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Thursday, 7 December 2000

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

PETITIONS

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

Asylum Seekers: Work Rights
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 the St Mark’s Anglican Church, Templestowe, Victoria 3107, petition the Senate in support of the abovementioned Motion.

And we, as in duty bound will ever pray.

by Senator Alston (from 63 citizens).

Renewable Energy
To the Honourable the President and Members of the Senate in Parliament assembled:
The petition of the undersigned citizens of Maryborough and district demonstrate support for the development of a renewable energy electricity project in Maryborough.

This environmentally friendly energy project to be developed by Maryborough Sugar, Stanwell, and Sugar Research Institute would use some forest residue as feedstock when sugar waste is not available in the off season.

The project will provide much needed jobs and investment for the regional economy.

Your petitioners request that the Senate should urgently pass the Renewable Energy (Electricity) Bill 2000 to enable the project to proceed.

by Senator Boswell (from 2,035 citizens).

Petitions received.

NOTICES

Presentation

Senator Forshaw to move, on the next day of sitting:
That there be laid on the table by the Minister for Industry, Science and Resources (Senator Minchin), no later than immediately after questions without notice on 8 February 2001, the following documents relating to the design and construction of a new nuclear reactor at Lucas Heights:

(1) The final contract (‘Conditions of Tender’) and related documents signed between INVAP and the Australian Nuclear Science and Technology Organisation (ANSTO) (Commonwealth Government).

(2) All ‘Request for Tender’ documentation sent to vendors including:
(a) Clarification no. 1 to Invitation to seek Pre-qualification for Design and Construction;
(b) Pre-qualification documents, comprising:
(i) Conditions of pre-qualification,
(ii) Pre-qualification form, and
(iii) Pre-qualification schedules; and
(c) Information for vendors:
(i) Agenda for 1 September briefing for Australian Industry,
(ii) Clarification no. 1 to Invitation to Register Expressions of Interest for Supply of Goods or Services,
(iii) Background to the Replacement Research Reactor Project,
(iv) Beam users’ requirements,
(v) Irradiation users’ requirements, and
(vi) Overview of draft Environmental Impact Statement.

(3) All detailed field reports, complete daily itineraries and all related documents prepared by ANSTO and Department of Industry, Science and Resources staff when visiting reference reactor sites overseas. The sites visited include:
(a) Indonesia (Siemens);
(b) Germany (Siemens - BER 2);
(c) Germany (Siemens - FRM 2);
(d) South Korea (AECL);
(e) Canada (AECL);
(f) Egypt (INVAPE);
(g) France (Technicatome - Orphee); and
(h) France (Technicatome - Osiris).
This must include the ‘Report of the Team’ as referred to in Professor Garnett’s letter to Senator Forshaw on 27 October 2000, which included an evaluation and comparison of each site visited.
In addition, the cost of these reference visits and associated documentation.

(4) The reprocessing contract with Cogema.
(5) Any assessments of fuel management options by ANSTO and/or INVAPE.
(6) Any assessments of costings of the replacement reactor, including any advice regarding the cost implications of the conditions placed under the environmental impact assessment.
(7) All advice from the Argentinian Government (or its agencies) regarding INVAPE’s ability to meet its contractual obligations.
(8) Any probity or due diligence reports that were compiled by ANSTO regarding INVAPE or any of the tenderers, and particularly any advice that was provided to Senator Minchin regarding INVAPE prior to his approval of the contract.
(9) Any correspondence on 6 June 2000 between Senator Minchin and Professor Garnett regarding the awarding of the reactor contract.

Senator Tierney to move, on the next day of sitting:
That the Senate—
(a) notes:
(i) that the Williamtown RAAF base in the Hunter Valley will become the home for the new airborne early warning and control aircraft, with the Federal Government announcing it will acquire four of the aircraft with the funding available and the option to acquire a further three later in the decade, and
(ii) that Williamtown will also benefit from the Government’s boost in defence spending, with an upgrade of the FA-18 Hornet aircraft over the next 10 years and an upgrade of the control and reporting units by enhancing aerospace command and control communications systems by 2005; and
(b) welcomes the planned increase of $23.5 billion in defence spending in real terms over the next decade, which will not only add to Australia’s defence capability but will also inject resources and boost the economy in the Hunter Valley.

Senator Brown to move, on the next day of sitting:
That the Senate opposes airport facilities at Kurnell, New South Wales, because of the unacceptable environmental, social and economic impact on the peninsula, which has great significance for the Aboriginal community and for national history

Withdrawal
Senator COONAN (New South Wales) (9.31 a.m.)—Pursuant to notice given on the last day of sitting, on behalf of the Regulations and Ordinances Committee, I withdraw business of the Senate notices of motion Nos 1 and 2 standing in my name for nine sitting days after today.

BUSINESS
Business of the Senate

Motion (by Senator O’Brien, at the request of Senator Hogg)—by leave—agreed to:
That business of the Senate order of the day No. 1 be postponed to a later hour.

Government Business

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (9.32 a.m.)—I move:
That the following government business orders of the day be considered from 12.45 pm till not later than 2 pm today:
No. 15 Telecommunications Legislation Amendment Bill 2000.
No. 13 Copyright Amendment (Moral Rights) Bill 1999.
I seek leave to make a short statement.
Leave granted.

Senator IAN CAMPBELL—I understand there is not total unanimity about the non-contentious status of the Copyright
Amendment (Moral Rights) Bill 1999. I solemnly swear on behalf of the government that, if there is not that unanimity, we will not proceed with it.

Question resolved in the affirmative.

General Business
Motion (by Senator Ian Campbell)—by leave—agreed to:
That consideration of general business and consideration of committee reports, government responses and Auditor-General’s reports not be proceeded with today.

Routine of Business
Motion (by Senator Ian Campbell)—by leave—agreed to:
That the question for the adjournment of the Senate today not be proposed till after a motion for the adjournment is moved by a minister.

NOTICES
Postponement
Items of business were postponed as follows:
General business notice of motion no. 786 standing in the names of Senators Bourne and Allison for today, relating to nuclear weapons, postponed till 7 February 2001.

ENVIRONMENT AND HERITAGE LEGISLATION AMENDMENT BILL (No. 2) 2000
AUSTRALIAN HERITAGE COUNCIL BILL 2000
AUSTRALIAN HERITAGE COUNCIL (CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) BILL 2000
Referral to Committee
Motion (by Senator Allison)—as amended, by leave—agreed to:
That the following bills be referred to the Environment, Communications, Information Technology and the Arts References Committee for consideration and report by 28 March 2001:
Environment and Heritage Legislation Amendment Bill (No. 2) 2000
Australian Heritage Council Bill 2000

SPECIAL BROADCASTING SERVICE
Motion (by Senator Bourne) agreed to:
That the Senate—
(a) notes the 20th anniversary of Australia’s specialist multicultural broadcaster, the Special Broadcasting Service Corporation (SBS);
(b) congratulates the SBS for the role it plays in bringing about a sense of multicultural understanding and increased awareness of the diversity of cultures in the wider community through all its programs and services; and
(c) notes:
   (i) the importance SBS places on news and current affairs programming, and
   (ii) the role SBS plays in commissioning documentaries, drama and other programs, which adds to the collection and broadcasting of Australian culture to Australian and international audiences.

COMMUNITY RADIO STATION 4ZZZ-FM
Motion (by Senator Bartlett) agreed to:
That the Senate—
(a) notes that:
   (i) 8 December 2000 is the 25th anniversary of the first official broadcast of community radio station 4ZZZ-FM, from studios at the University of Queensland,
   (ii) 4ZZZ was the first FM stereo radio station in Queensland, the first public broadcaster in Australia with journalists accredited by the (then) Australian Journalists Association, and the first mass-audience format public broadcaster in Australia, and
   (iii) 4ZZZ has provided and continues to provide an important means of exposure for many Brisbane musicians, and an important independent outlet for information and news;
(b) congratulates all those involved in establishing and maintaining this pioneering community-based radio station; and
(c) expresses support for the ongoing development of public broadcasting in Australia as an important component in ensuring the community has access to a diverse and adequate range of information and entertainment.
NOTICES
Withdrawal
Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (9.36 a.m.)—At the request of Senator Hill, I withdraw business of the Senate notice of motion No. 2.

COMMITTEES
Rural and Regional Affairs and Transport References Committee
Extension of Time
Motion (by Senator Bourne, at the request of Senator Woodley) agreed to:
That the time for the presentation of the report of the Rural and Regional Affairs and Transport References Committee on air safety be extended to the last day of sitting in March 2001.

