’s mind and potentially disqualify them from a managerial role on the basis of this assessment. The government has not addressed the concerns raised about this section of the bill. To date, the government has not properly consulted with the aged care sector over these provisions, nor fully explained to providers what they will be required to do as a result of the bill. Labor will be moving an amendment which will require the government to go away and consult with the sector as to how these provisions are to be implemented and to come back with a regulation detailing what providers will be required to do. That will give the Senate the power of disallowing the regulation if required, which will act as a check on the government to make sure that it has done the consultation properly and has a system that will work and meet the objectives set for it.

In conclusion, this bill serves to highlight the government’s failed approach to aged care and the need for some alternative approaches. Under the government’s system, residents’ care always seems to be an afterthought. The Productivity Commission rightly noted that, under the government’s funding system, residents’ care is the balancing item. The commission criticised this approach as ‘inequitable and inappropriate’. The same could be said about the government’s policy on imposing financial penalties on some substandard nursing homes. It has done nothing to actually force improvements in residents’ care and there is evidence that it may have contributed to the problem. While Labor will not be seeking to block the government’s amendments, we do not believe that they will be effective in ensuring that all residents receive proper care. For that reason, Labor are proposing their own amendments that will, for the first time, allow for immediate intervention to ensure the proper management of residents’ care in substandard nursing homes. I hope that the government will find its way to support those amendments to ensure that the care of residents is the primary concern. Any reports of inadequate care should be met with swift and active responses from the government and it, as its priority, should make the residents’ care the overriding concern.

**Senator ALLISON (Victoria) (8.29 p.m.)—**I rise tonight to speak on the Aged Care Amendment Bill 2000. This bill makes two relatively minor changes to the Aged Care Act. It provides some flexibility on how sanctions can be imposed against aged care providers and introduces additional provisions on the suitability of providers and key
personnel in the sector. Regrettably, it does not address the shortage of beds in nursing homes and hostels in many parts of Australia and will not deliver extra nursing home beds to those areas where people are waiting for access to aged care. It also will not assist the large number of young disabled people inappropriately accommodated in nursing homes. There is widespread concern in the community that the government’s aged care system is not delivering proper care to frail older Australians. These concerns are not just the outraged stories in the media; rather they extend to the failure to properly monitor care standards and act in a timely and responsive manner when problems arise. They also relate to delays in accreditation, unavailability of places and long waiting times. All of this serves to create a gnawing anxiety for older Australians and their families when it becomes inevitable that hostel or nursing home care is the only option. Even at that point, many elderly people are having to spend months in an overcrowded public hospital system while they wait for a place to become available, and in a facility which is sometimes not their choice.

It is now only six weeks until the deadline of 31 December 2000 and there are still up to 50 facilities, with 2,500 beds, which have not been accredited. These amendments do nothing to alleviate the concerns of more than 2,000 residents and their families that they will be left without care after that date. However, it is pleasing to think that there will be no unaccredited, and presumably substandard, facilities remaining in operation by 1 January 2001. It is still our concern that accreditation could create a substantial shortfall of beds in this industry where there is already an undersupply of beds. Furthermore, the Australian Democrats are concerned that the intensive resource necessary to speedily accredit facilities by the end of this year may mean neglect of other functions, such as unplanned visits and quick response to complaints.

However, while I could spend time addressing what the bill does not do, I do note that the bill provides greater flexibility in the staged implementation of sanctions, and also legislates for notice of sanctions to residents and their families when the approved provider of a residential aged care service faces a withdrawal of approved provider status, the revocation of places or the evacuation of residents. In its present form the Aged Care Act is unclear about the capacity for a sanction to be deferred so as to allow its correction without the need for resident removal. We hope we will not again have to witness the distressing scenes of elderly Australians being transported en masse in ambulances from the Riverside Nursing Home earlier this year when the sanctions imposed forced its immediate closure. By providing a staged process for imposing sanctions on a care provider, and by providing for notice in writing to be given to residents and their families, all parties in the matter can be better informed and be better placed to take action.

The bill specifies that, where closure is the only option, the notice period is 14 days. There is a tension here: if the breach of standards is so grave as to warrant the most serious sanction of closure, clearly residents are at risk. The desirability of giving notice is not the most important factor in deferring a sanction in these circumstances. Rather, the rights and wellbeing of residents must be adequately protected during this process, when disgruntled providers may be less concerned with the provision of care than they are with maximising last-minute profits. It is difficult to see that 14 days notice will give residents much opportunity to consider their future, identify new facilities and relocate thereto, but it is better than no notice at all. On the other hand, I am concerned that the bill does not provide for the maximum period of deferral of the sanction. I trust that the greater the risk to residents, the shorter the time allowed for deferral, if any.

It is at this point that I cannot turn away from the concern for residents. The Democrats have long pressed for the creation of quick response teams, or flying squads, if you like, to immediately go in and set things right where risks to residents are identified. And we are not just talking about administrators, although there is certainly a need there. We are also talking about hands-on medical staff whose sole concern is the
health and wellbeing of residents. The quick response teams can be drawn from a pool of highly accredited existing industry professionals who act while the sanction notice period is in force. This will include medical professionals who can respond to the immediate medical needs of residents where this is the issue identified. By adopting the Democrat strategies, the community would have confidence that, while measures are being taken to admonish providers for non-compliance with their responsibilities, at the same time there is the ongoing provision of quality care to residents. For this reason the Democrats will move amendments to include medical professionals in the management of the facility where residents are at risk and where absence of appropriate medical treatment has been identified as an issue.

The second major element of the bill is to exclude the introduction of the term of disqualified individuals, and require that providers ensure that key personnel are basically suitable to provide aged care in an aged care facility. Key personnel who have criminal convictions, are of unsound mind, have been convicted of an indictable offence or become bankrupt are clearly not appropriate people to provide services within an aged care institution. Aged residents must not be placed at risk because of the potential actions or omissions of people with executive, management, nursing and operational responsibilities within the organisation providing the care, and it is therefore appropriate that they be excluded by means of an array of sanctions.

The Democrats are concerned that the bill does not require that the term ‘of unsound mind’ be given by a person qualified to make that judgment, nor does it require formal psychological or psychiatric examination. A diagnosis of a person’s mental capacities relating to their fulfilment of duties in providing aged care services cannot be made by unqualified persons. In its present form, this element of the bill has no semblance of fairness or balance. For this reason the Australian Democrats will be proposing amendments requiring that such a determination can only be made by a registered medical practitioner. The requirement in relation to persons convicted of an indictable offence will require providers to undertake police checks and statutory declarations from key personnel in relation to the state of their suitability. While maintaining the suitability of personnel as critical, the Democrats are pleased to note that the operation of the spent convictions scheme in the Crimes Act, together with the capacity for discharge from bankruptcy, will operate so as not to preclude suitable individuals from taking up responsible positions. Likewise, the certification of unsound mind can be revoked by a medical practitioner once appropriate treatment has taken effect and the person no longer suffers from the condition.

It is pleasing to note from our own community consultations and the report of the Community Affairs Committee that the aged care industry generally supports the bill in principle. The industry endorses the strengthening of the situation of residents and their families by providing additional powers to deal with issues arising from non-compliance with standards by providers and, further, providers who do not comply with the delivery of care to acceptable standards. Industry members generally support the concept of measures other than forced closure and resident disruption. However, universally all express concerns over the impost on the sector in complying with these key personnel controls. I call on the Minister for Aged Care to direct additional funding to facilities to enable them to comply with these provisions.

The Democrats will be supporting this bill because ultimately it is in the interests of aged Australians. However, we feel it does not go far enough in addressing community concerns regarding the aged care industry. In fact, the bill is quite tightly focused on two issues only. Firstly, the manner in which the sanctions are imposed is directed more to minimising adverse consequences for care recipients when sanctions are imposed and it seems unlikely to have a direct role in improving the quality of age care. The second focuses only on weeding out certain people from the system where their track record suggests they would be undesirable participants for quite specifically defined reasons.
We would have liked to have seen other improvements which could have been achieved by legislative amendments, as I said earlier. The bill does not deliver one extra nursing home bed to the many areas where people are waiting longer and longer to access aged care. The reality is that, with the ageing of the population and the growing number of people needing residential aged care, the government needs to allocate a significant number of additional nursing home beds in every region and every year.

Senator GIBBS (Queensland) (8.39 p.m.)—I rise tonight to speak on the Aged Care Amendment Bill 2000. This bill proposes several much needed measures to reform the provision of aged care in Australia. While broadly supporting the bill, the opposition will move several amendments to strengthen its impact. We will be moving these amendments because the current framework is not working. It is not working because the government continues with the mistaken belief that all of the changes it has made to aged care over the past four years have been of benefit. They obviously have not been and the government needs to do more to address the situation. There is continual evidence right across Australia that the standard of aged care provided to the elderly is declining. Nursing staff have been marginalised and some operators are rushing out to make a quick buck. The situation is unacceptable. While we welcome the government’s move to address some of the issues, it needs to go further.

Before discussing the particular measures of this bill and how it can be improved, it pays to look at the history behind the legislation. In 1997 the Howard government announced a radical plan to overhaul aged care in Australia. Part of the plan included the setting up of accommodation bonds that would have to be paid by a person entering an aged care home. That would have raised $400 million for aged care homes, money that was being syphoned off by the government. But it would have come at the expense of the elderly and frail who were needing to enter an aged care home. After a huge outcry, the government overturned the accommodation bonds decision but took the money out of the industry anyway. At the time it promised to implement what would be the toughest accreditation and inspection system the country had ever seen.

But what did we see? We saw a bungled accreditation system and no surprise inspections until this year. The agency did not conduct one surprise inspection until after the shocking treatment delivered to elderly residents of the Riverside Nursing Home in Victoria was exposed. Only then did the minister and the department deem it worthy to act. And what have they done since Riverside? The department has ordered a few more inspections and cracked down on a few providers during the accreditation process. Unfortunately, the situation has not changed for the better. There continue to be problems in the industry, endemic problems that are only going to be solved by more government action and more government money. This bill is a start to fixing those problems, but only a small one. It could go a lot further. There are far too many reports of mistreatment of elderly patients in aged care homes. That is totally unacceptable to people on this side of the chamber and totally unacceptable to the public at large. The government, by ensuring that the system works properly, must ensure that the community has the highest possible confidence in it. The community needs to be satisfied that the government is doing its best to regulate and investigate the provision of aged care in Australia. Unfortunately, the current system of checks and balances is not working properly. The community has lost faith in the system and it needs to be restored.

Today I want to provide an example of some of the treatment that is occurring every day in nursing homes across Australia. I want to relate a story about the treatment of one particular aged person in a nursing home. I will not identify the source of this complaint or any details that might identify that person, but his story is similar to those coming out of dozens of aged care facilities all around Australia. These stories should indicate to the minister and her department that the current approach is simply not working. Recently I was informed of a case involving a man in his early sixties. Several
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years ago the man had a major stroke that left him paralysed down one side of his body and unable to speak. Since then he has suffered several more minor strokes, effectively stopping any chance of partial recovery from the initial stroke. The man has some mobility and can move short distances with the aid of a walking stick. He does, however, have great difficulty using stairs. For several years after the first stroke the man’s wife did her best to care for him and look after his needs. Recently she found that the effort was becoming too much, and the man was admitted to a Brisbane nursing home.

As some of you may know, many stroke sufferers retain their full mental capacity after a stroke. But their alert minds are effectively trapped inside bodies that often do not allow them to speak, and they have difficulty with eating. Swallowing for a stroke sufferer not only is very difficult but can be life-threatening, and the person is confined to eating food that must be crushed and mashed. This person had been in the particular nursing home for several months until he was apparently removed from the home without any notice given to his family. The reasons for his quick removal are yet to become totally clear but apparently there was some form of heated dispute involving the man and a tea lady. Staff at the Royal Brisbane Hospital, where the man ended up, reported that apparently the tea lady at the nursing home had placed two very large, uncrushed tablets on top of the man’s breakfast cereal. The staff at the nursing home had been expressly instructed a number of times that the man’s medication had to be crushed and mixed with his food.

After the incident, the man was apparently ejected from the nursing home and sent by ambulance to the nearest hospital. His family were not informed of his discharge. When his wife arrived to visit him, she found someone else in her husband’s bed. Unfortunately, she jumped to the conclusion that her husband had died. After being told by staff at the nursing home that this was not the case, she started the task of trying to track him down. The man’s family were then led on a chase halfway across Brisbane, being told different things by people at the nursing home and at the hospital. Eventually—several hours later—the man was found sitting alone in the hospital’s emergency room. It is disgraceful that a person in such a condition could be discharged from a nursing home without their family being notified. These sorts of situations should not be allowed to occur.

There are many more serious incidents that the current system has failed to deal with adequately. In March this year, complaints arose about the investigation of deaths at the Gladstone nursing home Alchera Park. Two war veterans who had been living at Alchera Park died—one in 1997 and one last year. Just before they died, both men were treated outside of the nursing home for extensive pressure sores caused by extended periods of lying in one position. Doctors at the time were shocked that the condition of the men had been allowed to deteriorate to such a degree. Two other deaths at the home were also the subject of complaints by relatives.

After the issues at Alchera Park became apparent, the minister and the department were greatly criticised—and rightly so—because of their slowness in responding to complaints. In the past few weeks, the principal medical adviser to the Department of Veterans’ Affairs, Dr Graeme Killer, expressed his concern over how the issues at Alchera Park were investigated. The issues were not properly investigated until parliamentary and media pressure forced the minister to act. These issues are very serious. They go to the ability of aged care providers to properly ensure the health of their residents. The issues also go to the confidence the public has in the whole system. The Australian community needs to be assured that the government not only is watching but also will act on issues as they arise.

The problems being addressed in this bill came to light because of the shocking mistreatment of some of the residents at the Riverside Nursing Home. That instance was the first time the government used a number of provisions introduced in 1997. Many of those provisions were found wanting. Under the current legislation, the government is unable to provide residents and their families with prior notice of a nursing home closure.
because the act requires that the revocation occur immediately. The lack of any notice and the general uncertainty experienced by families in the lead-up to the closure of Riverside contributed to their distress. The minister readily acknowledged this flaw in the act at the time. The government has also found that the current provisions relating to the approval of providers and their staff are flawed. Cases have been reported in the media where approved providers and staff have been convicted of various offences, including fraud. The government has not yet moved to withdraw the approval of any of these individuals.

This bill addresses just two areas where problems have emerged under the government’s Aged Care Act. There are other problems that also need to be looked at. We will address some of these in the amendments we move, but it is up to the government to demonstrate that it is committed to fixing all of the problems its legislation has caused. This bill introduces two main changes to the current Aged Care Act. Firstly, it allows flexibility in the implementation of sanctions. This would allow the department to provide up to 14 days notice of any closure or to specify that the closure is to happen gradually, as beds become vacant in the facility. The bill would also establish more detailed rules on the approval of providers and their staff and allow an individual to be excluded from the operation of a nursing home without forcing the closure of the entire facility. Under these provisions, approved providers will have to ensure that all key personnel are not excluded from working in the sector under the specified provisions.

Our amendment would ensure that in cases where risks to residents are reported an administrator would have to be appointed within three days. Under existing legislation, the provider has three weeks to nominate and appoint an administrator. Our proposed amendment would also provide clearer powers to the administrator to ensure that they can actually improve care standards. The proposed amendment will truncate the current process for choosing and appointing an administrator where residents are found to be at risk. Under the current provisions, the provider has two weeks to nominate someone and then another week to appoint the person. The amendment would shorten those periods to just two days and one day respectively by establishing a pool of suitable administrators.

In Queensland, a number of residential aged care facilities are engaging in practices considered to be against the government’s stated intentions of continuous improvement in the provision of aged care services. A number of residential aged care facilities have significantly increased staffing complements and improved their skill mix to achieve accreditation. There are reports that, following granting of accreditation, usually for three years, care staff’s hours and skill mix are significantly reduced, with no identifiable change in resident profile. This is also seen in those facilities that are under sanction and have engaged department approved administrators for a period of up to two years.

There are several issues that need to be addressed by the department concerning these issues, including the following questions. What is the standard form of contract that the department uses when entering into an administration agreement with a provider in lieu of revocation of the approved provider’s approval under part 2.1 of the Aged Care Act 1997? What are the key components in relation to provider obligations once the department accepts administration of a facility under the sanctions principles of the Aged Care Principles 1997? Is the approved administrator an employee of the provider for the purposes of the administration agreement? What rights and/or obligations does the appointed administrator have in relation to the provider and the operation of the facility during the period under administration? What recourse does an appointed administrator have with the department if the ‘contract’ between themselves and the provider is frustrated by provider interference? Is a copy of the contract or the agreement for administration made available to the relevant personnel, including the nurse in charge of nursing services? What provisions are contained within an agreement or contract of administration of an aged care facility to prevent reduction in staff numbers, skills mix
and care hours following accreditation of the facility? Does the department or the Aged Care Standards and Accreditation Agency have any requirement, in the interests of monitoring continuous improvement strategies of a residential aged care facility, for those facilities to notify staffing and key personnel changes following accreditation? These questions need to be answered so that the community can have confidence in the provision of aged care.

The problem with the issues that I have identified is that they are not isolated. These sorts of things are happening to older Australians every day of the week. They are happening every day because this government is driven by an ideological belief in small government: small government at the expense of a decent education for ordinary Australians, small government at the expense of the health of ordinary Australians and small government at the expense of the health, safety and peace of mind of elderly Australians.

Senator DENMAN (Tasmania) (8.56 p.m.)—I rise to speak on the Aged Care Amendment Bill 2000. History does not seem to be of much importance to the Howard government. This is evident in the reduction of funding to the humanities and to universities and in a callous disregard of the elderly. As we are forced into a more competitive world where time and output, not quality, are measured, the elderly of our communities are alienated, as you cannot measure wisdom via performance indicators. ’Do we remember them?’ is the question. Do we remember the generations that sacrificed their lives and the dreams of youth to stop the tyranny of the dark simplistic fascist cloud? It appears that, with the setting of the sun, we are forgetting. Families are more mobile in today’s society than at any other time in our history. As geographical changes in families occur, the possibility of the extended family caring for their own diminishes and more pressure will be applied to the broader society to find ways of managing the needs of the elderly in our society.