AUSTRALIAN BROADCASTING CORPORATION
Motion (by Senator Bourne) agreed to:
That the Senate—
(a) notes the restructure of the Australian Broadcasting Corporation’s (ABC) executive and program output areas and is concerned that the corporation’s independence and integrity be maintained and upheld at all times in accordance with Section 8 of the Australian Broadcasting Corporation Act 1983;
(b) expresses its concern:
(i) over the costs associated with this restructuring, the increase in the salaries of several members of the executive and the $6.1 million in total costs of redundancies for the 26 people who have left the organisation since 1 July 2000, and
(ii) that, while the Chair of the Board has stated that there would be no increase in the overall salary budget of the ABC, this statement appears at odds with the increase in the size and salaries of the new executive,
(iii) at the number of reported job losses to be made in non-executive areas of the ABC, and
(iv) that further staff reductions may result in a decrease in the ABC’s program quality and quantity, despite the efforts of journalists, production and administrative staff;
(c) notes:
(i) that the reduction in overall staff numbers will not lead to an increase in cash or other resources available to the corporation, since the ABC’s output is directly and inextricably linked to the number of people connected with content production, broadcasts and administrative support functions, and that in the short term, the costs associated with staff severance can be extremely high, and
(ii) that the level of morale within the corporation appears to be at an all time low, with staff increasingly concerned that costs are being diverted from program production to funding the restructure and other consultancies and headhunting activities, as demonstrated in the extremely low number of first run television program hours the ABC currently has in its inventory;
(d) expresses its concern that the ABC may be considering commercial ventures inconsistent with the Australian Broadcasting Corporation Act 1983 in order to supplement its budget shortfall; and
(e) calls on the Government to increase the ABC’s budgetary appropriation.

ABORIGINAL RECONCILIATION
Motion (by Senator Brown) put:
That the Senate, in the interest of reconciliation, requests the Toowoomba Sports Ground Trust to remove the offensive term ‘Nigger’ from the name of the E S ‘Nigger’ Brown stand.

The Senate divided. [9.41 a.m.]
(The President—Senator the Hon. Margaret Reid)
Ayes………. 9
Noes………. 43
Majority…… 34

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

NOES
Abetz, E. Bishop, T.M.
Bolkus, N. Boswell, R.L.D.
Buckland, G. 
Campbell, G. 
Carr, K.J. 
Coonan, H.L. 
Crossin, P.M. 
Denman, K.J. 
Ferris, J.M. 
Gibbs, B. 
Harris, L. 
Hutchins, S.P. 
Ludwig, J.W. 
Mason, B.J. 
McKiernan, J.P. 
Murphy, S.M. 
O’Brien, K.W.K. 
Payne, M.A. 
Schacht, C.C. 
Tchen, T. 
Vanstone, A.E. 
West, S.M.

Calvert, P.H *
Campbell, I.G. 
Cook, P.F.S. 
Crane, A.W. 
Crowley, R.A. 
Eggleston, A. 
Forshaw, M.G. 
Gibson, B.F. 
Hogg, J.J. 
Knowles, S.C. 
Macdonald, I. 
McGauran, J.J. 
McLucas, J.E. 
Newman, J.M. 
Patterson, K.C. 
Reid, M.E. 
Tambling, G.E. 
Troeth, J.M. 
Watson, J.O.W.

* denotes teller

Question so resolved in the negative.

ENVIRONMENT AND HERITAGE LEGISLATION AMENDMENT BILL (No. 2) 2000

AUSTRALIAN HERITAGE COUNCIL BILL 2000

AUSTRALIAN HERITAGE COUNCIL (CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) BILL 2000

First Reading

Motion (by Senator Ian Campbell) agreed to:

That the following bills be introduced: A Bill for an Act to amend legislation relating to the environment, and for related purposes; A Bill for an Act to establish the Australian Heritage Council, and for related purposes; and A Bill for an Act to repeal and amend certain Acts as a consequence of the enactment of the Australian Heritage Council Act 2000, and for related purposes.

Motion (by Senator Ian Campbell) agreed to:

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

Bills read a first time.

Second Reading

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (9.45 a.m.)—I table the 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.
Leaves granted.

The speeches read as follows—

ENVIRONMENT AND HERITAGE LEGISLATION AMENDMENT BILL (No. 2) 2000

The Environment and Heritage Legislation Amendment Bill (No. 2) 2000 will significantly improve the conservation and management of heritage in Australia.

The Bill builds upon the existing Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) framework in establishing, for the first time ever, a truly national scheme for the conservation of Australia’s unique heritage assets. This national scheme harnesses the strengths of our Federation by providing for Commonwealth leadership while also respecting the role of the States in delivering on-ground management of heritage places.

The Commonwealth’s existing heritage conservation regime, based on the Australian Heritage Commission Act 1975, is now seriously outdated and subject to significant limitations. In 1975 the AHC Act represented best practice, and its enactment was an important step in demonstrating Commonwealth leadership in relation to heritage conservation. Within this framework, the Australian Heritage Commission has performed its role with distinction over the last 25 years. But the case for reform is now compelling.

The Register of the National Estate, maintained under the AHC Act, now contains over 13,000 places. Some of these places are of national heritage significance, but many should properly be regarded as places of State or local significance. As a result of these 13,000 entries, the Commonwealth is often involved in matters that are not appropriately the responsibility of a national government. The current regime therefore creates unnecessary intergovernmental duplication and imposes unnecessary costs on the community and industry.

It is also important to recognise that the AHC Act provides no substantive protection for heritage places of national significance. The limited procedural safeguards in the AHC Act fall well short of contemporary best practice in heritage conservation. It is probably accurate to say that the AHC Act is designed to prevent uninformed decisions, but not unwise decisions.

In addition, the statutory process in the AHC Act is initiated by indirect triggers, such as foreign investment approval. This adds to the uncertainty

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and delay, and limits the capacity of the AHC Act to provide any real benefit for heritage conservation.

While the AHC Act pioneered the identification of heritage, all States and Territories now have heritage protection legislation. The AHC Act fails to recognise and accommodate the development of State and local heritage conservation regimes. This adds to the level of intergovernmental duplication and creates confusion in the community about the respective roles of different levels of government.

In establishing a new national heritage conservation regime, the reforms implemented through the Bill will address the shortcomings of the existing regime. In particular, the reforms will give effect to the outcomes of the 1997 Council of Australian Governments (COAG) Agreement on Commonwealth/State Roles and Responsibilities for the Environment. COAG agreed on the need to rationalise existing Commonwealth/State arrangements for the identification and protection of heritage places. In this context, COAG agreed that the Commonwealth’s role should be focussed on places of national heritage significance.

Consistent with the COAG Agreement, the Bill establishes a mechanism for the identification of heritage places of national significance. Such places will be inscribed on a National Heritage List. This List will consist of natural, historic and indigenous places that are of outstanding national heritage significance to the nation as a whole. The List may also include overseas sites where we have an agreement with the sovereign country—Anzac Cove being an example of such a potential listing.

The listing process will be open and transparent and will include a mechanism for consideration of public nominations. Most importantly, the Minister will be guided in his or her decision-making by advice from an independent body of heritage experts—the Australian Heritage Council.

Places on the National List will be identified under the EPBC Act as a matter of national environmental significance. This will ensure that, for the first time ever, heritage places of truly national significance receive appropriate statutory protection. A rigorous and efficient assessment and approval process will apply to actions that are likely to have a significant impact on the national heritage values of a place on the National List. The EPBC Act provides a framework for Commonwealth/State co-operation in relation to this assessment and approval process.

The Bill will also provide for the identification and protection of places on Commonwealth land—Commonwealth Heritage Places. For the first time there will be a single list of Commonwealth places that have significant heritage value. A public nomination and listing process similar to that for the National List will apply in relation to the Commonwealth List.

With the repeal of the Australian Heritage Commission Act 1975, the Register of the National Estate will no longer be a statutory register. However, the information on the Register will continue to be publicly available as a heritage information resource.

The Bill implements the Government’s election policy commitments relating to heritage. In presenting this Bill, and through the creation of an independent statutory Australian Heritage Council, the Government is demonstrating its commitment to ongoing national leadership in relation to heritage conservation. In doing so, the Bill delivers on community expectations in relation to what a contemporary heritage regime should provide for the nation.

I commend the Bill to the Senate.

AUSTRALIAN HERITAGE COUNCIL BILL 2000

The Australian Heritage Council Bill 2000 establishes the Australian Heritage Council as the nation’s primary heritage advisory body. Its role is to provide independent and expert advice to the Minister on the identification, conservation and protection of places on the National Heritage List and the Commonwealth Heritage List. The Council will consist of eminent experts in the fields of natural, indigenous and historic heritage.

The Council will replace the Australian Heritage Commission as the Commonwealth’s expert advisory body on heritage. The Minister will seek and consider the Council’s advice on a range of matters pertaining to heritage conservation and protection under the Environment and Protection Biodiversity Conservation Act 1999.

The establishment of the Australian Heritage Council will provide the Minister with the best possible advice from highly-regarded professionals in the field. The Council will have a vital role to play in ensuring the success of the Government’s new heritage protection regime. A particularly important function of the Council will be to provide advice to the Minister in relation to the identification of places which qualify for listing on the List of National Heritage Places and the List of Commonwealth Heritage Places. Advice from the Council will also form the basis for
Commonwealth involvement in the management of such places.

The Australian Heritage Commission has played a pivotal role in the conservation of Australia’s heritage places over the last 25 years. The Australian Heritage Council will continue the tradition of Commonwealth leadership in the field of heritage conservation and management. It will do so within the framework of the Environment Protection and Biodiversity Conservation Act 1999, which provides a strong basis for the conservation and management of places of truly national significance.

I commend the bill to the House.

AUSTRALIAN HERITAGE COUNCIL (CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) BILL 2000

This Bill is an adjunct to the Environment and Heritage Legislation Amendment Bill (No. 2) 2000 and the Australian Heritage Council Bill 2000.

The Australian Heritage Council (Consequential and Transitional Provisions) Bill 2000 has two primary objectives.


Secondly, the Bill puts in place arrangements for a smooth transition from the Australian Heritage Commission Act 1975 to the new scheme established in the Australian Heritage Council Bill 2000 and the Environment and Heritage Legislation Amendment Bill (No. 2) 2000.

The Bill, together with the Environment and Heritage Legislation Amendment Bill (No. 2) 2000 and the Australian Heritage Council Bill 2000, establishes a truly national scheme for the conservation of Australia’s unique heritage assets. This national scheme harnesses the strengths of our Federation by providing for Commonwealth leadership while also respecting the role of the States in delivering on-ground management of heritage places. A centrepiece of the new regime is the creation of an independent statutory heritage body, the Australian Heritage Council.

I commend the Bill to the Senate.

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

NATIONAL CRIME AUTHORITY LEGISLATION AMENDMENT BILL 2000

SOCIAL SECURITY LEGISLATION AMENDMENT (CONCESSION CARDS) BILL 2000

THERAPEUTIC GOODS AMENDMENT BILL (No. 4) 2000

First Reading

Motion (by Senator Ian Campbell) agreed to:

That the following bills be introduced: a Bill for an Act to amend the National Crime Authority Act 1984 and the Ombudsman Act 1976, and for related purposes; a Bill for an Act to amend the social security law and certain other laws in relation to social security concession cards, and for related purposes; and A Bill for an Act to amend the Therapeutic Goods Act 1989, and for related purposes

Motion (by Senator Ian Campbell) agreed to:

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

Bills read a first time.

Second Reading

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (9.47 a.m.)—I table explanatory memoranda relating to these 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 CRIME AUTHORITY LEGISLATION AMENDMENT BILL 2000

This Bill is an important measure to enhance the effectiveness of the National Crime Authority in combating organised crime. In particular it will create a significant deterrent to those who seek to obstruct and frustrate the Authority's hearing process. At the same time, the Bill contains important accountability measures, notably a role for the Ombudsman and clearer reporting requirements to the Parliamentary Joint Committee on the Authority.
The National Crime Authority was established in 1984 as a national law enforcement agency whose purpose was to combat serious and organised crime, without the limitations imposed by jurisdictional boundaries.

The continuing support for the activities of the Authority, from Commonwealth, State and Territory Governments, reflects the important role played by the Authority. There is no doubt, however, that the problems caused by serious and organised crime operating across jurisdictional boundaries, continue to pervade all levels of society. This reinforces the need for a national law enforcement agency such as the National Crime Authority.

The National Crime Authority does not deal with simple street level crime, but with the web of complex criminal activity engaged in by highly skilled and resourceful criminal syndicates.

It is therefore essential that the Authority has sufficient powers to enable it to perform its functions without being hindered or hampered by those whose very conduct the Authority is trying to investigate.

It is also essential that the Authority is able to operate in an environment that enables the greatest possible flexibility, while at the same time ensuring that the Authority remains accountable and responsive.

This Bill amends the National Crime Authority Act 1984, Ombudsman Act 1976, Privacy Act 1988 and Administrative Decisions (Judicial Review) Act 1977 to:

- implement the Government’s response to the 3rd evaluation of the National Crime Authority by the Parliamentary Joint Committee on the National Crime Authority; and
- address a number of matters relating to the administration and operations of the Authority.

The Authority’s task in investigating organised crime has been particularly difficult because of the way persons under investigation have manipulated existing legal rules and procedures to defeat the investigation. If a person refuses to answer a question in a hearing, it is possible for that refusal to be litigated through the courts, with delays of months or even years. In the interim, an investigation might be entirely frustrated, such that when proceedings are concluded and questioning can continue, the criminal trail has gone cold. Even worse, penalties for failure to answer a question at an NCA hearing have regularly been very modest—a few hundred dollars. This is not much of a deterrent where obstructing the Authority can impede an investigation that might have led to a person being gaolled for years for a serious offence such as drug trafficking.

Accordingly, the maximum criminal penalty for failing to answer a question at a hearing will be substantially increased under the Bill, from 6 months prison and a $1,100 fine to 5 years imprisonment and a $20,000 fine. Other criminal penalties relating to non-compliance with the Authority’s investigatory powers will be increased to the same level.

The Bill will also allow an investigatory body to derive evidence from self-incriminatory evidence given by a person at a hearing, and for a prosecuting authority to use that derived evidence against the person at a later trial. In other words, a person’s self-incriminatory admissions won’t themselves be able to be used as evidence against that person, but will be able to be used to find other evidence that verifies those admissions or is otherwise relevant to proceedings.

However, the Bill will specifically provide that once a witness has claimed that the answer to a question might tend to incriminate him or her, then any evidence that the person gives cannot be used against the person in any later trial. The existing mechanism for a special undertaking by the DPP will not be required; this protection will be clearly set out in the legislation.

In addition, the Bill will remove the uncertain defence of “reasonable excuse” for conduct such as failing to answer a question, and replace it with more clearly defined Criminal Code defences such as intervening event and sudden emergency. The removal of the defence of “reasonable excuse” will also mean that a witness is no longer able to delay the Authority’s hearing process by challenging, in the Federal Court, the Authority’s decision that he or she did not have a reasonable excuse for, amongst other things, failing to answer a question.

The Bill will also introduce a contempt regime to enable the Authority to deal immediately and effectively with conduct that interferes with or obstructs its hearing process. The provision will enable the Authority to apply to the Supreme Court of the State or Territory in which it is holding the hearing for the Court to deal with the conduct as if it were contempt of that Court. In addition, the Bill will provide that the contempt regime will be excluded from the operation of the Administrative Decisions (Judicial Review) Act 1977 to prevent collateral challenges to the contempt process. Such challenges can be used to delay and frustrate investigations and prosecutions.
I am well aware that the modification of the immunity provided in relation to compelled answers will cause mixed feelings on the part of some in the community. Some will be concerned about the other steps that are proposed to ‘strengthen the arm’ of the NCA. The Government is persuaded that these measures are a necessary response to a very serious problem. The issues were fully canvassed by the Parliamentary Joint Committee in its report to which this Bill is a response. The PJC received submissions from a wide range of persons (50 in number), as well as taking oral evidence from over 60 witnesses. The position taken by the PJC is that this Bill is not a hasty or knee-jerk response—it is a well thought through and considered approach to a most pernicious evil, and the product of wide and lengthy consultation.

I will be encouraging the referral of the Bill to a Parliamentary Committee so that the issues can be explored once again. I encourage everyone with an interest in these issues, or with a view on the measures that are proposed by the Bill, to participate fully in that Committee process.