As the young are forced to leave the community areas where they live to find work, more demands will be placed on rural communities to fill the gap. How is this to be done? With the policies that are driven by the Howard government, it is anyone’s guess. Rural communities may get some doctors in 10 years, but not much else appears to be in the pipeline for the country areas of Australia. Most of the facilities that cater to the needs of the elderly are of reasonable standard and, apart from the natural fear innate in any inspection, the establishments in the industry support the notion of spot checks. Thus it is surprising to see, as a result of the Howard government’s policies on accreditation, that only two per cent of homes will be spot checked. This is hardly going to strike fear into the hearts of fraudulent providers. There is a 98 per cent chance of getting away with substandard provisions of nursing home care for the elderly. These are great odds in anyone’s terms, particularly if you are a betting person. One could be excused for thinking that the Howard government do not want inspections done at the moment. They would rather leave it alone as any more revelations about the Minister for Aged Care would be embarrassing for the government—the last thing they want. They may find more people with sores and suffering from neglect, and they would rather not see or hear—and they certainly do not want to act. That would compromise their obsessive drive for power, not for the good of the country but for their own intoxication.

Accreditation visits do not rate as spot checks as there is a one-week warning prior to the commencement of any inspection. Thus, unless an agency is virtually falling down around people’s ears, there is every chance that a pretence can be engineered. ’Do we remember them?’ is the question. Do we remember the generations that sacrificed their lives and the dreams of youth to stop the tyranny of the dark simplistic fascist cloud? It appears that, with the setting of the sun, we are forgetting. Families are more mobile in today’s society than at any other time in our history. As geographical changes in families occur, the possibility of the extended family caring for their own diminishes and more pressure will be applied to the broader society to find ways of managing the needs of the elderly in our society.

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fare who supposedly rort the system were not
given the same discretion.

This may be as a result of the unrealistic
accreditation system that seems to be all
about rules, but there is no money to allow
the agencies to be able to reach the recom-
mendations contained in the rules. This is yet
another example of misinformed policy dis-
rection that seems to be the catchcry of this
government. The posturing may look good,
but there is little substance under the tinsel
that settles on the heads of the elderly as they
lie isolated in their twilight years. This
shambles in aged care policy impacts on the
viability of state health systems, as the eld-
erly have been housed in hospitals due to
lack of adequate facilities to cater for their
needs in the general community. That is hap-
pening in the community in which I live.
When we see the waiting lists growing in our
public hospitals, we must keep this cost shift
from the Commonwealth to the states in
mind before we direct our venom at our state
colleagues.

My home state is an absolutely beautiful
place—but I suppose we all think that about
our home states—where many elderly people
reside. In fact, in the north-west of the state,
where I live, the elderly account for nearly
20 per cent of the population. We have not,
as yet, seen pictures of the displaced elderly
on the streets, as we did in the Riverside fi-
asco. It appears that the majority of our pro-
viders operate in a viable way. However, this
will not be helped by the funding provided
by the Howard government, which was sin-
gled out by the Productivity Commission as
dealing badly with aged care in my home
state of Tasmania. In some ways, the Howard
government’s attitude to the elderly in Tas-
mania reflects its lack of understanding of
the communities outside Melbourne, Can-
berra and Sydney. I will reiterate a statement
that I made in a speech earlier in the year.
Economies of scale ultimately mean larger
nursing homes in the inner city will find it
easier to compete. There is no ineptitude on
the part of rural providers; rather, it is the
law of the market—something the bean
counters in the government should under-
stand.

Perhaps not surprisingly, when asked the
question, ‘Would you prefer to move or stay
in your own neighbourhood?’ over 50 per
cent of the older people in Tasmania sug-
gested they would rather stay in their own
neighbourhood than move. Thus it may be
worth considering smaller homes that are
locally run and owned rather than being ob-
sessed by the bottom line in an increasingly
dollar dazzled society. Many medical and
psychological findings would support the
preference shown by the elderly, as familiar-
ity becomes more important at that age. They
like to stay in their communities. They like
to stay where they know people. The need to
live locally is not just a selfish wish on the
part of the elderly; it is good for their health,
both emotionally and physically. Addition-
ally, small nursing homes would provide
employment for local people who would be
known to the elderly. Probably the elderly
would have known these people’s families
and, therefore, would be familiar with those
that are caring for them. This would also be a
positive outcome.

If the government were serious about re-
ducing costs, they would do well to consider
reducing the red tape. The President of Aged
Care in Tasmania, Mark Stem, highlighted in
the local newspapers recently that red tape is
becoming a ridiculous burden on staff and
depriving them of valuable client time. He
went on to say that there is a massive amount
of duplication. He also said this was not an
attempt to avoid accountability; rather, the
level of documentation was too high. His
comments were supported by the state sec-
retary of the Australian Nursing Federation,
Ms Pam Wright, who stated that her mem-
bers had expressed ‘enormous frustration’
with the issue and that the required paper-
work had ‘increased dramatically and we
would like to see it simplified dramatically’.

These statements hardly accord with the
Howard government’s catchcry of simplify-
ing systems and cutting red tape. It seems
that managerialism and box filling have
grown exponentially under the influence of a
middle management ideology that seems
more obsessed with measurements than out-
comes. It means that the aged care industry,
as are many others, are being stupefied by an
encouragement of the iron cage of bureaucratic nonsense, thus depriving the elderly of often unmeasurable time for idle banter with the staff. The staff are too busy filling in forms. That chatter with the staff has a health benefit for the elderly. It gives the elderly who do not have people visiting some human contact. That cannot be measured on a pie chart. It worries me that in the brave new world of doublespeak and spin the elderly have gone from being invigorated and valued to being a burden or a liability. When we think of human beings in terms of cost or deficit, it indicates that the market has supremacy over humanity and we should heed the warnings rather than look for scapegoats.

The contribution the elderly make can be found in a study by the Institute of Family Studies where it is revealed that 67 per cent of the elderly provide child-minding services, 40 per cent provide financial help and 27 per cent provide help for their children’s tertiary education. Imagine in smaller localised communities what a benefit the elderly could be to the younger children in our communities. Some may not be mobile, but many are of sane mind. Those people could make an enormous contribution, particularly in rural communities.

I also found somewhat to my surprise that the elderly were more concerned about pesticides in food and water and about other additives to their food than any other age group. Stereotypes are destroyed again, it seems. It reinforces yet again the contribution made by those over 60 to the betterment of our world. Thus it is amazing that, according to the Productivity Commission, there is a shortfall in funding in aged care to the tune of $200 million. It was suggested by the commission that this $200 million be a one-off injection of funds to enable aged care providers to meet their obligations as demanded by the accreditation system. As a result of this money not being allocated, a number of home closures—up to 50 in the next five weeks—are mooted in the next year. I have a story about an elderly friend of my mother’s, who cracked a femur. She lives in a small community. She had no family close by and so no social contact. As a result of that, she became very depressed. These are the sorts of things that will happen in small communities unless we do something to address those issues.

Senator WEST (New South Wales) (9.09 p.m.)—I rise to speak on the Aged Care Amendment Bill 2000. This is an important issue that the Senate has been canvassing for some considerable time. I think I should declare somewhat of an interest in this issue of aged care because my father, up until his death in June this year, was resident for five months of his life in a nursing home. I have to say that the nursing care he was given was first-class. But, boy, did they have some complaints about this legislation, because what it does is keep them away from the patients—from their clients or whatever you want to call them; whatever is the trendy ‘in’ word these days. They also had concerns because this piece of legislation does not stipulate the number of registered nurses that should be employed. The legislation does not actually look at those particular issues. It sets out a whole set of criteria and benchmarks that have to be reached, and pieces of paper that have to be kept, but it does not identify the number of registered nurses, assistants in nursing or enrolled nurses that would be needed.

We have had all this controversy, and concerns and issues have been raised in the last couple of years. I chaired a committee that did an inquiry into this legislation. This is the legislation that you get when you say you are going to table legislation, you let it lie, and then give 10 days worth of consultation before the bill is brought into the chamber. This legislation is an example of the mess you get when the guidelines and the essential elements that go with it are not put down and are brought online later on. This is the legislation you get when the senior bureaucrat of the department, when asked about the consultation they had with the nursing organisations, says that they talked to the New South Wales Nurses Association or the ANF. The department did not comprehend that the setters of the professional standards within nursing are the two colleges of nursing—the New South Wales college and the royal college, both of which I have to admit to being a member of—and within those, Geriaction,
which is the organisation formed by members of the colleges who specialise in geriatric care. But, no, four years ago, the government and the department did not talk to those organisations until it was drawn to their attention very forcefully by me that these were the groups they needed to talk to. But they had already introduced the legislation.

Work was done by the colleges and the unions that showed that the categorisations and the standards of measuring were flawed. We had another disagreement with the department at estimates and other hearings, and eventually it had to be reviewed. This piece of legislation that we are debating yet again tonight has a very long and sordid history of mismanagement by this government. Nobody in this chamber—no member of parliament—would disagree with the principle attempts of any government to improve aged care, but the handling of the aged care legislation by this government has been nothing short of abysmal. It has not done the right thing. It has not consulted or taken cognisance of the knowledge and the expertise of those groups in the community who know what good aged care is about.

I had a look at a number of them—I have been following it very closely—and what did I discover? There are four major standards that are published on the accreditation assessments. The first is management systems, staffing and organisational development; the second is health and personal care; the third is resident lifestyle; and the fourth is physical environment and safe systems. Within those four categories, there are about 35 elements. I have one here, and I will not mention the name of the institution, that has got a three-year accreditation. Good. Great. Let’s look at what it says about health and personal care. It is ‘unacceptable’. One of the four categories is unacceptable, and this place has three-year accreditation. I will talk about another one shortly that has three unacceptables and got a one-year accreditation. The department and the minister said at estimates, ‘Oh, but it means we are able to bring them up to standard.’ That is not what I thought this was about. Let’s talk about the health and personal care assessments at this particular home. The information on the web site states:

... medical admission process was not always completed and documented within the acceptable timeframe.

It goes on:

Residents, relatives and staff interviewed... stated that individual continence management programs are not consistently implemented in accordance with identified needs, and this was confirmed during an audit of the care plans by the team. There was little evidence of the use of contemporary practice to manage continence. Effective evaluation of continence programs was not consistently undertaken.

The service has a 24 bed dementia specific unit. Feedback from relatives and staff indicated that individualised behavioural management programs are not being consistently developed to address these residents’ identified care needs.
Observations by the audit team confirmed that there were minimal opportunities provided to engage these residents in therapeutic activities. Feedback from residents, relatives and staff indicated that mobility programs, previously developed by a physiotherapist, are not being consistently implemented. Care plans do not always reflect the residents’ mobility and dexterity care needs. There was little evidence of programs for maintenance of mobility and dexterity being developed or implemented.

The team acknowledges the feedback from residents and relatives about the caring attitude of staff...

I agree about the caring attitude. These are the sorts of statements that the accreditation team are writing, and institutions are getting three years accreditation. I know that this particular institution will endeavour to overcome these deficiencies, but one has to worry and wonder about other institutions, which may be large corporations or organisations, perhaps in capital cities, where they have an old truck that runs around with lots of potted ferns and palms which they trot in for the accreditation process and are trotted out the day after the accreditation team leaves. This is not good enough.

We also learned at estimates that there are quite a number of homes that have not applied for accreditation, and one has to wonder where those are going on 1 January. One also has to wonder what is happening to the standards in those homes in the meantime. I read of one that has had a supplementary review audit report. Mind you, it has never put itself up for an audit, but it has had a supplementary review audit report. That was conducted on 16 May and approved on 15 June, and it was made public—I presume—on 13 July. They were going to have some follow-up contact, but we are still waiting to see on the web site what the results are. There was going to be a report in July and another visit in September. That is now two months gone, and there is still nothing further on the web site. So one has to have concerns. When we get to review audit reports, we have only three categories. In health and personal care, it was unacceptable; in resident lifestyle, it was unacceptable; and in physical environment and safe systems, it was unacceptable. So for the three categories, this one was unacceptable. This is also a home that has not applied for accreditation, so one presumes that on 31 December it is going to cease operation. One has to wonder about the 59 residents who are there at present. If the three categories are unacceptable, what is this minister doing to ensure that the standards are maintained and that I will not read comments like, ‘the carpet is smelly’?

Senator Forshaw—Nothing.

Senator WEST—That is right, Senator Forshaw. There has been lots of hot air from this government, lots of talk, but they have actually failed when push comes to shove. They have failed to deliver.

There is another institution that I will mention. It is a small, low care institution—what used to be called a hostel. It has 15 beds and four high care residents. It is in an area that I think is going to shortly have an MPS. This institution got a one-year accreditation—and you wonder what is going on. Their rating on the first standard—management systems, staffing and organisational development—was ‘unacceptable’; on the second standard—health and personal care—it was ‘unacceptable’; on resident lifestyle it was ‘satisfactory’; and on physical environment and safe systems it was ‘unacceptable’. Three out of four of the standard groups rated ‘unacceptable’, and this institution gets accreditation for one year.

I have spoken to members of the area health board in the area in which this institution is situated, where there are discussions about it becoming an MPS, and these people were not aware that the institution had got only a one-year accreditation. I do not know who is not talking to whom, but I think this federal government and department need to very carefully look at and perhaps review the systems that they have or have had for advising the state governments and the state departments about institutions and organisations where there has been what I would suggest is a bit of a failure in the system or a bit of a failure in maintaining the standards. That is probably being a bit euphemistic. I think it is incumbent on the federal government to make sure that the state departments know very clearly where these institutions are deficient. They are basically handing the
money over to the state and saying, ‘You run it,’ but they are not telling them, ‘Whoops, there’s a slight problem there.’ It is an issue that is of grave concern to me.

I will look at another institution. You just keep seeing the rating of ‘unacceptable’. This is another audit review report. I have not been able to find its accreditation report, so I can only assume it has not had one. The audit was conducted at the end of July and on 1 August. It found that 25 of the 35 expected outcomes were not met. It had undergone a change of ownership in the previous 12 months and a series of changes at senior management levels. The report said ‘continuous improvement activities are in an embryonic state’. I would suggest that it is even more elementary and primitive than ‘embryonic’. The first finding was that the standard of personal care was at serious risk. There are about six pages. It says things like:

... strong smell of urine within the service...one brand of pad...being used and these are inadequate in addressing the continence needs of residents.

The report also mentions ‘behavioural problems’. It is just appalling. When you go to resident lifestyle, you find that it rates as ‘unacceptable’. It also says:

The emotional needs of residents is not documented on admission...

The third standard is ‘unacceptable’ as well. This has been on their web site for a while. They were going to have monthly site visits, but there is nothing on the web later than 8 August. I ask again: what public evidence is the department providing for families to say that residents are being cared for? There does not appear to be a great deal there. It is really of concern.

Senator Calvert—Can you tell us what happened in the 13 years you were in government?

Senator WEST—Senator, you keep bleating.

Senator Calvert—No, I am not bleating; I’m just asking a question.

Senator WEST—At least we ensured that the money that was supposed to be spent on nursing was spent on nursing and personal care and not filtered off somewhere else. What is going to happen in the next three years? How many of these institutions that have three-year accreditation are actually going to be able to be assessed or reviewed during that three years, or will it just be a case of ‘wait until things have come along’?

This legislation, of course, does not indicate what the government is actually doing to address the shortage of nursing home beds. There are areas within most states where there is quite a degree of shortage. Even where the department says there is not a shortage, I certainly get anecdotal evidence of long waiting lists and evidence of people who obviously need some sort of care having to be cared for in the public hospital system. There are certainly areas in the north-west of New South Wales where they have had 100 or so people in the public hospital system who have been identified as needing straight nursing home care. These issues also have to be addressed. Maybe the department and the government have to review how they arrive at the bed numbers required per 1,000 people over the age of 70. Maybe it is changing. Maybe the needs are changing. People are living longer and are becoming more dependent in the last year or so of their lives. This is an issue that this government really does have to address.

I am told that in Bathurst there is an oversupply of beds. But I also receive correspondence from groups like the RSL and pensioner groups saying that they are aware of people who are having to wait at home or in the hospital when they need to be in a nursing home. Acute hospitals are wonderful places and give wonderful care. But the care that is needed for somebody who is a resident in a nursing home is different to the care needed for somebody who is a resident in an acute hospital. Both are specialised areas of nursing and both should be recognised as such.

I would like to end on the concern that I have about what this government is doing—I say this government, not the department—in the erosion of nursing standards. This minister does not appear to have any major commitment to ensuring that there are adequate numbers of registered and enrolled nurses at the bedside of people in aged care.
accommodation. The reports are indicating that very clearly. (*Time expired*)

**Senator FORSHAW (New South Wales)**

(9.29 p.m.)—I rise to make some remarks in this debate on the Aged Care Amendment Bill 2000. I must say that it is pleasing to be able to follow Senator West, because she will recall, as I do, the debates that took place in this chamber back in 1997—just on three years ago and pretty much to the time—on the then aged care bill introduced by this government. Many of the issues raised in the debate this evening—issues that this government have simply not addressed in this legislation—were issues that we raised at that time. We said in the debates in 1997—and I can well recall them, because I had the responsibility at that time as the parliamentary secretary to the shadow minister for health and aged care to handle the legislation—that there were going to be very serious consequences as a result of this government’s legislation. But they did not listen to us. They said that we were wrong, that we were doomsayers. Furthermore, the government said that this was a new era for aged care in the country and that their reforms were going to dramatically improve the quality of care and funding for aged care throughout Australia. What a prediction to make! If you look at the history, we were right and the government was wrong. We said that the government’s proposals in that legislation were actually going to do the opposite: they were going to lead to a decline in the standard of care, a crisis in funding and in bed allocation in aged care—and that is what we have today.

Some of the issues that we raised at that time, as I said, have been raised by members of the opposition here this evening. For instance, on the question of funding, we all recall the new system that the government wanted to introduce—wedded as they are to the ideology of user pays for everything—namely, the famous accommodation bonds system. We said at the time—and indeed I recall we were supported by the Democrats; but, in the end, unfortunately, the Democrats rolled over and supported the government’s bill—that the system would not work. It would be a major financial burden on the elderly and their families in this country and that people would have to ultimately sell their homes to get a bed in a nursing home. We were howled down and we were lampooned. We were told that, ‘No, that is absolute nonsense. You are just scaring the elderly people of Australia,’ and that this was all a furphy. Time has demonstrated that we were right. Indeed, it took only a few months before the government came to the realisation that their funding system for accommodation bonds was just not going to work. The government and the then minister were forced to try to fix the system that they had introduced only a few months earlier. We all remember the hapless minister at the time, Mrs Judi Moylan. She really got the dump when she was handed this portfolio and, of course, she went by the wayside in terms of her ministerial career.