Other, and less contentious, measures are proposed by the Bill. The administrative matters addressed by the Bill are designed to enhance the overall operational effectiveness of the National Crime Authority.

The scope of references will be expanded to enable the Authority to investigate offences that occur after the date of the reference. The role of the Parliamentary Joint Committee on the National Crime Authority in relation to access to information held by the Authority will be clarified, as will the ability of the Authority to disseminate information to overseas agencies. In addition, the maximum term of appointment of members of the Authority will be increased from 4 to 6 years, to increase continuity in relation to matters dealt with by the Authority. The class of persons who may issue search warrants will be expanded to include magistrates and the class of person who may apply for a warrant will be expanded to include the members of the staff of the Authority.

The Bill will introduce the concept of hearing officers, who will be appointed by the Governor-General on the unanimous recommendation of the Inter-Governmental Committee of the National Crime Authority. The hearing officers will only be empowered to conduct hearings on behalf of the Authority, thereby increasing the investigatory capacity of the Authority but without expanding the category of “members”.

In recognition of the referral nature of the Authority’s activities, and the specialised expertise that the Authority may need from time to time in a particular location for the purpose of investigating a particular reference, the Bill will provide that the Chairperson of the Authority may employ staff otherwise than under the Public Service Act 1999.

The Bill will also clarify a number of matters such as the power of the Authority to control who may be present at hearings; the application of legal professional privilege; the use of reasonable force in the execution of a warrant; and that a prohibition on disclosure relating to the Authority’s process overrides any contrary requirement under the Privacy Act 1988 for so long as the prohibition remains in force. In relation to the last issue, the Bill will insert a note into the Privacy Act 1988 to alert the reader of that Act to the requirements of the NCA Act.

Minor administrative matters include adopting the definition of “document” from the Evidence Act 1995 and including the offences of “money laundering” and “perverting the course of justice” in the definition of relevant offence, repealing ambiguous provisions, and enabling the Chairperson of the Authority to delegate certain powers.

In terms of the Authority’s accountability, a fundamental reform proposed in the Bill concerns the mechanism for investigating complaints. The Bill will amend the Ombudsman Act 1976 to extend the jurisdiction of the Commonwealth Ombudsman to deal with complaints against the Authority.

The amendments will deem the Authority to be a prescribed authority for the purposes of the Commonwealth Ombudsman Act and this will have the effect of enabling the Commonwealth Ombudsman to deal with complaints against the Authority, members of the Authority, and members of the staff of the Authority. The amendments will also give the Commonwealth Ombudsman discretion to transfer a complaint to a more appropriate authority (for example, a State agency for a complaint against a State officer); and enable joint investigations. Both are matters within the powers of the Ombudsman in relation to complaints against other authorities or Departments. In addition the amendments will provide that the Attorney-General may issue certificates preventing the disclosure of certain information to or by the Ombudsman. The Attorney-General will only issue such a certificate when the disclosure of the information would be contrary to the public interest by reason that it would prejudice, amongst other things, the safety of a person or the effectiveness of an investigation being conducted by the Authority.

The amendments made by the Bill will result in a more effective and efficient National Crime
Authority to grapple with the ever-increasing complexities of organised and serious crime. This is an important measure, prepared in consultation with States and Territories, which will enhance our capacity to address such crime at a national level.

SOCIAL SECURITY LEGISLATION AMENDMENT (CONCESSION CARDS) BILL 2000

Since its election in 1996, this Government has sought to implement its commitment to a simpler and more coherent social security system that more effectively meets its objectives of adequacy, equity, incentives for self-provision, customer service and administrative and financial sustainability.

That commitment can be met in part by seeking to ensure that social security legislation is routinely reviewed to both improve its readability and to ensure that it facilitates the implementation of current and new policies.

Last year this Parliament passed the Social Security (Administration) Act 1999 which was a major step forward in achieving these objectives. The Act substantially simplified the technical rules and provisions of the social security law.

The Social Security Legislation Amendment (Concession Cards) Bill 2000 is a further step towards meeting the Government’s objectives to achieve a simpler and more coherent social security system because it represents a major simplification of the law relating to concession cards.

As a result of this Bill, all law relating to concession cards issued by the Family and Community Services portfolio will be consolidated in the social security law.

As part of this process, existing administrative rules and practices will be codified to ensure that those who currently have a concession card continue to qualify for that card on the same basis as they currently qualify. This has been done to avoid having winners or losers from the process of making transparent the law relating to the issue of concession cards.

Access to a concession card is a fundamental component of the Government’s welfare safety net. Access to a concession card is a significant benefit to those who qualify. At the Commonwealth level the concession card provides access to concessional pharmaceutical benefits under the National Health Act 1953. It can also be used to access a range of other benefits provided by State, Territory, local government and many businesses. The law currently governing concession cards issued by Centrelink on behalf of the Department of Family and Community Services is highly fragmented.

This causes confusion for social security customers and Centrelink staff who issue the cards.

Some provisions are contained in the Health Insurance Act 1973, others in the National Health Act 1953 and yet others are under the social security law. For example, the Health Insurance Act and the National Health Act contain provisions that specify who is entitled to concessional pharmaceutical benefits. However, appeal rights in relation to concessional pharmaceutical benefits for pensioner concession card and health care card holders are covered by the social security law.

The House of Representatives Standing Committee on Family and Community Affairs recognised the problem in its 1997 report: Concessions—Who benefits—Report on concession card availability and eligibility for concessions. The Committee recommended that the legislative framework be rationalised to include the bulk of concession entitlement provisions in the social security law rather than in legislation administered by the then Health and Family Services portfolio.

Like the 1999 exercise, this Bill does not involve any major policy initiatives and it does not have any financial impact.

- The more significant of the minor policy initiatives implemented by the Bill relate to:
  - making a person’s entitlement to concessional pharmaceutical benefits dependent on the person’s status as a holder of a concession card issued under the social security law;
  - using the social security and family assistance law definitions of “dependant” and removing the need to rely on definitions of “dependant” in the Health Insurance Act and the National Health Act;
  - using the social security law definition of “resident” rather than the National Health Act and Health Insurance Act definition. This makes the question of determining who is qualified for a card much simpler to administer and ensures that there is consistency between qualification for a social security pension or benefit and qualification for a card;
  - conferring administrative review rights in relation to decisions on health care cards for persons receiving carer allowance. Such decisions are not reviewable at the moment under section 4CA of the Health Insurance Act;
  - providing a power for the Minister to declare a person eligible to receive a health care card in limited circumstances; and
  - utilising the machinery provisions of the social security law in relation to pensioner concession cards and
health care cards in a manner consistent with current administrative practices.

This Bill demonstrates the Government’s commitment to the ongoing review of the legislative basis underlying the social security system so as to achieve a simpler and more coherent system.

THERAPEUTIC GOODS AMENDMENT BILL (No. 4) 2000

The amendments provided for in this Bill are necessary to allow the introduction of a redeveloped and refined system for electronically listing medicines, except those to be listed for export-only, on the Australian Register of Therapeutic Goods (the Register).

The current electronic lodgement system for listing medicines for supply in Australia was developed by the Therapeutic Goods Administration (TGA) in co-operation with the industry and provides for listable medicines to be marketed more quickly through the electronic lodgement of applications. Listable medicines are considered to be of low risk based on their ingredients and therapeutic indications/claims. Most complementary medicines (such as herbal, vitamin and mineral products) and sunscreens, and some over-the-counter medicines fall into this category.

There have been concerns that the current listing system, whilst an improvement over the previous paper-based system, does not fully meet the needs of industry for streamlined market access for their listed medicines.

A new refined listing system has been developed, which seeks to assure the safety and quality of, and maintain consumer confidence in, listed medicines that may be supplied in Australia, whilst facilitating quicker market access by applicants. This is to be achieved by finding a better balance of responsibilities for industry and the TGA under a co-regulatory framework.

In the new listing system, strict standards of quality and safety will continue to apply to listed medicines and sponsors will continue to be required to hold evidence to support the claims they make in relation to these medicines. However, under the changes introduced by the Bill sponsors of listed medicines will have greater responsibilities in relation to pre-market assessment of the medicines they wish to list on the Register and the TGA will assume greater post-market monitoring responsibilities in relation to listed medicines.

The amendments in this Bill provide for a medicine to be listed in the Register following self-assessment by the applicant, provided the requirements of section 26A are met.