**Senator O’Brien**—And what about Warwick?

**Senator FORSHAW**—I am reminded that the next minister who took over the portfolio responsibility was Mr Warwick Smith—the supposedly bright and shining star of the Liberal Party in Tasmania. He did not last very long either. Of course, the voters delivered him the ultimate lesson at the last election. And now who do we have as the minister for aged care? We have Bronwyn Bishop—a legend in her own mind.

**The ACTING DEPUTY PRESIDENT**

(Senator Knowles)—Mrs Bishop.

**Senator FORSHAW**—Mrs Bishop—former Senator Bishop and a person who used to dream of being the Prime Minister of this country. She may well dream because, in terms of her portfolio and ministerial responsibilities, Mrs Bishop has been an abject failure. The members of the government know that, as do the people involved in the aged care industry.

**Senator Calvert**—No, she has not. She has been a tremendous minister. She has done a great job. Pull your head in.

**Senator FORSHAW**—Well, that statement only has to be made to demonstrate that it is self-evidently false. We raised funding issues. This government’s proposals were a disaster. Ever since then, they have been
grappling to fix the system of funding for aged care. This legislation does not attempt in any way to deal with that major problem. Nor does this legislation attempt to deal with another serious issue; that is, the waiting lists and the shortfall in beds for nursing homes and hostels. We warned the government in 1997 that the changes they were introducing were going to place added burden on the acute care system in public hospitals, as more and more elderly people would be forced to remain longer in public hospitals, and that there would be increasing difficulties for them to get nursing home beds. That has been demonstrated clearly. The situation has got far worse than it ever was at the time we were in government. Figures that have been produced in the department’s own annual report for the last financial year bear that out.

Just to mention some of the areas in my own home state of New South Wales, in the Central Coast area there is a combined shortage of some 1,171 residential aged care beds. What did that area receive out of this government’s allocation for this year? An additional 300 beds. There was a shortage of 1,171. To meet that, they received only an additional 300. Similarly, on the Mid North Coast, there is currently a shortage of some 336 nursing home beds. They received only an additional allocation of 25 beds this year. The same story can be told for many other areas throughout New South Wales. It is particularly the case in the regional areas of New South Wales. I have just referred to the Central Coast and the Mid North Coast, but, if you look at the figures for the Far North Coast, the Illawarra, the Hunter and so on, you will find a similar story. There is an increasing need, an increasing shortage of beds, and this government is doing nothing at all to alleviate the problem.

You would think that, given that they were bringing in a piece of legislation to amend the Aged Care Act, which has now been in operation for three years, they might be looking for some real areas of reform and some real areas of improvement such as in the area of bed allocation that I have just mentioned. But no, there is nothing about that. The situation is similar for standards of care. Senator West quite correctly drew attention to the serious decline in care standards. We said back in 1997 that this government’s legislation was going to potentially lead to a reduction in those standards. The changes that were implemented at that time were criticised by the Royal College of Nursing, the Nursing Federation and other eminent medical groups, as well as by agencies within the industry. But our criticisms went unheeded and the results have unfortunately come to pass. We have seen situations like Riverside and a whole range of other nursing homes that have been identified as being seriously below standard.

This government and this minister and previous ministers boasted about their new accreditation system and the major changes that they were going to bring about. It took three years for the first ever surprise inspection of a nursing home under this government to take place. And that occurred only because of the constant highlighting of the serious situation in nursing homes by the opposition in this parliament, particularly by Ms Macklin in the other house and Senator Chris Evans in this place, constantly asking questions and bringing these serious problems to the notice of the government. Eventually, three years after the legislation was passed, the minister announced that the first ever surprise inspection was taking place. Since then we have seen very little follow-up action at all.

I have referred to some of the major areas that this bill does not deal with. What does it deal with? You could be forgiven for thinking that it does not deal with very much at all when you look at the explanatory memorandum. It states:

The Bill gives more powers to the Department of Health and Aged Care ... over providers who cannot or will not comply with the Act.

The Bill enables notice to be given to residents and relatives where the approved provider of a residential aged care service faces withdrawal of approved provider status, revocation of places and evacuation of residents.

Those two short paragraphs are saying that what this bill really deals with is giving the department some more power, some more flexibility in terms of sanctions, and also
providing for notice to be given to residents and relatives where a nursing home is going to lose its provider status. They are important issues, but they are very much after the horse has bolted and they do not encompass all of the other major problems that exist in the system that we have highlighted in the debate this evening and that have also been highlighted in the Ombudsman’s own report into the aged care sector.

The title of this bill is very much a misnomer. It is the Aged Care Amendment Bill 2000, but it contains very little when it comes to dealing with the real, systemic problems that exist in aged care in this country. As we said back in 1997, this government’s so-called reforms and its blind obsession with user pays were going to cause increasing problems in aged care.

During the previous speech by Senator West, there was an interjection from Senator Calvert. I think the interjection was along the lines that he goes out and visits nursing homes. That is very commendable of you, Senator Calvert; we all should do that. Indeed, it is something that I have done on a regular basis since being elected to this chamber and is something that I particularly did when I was previously the parliamentary secretary to the minister for health and aged care. I can tell you that, despite and notwithstanding the misinformation and the haranguing that we used to get from Senator Herron and other members of the government in the past on what the Labor Party did when we were in government, there are many nursing homes and hostels that I have visited that were either built or upgraded during the 13 years of the Labor government that are a model for aged care.

I give you the challenge. If you want me to take you to some of them, I will. I have visited a number of them. I refer to centres such as the John Paul Village centre in Heathcote, built and financed by a combination of federal government funds and funds from the local community and the Catholic Church. It is a magnificent centre, and I have had the opportunity to visit a number of those centres across New South Wales. I also had the opportunity on a number of occasions to actually represent the then minister in the previous Labor government in opening some of those improved facilities. Equally, I have seen some pretty terrible situations; they exist today, and I would not want to in any way suggest that they did not exist in the past.

If you go back to the time of the Gregory report and to the time when we were first elected, there were serious problems in aged care in this country both in terms of nursing homes and hostels. Nobody disputes that. What we were faced with was a long, long period of neglect by previous governments, over most of the years in which the coalition parties were in government prior to 1983. That was combined with significant demographic changes particularly in terms of the ageing population and also in terms of a lot of aged persons moving out of the major cities and to regional areas, particularly to coastal regions in New South Wales. We did start to address those issues, but I think everybody knew it was going to take a long time. What is needed now in this debate is not small pieces of legislation such as this bill, important as it is; this government needs to sit down and have a look at the real problems in aged care and bring back some legislation into the next sittings of parliament that tackles those real issues that we have spoken about tonight.

Senator HERRON (Queensland—Minister for Aboriginal and Torres Strait Islander Affairs) (9.46 p.m.)—Listening to all the former speakers, I was reminded of the old testament prophet Jeremiah. You recall that Jeremiah was always talking about calamities, denouncing wrongdoing and prophesying that all was falling apart. Every speech was about that. It took me back to my school days and Around the Boree Log, to a contemporary of that time, Hanrahan. Hanrahan was always saying, ‘We’ll all be rooned,’ if the drought did not break and then, ‘We’ll all be rooned,’ if the rain didn’t stop. The Labor Party was only in power for 13 years. It had 13 years to do something about it. Hanrahan was always saying, ‘We’ll all be rooned,’ if the drought did not break and then, ‘We’ll all be rooned,’ if the rain didn’t stop. The Labor Party was only in power for 13 years. It had 13 years to do something about it. I would agree with Senator Forshaw in one regard: the changing demographics, the ageing population, et cetera. Four years ago when we came into office, the Auditor-General said that there were 10,000 aged care places...
in deficit in this country. But let us get things into perspective: only eight people in 100 over the age of 70 years of age access residential aged care in this country—eight people in 100.

We are quite proud of what has happened since we came into government. It is interesting that even last week Senator Evans, in a speech in Perth, said that the Labor Party in power were going to keep accommodation bonds, were going to keep accreditation, were going to keep certification. They are all things that we have brought in. We have a very proud record—around 17,200 places have been allocated to areas of need across Australia since we came into office and of these around 6,400 have been residential care places and 10,800 have been community care places. In the 1999 aged care approvals round, around 7,000 more aged care places were allocated, and 40 per cent of these places were allocated to rural and regional areas. Emphasis is being given to caring for people in their own homes, which people want. Around 4,300 community aged care packages were allocated in the 1999 round.

Coming to this Aged Care Amendment Bill 2000, on 7 September 2000 the House of Representatives passed the bill with support from the opposition. The amendments contained in that bill are designed to give more powers to the Department of Health and Aged Care through the secretary of the department and his or her delegates over providers who cannot or will not comply with the new aged care standards established under the Aged Care Act 1997. Time is running out, and I seek leave to incorporate the rest of my speech in Hansard.

Leave granted.

The speech read as follows—

The aged care reforms made by this Government, and put in place by the Aged Care Act 1997 and attendant Principles, are the basis of a sound and sustainable aged care system.

Key elements of those reforms are strategies to improve both building standards and care standards, namely, certification of buildings and accreditation in relation to care standards. The legislation sets a deadline of 1 January 2001 for all residential aged care services to be accredited if they are to continue to be eligible for residential aged care subsidies. During the accreditation phase, for the first time all residential aged care facilities will have been visited and two thirds visited more than once.

On 27 July 2000, the Minister for Aged Care, the Hon Bronwyn Bishop, announced a further progression of aged care reforms including the creation of the Commissioner for Complaints and the Hon Rob Knowles would fill that position. The Minister also announced a stepped up program of continuing random spot checks right across Australia.

Amendments introduced by the Bill are twofold. The first amendment will allow the department to give notice to residents and relatives of action to be taken which would result in the revocation of approved provider status and bed licences, called places under the Act, and the probable closure of a home. It will also give the power to revoke bed licences, as beds become vacant. This includes an option for progressive revocation or suspension of places (that is beds) as a sanction.

These measures increase the range of options available to the department. Currently under the Act, there is no power to nominate a future time from which a sanction takes effect. This Bill permits notice to be given to affected residents and next of kin or another individual, who in the opinion of the Secretary, is concerned for the safety, health and wellbeing of the resident.

It is also important to note that the department, in making a decision to defer implementation of a sanction imposed, is required to have regard to any risk that there may be to the safety, health or well-being of the relevant affected care recipients.

The second amendment will allow action to be taken against approved providers who have “key personnel”, including company directors, who have been convicted of an indictable offence, are of unsound mind or become bankrupt.

More specifically such key personnel, who are described as “disqualified individuals” in the Bill, include individuals who have been convicted of an indictable offence under Australian law or under corresponding foreign laws, who are of unsound mind to the extent that this affects the performance of their duties as key personnel, or who are insolvent under administration (an expression that includes bankruptcy and other arrangements).

This amendment will enable the department to take action to require the removal of such key personnel without revoking approved provider status. Removal of approved provider status however will remain the final option.
Particular measures introduced in the Bill in this regard include removal of such key personnel by order of the Federal Court in relation to approved providers that are corporations. Sanctions action under the Act continues as an option in relation to all approved providers (whether or not they are corporations) if they fail to comply with the new requirement to ensure their key personnel are not disqualified individuals. These provisions of the Bill are designed to ensure that the care being provided to care recipients is not compromised by the actions or omissions of such persons.

Where an approved provider is not prepared to comply with the new provisions, it risks action in the Federal Court or sanctions under the Act, in addition to consideration of whether the approved provider continues to be suitable to maintain approved provider status under the Act.

These provisions also apply to applicants for approved provider status.

The Bill also introduces certain offences, with appropriate penalties, where a person, who is a key personnel of an approved provider, is a disqualified person and the approved provider is a corporation. These offences apply both to an approved provider, that is a corporation, and a disqualified individual.

In relation to such an offence committed by an individual disqualified on the basis of unsound mind it is imperative that aged care recipients are not placed at risk because of the potential actions or omissions of such persons. If, for example, such a person was not criminally responsible for his or her actions because of mental impairment then he or she would not be convicted of the offence.

The offence provisions will be a significant incentive for the removal of such key personnel from the important positions that they occupy. Again, the end result will be that the care being provided to individuals in Commonwealth funded residential aged care facilities is not compromised.

The proposed amendments to the Act continue the momentum of progressive reforms put in place by the Howard Government in aged care.

The Opposition has indicated that it is broadly supportive of the measures contained in the Bill. The Government welcomes this support but is concerned with the amendments that the Opposition proposes.

The Government gives the highest priority to protecting consumers and particularly residents in aged care facilities but the Opposition, as evidenced by the amendments that it proposes, seems more interested in pandering to industry at the expense of the most vulnerable group, the residents.

This becomes even clearer when the detail of the Opposition amendments is considered.

First, the Opposition proposes reducing the timeframes for the nomination and appointment of advisers and administrators to two days without considering that a provider’s failure to nominate such a person within the times proposed by the Opposition it would mean that the provider’s approval must be revoked and possibly requiring resident evacuation from the facility.

In other words, because the Opposition has not thought carefully enough about the effect of its amendments, they could hurt the very people that it claims it wishes to protect.

Second, the Opposition proposes the establishment of panels of advisers and administrators. The Government has no objection to this, since it in effect simply formalises arrangements that are already in place.

Third, in respect to the steps that approved providers must take to ensure that none of an approved provider’s key personnel is a disqualified individual, the Opposition’s amendment uses the term “regulations”. This is not appropriate and the term “Principles” should be used for consistency.

In essence, what separates the Government from the Opposition in respect to this legislation is that the Government places the interests of consumers, particularly residents, above all else.

Despite the scare mongering of the Opposition, the standards framework of accreditation and certification will be fully implemented by 1 January 2001. There have been tremendous changes to the residential aged care sector during the period of this Government to protect the quality of care of individual older Australians.

This Government is fully committed to strengthening the legislation where it is warranted as demonstrated by these amendments and believes that the new tools the Department will have as a result of this legislation passing will serve the interests of residents and the Australian community as a whole.

Question resolved in the affirmative.

Bill read a second time.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Knowles)—Order! It being almost 9.50 p.m., I propose the question:

That the Senate do now adjourn.
Northern Australia: Insurance Costs

Senator EGGLESTON (Western Australia) (9.49 p.m.)—I would like to talk about the unreasonable cost of insurance in the north of Australia, and the north-west in particular. In the last year, the high cost of property insurance premiums in the north of Australia has been brought to my attention by the Pilbara ward of the Country Shire Councils Association of WA. This is a very serious matter. It adds very much to the cost of living experienced by people who live in north-west communities. It also adds very much to the cost of operating businesses in the north-west as well as providing community services in the north-west. Indeed, the high cost of living and the high cost of providing services in these northern communities is commonly cited as a major disincentive to people living in these areas and for businesses to set up in the north-west of Western Australia.

Concerns about this kind of issue were certainly evident at the northern policy forum I recently attended in Katherine, which was organised by the minister for regional development, Senator Ian Macdonald. One of the issues which came through very loud and clear at that forum was that people all across the north of Australia have to pay higher prices for all manner of goods such as food and fuel, said to be due to the higher transport costs incurred in getting goods to them—although, for example, in the case of the north of Western Australia, where we are told the price of petrol is so high because it is transported up from Perth, people who live there know it actually comes by tanker from Singapore into the ports of Broome and Port Hedland, so it is very hard to justify that particular claim as a reason for increasing costs. But on top of all the other costs that the people in the north of Western Australia and the north of Australia in general have to pay, they also have to pay property insurance premiums at levels which simply would not be accepted anywhere else in Australia and which I think are quite unjustified, and amount to a simple matter of exploitation of the people of the north of Australia by the insurance industry.

The insurance premiums for general property insurance in the north-west were raised earlier this year following the significant flooding that occurred in the north of Western Australia as a result of major cyclones and the enormous wet that occurred over the last Christmas period. The Shire of Roebourne, which covers towns such as Karatha, Dampier, Wickham and Pannawonica, found that it had incurred significant increases in the cost of property insurance premiums. After reporting this to the Pilbara ward of the Country Shire Councils Association, they found that this increase was not an isolated experience but applied generally to every person who requires insurance for properties located above the 26th parallel in Western Australia. That means that every householder who owns a home in the north of Western Australia now finds themselves subject to these loaded premiums for house insurance.

The trouble is that we are not just talking about a small loading on premiums. Indeed, we are talking about massively increased premiums ranging from 50 per cent to 80 per cent. A 50 per cent to 80 per cent increase is enormous and, as I said, it is very hard to see such increases in any terms other than pure and simple exploitation of the people in the north of Western Australia by the insurance industry. If an increase in premiums was not a heavy enough extra burden to bear, the insurance companies also increased the excess that insurers have to pay to $25,000 per house before they will cover the cost for repair of damages. So people in the north-west found that not only do they have to pay more for their insurance in the first place but also, in the event that they do actually make a claim, they would be expected to pay an amount of at least $25,000 as an initial contribution towards the cost of repairs. It seems from that that the insurance companies are winning either way. They are winning because of the higher income from increased premiums and they are winning because the preliminary loading factor that people have to pay has been increased to $25,000.

In the case of local governments it is quite clear that, given that local councils have limited budgets, the increase in premiums is
creating quite a severe degree of financial hardship. Local governments usually own a lot of property and having to pay these vastly increased premiums does substantially impact on their budgets. Of course, that is not only the detriment to the councils’ budgetary positions; it also acts to the detriment of the ratepayers, who may find that public facilities may be underinsured or not properly insured because the councils may decide not to insure all of their properties because of the increased premiums involved.

There is no doubt that one of the difficulties in the insurance market in the north of Western Australia is the lack of competition. The Shire of Roebourne, for instance, has been advised that there are only two or three underwriters prepared to insure property north of the 26th parallel. Concerns have been expressed that, in the future, there may not be any companies prepared to offer any kind of coverage in the north of Western Australia. There has already been a rationalisation within the industry that has resulted in the amalgamation of companies and the closure of offices in the north-west. The reason given for the increased premiums in the north-west, of course, is that there is an increased risk from cyclones. One has to question whether or not this is a valid reason because, in reality, if you look at the records you can see that cyclones are rare. In fact, the north of Western Australia is sparsely populated, as is the whole of northern Australia, and so the incidence and likelihood of damage to housing is really quite low. As I have said several times, it is hard to draw any other conclusion but that the insurance companies are exploiting the situation in the north-west by loading the premiums in the way they have and that they are in fact really profiteering at the expense of the people in those areas.

I believe this is a serious situation. I think the Insurance Council of Australia really should provide some counselling and advice to the insurance companies that do operate in the north-west, because this kind of profiteering does nothing for the image of the insurance industry, which in general is fairly bad. People assume that if insurance companies can get out of paying a claim they will. They have the rather dubious honour, I think, of being regarded as a profession with a status somewhat similar to that of used car salesmen—the sorts of people who you really would not expect to be well treated by. I believe that the question of these high insurance premiums in the north is certainly a key matter that should be considered among the other examples of disadvantages suffered by people in the north of Australia raised at the northern policy forum. People in the north accept that their location and relative isolation mean that they generally experience a higher cost of living than people in many other parts of the country, but I do think that these high premiums are quite unjustified.

APEC Conference: Brunei

Senator SANDY MACDONALD (New South Wales) (9.59 p.m.)—I would like to take the opportunity during the adjournment debate tonight to make some brief comments about the APEC meeting in Brunei last week. The November ministerial and leaders meeting in Brunei, which was attended by 21 APEC economies, achieved good outcomes and demonstrated the ongoing value of APEC.

All three of the major outcomes were initiated and driven by Australia. Firstly, the leaders’ call for the conclusion of an agenda and subsequent launch of a new WTO round in 2001 adds impetus to an important goal of Australia’s trade policy. In particular, the Minister for Trade, Mark Vaile, has welcomed the strong, unequivocal call by APEC leaders for this. This year’s APEC meeting in Brunei confirmed why it remains the pre-eminent organisation for pursuing Australia’s trade interests in the Asia-Pacific region. Australia played a key role this year, beginning with the APEC trade ministers meeting, which started by our hosting the meeting in Darwin in June. This meeting laid the groundwork for APEC leaders to call for a launch of the new round in 2001. Australia is at the forefront of efforts to build a fairer and more open international trading system. APEC has been a key means of building support for a new round, given its diverse membership which comprises around 60 per cent of world GDP. The reaffirmation by APEC leaders of last year’s Auckland decla-
ration is particularly good news for Australian farmers. It reaffirms the commitment that agricultural export subsidies should be eliminated from the new round of the WTO. Leaders also gave their strong endorsement to continued progress in the WTO agricultural services negotiations which kicked off this year in Darwin. The next WTO ministerial meeting is scheduled to take place at the end of next year, and WTO members now need to focus quickly on developing a balanced and broad-based agenda to ensure that a round can be launched.

The second major outcome was the leaders’ commitment on tripling Internet access in the region coupled with the capacity building programs announced, which will in turn help close the digital divide so evident throughout the region.

Thirdly, APEC this year also demonstrated its utility in addressing the globalisation issue. Leaders made a valuable contribution to the debate by acknowledging the benefits of globalisation and recognising the need for enhanced efforts to communicate those efforts to their communities. This would be especially so after the fiasco in Seattle last year that we are all conscious of. Australia also presented a report entitled *Open economies delivering to people: APEC’s decade of progress*, which outlines the benefits of globalisation. Noteworthy evidence raised in the report includes that open developing economies typically deliver growth in gross national product per person that is five percentage points higher than in closed economies and that a one percentage point increase in the ratio of trade to gross domestic product results in a two to three per cent increase in gross domestic product per person. The United Nations human development index for lower income APEC economies improved by nearly 18 per cent for the years 1985 to 1997. Poverty in East Asian APEC economies fell by about a third, some 165 million people, mostly as a result of strong economic growth. APEC economies created 195 million new jobs, including 174 million in lower income economies, in the years 1989 to 1998.

Australia has been in the forefront of APEC’s efforts to assist business and facilitate trade in the region. Australia will co-host with China the APEC e-commerce and paperless trading symposium in Beijing in February 2001. Australia, along with Singapore and Brunei, developed the new electronic individual action plan system which allows easy access to information on how regional economies are progressing towards the Bogor goals and on the policy direction of APEC economies. Australia has developed another online initiative for business, the BizAPEC.com website, which helps exporters find new opportunities in the region and facilitates trade and commerce. Australia has also facilitated business travel in the region through the development of the APEC business travel card, which provides businesspeople with pre-cleared entry to participating economies, multiple short-term entry and faster immigration processing on arrival. The following economies are members of the scheme, apart from Australia: Chile, Hong Kong, Korea, Malaysia, New Zealand, Peru, the Philippines and Thailand. Brunei has also recently indicated its intention to join the scheme.

The record of activism in APEC is more than enough to rebut claims that the government is uninterested in APEC. In addition, reflecting our commitment to APEC and the region’s acknowledgment of such, Australia hosted the APEC Ministers Responsible for Trade Meeting in Darwin in June. Australia has indicated a very broad theme for its year as chair titled ‘New Century, New Challenges: Participation and Cooperation for Common Prosperity’. This will encompass spreading the benefits of globalisation and the new economy, advancing trade and investment and promoting sustained growth. Australia will work closely with China, the APEC chair in 2001, to ensure a continued focus on trade and investment liberalisation and facilitation to build on the outcomes of the leaders and ministerial meeting held this year. The annual APEC meetings also provide a valuable occasion for ministers to meet regional counterparts, and in this year’s bilateral discussions Foreign Minister Downer and Trade Minister Vaile covered topics ranging from political developments in the region, particularly those surrounding Indonesia, to ASEAN Plus Three and the
developments on the Korean Peninsula. They discussed the launch of a new WTO round, as I mentioned, responses to anti-globalisation and the new economy and, of course, the continuing impact, particularly important to regional Australia but to all Australians, of high world oil prices, as well as specific bilateral issues on which APEC has become particularly useful. In Brunei, Prime Minister Howard also met with his counterparts from Singapore, Chile, Thailand and Indonesia and the Sultan of Brunei himself.

While a new WTO round is Australia’s highest trade priority, we are open to concluding free trade agreements that may complement or even spur multilateral efforts. The decision to negotiate a free trade agreement with Singapore announced by Prime Minister Howard and Prime Minister Goh Chok Tong on 15 November will deliver benefits in the short term while we continue to work together towards the launch of a new WTO round next year. The agreement will be comprehensive in scope, covering goods, services and investment, and will build on work to remove trade impediments such as bilateral and mutual recognition agreements.

Singapore and Australia have a very close trade and political relationship on which to build. Australia would be looking to make inroads in Singapore into major service sectors including legal, financial, business and communications services, which continue to be highly regulated and restricted in Singapore. We will continue to be open to considering future bilateral or plurilateral trading agreements which may involve other countries, including ASEAN countries, should there be reciprocal interest. To conclude, the APEC meeting in Brunei delivered more than modest expectations. APEC might appear to lack some of the powerful political momentum that was evidenced before the Asian economic crisis but APEC, whilst it is numerically small compared to the 140-odd nations in the WTO, at the same time wields influence because its membership includes a number of powerful nations such as China, the United States, Japan and South Korea. APEC’s economies together account for about 60 per cent of the world’s economic production and this is expected to grow by 4.3 per cent this year. For those reasons, and many others, APEC retains its important role, and the continued importance of the membership is something that Australia, under this coalition government, will continue to lead and encourage.

Jenkins, Lieutenant Colonel Mervyn

Senator ROBERT RAY (Victoria) (10.08 p.m.)—Let me begin by congratulating Senator Macdonald on his excellent speech on defence issues in New Zealand recently. It is extremely rare that I speak on defence issues in this chamber, but that is not through lack of interest: I have always believed that when you are a goner you get out and you do not dog your successor. But one matter that I have been concerned about for over a year—and it came up at question time today—is the unfortunate circumstances of Lieutenant Colonel Merv Jenkins, who was a Defence officer serving in Washington up until October last year.

I have obtained some information about this, but I want to make it clear that it is not from people who ever had a previous working relationship with me, because I always avoid discussions with former colleagues in the Defence department on the basis that I do not want to ever leave them in an embarrassing position. The facts of the case are that there was an investigation of Lieutenant Colonel Jenkins; I do not want to go into the complete details of the issue but the nub of it was that he, as the chief intelligence officer for Defence in Washington, passed information on to his American counterparts. Complaints were made as to the way he was doing his job and mystery surrounds whether those complaints were justified or not. In the end, unfortunately, Lieutenant Colonel Jenkins saw the only way to resolve these difficulties was by hanging himself in his garage in Washington, and I am sure we all have sympathy for the family in this regard.

There are difficulties associated with this case that have yet to be resolved. At the time of this very unfortunate incident—and I am not sure who, in which element of government, put this abroad; I am sure it was not ministerial—the circumstances ascribed to his very unfortunate demise were put down
as personal. There is no doubt they were not personal circumstances: it was his treatment by the Department of Defence and in particular by the department of foreign affairs that led to this situation.

This was done in the atmosphere, and against the background, of two issues. One was an apparent turf war between ONA and DIO over who was the pre-eminent security agency in terms of their relationships with America. Secondly, it was done against a background of the Wispelaere case and the paranoia that that created. But, with an accusation having been made against him, a team of investigators representing Defence and Foreign Affairs interviewed the lieutenant colonel and did so in the most abrasive and abusive manner possible. He was, to put it colloquially, monstered. He was threatened with jail: it was indicated to him that he could face a 10-year jail term. He was threatened with being exposed as a traitor. Let me state for the record that he was not and that these accusations were totally unfounded. But what was worse was the manner in which they were put to him.

You have to take yourself back to consider what people in the military are like and what their sense of duty and honour is. It is true to say that people in the military have a higher sense of duty and a much higher and more sharpened awareness of honour than the rest of us in the community—and certainly much more so than we politicians have—so those accusations were monstrously hurtful to him. What made it worse was that Lieutenant Colonel Jenkins was merely following orders and past practice. There may have been a technical prohibition in passing on AUSTEO material to the United States but there had been a tradition of doing so, and it is quite clear there exists on the record authorisation to do so. So his treatment and the way in which he was interviewed and basically abused left him with no other course of action, and to come up with the excuse that it was because of personal reasons when all the evidence is to the contrary I think is inexcusable. This has not been done at a ministerial level, I must hasten to add. I am sure that at least the Minister for Foreign Affairs, Mr Alexander Downer, who is a very decent minister, and the Minister for Defence, Mr Moore, had no direct knowledge of this occurring at the time. Subsequently, and quite properly, the government has insisted on a full inquiry and report on this matter, which I understand is with the government and has been for a number of weeks.

I was very pleased to hear that it is likely that a declassified version of that report will be released. My understanding—and I say this with no certainty—is that that report very much restores the reputation of Lieutenant Colonel Jenkins; if so, I welcome it. I do not welcome the fact that the report is yet to be released. If there is a commitment—I have not heard it from the government but I understand it exists—to release a declassified version of that report, I would recommend that the government do so. I understand that certain aspects covered in that report should not be released because they would reveal classified details of the relationships between countries and the way security organisations work. I have no reason to say that that should be on the public record. I understand that Lieutenant Colonel Jenkins’s family have not asked for compensation but, if the report has in it what I think it has, compensation should be considered. I have not talked to the family, but I think all they want is some indication that their loved one was not someone who would betray the interests of Australia. Tonight I call on the government to consider releasing that report in a declassified version. I also want to take this opportunity to do something I rarely do. I congratulate two journalists—Mr Cameron Stewart of the Australian and Mr Ian McPhedran of the Melbourne Herald-Sun—on their articles published on Saturday, articles which I commend to all senators to read.

Senator Schacht—they are good articles, I agree.

Senator ROBERT RAY—Thank you, Senator Schacht. They were good articles; I think they were fair articles. Anyone reading the articles would come to the end of them feeling very emotional about this particular issue. I do not know what will happen in the future to good, honourable defence personnel who do their duty, who follow orders and who then think they can be treated in this
It may be unfair to single out certain officers in the Department of Foreign Affairs and Trade, but from all I hear they were the ones that led the charge. They were the ones that had to prove just how hard and tough they were. They were the ones that were sent in as the bad cops—not Defence on this occasion. I had always thought that Defence had the hard men but now I think I am wrong; I think Foreign Affairs do, and I think they should take a long, hard look at themselves and their behaviour in this case. If the report does not go to the behaviour of those Foreign Affairs officers, then a further government inquiry should do so. It should look not so much at the circumstances of Lieutenant Colonel Jenkins and what he did but at the behaviour of the investigation team. We never want to see circumstances repeated where they go in so hard, so unfairly, against someone who has only ever given courageous and honest service to this country. I am sure everyone in this chamber would join me in sending our condolences to the family. I call on the government to rectify a situation they are not directly responsible for. I do not blame Mr Moore or Mr Downer in any way, but now is the accounting time—to pay our debts to an honourable officer, to release the report, to make the appropriate restitution and to put in place processes to ensure that this will never occur again.

Gifted and Talented Children: Inquiry

Senator TIERNEY (New South Wales) (10.18 p.m.)—I rise tonight to speak about an inquiry that I have established within the Senate Standing Committee on Employment, Workplace Relations, Small Business and Education into gifted and talented children. Twelve years ago was the last time the Senate inquired into gifted and talented children, and it made a number of recommendations on how the special needs of these children should be supported. At the time, the ALP federal government ignored the findings. I remember very clearly my first question at estimates in 1991, when I asked about this. I was told, ‘That’s a policy question; you can’t ask that, Senator.’ When I investigated it, I was amazed to find that, of the 16 recommendations made at that time on the education of gifted children, only one recommendation had actually been acted upon. The federal Labor government 12 years ago saw no role for the federal government in the education of the gifted and talented.

Since that inquiry, over the last 12 years there have been many changes both in the attitude to the gifted and talented and also in the approach to their teaching. It is an area within education that needs to be re-examined, and the needs of both the parents of the gifted and talented and of the children themselves must be put on the agenda again. Over that time, there have also been changes in the education sector, and many of the people who made submissions to the inquiry 12 years ago are no longer involved in the area. There has also been greater recognition, in the field and in the community generally, of the need to provide specifically for these types of pupils.

I would like to explain my interest in this area and why I feel the need for this inquiry. The definition of gifted and talented is certainly not easy to explain. Some say it is when a child is in the top two to five per cent of the class. Others say that children can be gifted in one area but face disabilities in others. Some people are gifted in academic spheres and others have creative talents. Some people who are gifted are lucky enough to be gifted in a wide range of areas. In Australia, the provision for the special education needs of the gifted and talented is not as high on the agenda as it is in some other countries. The inquiry that was held 12 years ago found that there was a common ethos in Australia that if you were gifted you were already privileged. It may or may not be a result of this ethos, but we certainly see many special programs being designed for the area of sports. Recently we saw our dramatic success at the Sydney Olympics, and it highlighted the very proud tradition that we have in this country and the funding we have given to sporting ventures such as the Institute of Sport in Canberra. Given our small population, Australia outperforms the world in many sports, and last year we were champions in netball, Rugby League and the Davis Cup. What we do not hear a lot about, though, is the achievement of young people academically or in the arts, the sciences or...
other creative areas. Occasionally, awards are handed out in areas other than sports, and some media organisations cover those events; but I doubt very much that you would ever see a Mexican wave being paraded at the Sydney Football Stadium, the MCG or the WACA for a primary school students’ science prize.

We could theorise and argue for hours on why Australians idolise their sporting heroes while there is little mention of the remarkable achievements in other areas. I would like to address the services that are needed to support gifted and talented children in a wide range of endeavours. Professor Brian Start and Professor John Smyth, in their submission 12 years ago, wrote:

The gifted will provide far more than they consume. This country has an enviable record of caring for the disabled. But let’s face it, the cure for Down’s Syndrome won’t be coming from a child with that problem. But it may come from one of these gifted children. They are our greatest natural resource.

Without the talents of the gifted, Australia would be much worse off. There are hundreds of gifted people who have made a difference to people’s lives through medicine and the arts, for example. Without their contribution, we are a lesser nation in every sense. It is far too easy for students in our school system to slip through the cracks and have their potential unrecognised. Research has shown that many talented children fail to reach their potential and just drop out of school. We need to stop this in its tracks and support the needs of gifted children.

I remember teaching one of these children in particular. This child completed his work in half the time and then was bored and disruptive for the rest of the lesson. I set up some special programs for him to extend him in the areas we were studying. All this was done informally and worked quite well, but you cannot adopt an approach like that nationally. The one-size-fits-all approach was rife in the education system in Australia in the 1970s and 1980s, in the era of comprehensive schools and before the development of specialist schools. In that era, apart from a few selective high schools and some OC classes in primary schools, there was little provision for the gifted and talented.

In the teacher education program, it was rare that it was even dealt with. I cannot remember, when I was doing my Dip. Ed., one lecture dealing with the gifted and talented. In the 1990s, since the last estimates committee report on the topic, there have been many developments in the preparation of teachers and in the school arrangements that have been set up for the gifted and talented. These are certainly welcome. In the mid-1980s, I was chair of the education committee in the Liberal Party in New South Wales before the Greiner government came to power. I wrote a brief paper on what I call centres of excellence in education. I based it on a music high school department where I saw a very gifted teacher gather a range of resources and develop special programs for music. That school blossomed in music, creating the Marching Koalas, which travelled worldwide displaying Australian talent in music. Based on that example, I was suggesting at the time that we extend this concept to a number of areas so that not only would we have specialist centres in schools for the gifted and talented in music but also in language, sports and in a range of academic areas—including new technology high schools. The amazing thing was that that was accepted and implemented. That process has now spread to other states.

In addition to special schools, we also need to provide for the gifted and talented in the other 70 and 80 per cent of schools that are not designated specialist high schools. The question here is: can we afford to put on special programs for the gifted and talented in all schools? I believe we can. There needs to be a restructuring of the education system to take account of this possible provision. During teacher training, there also needs to be greater emphasis placed on giving the teachers skills and tools to identify the gifted
and talented and how to teach them. Submissions are now being taken for this new inquiry into the education of the gifted and talented.

The terms of reference are being kept quite broad and will enable a range of issues to be dealt with. Part (a) of the inquiry involves the development within the gifted and talented sector since the select committee report in 1988. Part (b) will consider whether current programs and policies are suitable and sufficient to meet their education needs. Part (c) will look at the Commonwealth’s possible role. Submissions close in February 2001. The committee is looking to report by the last sitting day of June next year. I urge all involved in the sector to make submissions to this inquiry. That includes parents, educational providers, teachers and academics. It is my hope that, as a result of this inquiry, we can improve the services available to gifted and talented students and help them reach their potential.

**Senate adjourned at 10.28 p.m.**

**DOCUMENTS**

**Tabling**

The following documents were tabled by the Clerk:

- Civil Aviation Act—Civil Aviation Regulations—Civil Aviation Orders—Civil Aviation Amendment Order (No. 18) 2000.
- Directive—Part—105, dated 6, 7 [3], 8 [7], 10 [4], 13 [7], 15, 16, 17 and 20 November 2000.
- Instrument Nos CASA 485/00 and CASA 506/00.
- Determination No. PB 16 of 2000.
- Nuclear Non-Proliferation (Safeguards) Act—Regulations—Statutory Rules 2000 No. 305.
- Payment Systems and Netting Act—Approval under section 9—Approval No. 1 of 2000.
- Sydney Airport Curfew Act—Dispensation granted under section 20—Dispensation No. 18/00.