Under section 26A the applicant certifies that the medicine meets certain criteria for listable medicines and that the information in, or with, the application is correct. Changes made by the Bill introduce additional matters that are required to be certified in relation to the manufacture of the medicine. The changes also require the applicant to certify that evidence is held to support any claim made in relation to the medicine. These changes will increase the accountability of the applicant in relation to the listing of the medicine.

The amendments in the Bill empower the Secretary to cancel the listing of a medicine that is not eligible for listing or is an exempt good. This allows for cancellation of goods that should never have been listed. The Secretary is also empowered to cancel the listing of a medicine where there is a serious breach of the requirements related to advertising such that the presentation of the medicine is misleading to a significant extent. If an applicant fails to respond within 20 working days to a request for information, and the request was made for the purpose of determining if a medicine should have been listed, the Secretary is empowered to cancel the listing of that medicine.

Post-market monitoring of listed medicines is strengthened by these changes.

New offences have been created for the making of false or misleading statements in relation to certification of matters for the listing of medicines under section 26A or where false and misleading information is provided in compliance with a request for information relating to the medicine. The electronic listing system relies heavily on information provided by the applicant and self-assessment by the applicant. There is the potential for serious public health consequences if a medicine were to be listed or remain listed on the basis of false or misleading information. The penalties are designed to discourage the provision of inaccurate information.

The new listing system has been developed by the TGA in co-operation with industry and consumer representatives and is supported by the key stakeholder groups.

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

Ordered that the bills be listed on the Notice Paper as separate orders of the day.
NATIONAL CRIME AUTHORITY
LEGISLATION AMENDMENT
BILL 2000

Referral to Committee

Motion (by Senator Ian Campbell, at the request of Senator Vanstone)—by leave—agreed to:

That the National Crime Authority Legislation Amendment Bill 2000 be referred to the Parliamentary Joint Committee on the National Crime Authority for inquiry and report by 1 March 2001.

COMMITTEES

Community Affairs References Committee

Report

Senator CROWLEY (South Australia) (9.48 a.m.)—I present the report of the Community Affairs References Committee on public hospital funding, together with the Hansard record of the committee’s proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator CROWLEY—I move:

That the Senate take note of the report.

In rising to speak to this report, I first take the opportunity to thank those people who were involved with getting the report produced. In particular, I want to thank the secretariat of the Community Affairs References Committee: Elton Humphery, Paul Mackay—seconded from the Department of the Parliamentary Library—Christine McDonald, Peter Short, Leonie Peake and Ingrid Zappe. I am very pleased to note that the names of the committee secretariat are recorded in the report—a principle I would like to see followed more often. When history comes to look at what we said, I think it would be very nice that history could find out who helped us say it. I also want to thank the Library for the secondment of Paul Mackay, who has responsibility in the Library for research in the areas of health and health funding. It is an arrangement that can happen and does infrequently happen. I would like to acknowledge the great assistance that that arrangement, and Paul Mackay himself, has been to our report.

It has been a very timely and very fruitful inquiry. We had some 93 submissions. We received over 6,700 postcards and emails in support of Medicare and the public health system. We held eight days of public hearings and, importantly, we had two roundtables. Both of those were not entirely unprecedented but very close to that. I hope that the Senate committees, in their discussions formally and in the corridors, will check out how the roundtables went, because they were a very constructive and productive way in which our hearings and inquiry came to its final conclusions.

People need to remember that this report arose from the premiers and chief ministers arriving in Canberra in the middle of last year—that is, 1999—seeking from Mr Howard and Mr Costello an inquiry by the Productivity Commission into the funding for public hospitals. All around the country there was an agreement that the hospitals were significantly underfunded. The government refused to initiate that inquiry, so it fell to the Senate. I think one has to say that this has been a very thorough and very non-partisan exercise. It is an inquiry that has produced a remarkable breadth of support for the recommendations or at least the main thrust of the recommendations—in particular, that the public hospitals are significantly underfunded. The government refused to initiate that inquiry, so it fell to the Senate. I think one has to say that this has been a very thorough and very non-partisan exercise. It is an inquiry that has produced a remarkable breadth of support for the recommendations or at least the main thrust of the recommendations—in particular, that the public hospitals are significantly underfunded and that the recommendation of the independent arbiter, Mr Castles, of some further $450 million to the public hospitals over the next two years should be supported.

The committee also found consistently that the community, the people involved in hospitals, the practitioners, the bureaucrats—most everybody—had got to the stage of realising that blame shifting and cost shifting between the Commonwealth and state governments had long since passed its use-by date; it was a sheer waste of time and a waste of money. We cannot tell you how much the cost shifting actually amounts to. But we can say that participants, particularly from the roundtables where we heard from senior bureaucrats from Commonwealth and state level, senior health economists, senior practitioners and deliverers of health from the medical area, the whole range of specialties in hospitals, the nursing profession and allied
health professions, and members of the community, were of one voice when they said it is time to stop the cost shifting and the blame shifting and move on. It is time to move on. It is important to acknowledge that the second recommendation is that, if we are asking the Commonwealth to increase its funding, the states should be asked to match the percentage increase as part of the improved funding to our public hospitals. The community very much wants to see adequate funding for public hospitals. It wants the support, security and back-up that the great public hospitals have provided—and still do, even while straining at the edges. It is very important to note, as I have said, that this report received widespread support. Its recommendations address the issues of adequately funding our public hospitals.

As always happens, I have only just very recently received a copy of the report and very quickly had an opportunity to look at the government’s objection to the majority report of the opposition and the Democrats. I find it disappointing that once again the government suggests that this is a partisan report. I strongly object to that: it is not. The government also suggests that a lot of the issues are really about states and funding or they are already under way and the inquiry really has been a considerable waste of time and effort. I would urge the government to read very closely the outcomes and the Hansard of the roundtables: that was not the sense that I had of the attitude at those roundtables. In fact, it was very interesting to be present at the time when people publicly acknowledged it is time for a cultural shift in funding of our public hospitals. It is no longer any good for the states to say, ‘The Commonwealth is not giving us enough,’ and the Commonwealth to say, ‘The states do not give enough.’ That is past, and everybody at the roundtables was looking for solutions to how it might be better done in the future. There is a considerable sympathy and support for the notion of pooled funding or a single fund of contributions from the Commonwealth and the state, to be set out and stated from both sides, Commonwealth and state. This is seen as allowing flexibility and doing away with opportunity for cost shifting and blame shifting. Let us move on: let us find better ways to fund our public hospitals.

The government report in opposition to the opposition’s report suggests that a lot of these things are state issues. But one of the main concerns our inquiry had to deal with was: how do you get adequate accounting of Commonwealth dollar expenditure when it is down to the states to provide the adequate data? This is not a matter of: ‘It’s a state issue; we shouldn’t be concerned about it.’ It is important for the Commonwealth and states to agree to exchange of data and agree to moving on with the issues raised in the inquiry. The government’s minority report seems to make the case for not moving forward, and I think that would be a disappointing outcome from an inquiry which, as I say, was non-partisan and recommended significant improvement and ways forward. I acknowledge Senator Lees’s and the Democrats’ contribution, which appreciates that it is time to move forward and it is time for us to have to look at different ways of doing things. The Democrats have in large part supported what the opposition senators have said but also suggest that, instead of waiting until the next health care agreements or perhaps a change of government, there are ways in which we could experiment with pool funding in a local or regional area. Some of us and some of the witnesses have concerns about that, because it may move away from the national equity and access emphasis of Medicare in the provision of our public hospital and public health services, but I certainly think it is interesting to note Senator Lees’s contribution and her support for the principal recommendations of this report.

In summary, what has emerged is a very strong desire for change from all of those people I listed, because of the participants’ concern about the ability of our public hospitals to continue to meet the demands made upon them if the current arrangements and the current funding continue indefinitely. We need to have an urgent increase in funding to address the desperate shortage of resources; an end to the divided funding of health programs and the beginning of a new intergovernmental era of agreement between the two levels of government; a move to much more
open reporting of funding and performance against national standards; and a new focus on the quality of health and the importance of information technology in both the running of hospitals and the management of patient health care. Both of those are still lagging behind in Australia, and need to be increased.

Finally, there is a lot of discussion in this report about the impact of private health insurance and the increased uptake of private health insurance. It is important to note that there is no evidence that that does anything to reduce the demand on public hospitals. The large number of people who are taking out private health insurance are young, healthy people who never use public hospitals and will not be a demand on them. This will not therefore relieve demand on the public hospitals. Importantly, many people have front-end deductibles arrangements for private health; under Medicare they are of course entitled to use the public hospital system, and many have chosen to do so. I urge people to have a look at this report. We have called it Healing our hospitals because we appreciate that, while they are managing, they are struggling.

(Time expired)

Senator KNOWLES (Western Australia) (9.59 a.m.)—In making my comments today on the Community Affairs References Committee report, I would like to focus on what in fact could be done. I am particularly disappointed in the opposition’s report. After a very lengthy reference to the committee that was based on Labor Party press releases about the terms of reference, it was disappointing to see that the commitment that was given to the committee at the commencement of this inquiry—that it would be completely apolitical and it would actually look for solutions—has resulted in a report that is anything but apolitical and is totally and utterly biased. But, worse than that, after 12 months it has in fact ignored what could be done to improve the system of health in Australia.

Mystifyingly, Senator Crowley has simply dismissed the claims in the government members’ minority report that there are many things that are outside the jurisdiction of this committee to assess. For the life of me, I cannot understand why she would do that, given the fact that on page 186, where we list the details that are already in the recommendations vis-à-vis what is already in place, there are six recommendations that the opposition have made that are already a matter of public policy. There are 16 that are clearly a responsibility of the states and eight that are seeking to create an additional bureaucracy. Anyone in their right mind, after 12 months of inquiry, would not want to put down that many areas of discussion that are already public policy, that many that are not the responsibility of the Commonwealth—after all, this is the federal parliament—and then put a request that we create another level of bureaucracy, thus using important taxpayers’ dollars that will not ultimately end up in the health system. It is just absolutely and utterly preposterous.

As Senator Crowley just said, there were requests by many of the witnesses that it was time for a cultural shift and that they were looking for solutions to the future. I cannot understand why the opposition did not jolly well put it down. The fact of the matter is that what they have said is that you simply have to throw more money at the hospitals; that is what we have to do. To that I would make a number of comments. First and foremost, if the states had kept pace with their funding and the Commonwealth funding, there would be an extra $460 million, nearly half a billion dollars, going into the hospital system. They have not. That is not a case of finger-pointing both ways; that is simply a case of reality. If they had kept pace, that is what would have happened—and it is disappointing to see states like Tasmania and South Australia ripping money out when the Commonwealth puts money in. That should be deplored. There is one recommendation we would make, and that is that we should make sure that future agreements are signed and sealed on the basis that the Commonwealth increases the level of funding but so do the states, and that the states give a commitment that they will not take money out based on the level of funding increase the Commonwealth has put in.

I would have thought that the opposition, with any prospect of being in government
one day—heaven help the country—might have agreed to that, but they have not. I do not know why not. Also, they seem to focus on the fact that it is an ageing population that is creating a problem in our hospitals and the demand on hospitals. It is not just a case of an ageing population; it is a case of dealing with chronic illness. There is not one recommendation in the opposition’s umpteen-million pages of report that actually deals with chronic illness and how best a government can assist the states and vice versa. Admittedly, this would require a new level of cooperation between the states and the Commonwealth that has not been seen previously. Nonetheless, it would ensure the shift to making the treatment of chronic illness a priority, because there are trials both in Australia and overseas that have clearly demonstrated that such a shift in focus would result in a 10 per cent decrease in demand on public hospitals. After 12 months, why on earth have the opposition not been able to focus on such simple issues as that? It is important also to make sure that the level of cooperation between the governments is improved, because there has been too much finger-pointing and I think that we have to make sure that in future the states do give unequivocal commitments.

Senator Crowley has just made the comment that the increase in participation rates of private health insurance has not shown any decrease in the utilisation of public hospitals. Heavens above, these measures have not been in place all that long. Does she want to see a shift immediately? The opposition were in government for 13 years and ran down the participation rates of private health insurance from around 70 per cent to under 30 per cent. This government has sought to increase those levels of participation, which over time would make sure that there are more people being put into the private hospital system, away from the public hospital system, thereby freeing up the public hospitals for those who are in genuine need and who cannot afford private health insurance. But here we go, with the opposition seeing this as an opportunity to kick the private system yet again. Interestingly enough, Ms Macklin, who is now the shadow minister for health in the other place, concluded in 1991, before she was in this place, in an issues paper that she was involved in:

Data analysed in this paper provides support for the view that the private sector is, on balance, more efficient than the public sector.

That was her view then and she has not indicated that there has been a change of view. But, having listened to Senator Crowley today, I am a bit concerned that in fact the 30 per cent rebate that I thought the opposition had signed on to for private health insurance may not now be policy.

Senator Ian Campbell—Maybe it might be in roll-back.

Senator KNOWLES—Yes, it might be part of the roll-back, Senator Campbell. That is a great worry because many people have taken out private health insurance, and I think it is interesting that Senator Crowley has now put a question mark over that again. I think that the people of Australia should know that her comments today put that 30 per cent rebate in jeopardy and that clearly the opposition are now considering scrapping that. That is unwise.

Senator Ferris—It is irresponsible.

Senator KNOWLES—It is totally irresponsible, Senator Ferris, and it is not a policy that the Australian community want. It is important they know that this is where the Labor Party are heading in such important areas of policy, because they have no solutions to this area. They have no solutions to public hospital funding. All they say is, ‘Let’s pool the money. Let’s put all the money from the Commonwealth and states together in one big pot and then let’s decide how to do it.’ But they just don’t focus on the issues. There was another recommendation that the Pharmaceutical Benefits Scheme, Medicare, community health services and aged care should all be wrapped into an area where the states have some say. How on earth can you come up with that solution? The PBS and Medicare are completely Commonwealth, and why would you want the states involved in that? It is not possible. The Labor Party did not do it. It is not possible, because that is the domain of the Commonwealth.
When we look at so many of these recommendations—unfortunately, time does not permit a closer scrutiny here today—they are simply and utterly impractical and unworkable. For a majority opposition committee report to come down with so many recommendations that are already a matter of public policy, are within the province of the states or are just creating another layer of bureaucracy is nothing short of a disgrace, after all of this time. It was a real opportunity for a committee to work in a non-partisan fashion to come up with solutions. It is not a case of closing the door and saying there are not better ways to do it. The Minister for Health and Aged Care recognises there are better ways, such as the management of chronic illness, such as making sure the states contribute equally and do not take money out of the system, and many more issues. Why could the opposition not focus on that instead of just trying to be political?

Senator TCHEN (Victoria) (10.09 a.m.)—In the interests of ensuring that today’s very tight schedule proceeds smoothly, I shall limit my comments to a minimum and shall at the end of the time allocated for considering the committee’s report seek leave to continue my remarks another day. At this time I simply commend Senator Knowles for the perceptiveness and moderation of her comments on this report and remark that the inquiry itself has been an informative and rewarding experience for which I thank my fellow committee members, the committee secretariat and the numerous witnesses who came to give evidence before us. In contrast, the report itself that is tabled today can only be described as another exercise in the waste of the committee’s time and effort. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Publications Committee Report

Senator COONAN (New South Wales) (10.10 a.m.)—On behalf of Senator Lightfoot, I present the 21st report of the Publications Committee.

Ordered that the report be adopted.

Senators’ Interests Committee Report

Senator DENMAN (Tasmania) (10.11 a.m.)—In accordance with the Senate resolution of 17 March 1994 on the declaration of senators’ interests, I present declarations of interests and notifications of alterations of interests in the Register of Senators’ Interests lodged between 23 June and 4 December 2000. In accordance with the Senate resolution of 26 August 1997, varied on 8 December 1999, relating to the declaration of gifts intended for the Senate, I present declarations of gifts lodged between 3 December 1999 and 4 December 2000. In view of the time constraints, I seek leave to incorporate in Hansard my tabling statement and the attached document Ten Principles of Parliamentary Life.

Leave granted.

The documents read as follows—

The Register update contains details of interests declared by senators since last June 2000. I take this opportunity to remind senators that alterations to interests should be declared within 28 days of the interest, benefit or change arising. The declaration itself should also record full details of the time, nature, source and purpose of the interest or benefit. This is to enable the Senate to see, and understand the implications of, any possible conflict of interest.

If senators do not observe these requirements, the credibility and effectiveness of the Register could become progressively eroded.

As senators appreciate, a scheme for declaring pecuniary and other interests is part only of a framework for ethical conduct in public life. The other part is a code of conduct that does not constrain political life but harnesses it to the public interest.