**PROCLAMATIONS**

Proclamations by His Excellency the Governor-General were tabled, notifying that
he had proclaimed the following acts and provisions of an act to come into operation on the dates specified:


- **Damage by Aircraft Act 1999**—8 November 2000 (Gazette No. S 574, 2 November 2000).

- **Migration Legislation Amendment (Parents and Other Measures) Act 2000**—Schedule 1—1 January 2001 (Gazette No. GN 45, 15 November 2000).
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Department of Health and Aged Care: Programs and Grants to the Bass Electorate
(Question No. 1108)

Senator O’Brien asked the Minister representing the Minister for Health and Aged Care, upon notice, on 9 June 1999:

(1) What programs and/or grants administered by the Minister’s department provide assistance to the people living in the federal electorate of Bass.

(2) What was the level of funding provided through these programs and grants for the 1997-98 and 1998-99 financial years.

(3) What level of funding provided through these programs and grants has been appropriated for the 1999–2000 financial year.

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

The Department of Health and Aged Care prepares Electorate profiles annually. These profiles outline Portfolio spending in each electorate. The profiles were distributed to all Members on 2 October 2000. The profiles are also available in the Parliamentary Library.

Department of Health and Aged Care: Programs and Grants to the Gippsland Electorate
(Question No. 1877)

Senator O’Brien asked the Minister representing the Minister for Health and Aged Care, upon notice, on 21 January 2000:

(1) What programs and/or grants administered by the department provide assistance to people living in the federal electorate of Gippsland.

(2) What was the level of funding provided through these programs and grants for the 1996-97, 1997-98 and 1998-99 financial years.

(3) What level of funding provided through these programs and grants has been appropriated for the 1999-2000 financial year.

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

The Department of Health and Aged Care prepares Electorate profiles annually. These profiles outline Portfolio spending in each electorate. The profiles were distributed to all Members on 2 October 2000. The profiles are also available in the Parliamentary Library.

Civil Aviation Safety Authority: Staff Positions Vacant
(Question No. 1941)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 22 February 2000:

(1) How many positions within the Civil Aviation Safety Authority (CASA) have been vacant for a period greater than 3 months.

(2) In each case, does the vacancy meet the exemptions from CASA recruitment policy; if not, what action has been taken to ensure that the terms of CASA’s recruitment policy are met.

Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Civil Aviation Safety Authority (CASA) has provided the following information:

(1) As at 22 March 2000, there have been 23 positions vacant for a period of greater than 3 months.
(2) The positions remain unfilled. Exemptions from CASA’s recruitment policy therefore do not apply to them as the exemptions only apply when filling permanent vacancies on a temporary basis. In addition, CASA is not obliged to fill positions within a specified time, under the terms of its recruitment policy including that on exemptions.

Department of the Treasury: Missing Laptop Computers
(Question No. 2498)

Senator Faulkner asked the Minister representing the Treasurer, upon notice, on 28 June 2000:
(1) Since 1 January 1999, have there been any laptop computers lost or stolen from the possession of any officer of the department and/or any agencies within the portfolio; if so: (a) how many have been lost; (b) how many have been stolen; (c) what is the total value of these computers; (d) what is the average replacement value per computer; and (e) have these computers been recovered or replaced.

(2) Have the police been requested to investigate any of these incidents; if so: (a) how many were the subject of police investigation; (b) how many police investigations have been concluded; (c) in how many cases has legal action been commenced; and (d) in how many cases has action been concluded and with what result.

(3) How many of the lost or stolen computers had, on their hard disc drives, or in the form of floppy disc, CD-ROM or any other storage device, departmental documents, content or information other than operating software.

(4) How many of the documents etc. referred to in (3) were classified for security or any other purpose and, if any, what was the security classification involved.

(5) (a) How many of the documents etc. referred to in (3) have been recovered; and (b) how many documents etc. referred to in (4) have been recovered.

(6) What departmental disciplinary or other actions have been taken in regard to the computers referred to in (1) or in relation to the documents etc. referred to in (3) or (4).

Senator Kemp—The Treasurer has provided the following answer to the honourable senator’s question:

(1) Yes. Information is tabulated below for the Australian Bureau of Statistics (ABS), Australian Securities and Investments Commission (ASIC), Australian Taxation Office (ATO), and the National Competition Council (NCC).

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<tr>
<td>ABS</td>
<td>One</td>
<td>Five</td>
<td>$13,426</td>
<td>$5,500</td>
<td>One recovered three replaced</td>
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<tr>
<td>ASIC</td>
<td>Nil</td>
<td>Four</td>
<td>$10,747</td>
<td>$5,500</td>
<td>None recovered. One replaced.</td>
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<tr>
<td>ATO</td>
<td>Five</td>
<td>26</td>
<td>$116,782</td>
<td>$4,000</td>
<td>Six recovered 17 replaced</td>
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<tr>
<td>NCC</td>
<td>Nil</td>
<td>Two</td>
<td>$2,220.27</td>
<td>$2,280.00</td>
<td>Both replaced.</td>
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(2) Yes

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<tr>
<td>ABS</td>
<td>Five</td>
<td>Five</td>
<td>Nil</td>
<td>Nil</td>
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<tr>
<td>ASIC</td>
<td>Four</td>
<td>Nil</td>
<td>Nil</td>
<td>Nil</td>
</tr>
<tr>
<td>ATO</td>
<td>21*</td>
<td>11</td>
<td>Two</td>
<td>One prosecuted and sentenced (six computers recovered)</td>
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<tr>
<td>NCC</td>
<td>Two</td>
<td>Nil</td>
<td>Nil</td>
<td>Nil</td>
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*Those stolen and not reported are either being investigated internally or, in one case, was returned within a few hours of the theft.

(3)

ABS
ASIC

Six
Four
(4)

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<th>Agency</th>
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<tbody>
<tr>
<td>ABS</td>
<td>Nil</td>
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<tr>
<td>ASIC</td>
<td>Not known. All laptops, however, under ASIC security procedures were equipped with security software which requires a password on start-up.</td>
</tr>
<tr>
<td>ATO</td>
<td>One. Systems built into ATO laptops prevent non-ATO staff from retrieving information.</td>
</tr>
<tr>
<td>NCC</td>
<td>N/A</td>
</tr>
</tbody>
</table>

(5)

<table>
<thead>
<tr>
<th>Agency</th>
<th>Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>ABS</td>
<td>All documents on the one computer recovered.</td>
</tr>
<tr>
<td>ASIC</td>
<td>Nil</td>
</tr>
<tr>
<td>ATO</td>
<td>Nil</td>
</tr>
<tr>
<td>NCC</td>
<td>N/A</td>
</tr>
</tbody>
</table>

(6) As noted in (2), police have been requested to investigate incidents when computers have been stolen. In terms of Departmental action:

<table>
<thead>
<tr>
<th>Agency</th>
<th>Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>ABS</td>
<td>Staff reminded of the requirement to adequately secure valuable equipment at all times.</td>
</tr>
<tr>
<td>ASIC</td>
<td>There is a standard requirement of staff to maintain security.</td>
</tr>
<tr>
<td>ATO</td>
<td>The ATO has established security principles and requirements.</td>
</tr>
<tr>
<td>NCC</td>
<td>There is a standard requirement of staff to maintain security which is included in the Office Procedures Manual distributed to all staff.</td>
</tr>
</tbody>
</table>

Department of Communications, Information Technology and the Arts: Missing Laptop Computers

(Question No. 2501)

Senator Faulkner asked the Minister for Communications, Information Technology and the Arts, upon notice, on 29 June 2000:

1. Since 1 January 1999, have there been any laptop computers lost or stolen from the possession of any officer of the department and/or any agencies within the portfolio; if so: (a) how many have been lost; (b) how many have been stolen; (c) what is the total value of these computers; (d) what is the average replacement value per computer; and (e) have these computers been recovered or replaced.

2. Have the police been requested to investigate any of these incidents; if so: (a) how many were the subject of police investigation; (b) how many police investigations have been concluded; (c) in how many cases has legal action been commenced; and (d) in how many cases has action been concluded and with what result.

3. How many of the lost or stolen computers had, on their hard disc drives, or in the form of floppy disc, CD-ROM or any other storage device, departmental documents, content or information other than operating software.

4. How many of the documents etc. referred to in (3) were classified for security or any other purpose and, if any, what was the security classification involved.

5. (a) How many of the documents etc. referred to in (3) have been recovered; and (b) how many documents etc. referred to in (4) have been recovered

6. What departmental disciplinary or other actions have been taken in regard to the computers referred to in (1) or in relation to the documents etc. referred to in (3) or (4).

Senator Alston—The answer to the honourable senator’s question is as follows:

Answering the senator’s question for the department and each portfolio agency by turn.

Department of Communications, Information Technology and the Arts

(1)(a) No laptops have been lost.

(b) 2 laptops have been stolen.
(c) Their total value was $1,480.00.
(d) Average replacement cost was $3,500.00.
(e) Both have been replaced.
(2)(a) Police investigated both incidents.
(b) No further action was taken.
(c) Not applicable.
(d) Not applicable.
(3) Both laptops had a small amount of local data.
(4) None of the documents had a security classification.
(5) Not applicable.
(6) It was established that all possible care had been exercised and the incidents were unavoidable.

**Australia Post**

(1)(a) No laptop computers have been lost.
(b) 12 laptop computers have been stolen.
(c) Total value of stolen laptop computers, $33,975.00.
(d) Average replacement cost $4,835.00.
(e) All 12 computers have been replaced.
(2)(a) Police have been asked and have investigated all 12 incidents.
(b) 12.
(c) None.
(d) In all 12 cases action concluded, no offenders.
(3) All 12 laptops contained information other than operating software.
(4) None of the documents had a security classification.
(5)(a) None.
(b) Does not apply.
(6) None.

**ScreenSound Australia**

(1)(a) Two laptops have been lost.
(b) None have been stolen.
(c) Written down value, nil.
(d) Average replacement cost $3,000.00.
(e) Neither have been recovered or replaced.
(2) The police have not been asked to investigate.
(3) Both laptops held departmental information.
(4) None of the information had any security classification
(5) None of the information has been recovered.
(6) No disciplinary or other action has been taken.

**Australian Broadcasting Authority (ABA)**

(1)(a) No laptops have been lost.
(b) One laptop has been stolen.
(c) Valued at $4,508.00.
(d) Replacement cost approximately $4,000.00.
(e) The unit has not been replaced.
(2)(a) Yes, the police have been requested to investigate the incident.
(b) The police investigation concluded with a nil result.
(c) No legal action has been commenced.
(d) Does not apply.
(3) The stolen laptop did contain Authority documents.
(4) None of the documents had a security classification.
(5)(a) No files lost did not already exist on the Authorities common drive server.
(b) Does not apply.
(6) No disciplinary or other action taken.

Special Broadcasting Service (SBS)
(1)(a) No laptops have been lost.
(b) One laptop has been stolen.
(c) It was valued at $5,200.00.
(d) Replacement cost was $5,200.00.
(e) It has been replaced.
(2)(a) The police were advised of incident, no investigation undertaken.
(b) Does not apply.
(c) Does not apply.
(d) Does not apply.
(3) Yes, the laptop did contain agency information.
(4) None of the information had a security classification.
(5) No information has been recovered.
(6) No disciplinary action taken. Security of laptops has been improved.

Australian Communications Authority (ACA)
(1)(a) No laptop computers have been lost.
(b) Four laptop computers have been stolen.
(c) Written down value at time of theft was $5,617.00.
(d) Average replacement cost was $5,000.00.
(e) None of these computers have been recovered. Three have been replaced.
(2) Yes, the police have been requested to investigate these incidents.
(a) Police have investigated all four incidents.
(b) No investigations have been concluded.
(c) No legal action has been commenced.
(d) No legal action has been concluded.
(3) None.
(4) Does not apply.
(5) Does not apply.
(6) Security awareness programs implemented and physical security upgraded.

Australian Broadcasting Corporation (ABC)
(1)(a) Three laptops have been lost.
(b) Seven laptops have been stolen.
(c) Total value $54,496.00.
(d) Average replacement cost $5,450.00
(e) Nine laptops have been replaced or recovered;
   - one recovered by police,
   - two replaced by courier/airline when lost in transit, and
   - six replaced by ABC.
(2)(a) The police have investigated six incidents.
(b) One investigation has been concluded, with a nil result.
(c) No action has been commenced.
(d) Does not apply.
(3) Five laptops carried agency information.
(4) None of the information had a security classification.
(5) None of the information has been recovered.
(6) No disciplinary action taken.

National Archives of Australia
(1)(a) No laptops have been lost.
(b) 2 laptops have been stolen.
(c) Total value $4,800.00.
(d) Average replacement cost $4,300.00.
(e) Both have been replaced.
(2)(a) The police have not been requested to investigate these incidents.
(b) Does not apply.
(c) Does not apply.
(d) Does not apply.
(3) Both laptops held departmental information.
(4) None of the information had a security classification.
(5) None of the information has been recovered.
(6) No disciplinary action has been taken.

Office for Government Online (OGO)
(1)(a) No laptops have been lost.
(b) One laptop has been stolen.
(c) Valued at approximately $200.00 as it was more than 3 years old.
(d) Replacement cost approximately $1,532 per annum based on current lease agreement.
(e) The laptop has not been recovered or replaced.
(2)(a) Yes, the police have been requested to investigate this incident.
(b) The investigation has not been concluded, no legal action commenced.
(3) The laptop held no departmental information.
(4) Does not apply.
(5) None.
(6) None.

Telstra
(1)(a) 423 laptops have been lost.
(b) 123 laptops have been stolen.
(c) As the units were leased, payout cost to Telstra was $583,000.00.
(d) Average replacement cost $5,000.00.
(e) In the majority of cases, stolen units would have been replaced.
(2)(a) the police were asked and investigated all 123 stolen units.
(b) All investigations have been concluded.
(c) Unknown to Telstra.
(d) Not known to Telstra
(3) Unknown
(4) Telstra considers it unlikely any information would have been regarded as secure.
(5) Not known to Telstra
(6) Telstra’s normal course of action is for management to counsel staff. Telstra is unaware of any disciplinary action.

Department of Agriculture, Fisheries and Forestry: Missing Laptop Computers

(Question No. 2512)

Senator Faulkner asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 28 June 2000:
(1) Since 1 January 1999, have there been any laptop computers lost or stolen from the possession of any officer of the department and/or any agencies within the portfolio; if so:
(a) how many have been lost;
(b) how many have been stolen;
(c) what is the total value of these computers;
(d) what is the average replacement value per computer; and
(e) have these computers been recovered or replaced.
(2) Have the police been requested to investigate any of these incidents; if so:
(a) how many were the subject of police investigation;
(b) how many police investigations have been concluded;
(c) in how many cases has legal action been commenced; and
(d) in how many cases has action been concluded and with what result.
(3) How many of the lost or stolen computers had, on their hard disc drives, or in the form of floppy disc, CD-ROM or any other storage device, departmental documents, content or information other than operating software.
(4) How many of the documents etc. referred to in (3) were classified for security or any other purpose and, if any, what was the security classification involved.
(5)(a) How many of the documents etc. referred to in (3) have been recovered; and
(b) how many documents etc referred to in (4) have been recovered.
(6) What departmental disciplinary or other actions have been taken in regard to the computers referred to in (1) or in relation to the documents etc. referred to in (3) or (4).

Senator Alston—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:
(1)(a) None
(b) 5
(c) $15,230.27
(d) $3,250 (excludes GST)
(e) The Department has not recovered the stolen laptops. Three machines were replaced.

(2)(a) 2
(b) None.
(c) None.
(d) None

(3) It is assumed that all of the computers would have had departmental documents, content or information on them.

(4) None. The officers involved have confirmed that no information of a classified nature was held on the subject systems.

(5)(a) None
(b) None
(6) None

**Department of the Treasury: Missing Computer Equipment**

(Question No. 2517)

Senator Faulkner asked the Minister representing the Treasurer, upon notice, on 28 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 floppy disc, CD-ROM or any other storage device, departmental documents, content or information other than operating software.

(4) How many of the documents etc. referred to in (3) were classified for security or any other purpose and, if any, what was the security classification involved.

(5) (a) How many of the documents etc. referred to in (3) have been recovered; and (b) how many documents etc. referred to in (4) have been recovered.

(6) What departmental disciplinary or other actions have been taken in regard to the items referred to in (1) or in relation to the documents etc. referred to in (3) and (4).

Senator Kemp—The Treasurer has provided the following answer to the honourable senator’s question:

(1) Yes. Information is tabulated below for the Australian Bureau of Statistics (ABS), Australian Securities and Investments Commission (ASIC), and Australian Taxation Office (ATO).

<table>
<thead>
<tr>
<th></th>
<th>(a)</th>
<th>(b)</th>
<th>(c)</th>
<th>(d)</th>
<th>(e)</th>
</tr>
</thead>
<tbody>
<tr>
<td>ABS</td>
<td>37 items *</td>
<td>One monitor, One mouse, One disc drive</td>
<td>$1615</td>
<td>Printer$925* Monitor$425 Mouse$15 Disc drive$275</td>
<td>No</td>
</tr>
<tr>
<td>ASIC</td>
<td>Nil</td>
<td>One</td>
<td>$3,171</td>
<td>$4,500</td>
<td>No</td>
</tr>
<tr>
<td>ATO</td>
<td>Nil</td>
<td>3 Computers, 3 Printers</td>
<td>$1500 - $2000 a computer, $2000- $3000 per printer.</td>
<td>As per (c)</td>
<td>All items were replaced.</td>
</tr>
</tbody>
</table>

*All items in (a), except one printer, were obsolete, and written off with a combined book value of $50.*
(2) Yes.

<table>
<thead>
<tr>
<th></th>
<th>(a)</th>
<th>(b)</th>
<th>(c)</th>
<th>(d)</th>
</tr>
</thead>
<tbody>
<tr>
<td>ABS</td>
<td>Nil</td>
<td>Nil</td>
<td>Nil</td>
<td>Nil</td>
</tr>
<tr>
<td>ASIC</td>
<td>One</td>
<td>Nil</td>
<td>Nil</td>
<td>Nil</td>
</tr>
<tr>
<td>ATO</td>
<td>Two</td>
<td>One</td>
<td>Nil</td>
<td>One</td>
</tr>
</tbody>
</table>

(3)

<p>| | | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td>ABS</td>
<td>Nil</td>
<td></td>
<td></td>
</tr>
<tr>
<td>ASIC</td>
<td>One</td>
<td></td>
<td></td>
</tr>
<tr>
<td>ATO</td>
<td>Nil</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(4)

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<table>
<thead>
<tr>
<th></th>
<th></th>
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</thead>
<tbody>
<tr>
<td>ABS</td>
<td>Nil</td>
<td></td>
</tr>
<tr>
<td>ASIC</td>
<td>Nil</td>
<td></td>
</tr>
<tr>
<td>ATO</td>
<td>N/A</td>
<td></td>
</tr>
</tbody>
</table>

(5)

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<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>ABS</td>
<td>Nil</td>
<td></td>
</tr>
<tr>
<td>ASIC</td>
<td>Nil</td>
<td></td>
</tr>
<tr>
<td>ATO</td>
<td>N/A</td>
<td></td>
</tr>
</tbody>
</table>

(6) As noted in (2), police have been requested to investigate incidents when computers have been stolen. In terms of Departmental action:

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>ABS</td>
<td>Staff reminded of the requirement to adequately secure valuable equipment at all times.</td>
</tr>
<tr>
<td>ASIC</td>
<td>There is a standard requirement of staff to maintain security.</td>
</tr>
<tr>
<td>ATO</td>
<td>The ATO has established security principles and requirements.</td>
</tr>
</tbody>
</table>

**Department of Communications, Information Technology and the Arts: Missing Computer Equipment**

(Question No. 2520)

Senator Faulkner asked the Minister for Communications, Information Technology and the Arts, 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 replace.

(2) Have the police been requested to investigate any of these incidents; if so: (a) how many were the subject of police investigation; (b) how many police investigations have been concluded; (c) in how many cases has legal action been commenced; and (d) in how many cases has action been concluded and with what result.

(3) How many of the lost or stolen items had, on their hard disc drives, or in the form of floppy disc, CD-ROM or any other storage device, departmental documents, content or information other than operating software.

(4) How many of the documents etc. referred to in (3) were classified for security or any other purpose and, if any, what was the security classification involved.

(5) (a) How many of the documents etc. referred to in (3) have been recovered; and (b) how many documents etc. referred to in (4) have been recovered.

(6) What departmental disciplinary or other actions have been taken in regard to the items referred to in (1) or in relation to the documents etc. referred to in (3) and (4).

Senator Alston—The answer to the honourable senator’s question is as follows:

Answering the senator’s question for the Department then each portfolio agency by turn.
Department of Communications, Information Technology and the Arts
(1) No desktop computers or associated equipment have been lost
   No desktop computers have been stolen
   Does not apply
   Does not apply
   Does not apply
(2) Does not apply
(3) Does not apply
(4) Does not apply
(5) Does not apply
(6) Does not apply

Australian Film Television and Radio School
(a) No desktops or associated equipment have been lost
(b) One desktop has been stolen
(c) Total value $1,618.00
(d) Replacement cost $1,618.00
(e) Not replaced or recovered.
(2)(a) The incident has not been investigated by police.
(3) The PC did not contain agency information
(4) Does not apply.
(5) Does not apply
(6) Similar machines are now secured with security cable and padlock or kept in secure office.

Australian Communications Authority (ACA)
(1)(a) No desktops or associated equipment have been lost.
(b) One printer has been stolen.
Canon BJC-70
(c) Written down value at time of theft was $65.00
(d) Average replacement cost was $500.00.
(e) Replaced.
(2)(a) Police have investigated this incident.
(b) No investigations have been concluded.
(c) No legal action has been commenced.
(d) No legal action has been concluded.
(3) None.
(4) Does not apply.
(5) Does not apply.
Security awareness programs implemented and physical security upgraded.

Australian National Maritime Museum
(1)(a) No desktops or associated equipment have been lost.
(b) Stolen items include;
one HP Vectra PC, and
one Mitsubishi Diamond View 21 inch monitor
(c) Total value $4,059.00
(d) Replacement cost
   PC $2,344.00
   Monitor $2,370.00
(e) The computer has not been replaced.
(2)(a) The theft was reported to police. The Museum is unaware of any investigation
(b) Unknown
(c) Does not apply
(d) Does not apply
(3) There was no agency information on the PC.
(4) Does not apply
(5) Does not apply
(6) Does not apply

**Australian Broadcasting Corporation (ABC)**
(1)(a) No desktops or associated equipment have been lost.
(b) Stolen items include
   one desktop PC,
   two desktop monitors,
   two desktop keyboards
   one desktop PC RAM memory
(c) Total value $8,073.00
(d) Normal replacement values
   multimedia PC $5,373.00
   monitors $1,000.00
   keyboards $150.00
   PC RAM $400.00
(e) None of these items have been recovered;
   Monitors, keyboards and PC RAM replaced by ABC
   Desktop PC not replaced.
(2)(a) The police have not investigated these incidents.
(b) Does not apply.
(c) Does not apply.
(d) Does not apply.
(3) The stolen desktop did not contain agency information.
(4) Does not apply.
(5) Does not apply.
(6) No disciplinary action taken.

**Telstra**
(1)(a) Telstra’s records indicate that it lost or misplaced 1259 desktop units (where a unit comprises; a CPU, a monitor and a keyboard), mainly of older configurations, usually as a result of either reorganisations or staff relocations where managers have lost track of units or units have been disposed of by proper means but without appropriate record adjustments. Telstra does not record details of the individual components of desktop units.
(b) 10 items have been stolen
(c) As the units were leased, payout cost to Telstra was $434,000.00
(d) Average replacement cost $2,500.00
(e) In the majority of cases, stolen units would have been replaced

(2)(a) The police were asked and investigated all 10 stolen units.
(b) All investigations have been concluded.
(c) Unknown to Telstra.
(d) Not known to Telstra
(e) To Telstra
(f) Not known to Telstra

Telstra considers it unlikely any information would have been regarded as secure.
(4) Telstra’s normal course of action is for management to counsel staff. Telstra is unaware of any disciplinary action.

Department of Agriculture, Fisheries and Forestry: Missing Computer Equipment
(Question No. 2531)

Senator Faulkner asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 28 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 floppy disc, CD-ROM or any other storage device, departmental documents, content or information other than operating software.
(4) How many of the documents etc. referred to in (3) were classified for security or any other purpose and, if any, what was the security classification involved.
(5)(a) How many of the documents etc. referred to in (3) have been recovered; and
(b) how many documents etc. referred to in (4) have been recovered.
(6) What departmental disciplinary or other actions have been taken in regard to the computers referred to in (1) or in relation to the documents etc referred to in (3) and (4).

Senator Alston—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:
(1)(a) None
(b) 7 desktop computers, 1 laser jet printer (personal), 2 laser jet printers (workplace), and 1 bubble jet printer
As a dollar amount and as a percentage of the department’s total outlay on salaries what was the cost of:

(a) staff training;
(b) consultants; and
(c) performance pay, in the 1999-2000 financial year.

Senator Alston—The answer to the honourable senator’s question is as follows:

(a) Staff training - $1.546m (2.0%).
(b) Consultants - $13.268m (17.0%)
(c) Performance pay - $0.384m (0.5%)

Australia Week, London: Promotional Dinner
(Question No. 2586)

Senator Faulkner asked the Minister representing the Minister for Financial Services and Regulation, upon notice, on 24 July 2000:

With reference to the ‘exclusive, black-tie promotional dinner’ hosted by the Prime Minister on the first night of his United Kingdom trip, and which reportedly only generated one business inquiry for Australia:

(1) What was the total cost of the function, and what was the cost of: (a) food; (b) alcohol; (c) other beverages; (d) staff; (e) venue and equipment hire; (f) entertainment; and (g) other costs (please specify).

(2) Who paid for the function.

(3) (a) How many people were invited; (b) and who was responsible for approving the guest list; and (c) can you please provide a copy of the guest list.

(4) Please provide a full list of the food on the menu for this function.

(5) Please provide a full list of the alcohol beverages at this function, including the specific brands and vintages of all wines provided.
(6) At what time did the function commence, and at what time did it conclude.

(7) (a) Was any entertainment provided at this function; if so, what was the nature of that entertainment; and (b) were any speeches or presentations made; if so, by whom and on what subject.

Senator Kemp—The Minister for Financial Services and Regulation has provided the following answer to the honourable senator’s question:

(1) £11,869.85, (breakdown of costs as per Attachment A)

(2) Axiss Australia paid for the function. The Governments of New South Wales and Victoria were partial sponsors of the dinner and associated half day conference. Sponsorship funds of $25,000 were received from each State.

(3) (a), (b) and (c) The guest list (Attachment B) was approved jointly by High Commissioner and Investment Commissioner, London and CEO Axiss.

(4) See Attachment C.

(5) See Attachment C.

(6) The function commenced at 7.00pm for 7.30pm and concluded around 11.00 pm.

(7)(a) Entertainment was provided by three musicians from the Federation Guard.

(b) The Prime Minister made a speech which is available from the Prime Minister’s website.

ATTACHMENT A

Australian Centre for Global Finance Prime Minister’s Dinner 4 July 2000

<table>
<thead>
<tr>
<th></th>
<th>Budget</th>
<th>Actual Invoice</th>
</tr>
</thead>
<tbody>
<tr>
<td>Catering</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Venue Hire</td>
<td>£0.00</td>
<td>£0.00</td>
</tr>
<tr>
<td>Drinks</td>
<td>£2,055.00</td>
<td>£1,335.00</td>
</tr>
<tr>
<td>All food, catering staff and equipment for dinner</td>
<td>£3,600.00</td>
<td>£3,480.00</td>
</tr>
<tr>
<td>Food for Band &amp; FT Staff</td>
<td>£100.00</td>
<td>£75.00</td>
</tr>
<tr>
<td>Extra costs - linen, hire of tables etc</td>
<td>£220.00</td>
<td>£246.00</td>
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<tr>
<td></td>
<td>£5,655.00</td>
<td>£5,136.00</td>
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<tr>
<td>AV/Sound/Lighting</td>
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<tr>
<td>Technical equipment/personnel</td>
<td>£850.00</td>
<td>£812.00</td>
</tr>
<tr>
<td></td>
<td>£850.00</td>
<td>£812.00</td>
</tr>
<tr>
<td>Dinner material</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Name badges</td>
<td>£230.00</td>
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</tr>
<tr>
<td>Table plan cards for all guests</td>
<td>£250.00</td>
<td>£468.00</td>
</tr>
<tr>
<td>Menus</td>
<td>£350.00</td>
<td>£557.00</td>
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<tr>
<td>Place Cards</td>
<td>£130.00</td>
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<tr>
<td>Table name cards</td>
<td>£80.00</td>
<td>£78.00</td>
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<tr>
<td></td>
<td>£1,040.00</td>
<td>£1,610.00</td>
</tr>
<tr>
<td>Flowers</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Two arrangements for welcome desks</td>
<td>£120.00</td>
<td>£120.00</td>
</tr>
<tr>
<td>Arrangement for the Exhibition Hall</td>
<td>£200.00</td>
<td>£200.00</td>
</tr>
<tr>
<td>Pedestals for either side of the Band</td>
<td>£400.00</td>
<td>£400.00</td>
</tr>
</tbody>
</table>
Monday, 27 November 2000

<table>
<thead>
<tr>
<th>Budget</th>
<th>Actual Invoice</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Arrangement for the lecturn</td>
<td>£100.00</td>
</tr>
<tr>
<td>Table centres x 8</td>
<td>£800.00</td>
</tr>
<tr>
<td>Delivery set up and clear away</td>
<td>£35.00</td>
</tr>
<tr>
<td></td>
<td>£1,655.00</td>
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Miscellaneous

<table>
<thead>
<tr>
<th>Budget</th>
<th>Actual Invoice</th>
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</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Casual Staff at Australia House</td>
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</tr>
<tr>
<td>Band plus expenses</td>
<td>£0.00</td>
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<tr>
<td>Toastmaster plus expenses</td>
<td>£250.00</td>
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<tr>
<td>Stationery/postage/DHL</td>
<td>£350.00</td>
</tr>
<tr>
<td>Couriers/photocopying/fax/phones/taxis</td>
<td>£600.00</td>
</tr>
<tr>
<td>TOTAL</td>
<td>£9,800.00</td>
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<tr>
<td>VAT @ 17.5%</td>
<td>£1,715.00</td>
</tr>
<tr>
<td>GRAND TOTAL</td>
<td>£11,515.00</td>
</tr>
</tbody>
</table>

ATTACHMENT B

Dinner hosted by the High Commissioner Mr Philip Flood AO on Tuesday 4 July 2000 in the Downer Room

**Guest List**

<table>
<thead>
<tr>
<th>The Hon John Howard MP</th>
<th>Prime Minister</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Hon John Anderson MP</td>
<td>Deputy Prime Minister</td>
</tr>
<tr>
<td>State Representatives</td>
<td>Premier of New South Wales</td>
</tr>
<tr>
<td>The Hon Bob Carr MLA</td>
<td>Premier of Victoria</td>
</tr>
<tr>
<td>The Hon Steve Bracks MLA</td>
<td>Premier of Queensland</td>
</tr>
<tr>
<td>The Hon Peter Beattie MLA</td>
<td>Premier of South Australia</td>
</tr>
<tr>
<td>The Hon John Olsen MLA</td>
<td>Premier of Tasmania</td>
</tr>
<tr>
<td>Mr Jim Bacon MHA</td>
<td></td>
</tr>
</tbody>
</table>

UK Based Guests

| Mr Adrian Bell | Chairman, Royal Bank of Canada Europe Ltd |
| Sir John Bond | Group Chairman, Hong Kong & Shanghai Banking Corporation (HSBC Holdings plc) |
| The Rt Hon The Lord Brittan of Spennithorne QC | Vice Chairman, UBS Warburg |

| Sir John Browne | Director, Goldman Sachs, CANCELLED |
| Mr Gavin Casey | Chief Executive, London Stock Exchange |
| Sir Howard Davies | Chairman, Financial Services Authority |
| Mr Rod Eddington | Chief Executive British Airways plc |
| The Hon Sir Victor Garland KBE | Director, Hendersons |
| Mr William Garrett | Chief Executive Robert Fleming Holdings Ltd |
| The Rt Hon Sir Edward George | GBEGovernor, Bank of England |
| Mr Bruce Hannon | MD & Vice Chairman for Europe, Africa & the Middle East, Chase Manhattan Bank |

| Mr Stephen Hill | Chief Executive, Financial Times Group |
| Mr Christopher Hogg | Chairman, Reuters Ltd |
| The Earl of Limerick KBE | Chairman, Pirelli UK Ltd |
| Sir Peter Middleton GCB | Chairman, Barclays Bank plc |
| Mr David Robins | Chairman & Chief Executive, ING Barings CANCELLED |
Sir Evelyn de Rothschild
Chairman, NM Rothschild & Sons
Europe

Mr Graham Savage
Managing Director, National Australia Group
Europe

Mr Matthew Scrimshaw
President, Enron Energy Services
The Hon Jim Short
Director, European Bank for Reconstruction & Development

Mr Colin Sturgeon
Managing Director & Head of Global Banking
Europe, Royal Bank of Canada

Mr Stephen Timewell
Editor, Banker Magazine

Mr Keith Whitson
Group Chief Executive, HSBC Holdings plc

Other European Guests
Dr Rolf Breuer
Managing Director, Deutsche Bank AG

Mr Jacques de Larosiere
Personal Advisor to Chairman, BNP Paribas Group

Mr Hans Smits
Chairman of the Executive, Rabobank Nederland

Mr Rijnhard W.F. van Tets
Managing Board Member, ABN Amro Bank NV

Mr Iain Robertson
Chief Executive The Royal Bank of Scotland

Visiting Australian Business Representatives
Mr Paul Batchelor
Chief Executive Officer, AMP

Mr Ken Borda
Managing Director, Deutsche Bank Australia

Mr Charles Curran AO
Chairman, Capital Investment Group Pty
Ulrich Hartig, Investment Commissioner, Australian Consulate-General, Germany

Mr Les Hosking
Chief Executive Officer, Australian Centre for Global Finance

Mr Richard Humphry AO
Managing Director, Australian Stock Exchange

Mr Mark Johnson
Director, Macquarie Bank Ltd

Mr David Kent
Investment Commissioner, Australian Embassy

Mr Philip Kiely
Managing Director, Oracle Australia

Mr Frank Lowy AC
Chairman, Westfield Holdings Limited

Mr Maurice Newman AM
Chairman, Australian Stock Exchange

Mr Mark Rayner
Chairman, National Australia Bank Ltd

Mr Fergus Ryan
Strategic Investment Co-ordinator, Australian Government

Mr Peter St George
Chief Executive, Salomon Smith Barney

Mr Kerry Stokes AO
Director, Australian Capital Equity Pty Ltd

Mr Ronald Walker AO
CBE Managing Director, Hudson Conway Ltd

Prime Minister’s Party
Mr Tony Nutt
Chief of Staff

Mr David Ritchie
Senior Advisor

Mr Max Moore-Wilton
Secretary Dept, PM & Cabinet

Mr Michael L’Estrange
High Commissioner Designate to Britain

Australian High Commission
Mr David Ritchie
Deputy High Commissioner

Mr Mark Jenkins
Investment Commissioner

ATTACHMENT C

Menu
Salad of Seared Sea Scallops and Crispy Duck with Sichuan Pickled Cucumber
Oven-Roasted Rump of Lamb with Tomato Jam, Olives and Aïoli
Sugar Snap Peas
Carpaccio of Pineapple with Chilli, Lime and Coriander Salsa
Lemon Grass Ice-Cream
A selection of Cheeses
Wines
‘Kraft’ Sauvignon Blanc 1999
Bindi Pinot Noir 1997
Noble One Botrytis Semillon 1995

Department of Communications, Information Technology and the Arts: Salaries
(Question No. 2607)

Senator Faulkner asked the Minister for Communications, Information Technology and
the Arts, 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 Alston—The answer to the honourable senator’s question is as follows:

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Salaries &amp; Related Costs</td>
<td>$59,847</td>
<td>$62,380</td>
<td>$75,475</td>
<td>$77,891</td>
</tr>
<tr>
<td>Salaries Only</td>
<td>$58,135</td>
<td>$60,500</td>
<td>$59,169</td>
<td>$62,383</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Cost of Outsourced Contracts</td>
<td>$0</td>
<td>$0</td>
<td>$36</td>
<td>$1,907</td>
</tr>
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</table>

<table>
<thead>
<tr>
<th></th>
<th></th>
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<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>% Cost of Outsourced Contracts</td>
<td>0.0%</td>
<td>0.0%</td>
<td>0.1%</td>
<td>3.1%</td>
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</table>

Department of Agriculture, Fisheries and Forestry: Salaries
(Question No. 2618)

Senator Faulkner asked the Minister representing the Minister for Agriculture, Fisheries
and Forestry, 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 Alston—The Minister for Agriculture, Fisheries and Forestry has provided the
following answer to the honourable senator’s question:

The Department of Agriculture, Fisheries and Forestry reported the following information on the
purchase of services in its annual reports:
<table>
<thead>
<tr>
<th>Financial Year</th>
<th>Salary Outlay ($, 000)</th>
<th>Cost of Services ($, 000)</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) 1996/97</td>
<td>252,069</td>
<td>$9,440</td>
<td>3.7%</td>
</tr>
<tr>
<td>(b) 1997/98</td>
<td>227,598</td>
<td>$10,294</td>
<td>4.5%</td>
</tr>
<tr>
<td>(c) 1998/99</td>
<td>213,528</td>
<td>$19,144</td>
<td>9.0%</td>
</tr>
<tr>
<td>(d) 1999/00</td>
<td>188,580</td>
<td>$19,146</td>
<td>10.2%</td>
</tr>
</tbody>
</table>

Note: The figures are not directly comparable as those prior to 1998-99 relate to the former Department of Primary Industries and Energy.