I have previously referred to the value of such a code as a set of benchmarks against which the electorate can measure the standards and conduct of their elected representatives. Such codes also act as buttresses for the honourable principles and behaviour of many politicians who wish to practice politics with commitment to the public interest and their own high standards of integrity.

On 9 December 1998, I incorporated in Hansard summaries of various parliamentary codes of
I now incorporate in *Hansard* a brief distillation of these other codes.

I offer this draft for the information of senators and to promote continuing discussion and consideration of the issues.

I thank the Senate.

**Ten Principles of Parliamentary Life**

**Preamble**

Under the Constitution the political power of Australia is in the Australian people. Parliamentarians exercise that power on behalf of Australians and to benefit all of them. Senators elected by the people acknowledge this and accept their responsibility to act in the interests of all Australians.

Therefore, the following principles of parliamentary life are adopted as a code of conduct.

1. **The rule of law**
   Senators obey the laws of Australia and, by example and commitment, encourage all in Australia to uphold the law.

2. **Democracy**
   Senators respect the value of Australian democracy and protect the integrity of electoral processes which carry it into effect.

3. **Honesty**
   Senators place personal honesty before all self-seeking interests.

4. **Truthfulness**
   Senators are truthful in speech and writing and do not practice deception or promote falsehood.

5. **Conflicts of interests**
   Senators avoid conflicts between their public duty as senators and their private interests as individuals where these might undermine confidence in their willingness to act without fear or favour.

6. **Declaration of pecuniary and other interests**
   Senators comply with Senate requirements to declare their interests to enable conflicts of interest to be known, assessed and resolved.

7. **Accountability**
   Senators are accountable for the decisions they take which are open, meritorious and in the public interest.

8. **Integrity**
   Senators act with integrity and observe the highest ethical standards including: declining use of office to facilitate private advantage, including after departure from office; diligence and competence in public duties; behaviour in public and private life consistent with accepted community standards; leadership and personal example in observing this code.

9. **Prudence**
   Senators are prudent, economical and conscientious with the public resources used in their parliamentary duties.

10. **Conduct**
    Senators courteously observe the procedures and resolutions of the Senate, to ensure the will of the majority in decisions, and protect the right of the minority to participate and influence proceedings.

December 2000

**BUSINESS**

**Government Business**

**Senator IAN CAMPBELL** (Western Australia—Manager of Government Business in the Senate) (10.12 a.m.)—I move:

That government business order of the day No. 5, which is the Workplace Relations Amendment (Tallies and Picnic Days) Bill 2000, be called on after consideration of government business order of the day No. 13, which is the Copyright (Moral Rights) Bill 1999.

I seek leave to make a brief statement.

Leave granted.

**Senator IAN CAMPBELL**—Firstly, I have already made a commitment to honourable senators that the moral rights bill will not be proceeded with unless it is truly non-controversial. I also make an undertaking that on the workplace bill it will be the second reading only in whatever time is remaining at lunchtime.

Question resolved in the affirmative.

**SYDNEY HARBOUR FEDERATION TRUST BILL 2000**

**Consideration of House of Representatives Message**

Message received from the House of Representatives acquainting the Senate that the House has agreed to the bill with amendments and requesting the concurrence of the Senate in the amendments made by the House.
Ordered that consideration of the message in committee of the whole be made an order of the day for the next day of sitting.

STATES GRANTS (PRIMARY AND SECONDARY EDUCATION ASSISTANCE) BILL 2000

Consideration of House of Representatives Message

Message received from the House of Representatives acquainting the Senate that the House has not made the amendments requested and pressed by the Senate.

Ordered that the message be considered in committee of the whole immediately.

Motion (by Senator Ellison) proposed:
That the committee does not further press its requests for amendments not made by the House of Representatives.

Senator CARR (Victoria) (10.14 a.m.)—This message from the government—

Senator Ellison—What are you going to do?

Senator CARR—You wait and find out, Minister. Some people would say that the situation surrounding the States Grants (Primary and Secondary Education Assistance) Bill 2000 has become farcical. Certainly the statements and behaviour of the government might lead one to that conclusion. Labor does not regard this matter as one to be laughed about. It is one of the most serious issues that I, for one, have faced in my political career. Its implications are enormous. The potential effects of the government’s new SES funding model are so unjust, so unfair and so inequitable that Labor has consistently sought to persuade this government through all possible means to listen seriously to the overwhelming and unanimous public opposition to this issue.

Late on Tuesday night Dr Kemp once again tried in vain to blame the Labor Party for the impasse over the schools funding bill. But, Minister, that just will not stick. No-one believes him. The government is behaving with disgraceful intransigence. It has refused to listen and it will not amend its flawed and unfair legislation, no matter how many times requests are made of it by the Senate to do so, no matter what arguments are put forward and no matter who calls for this to happen. For example, there are the publicly expressed views of the Anglican Bishop of Grafton, the Right Reverend Philip Huggins, who has called on the government to withdraw its inequitable funding proposals for non-government schools. He says the bill is ‘unnecessarily divisive’. He asks whether Dr Kemp will persist stubbornly with this new policy until commonsense prevails. Another example is Father Nic Frances, the head of the respected Anglican charity the Brotherhood of St Laurence, who has publicly described the policy in similar terms.

In the evidence before the Senate committee of inquiry into the bill, the Reverend Tom Doyle, the deputy chair of the National Catholic Education Commission, the one so often quoted by Dr Kemp as being supportive of this new model, said that the NCEC:

... had argued consistently that a combination of measures of need should be used. These included the current capital resources, the geographical spread, the necessity to provide a wide range of central services and the socioeconomic status of the population served by the schools.

Father Doyle is not as unequivocally enthusiastic about the new funding measure as Dr Kemp would have us believe. He thinks the model is one dimensional and that it does not adequately measure the resources available to schools. It is not only the lonely voice of the opposition, as the minister would put it, but many voices. Many community organisations, many parent groups, many school principals, many teachers and many school councils have voiced their very grave concerns.

Senator Cook—Anyone with half a brain has.

Senator CARR—Indeed, Senator. We are calling on the government to rethink its position, and even now I do not think it is too late on this last day of the sittings.

On Tuesday night the Speaker of the House of Representatives issued a statement on procedural issues associated with the passage or otherwise of the bill. The Speaker, in his wisdom, believes that pressing a request on behalf of the Senate is not on. He thinks it is not on because it has not happened at this level since 1906. He thinks it cannot be done
because the House, he says, has never accepted that it could be done. I really must ask what sort of advice the Speaker is getting. I think it is reasonable to point out that the reason the Senate has not repeatedly made requests since 1906 is that since that time pressed requests have been acceded to. Further, I am advised by the Clerk of the Senate that, on that occasion in 1906, the government acceded to the request pressed on the second occasion.

The Speaker says that this issue is not dealt with in the standing orders. He seems to forget that the House is within its rights to suspend its own standing orders. He mutters darkly about double dissolutions. He makes a quaint distinction between the pressing of requests and the pressing of amendments. Basically, he does nothing to advance the debate either in the substance or in the process. If I look at the minister’s remarks—and there we do see a true constitutional giant—he says that the opposition has precious little respect for the Constitution of this country. This is a particularly interesting concept coming, as my colleague in the House Mr Lee pointed out, from a party that caused the constitutional crisis of 1975 when the Liberal Party refused to allow supply, thus threatening to bring the entire machinery of the Commonwealth government to a grinding halt.

I am intrigued by the view coming from Liberal Party representatives in the House of Representatives about the Senate’s right to press requests. My advice is that, during the period of the Labor government, the same principles were not applied. In fact, on five occasions the Liberal Party initiated requests which were pressed in this chamber. For example, on the Dairy Industry Stabilisation Levy Amendment Bill 1985, the Veterans’ Entitlements Bill 1985 and, oh dear, the States Grants (Schools Assistance) Bill 1988, requests were made and those requests were pressed. I am reminded by the Clerk that the issue there was requested amendments and reinstated establishment grants for non-government schools in 1989. Minister, that is a bit awkward, given the claims made by the Minister for Education, Training and Youth Affairs in the House of Representatives. There were also the wool tax bills Nos 1 to 5 in 1991 and the Student Assistance Amendment Bill 1994—another education bill. With the Student Assistance Amendment Bill 1994, the Senate pressed requests and the bill was later signed. So I do not think the government is on strong constitutional grounds here.