**Department of Finance and Administration: Market Testing of Corporate Services**

(Question No. 2679)

Senator Faulkner asked the Minister representing the Minister for Finance and Administration, upon notice, on 9 August 2000:

(1) Has the department and/or any agency in the portfolio, set a timeframe to market test any of its corporate services; if so, which agency, which functions, and what is the timeframe.

(2) In relation to each agency which has, or will, move to market test corporate services, what arrangements have been made to consult with effected employees and their representatives; if such arrangements have not been made, when will these consultations be undertaken.

Senator Ellison—The Minister for Finance and Administration has supplied the following answer to the honourable senator’s question:

**Department of Finance and Administration (DOFA)**

(1) DOFA will continually review the way in which services are delivered and make decisions on market testing on a case by case basis. Several corporate services functions have already been market tested.

(2) Consultation will take place as required.

**ComSuper**

(1) ComSuper has not set a timeframe to market test the various components of its corporate services, however, ComSuper will be looking to market test those components by the end of 2001.

(2) Appropriate consultation mechanisms will be developed with affected employees before a timeframe for market testing is finalised.

**Australian Electoral Commission (AEC)**

(1) The AEC is in a process of finalising a timeframe for the market testing of its corporate services activities. To date, no final decisions have been taken on the order and timetables for particular functions. It is planned that any resulting market testing program will proceed in three phases over the period late 2000 to early 2002.

(2) The AEC has in place standard staff consultative mechanisms, which will be utilised during any market testing program, including formal consultative forums to discuss with staff and their representatives issues which impact on staff. On 17 October 2000, the AEC’s Consultative Forum (ACF) will meet to discuss the recommendations of the AEC’s PIC review of Corporate and Support Services (which include options for CTC) and management’s intentions with respect to its implementation. The ACF is the AEC’s peak body for staff and management consultation and comprises the Electoral Commissioner (Chair), three management representatives and three employee elected representatives. The CPSU national industrial officer has a standing invitation to attend.

**Commonwealth Grants Commission (CGC)**

(1) The Commission is aware of the government’s affirmation of its commitment to market testing the corporate services’ sections of FMA Act organisations. The Commission relies on the services provided by DOFA and accordingly has been a partner in the outsourcing arrangements reached by them through market testing. The remaining corporate service type functions carried out by the Commission have always been minor and these were reviewed in late 1998 by consultants Palm Management. This review resulted in a refocussing of how the small Administrative Support Unit
It has now moved away from the provision of services and focuses on initiatives to improve business and corporate management through the provision of greater strategic capability for HR, financial and office management.

The Commission has commenced discussions with the Office of Asset Sales and Information Technology Outsourcing to consider further market testing of remaining corporate service type functions.

(2) The Palm Management review did not directly effect employee numbers but did result in a realignment of duties and the filling of an existing vacancy at the Executive level to provide the strategic capability. Existing employees were directly involved in the reorientation.

Office of Asset Sales and IT Outsourcing (OASITO)

(1) OASITO’s corporate services include a number of functions which are currently outsourced. These include payroll processing, accounting and payment processing, IT services, general office services, internal audit and legal counsel. OASITO continues to review its internal service delivery options.

(2) OASITO corporate services include a number of functions which are currently outsourced and internal service delivery options are under review. OASITO has a strong communications framework which is utilised in these processes.

Department of Finance and Administration: Market Testing of Functions

(Question No. 2698)

Senator Faulkner asked the Minister representing the Minister for Finance and Administration, upon notice, on 9 August 2000:

(1) Has the department, and/or any agency in the portfolio, set a timeframe to market test any of its functions other than corporate services; if so, which agency, which functions, what is the state and city or town location of staff currently undertaking that function, and what is the timeframe.

(2) In relation to each agency which has or will move to market test these functions, what arrangements have been made to consult with effected employees and their representatives; if such arrangements have not been made, when will these consultations be undertaken.

Senator Ellison—The Minister for Finance and Administration has supplied the following answer to the honourable senator’s question:

The following answer is provided for the Finance and Administration Portfolio which consists of the Department of Finance and Administration, the Office of Asset Sales and IT Outsourcing (OASITO), the Commonwealth Grants Commission (CGC), Comsuper and the Australian Electoral Commission (AEC).

(1) No
(2) Not applicable

Environment: Bilateral Agreements

(Question No. 2756)

Senator Brown asked the Minister for the Environment and Heritage, upon notice, on 17 August 2000:

With reference to the draft bilateral agreements under the Environment Protection and Biodiversity Conservation Act 1999:

(1) (a) How can a state process deal with matters of national significance; (b) will the advertising be national; (c) what rights will residents or other states have in relation to the assessment; and (d) what capacity and power will one state have to assess impacts of a project in another state, for example, proposals affecting migratory birds.

(2) Can third parties enforce adherence to the bilateral agreement; if so, how.

(3) Are offences in the Act applicable to bilateral agreements, for example, relating to the provision of false and misleading information; if so, by what mechanism.
Given that having delegated the assessment of proposals, the Minister is still required to make an independent decision: (a) what sources of information will the Minister have to make that decision; (b) how will the Minister assess the assessment; and (c) what public input will there be.

Senator Hill—The answer to the honourable senator’s question is as follows:

1(a) The draft bilateral agreements require that any assessment carried out by a State or Territory, for the purposes of the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act), is undertaken in accordance with benchmarks, set out in Schedule 1 of the Regulations. These benchmarks include a requirement that matters of national environmental significance be properly assessed.

(b) See Schedule 1 to the Regulations.

(c) Residents and other States will have the opportunity to provide comments on draft assessment documentation, and have access to relevant documents. There are also transparent mechanisms in the Act dealing with matters such as judicial review.

(d) All assessments under the Act, including assessments conducted under an accredited State process, must adequately assess impacts on matters of national environmental significance.

2 If a person believes there is a contravention of a bilateral agreement the Act provides that the person can refer the matter to the Minister, in accordance with Section 57 of the Act. The Minister must then decide whether the agreement has been contravened and decide what action he or she should take. Any such decision the Minister makes, together with the reasons for the decision, must be published.

3 The EPBC Act and the regulations contain a range of offences. The applicability of any particular offence should be considered in light of the facts and circumstances of the case in question.

4(a) Under Section 136 of the EPBC Act the Minister, in deciding whether or not to approve an action, must take into account the principles of ecologically sustainable development, an assessment report, any other information he or she has on the relevant impacts (including information provided by third parties), and relevant comments from other Ministers. The Minister may also consider a person's environmental history. The draft bilateral agreements set out the minimum information that is required to be contained in an assessment report, in accordance with Schedule 1 of the EPBC Regulations 2000. If the Minister believes that he or she does not have enough information to make an informed decision the Minister may seek further information from the proponent.

(b) Schedule 1 of the EPBC Act Regulations 2000 sets out the information required to be contained in an assessment report for the purposes of a bilateral agreement.

(c) The EPBC Act and the regulations under that Act require extensive public consultation.

Minister for Health and Aged Care: Cost of Dinners or Functions
(Question No. 2762)

Senator Robert Ray asked the Minister representing the Minister for Health and Aged Care, upon notice, on 18 August 2000:

With reference to the Minister’s refusal to answer question on notice no. 2165: Did the Minister request the department to assess the actual cost of answering the question, including a breakdown of the number of personnel and hours involved; if so, what were those costs; if not, why not.

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

No. An overall assessment was made.

Minister for Health and Aged Care: Cost of Dinners or Functions
(Question No. 2763)

Senator Robert Ray asked the Minister representing the Minister for Health and Aged Care, upon notice, on 18 August 2000:

With reference to the Minister’s refusal to answer question on notice no. 2165: Why did the Minister not take the minimum amount of time and effort required to convey his refusal to answer within the required 30-day limit, instead taking some four months and a reminder to do so.
Senator Herron—The Minister for Health and Aged Care has provided the following answer to the honourable senator’s question:

Resources were not available in the Minister’s office to complete the answer within the 30-day limit. While it was anticipated that resources would become available in time, this was not the case and a decision was taken to provide the answer as tabled in Parliament.

**Minister for Health and Aged Care: Cost of Dinners or Functions**

(Question No. 2764)

Senator Robert Ray asked the Minister representing the Minister for Health and Aged Care, upon notice, on 18 August 2000:

With reference to the Minister’s refusal to answer question on notice no. 2165:

(1) On what date was the decision to not answer the question taken.

(2) Did the department prepare a provisional answer to the question prior to the decision being taken to not answer it; if so: (a) on what date was this answer conveyed to the Minister; (b) by whose decision/authority was the provisional answer rejected; and (c) how was the decision to reject the provisional answer conveyed to the department, was it oral or in writing (including e-mail).

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

(1) 17 August 2000

(2) Yes

(a) On 17 April 2000 the department submitted a partial answer to the question requesting further information from Minister’s staff.

(b) The Minister makes the final decision on answers to parliamentary questions.

(c) Oral

**Ministerial Entertainment Expenses: Guidelines**

(Question No. 2768)

Senator Robert Ray asked the Minister representing the Minister for Health and Aged Care, upon notice, on 18 August 2000:

Has the department received guidelines from the Prime Minister’s office or the Department of Prime Minister and Cabinet, indicating the proper format for answering questions with regard to the entertainment expenses of ministers.

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

No.

**Department of Agriculture, Fisheries and Forestry: Grants to Employer Organisations**

(Question No. 2793)

Senator O’Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 30 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 Alston—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:
In July 1999/2000 financial year, the Department of Agriculture Fisheries and Forestry introduced a financial management information system, to provide the tools necessary to manage the Department’s accounts centrally under an accrual accounting framework.

Prior to this, the Department’s financial information was maintained on seven separate databases representing the structure of the Department as it existed in the form of the Department of Primary Industries and Energy. This structure differs significantly from the structure of AFFA as it exists today.

Due to the considerable amount of time it would take to retrieve the information sought, answering these questions would require an unreasonable diversion of the Department’s resources.

Department of Agriculture, Fisheries and Forestry: Grants to Employer Organisations
(Question No. 2812)

Senator O’Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 30 August 2000:

(1) What grants or other payments were made to employer organisations by the department or any of its agencies in the 1997-1998 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 Alston—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

In July 1999/2000 financial year, the Department of Agriculture, Fisheries and Forestry introduced a financial management information system, to provide the tools necessary to manage the Department’s accounts centrally under an accrual accounting framework.

Prior to this, the Department’s financial information was maintained on seven separate databases representing the structure of the Department as it existed in the form of the Department of Primary Industries and Energy. This structure differs significantly from the structure of AFFA as it exists today.

Due to the considerable amount of time it would take to retrieve the information sought, answering these questions would require an unreasonable diversion of the Department’s resources.

Department of Education, Training and Youth Affairs: Grants to Employer Organisations
(Question No. 2827)

Senator O’Brien asked the Minister representing the Minister for Education, Training and Youth Affairs, 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 1998-1999 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 Ellison—The Minister for Education, Training and Youth Affairs has provided the following answer to the honourable senator’s question:
For the 1998-99 financial year the following payments were made to employer organisations.

1. **Victorian Automobile Chamber of Commerce**
   (2)(a) Other payment - hire of venue
   (b) $140.00
   (c) NO
   (3)(a) N/A
   (b) N/A

2. **Association of Professional Engineers, Scientists and Managers, Vic**
   (2)(a) Other payment - RACI Survey Report
   (b) $150.00
   (c) NO
   (3)(a) N/A
   (b) N/A

1. **Australian Industry Group, payment made by ANTA.**
   (2)(a) Grant - to establish an Australian Industry Group-Training Network, the core purpose of which was to facilitate increased quality, apprenticeship and traineeship opportunities in firms in metals, engineering and manufacturing industries.
   (b) $141,000 payable over two years
   (c) Yes
   (3)(a) The Australian Industry Group submitted a proposal to establish an Australian Industry Group-Training Network, the core purpose of which as to facilitate increased quality, apprenticeship and traineeship opportunities in firms in metals, engineering and manufacturing industries.  The proposal was the basis for a signed Memorandum of Understanding which included: MIG Group Training, Hunter Valley Training Co., Australian Industry GT Service Vic., Engineering Employers Association SA, CCI Training Service WA.
   (b) General Manager, ANTA

1. **Australian Trainers’ Association**
   (2)(a) Other Payment - New Apprentice financial incentive
   (b) $1,250.00
   (c) YES - a claim for Commonwealth Incentives
   (3)(a) The responsible New Apprenticeship Centre in accordance with the programme's guidelines
   (b) New Apprenticeship Centre

1. **Engineering Employers Association**
   (2)(a) Other Payment - New Apprentice financial incentive
   (b) $2,250.00
   (c) YES - a claim for Commonwealth Incentives
   (3)(a) The responsible New Apprenticeship Centre in accordance with the programme's guidelines.
   (b) New Apprenticeship Centre

1. **Licensed Clubs Association of Victoria Inc.**
   (2)(a) Other Payment - New Apprentice financial incentive
   (b) $2,500.00
   (c) YES - a claim for Commonwealth Incentives
(3)(a) The responsible New Apprenticeship Centre in accordance with the programme’s guidelines
(b) New Apprenticeship Centre

(1) **Master Builders Association ACT**
(2)(a) Other Payment - New Apprentice financial incentive
(b) $10,000.00
(c) YES - a claim for Commonwealth Incentives
(3)(a) The responsible New Apprenticeship Centre in accordance with the programme’s guidelines.
(b) New Apprenticeship Centre

(1) **Master Builders Association of NSW Pty Ltd**
(2)(a) Other Payment - New Apprentice financial incentive
(b) $195,133.90
(c) YES - a claim for Commonwealth Incentives
(3)(a) The responsible New Apprenticeship Centre in accordance with the programme’s guidelines.
(b) New Apprenticeship Centre

(1) **Master Builders Association of Victoria**
(2)(a) Other Payment - New Apprentice financial incentive
(b) $8,750.00
(c) YES - a claim for Commonwealth Incentives
(3)(a) The responsible New Apprenticeship Centre in accordance with the programme’s guidelines.
(b) New Apprenticeship Centre

(1) **Master Plumbers’ & Mechanical Services Association of Australia**
(2)(a) Other Payment - New Apprentice financial incentive
(b) $103,500.00
(c) YES - a claim for Commonwealth Incentives
(3)(a) The responsible New Apprenticeship Centre in accordance with the programme’s guidelines.
(b) New Apprenticeship Centre

(1) **Victorian Automobile Chamber of Commerce**
(2)(a) Other Payment - New Apprentice financial incentive
(b) $59,250.00
(c) YES - a claim for Commonwealth Incentives
(3)(a) The responsible New Apprenticeship Centre in accordance with the programme’s guidelines.
(b) New Apprenticeship Centre

(1) **Victorian Employers Chamber of Commerce & Industry**
(2)(a) Other Payment - New Apprentice financial incentive
(b) $2,500.00
(c) YES - a claim for Commonwealth Incentives
(3)(a) The responsible New Apprenticeship Centre in accordance with the programme’s guidelines.
(b) New Apprenticeship Centre
Department of Agriculture, Fisheries and Forestry: Grants to Employer Organisations
(Question No. 2831)

Senator O’Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 30 August 2000:

1. What grants or other payments were made to employer organisations by the department or any of its agencies in the 1998-1999 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 Alston—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

In July 1999/2000 financial year, the Department of Agriculture, Fisheries and Forestry introduced a financial management information system, to provide the tools necessary to manage the Department’s accounts centrally under an accrual accounting framework.

Prior to this, the Department’s financial information was maintained on seven separate databases representing the structure of the Department as it existed in the form of the Department of Primary Industries and Energy. This structure differs significantly from the structure of AFFA as it exists today.

Due to the considerable amount of time it would take to retrieve the information sought, answering these questions would require an unreasonable diversion of the Department’s resources.

Department of Defence: Grants to Employer Organisations
(Question No. 2844)

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 1999-00 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 1999-00, but made other payments to four employer organisations in this financial year.

   (a) These payments were of an administrative nature.

   (b) Employer Organisation
       Australian Industry Group $22,287
       Australian Pharmacy Guild $1,200
       Engineering Employer Group $230
       Motor Traders Association $450

   (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. 2845)

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 1999-2000 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 1999-2000 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>Pharmacy Guild of Australia</td>
<td>Rural &amp; remote pharmacy workforce development program</td>
<td>$1,500,000</td>
<td>Proposal</td>
<td>Commissioned by Rural Health Support Education &amp; Training (RHSET) Advisory Committee</td>
<td>Minister for Health and Aged Care</td>
</tr>
<tr>
<td>NSW Rural Doctors Resource Network</td>
<td>4th national rural undergraduate rural health conference</td>
<td>$10,000</td>
<td>Request by letter</td>
<td>N/A</td>
<td>Director, Workforce Support Section</td>
</tr>
<tr>
<td>NSW Rural Doctors Resource Network</td>
<td>Rural health scholarship network</td>
<td>$46,675</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>NSW Rural Doctors Resource Network</td>
<td>Promotion of multi-disciplinary health careers to high school students</td>
<td>$52,700</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>Services for Australian Rural &amp; Remote Allied Health</td>
<td>1999 rural &amp; remote allied health conference</td>
<td>$10,000</td>
<td>Request by letter</td>
<td>N/A</td>
<td>Director, Workforce Support Section</td>
</tr>
<tr>
<td>Australian Physiotherapy Association</td>
<td>Independent learning packages</td>
<td>$43,910</td>
<td>Application</td>
<td>Rural Health Support Education &amp; Training (RHSET) Advisory Committee</td>
<td>Assistant Secretary, Rural Health Branch</td>
</tr>
</tbody>
</table>
Senator Cook asked the Assistant Treasurer, upon notice, on 28 August 2000:

With reference to an answer provided to a question on notice from the 31 May 2000 Treasury estimates, in which the Assistant Treasurer advised the committee that, as at 30 June 2000, $409 million of the $500 million available goods and services tax assistance to small and medium businesses had been spent: can the following be provided: (a) a complete list of all recipients, as at 30 June, broken down into industry sector and then the recipient body within that industry sector; (b) the name of the recipient organisation; (c) the amount received; (d) the month in which the money was approved for payment to the recipient; and (e) the reason for which a grant for assistance monies was made.

Senator Kemp—The answer to the honourable senator’s question is as follows:
(a), (b), (c), (d) and (e): The $409 million provided to the Australian Taxation Office and the $500 million for GST Start-Up Assistance are separate amounts.

Senator Chris Evans asked the Minister for Family and Community Services, upon notice, on 29 August 2000:

With reference to the ‘Review of the Business Services Sector of the Disability Employment Industry’:
(1) Was the contract to undertake the review put out to tender.
(2) How many people with disabilities are directly involved in the review.
(3) (a) Who are the members of the Steering Committee; and (b) how were they chosen.
(4) Can a detailed breakdown be provided of how the $600 000 allocated for the review will be spent.
(5) Is any participant being paid for their services.

Senator Newman—The answer to the honourable senator’s question is as follows:
(1) Yes.
(2) A range of opportunities was provided for people with disabilities to participate in the review. Over 68 people with disabilities and 10 families of people with disabilities participated in focus groups undertaken as part of a specific consumer consultation process on the draft strategic plan conducted by the National Caucus of Disability Consumer Organisations under contract to the Commonwealth Department of Family and Community Services. In addition, the primary consultants to the review, KPMG, also consulted with consumers, including conducting four focus groups; meeting with representatives of the National Caucus of Disability Consumer Organisations; and held discussions with employees as part of service visits.
(3)(a) Membership of the Steering Committee for the Review has varied over the period and has included:
Mr Nobby Clark (Chair)
Ms Sue Taylor/Ms Janet Kahler (ACROD representative)
Mr Jim Bell (ACROD representative)
Mr Steve Smith (ACROD representative)
Ms Jan Taylor (ACROD representative)
Mr Carl Princehorn/Ms Margaret Carmody/Mr Grant Tidswell (FaCS representatives)

(b) Mr Clark was approached to be chair based on his extensive business background as CEO of National Australia Bank, and for his interest and involvement in disability issues. The other members are either nominees of ACROD or representatives of the funding agency, the Commonwealth Department of Family and Community Services.

(4) Initial project funding approval was given for $600,000. Additional funding approval of up to $85,000 was subsequently provided to enable a further round of industry consultations on the industry profiling and strategic plan and to supplement consumer input to the review. Expenditure to date on the review is as follows:

| Scoping Study—Ernst and Young Pty Ltd | $10,271 |
| KPMG Pty Ltd Consultancy | $530,574 |
| Project Management Services, Ernst and Young Pty Ltd | $65,398 |
| Steering Committee (travel/incidental costs) | $17,432 |
| Focus Group incidentals costs | $200 |
| **TOTAL** | **$623,875** |

Further estimated expenditure in 2000-01 is expected as follows:

KPMG—$19,400.
National Caucus of Disability Consumer Organisations—$13,500.

(5) No. Steering Committee members have only been reimbursed for travel costs associated with attendance at Steering Committee meetings and where they have facilitated an industry forum.

**People with Disabilities: Employment**

(Question No. 2874)

Senator Chris Evans asked the Minister for Family and Community Services, upon notice, on 29 August 2000:

With reference to disability employment:

(1) What is the total figure the Commonwealth will spend on disability employment programs in the 2000-01 financial year.

(2) What programs are currently being funded and how much funding they are each receiving.

(3) (a) How many disability employment pilots has the department funded since February 1996; and (b) what were the costs of each pilot.

(4) (a) How many new disability employment programs have been initiated since February 1996; and (b) were any the result of successful pilot programs.


Senator Newman—The answer to the honourable senator’s question is as follows:

(1) Funding of $245.5m is provided for disability employment programs from the Employment Assistance and Other Services item in 2000-01. In addition, this item also provides funds for industry development such as the Business Service Review, consumer and management support training and the development of a quality assurance system.

In 2000-01, $101.9m is also provided for rehabilitation services to enable consumers to return to work or live independently, and a further $10m is available for the Assessment and Contestability Trial to test alternative ways to identify the abilities and needs of people with a disability.

The total allocation for disability employment programs through the Family and Community Services portfolio in 2000-01 is $357.4m.
In addition, employment assistance for people with disabilities is also provided through programs funded by the Employment, Workplace Relations and Small Business portfolio.

(2) With respect to the FaCS portfolio, disability employment program funding in 2000-01 is as follows:

<table>
<thead>
<tr>
<th>Employment Programs</th>
<th>$M</th>
</tr>
</thead>
<tbody>
<tr>
<td>Supported Grants (Business Services)</td>
<td>99.0</td>
</tr>
<tr>
<td>Open Grants</td>
<td>98.2</td>
</tr>
<tr>
<td>Open and Supported Grants</td>
<td>19.5</td>
</tr>
<tr>
<td>Case Based Funding Individual Payments</td>
<td>16.0</td>
</tr>
<tr>
<td>Employer Incentives</td>
<td>12.8</td>
</tr>
<tr>
<td>Rehabilitation Services</td>
<td>101.9</td>
</tr>
<tr>
<td>Assessment and Contestability Trial</td>
<td>10.0</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>357.4</strong></td>
</tr>
</tbody>
</table>

(3)(a) Six pilots have been funded by the Department of Family and Community Services and the Department of Health and Family Services (under previous administrative order) since February 1996:

(i) the Case Based Funding Trial which commenced November 1999;
(ii) a school leavers pilot undertaken in 1997-98;
(iii) a post school options pilot in South Australia which commenced in 1999;
(iv) a pilot program for pre-release prisoners with a disability in NSW which is scheduled to commence in 2000-01;
(v) the More Intensive and Flexible Services (MIFS) pilot which was established by the former Department of Social Security in July 1996 and operated until June 2000; and
(vi) the Assessment and Contestability Trial for People with Disabilities which commenced in late August 2000.

(b) The costs for each pilot are as follow:

(i) Case Based Funding Trial - No final cost is available for the case based funding trial at this point, although $2.3m was expended in 1999-2000, and $16m has been earmarked in 2000-2001;
(ii) School leavers pilot - $2.9m;
(iii) Post Schools Options pilot jointly funded with South Australian State Government - $50,000 (Commonwealth contribution);
(iv) Pre-release prisoners pilot – jointly funded with New South Wales State Government – Commonwealth contribution is $60,000 in 2000-01;
(v) Further information on the MIFS Pilot (including the cost of the pilot) is provided in the response to Senate Question 2880 asked on 31 August 2000;
(vi) As the trial has only recently commenced no final cost is available. A total of $10m in additional funding has been earmarked for the conduct and evaluation of the trial.

(4)(a) and (b) The Government’s reform agenda for disability employment assistance, and in particular the Case Based Funding Trial, has been informed by earlier work, including pilots and initiatives such as the School Leavers’ Initiative.

(5) The expenditure information for disability employment programs funded by the Department of Family and Community Services (and previously the Department of Health and Family Services) is as follows, although it should be noted it is difficult to draw cross year comparisons because of changes to administrative arrangements.

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Employment Programs</td>
<td>191.3</td>
<td>202.1</td>
<td>223.9</td>
<td>221.1</td>
</tr>
<tr>
<td>Rehabilitation Services</td>
<td>118.0</td>
<td>108.2</td>
<td>100.5</td>
<td>101.3</td>
</tr>
</tbody>
</table>
Senator Chris Evans asked the Minister representing the Minister for Health and Aged Care, upon notice, on 4 September 2000:

With reference to young people with disabilities in nursing homes:

(1) On a state-by-state, and metropolitan and rural basis, what is the latest estimate of the number of young people with disabilities living in nursing homes.

(2) Are the rehabilitation and therapy needs of young people with disabilities assessed when they enter an aged care facility.

(3) Are their rehabilitation and therapy needs assessed on an ongoing basis.

(4) What proportion of funding for rehabilitation and therapy programs is allocated toward the care of young people with disabilities in nursing homes.

(5) Are there any initiatives to rehouse young people with disabilities into more appropriate longer-term accommodation.

(6) Has the department done any costings in relation to rehousing.

(7)(a) What is the total cost per year of caring for a young person with a disability in an aged care facility; and (b) how does that compare with the cost of accommodating an aged person in an aged care facility.

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

(1) The Department of Health and Aged Care does not collect information on the residents of aged care services by disability type. The best indicator of the number of younger people with disabilities in aged care is those residents aged under 50. Table 1 sets out the number of residents of aged care services aged under 50 by State/Territory and by Capital, other metropolitan, and rural and remote setting.

Table 1

<table>
<thead>
<tr>
<th>STATE</th>
<th>CAPITAL</th>
<th>OTHER METRO</th>
<th>RURAL &amp; REMOTE</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>ACT</td>
<td>5</td>
<td></td>
<td></td>
<td>5</td>
</tr>
<tr>
<td>NSW</td>
<td>316</td>
<td>45</td>
<td>95</td>
<td>456</td>
</tr>
<tr>
<td>NT</td>
<td>5</td>
<td></td>
<td>9</td>
<td>14</td>
</tr>
<tr>
<td>QLD</td>
<td>100</td>
<td>36</td>
<td>116</td>
<td>252</td>
</tr>
<tr>
<td>SA</td>
<td>31</td>
<td>23</td>
<td></td>
<td>54</td>
</tr>
<tr>
<td>TAS</td>
<td>17</td>
<td></td>
<td>13</td>
<td>30</td>
</tr>
<tr>
<td>VIC</td>
<td>168</td>
<td>6</td>
<td>71</td>
<td>245</td>
</tr>
<tr>
<td>WA</td>
<td>69</td>
<td></td>
<td>29</td>
<td>98</td>
</tr>
<tr>
<td>TOTAL</td>
<td>711</td>
<td>110</td>
<td>333</td>
<td>1154</td>
</tr>
</tbody>
</table>

* All figures at 30 June 2000 based on data available at 2 September 2000.
(2) Under section 25-3 of the Aged Care Act 1997 (the Act), aged care service providers are required to assess all new residents’ abilities and care needs (including rehabilitation and therapy where appropriate). These must be documented in writing in the resident’s care plan.

(3) Under section 27-1 of the Act and Part 8 of the Classification Principles 1997, a reappraisal of the level of care needed by the care recipient must be made at least 12 months after the classification took effect or 6 months after if the resident’s circumstances have changed significantly.

(4) Rehabilitation and therapy program funding is the responsibility of State jurisdictions. This question should be addressed to the States.

(5) Under the Commonwealth/State Disability Agreement, States and Territories are responsible for providing accommodation support and respite for people with disabilities. Aged Care Assessment Team Guidelines state that entry to care for younger people with disabilities should be approved only after all other care alternatives have been demonstrably exhausted.

(6) No. This is a State responsibility.

(7) Funding for the care of residents in Commonwealth residential aged care services is varied based on their relative care needs. Through the Resident Classification Scale, all residents are categorised into a care category which determines the level of Commonwealth subsidy. The subsidy is not influenced by the resident’s age.

Rural Counselling Service: Tasmania

(Question No. 2914)

Senator O’Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 12 September 2000:

(1) How many counsellors were engaged through the Rural Counselling Service in Tasmania in 1998, 1999 and 2000.

(2) What was the cost of providing this service in Tasmania in the above years.

(3) What funding has been provided in the forward estimates for the service in the 2001-02, 2002-03 and 2003-04 financial years.

(4) If funding for the service is scheduled to end, when will funding cease and why is the Government terminating funding for this important program.

(5) Has the service been the subject of a review; if so: (a) who undertook the review; (b) when was the review completed; and (c) what were the findings and recommendations flowing from the review.

(6) If there was no review, is the Government planning to have an independent review of the service undertaken prior to the end of funding for the program.

(7) If the Government plans to terminate the Rural Counselling Service, what services is the Government proposing to put in its place.

Senator Alston—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

(1) Two financial counsellors have been engaged through the Rural Financial Counselling Service, a component of the Rural Communities Program, in Tasmania since 1/7/1998 and will continue to 30/6/2001.

(2) The Rural Communities Program operates on a financial year basis and therefore figures are only available for financial year periods. The Commonwealth partly funds the Rural Counselling Service. The Commonwealth contributed funding for the service in Tasmania for the financial years 1998-99 to 2000-01 as set out below:

<table>
<thead>
<tr>
<th>Year</th>
<th>Funding</th>
</tr>
</thead>
<tbody>
<tr>
<td>1998-99</td>
<td>$139,000</td>
</tr>
<tr>
<td>1999-00</td>
<td>$142,880</td>
</tr>
<tr>
<td>2000-01</td>
<td>$159,539</td>
</tr>
</tbody>
</table>
(3) No funding has been provided in the forward estimates for financial counselling after 30 June 2001.

(4) Funding is scheduled to end on 30 June 2001. The Government is currently considering the future of the Rural Communities Program, including the rural financial counselling component.

(5) The Social Sciences Centre of the Bureau of Rural Sciences has reviewed the Rural Communities Program including the rural financial counselling service. The review was finalised on 21 September 2000 and is with the Minister for consideration. The review will be released to the public.

(6) See (5) above.

(7) The Government has not made a decision to terminate the Rural Financial Counselling Service. The Government is considering options for the future delivery of counselling services to rural Australia after 30/06/2001 in light of the BRS review.

**Commonwealth Seniors Health Card: Advertising**

(Question No. 2925)

Senator Chris Evans asked the Minister for Family and Community Services, upon notice, on 14 September 2000:

Can details be provided of advertising activities undertaken by Centrelink to promote the Commonwealth Seniors Health Card during the period spanning 11 December 1998 and 1 January 1999; please specify the date and the title of all publications and media in which advertisements appeared.

Senator Newman—The answer to the honourable senator’s question is as follows:


Wide news coverage within editorial and financial pages of the national, regional, suburban and seniors print media occurred between the announcement of the liberalisation of access to the Commonwealth Seniors Health Card between the May 1998 Budget announcement and introduction of the changes from 1 January 1999. A front page article was also included in the June 1998 edition of *Age Pension News* distributed to some two million aged and service pensioners throughout Australia advising of the changes. A promotional brochure outlining details of the proposed changes was available and distributed through Centrelink offices from July 1998. Staff routinely provided information to individuals and community groups and the matter was covered in Financial Information Service seminars.

These activities generated many thousands of applications from senior Australians following the Parliamentary approval of the initiative at the end of November 1998 and availability of new revised claim forms in mid-December 1998.

Following introduction of the changes on 1 January 1999, a major advertising initiative was undertaken by Centrelink in January, February and March 1999 covering national, regional, suburban and seniors print media.

**Education: Fijian Students**

(Question No. 2947)

Senator Bourne asked the Minister representing the Minister for Immigration and Multicultural Affairs, upon notice, on 19 September 2000:

With reference to Fiji and students studying in Australian tertiary institutions:

(1) Is the Minister aware that as a result of the recent coup in Fiji many of these students are facing severe financial hardship.

(2) Can the Minister advise if the Government will waive the educational institutions fees for the year 2000 for those students who are facing financial problems as a direct result of the coup; if it is not possible for the Government to waive fees, can the Minister provide additional funding in the form of a grant to assist the Fijian students.
(3) Can the Minister assist students to gain visa extensions if necessary for students to complete their studies.

(4) Will the Government provide students with working visas during long vacations.

Senator Vanstone—The Minister for Immigration and Multicultural Affairs has provided the following answer to the honourable senator’s question:

(1) Feedback from universities with Fijian students indicates that some students experienced difficulties transferring funds from Fiji to Australia in June and July, but these problems were quickly resolved.

(2) Under the Higher Education Funding Act 1988, the Minister for Education, Training and Youth Affairs has issued Guidelines that require universities to offer fee paying places to overseas students on a full cost recovery basis. There are no provisions for the Government to offer scholarships or additional funding in the form of a grant to overseas students enrolled in full fee paying places. However, higher education institutions may provide assistance, such as a fee reduction or waiver or a loan, to these students at their discretion.

(3) There were approximately 800 Fijian students studying in Australia as of 30 June 2000, about a quarter of whom were already sponsored by AusAID, while the others were full fee paying students. All students with a legal immigration status can apply for a further student visa. These applications must be considered on their merits and against the legal requirements.

(4) Overseas student visa holders may apply in Australia for permission to work. If this is granted, they are free to work full-time during holiday periods, and 20 hours work per week while the educational institution is in session.

Child Care Benefit
(Question No. 2949)

Senator Chris Evans asked the Minister for Family and Community Services, upon notice, on 20 September 2000:

Is it true that following the introduction of the Child Care Benefit on 1 July 2000, there are no legal impediments preventing the Commonwealth re-introducing needs-based planning limits on the creation of new long day care places, and that the Government’s current policy of not re-introducing such limits is a matter of discretion for the Minister.

Senator Newman—The answer to the honourable senator’s question is as follows:

Yes.

Agriculture: Poppy Products
(Question No. 2954)

Senator Brown asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 22 September 2000:

(1) What is the current annual Australian production of poppy seeds in tons and monetary value

(2) What is the current annual Australian production of poppy straw in tons and monetary value

(3) What is the current annual Australian production of poppy alkaloids in volume and monetary value

Senator Alston—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

(1) Precise statistics on the production and sales of poppy seeds are difficult to obtain. The figures given by the industry for the year 1999/2000 were 8000 to 9000 tonnes at a market value of $8 to $9 million.

This figure is likely to decline in the future due to the introduction of crops with higher yields of Anhydrous Morphine Alkaloid (AMA) that produce seeds unsuitable for culinary use.
(2) The current annual Australian production of poppy straw is estimated at 30,000 tonnes with a farm gate value of $54 million.

(3) The current annual Australian production of AMA is estimated at 200 tonnes. The monetary value is not known as the extraction of the AMA from poppy straw is usually done as part of a vertically integrated process and as such the AMA is not traded and has no accurately recorded monetary value.