The hypocrisy of the Liberal Party when it comes to the Constitution knows no bounds. They are the party of 1975. The Labor Party do not behave in that way. The Labor Party would never do that; we have made that clear. On this occasion we are talking about a $22 billion bill for 10,000 schools, for 3.2 million students. When the Liberal Party talked about these constitutional issues in 1975, they were holding the entire country to ransom. In my judgment, it is the government that is seeking to blackmail and to hold to ransom the children of this country. The requests that we have made simply seek to transfer a proportion of the $22 billion from the wealthiest schools in this country to students with disabilities, who, many would argue, are the most in need—that is, a transfer from those who have the most to give to those most in need. This is about priorities. This is a test which this government has failed.

It strikes me that, if we consider the fulminations of the Speaker and the ravings of the minister, they have essentially missed the point. They have missed the point of the simple proposition about the needs of Australian children. I asked Mr Evans, the Clerk, to give me some advice on these questions, and he pointed out to me:

The Constitution and the Senate standing orders place no limitations on the number of occasions on which the Senate can repeat a request. The House of Representatives has a standing order to the effect that, while the Senate insists on an amendment for a second time, the House will lay the bill aside or request a conference between the houses. It is not clear that this standing order applies to repeated requests by the Senate, but, in any event, the House can suspend its standing orders if it wishes to consider repeated requests, so there is therefore nothing to prevent the Senate repeating and the House reconsidering a request for an amendment on any number of occasions.
The clear and concise words of the Clerk need no paraphrasing, and in theory we can go on doing this forever—at least until the parliament is dissolved. We have said that this bill is obscene. It is blatantly inequitable. It is a disgusting and arrogant display of the politics of privilege and greed. It assumes that the average Australian is prepared to subsidise the lavish education and luxurious school facilities available in the wealthiest schools, where the amount available per student is three times the amount we see fit to spend on kids in government schools.

Dr Kemp accuses the Labor Party of whipping up class hatred. Of course, we would expect nothing less from him. This bill in its cold, dispassionate display of blatant featherbedding for the richer schools is what whips up class hatred as cleanly as anything else could possibly do. The government cannot hide behind its spurious obfuscation about the procedures and standing orders. It cannot issue hollow threats about constitutional crises and double dissolutions. Only one thing is needed to resolve the impasse, and that is for the government to accept our requests.

Senator CROSSIN (Northern Territory) (10.27 a.m.)—I want to make some final comments on this bill today. I had not intended to do that until I attended the breakfast and ceremony this morning held by the Council for Aboriginal Reconciliation as they finished the work they have been doing for 10 years. They not only presented their report of that 10-year period, Reconciliation Australia's challenge, but also introduced Reconciliation Australia, which is the new foundation that will take over their work.

You might ask yourself, ‘What do this morning’s ceremony and breakfast on reconciliation have to do with the States Grants (Primary and Secondary Education Assistance) Bill 2000, which gives $22 billion to schools around this country for the next four years?’ As I sat there this morning and I heard many people talk about fairness, equity and a fair go for Aboriginal Australians in this country, I realised how hypocritical this government really is in the kinds of bills that it presents to this parliament. I thought of last Sunday when the Treasurer and some of his colleagues attempted, with two feet and a heartbeat, to walk along the streets of Melbourne purporting to support reconciliation. I thought of how courageous it was of them to do that but how very empty their words were.

We hear members of this government talking about a new catchphrase which they have designed: ‘practical reconciliation’, they now tell this country. ‘We do not need to apologise. We do not need to embrace all of these documents that are being produced in order to drive this agenda forward. We do it in a practical way. We have practical reconciliation. We have embraced that term and cuddled it as if it is the best thing since sliced bread.’ But here we are in the parliament today, considering for the last time—because this is the third time it has come back to the Senate—a bill which will give millions of dollars to the wealthiest schools in this country, at the expense of indigenous Australians, particularly the people I represent in the Northern Territory. Under this bill, on average $4,000 a head is spent on kids in public schools around this country.

As I said in my speech in the second reading debate on this bill, in some communities in the Northern Territory there is no secondary school—no bricks and mortar. There are communities of over 2,000 people, with 500 children in the primary school who have no opportunity to do schooling past year 7. Yet millions of dollars will be going to schools like Wesley College, Geelong Grammar and the King’s School in Sydney, which do not need this money. Let us be honest about it: they do not need this additional funding—not while we have Aboriginal children in the northern part of Australia who not only do not have a secondary school and do not have computers in their classrooms; they have classes of 25 and 30 kids with one teacher, just as they do in Woden here in Canberra, but these kids do not speak English as a first language. They should be resourced on a one to five ratio.

No wonder these kids have the poorest literacy and numeracy rate around the country. No wonder these children will struggle all of their lives to attain the same level of educa-
tion that your children and my children will attain by the time they get to grade 3. Yet the federal government is prepared to put this bill, which ignores that fact, before the parliament again. They say, ‘We fund indigenous education over and above the normal mainstream through IESIP, through targeted programs.’ When you put it side by side with what is going to happen to category 1 schools, it is not enough. Why can that money not be channelled to the neediest kids in this country, to those kids who are disabled or to our indigenous children who will struggle for many years? In their wildest dreams, they will never be able to achieve the level that students at elite, private and wealthy schools will be able to achieve.

Indigenous children step out of those communities and go to places like Darwin, Alice Springs and capital cities on the eastern seaboard and step into another world, into a chasm, which some members of this federal government fail to understand. I believe they long to have a decent and proper education. They would want a computer at each of their desks. They would want not only a library in their school but a properly resourced library. They would like to have teachers on a one to five ratio, as they try to learn the same concepts which we teach our kids in primary schools but in a second language. They are trying to learn literacy skills which are unknown to their culture in a second language, but we treat them as if English is their first language. We put them in classrooms of 25. We give them first-year-out teachers who have little experience, let alone cultural knowledge and an ability to adapt to remote communities in the bush.

So on a day when this government accepts this document Reconciliation Australia’s challenge, no doubt in question time, as a dorothy dixer from across the chamber is asked of Senator Herron, we will hear the words ‘practical reconciliation’. That is what this government does. ‘That’s what we do. We don’t have to speak these words to Aboriginal people. We do it practically.’ Yet this morning we are going to see this bill in this parliament which allocates millions of dollars to kids in the wealthiest schools and ignores indigenous children in northern Australia, particularly in the Northern Territory. That is not a sign of practical reconciliation; that is the government turning their backs on the future of indigenous children in this country. I cannot believe that the people in DETYA and this minister can put their hand on their heart and say to the people of this country, ‘This bill is fair. This bill delivers equity in distributing the education dollar,’ because it does not. A close scrutiny of where the money goes, even a cursory glance at what is happening in this bill, will prove to every single person in this country that this bill is far from fair. It is not equitable.

We do not have a level playing field in this country from which we can resource people from here on in. This bill will advance the wealthy. It will advance people who least need this money to assist their education. This bill will continue to ignore the disadvantaged circumstances that indigenous children in this country endure on a day-to-day basis when it comes to trying to resource their education. In the 2½ years I have been in the Senate, this is the worst bill I have had to deal with. It is a disgrace. It is not an example of practical reconciliation, and don’t anyone believe that as they hear these words coming from this government in the next 24 hours.

You cannot say that we have practical reconciliation with Aboriginal people on the very same day that you are going to endorse a bill that gives millions of dollars to 21 or 29 of the wealthiest schools in this country. I have communities in the Northern Territory—at Kintore, Numbulwar, Ngukurr, Maningrida and Port Keats; you could roll them off, 190 or so of them—that are struggling to maintain teachers, to have well qualified teachers, to have the resources they need and to have the technology they need to be able to teach their kids properly in the 21st century, while this bill is still being pushed by this federal government. It is a disgrace and it is an embarrassment. We will make something of this in the course of the next 12 months—my oath. It will be something that I will push in every Aboriginal community in the Northern Territory to highlight to them the disregard that this government has for their attempts to properly
resource their children’s education and their children’s future.

Senator ALLISON (Victoria) (10.38 a.m.)—I am very pleased to hear those contributions from Senator Carr and Senator Crossin. I hope we can look forward to Labor maintaining its line and insisting on those amendments and requests. As has been properly pointed out today, this is not a matter of the Senate blocking the bill; it is a matter of the Senate simply insisting on its amendments. It is up to the government to decide whether the bill is blocked or not. As I have said many times in this debate, they are not ideal amendments but they are at least important in knocking off the worst aspects of this bill which, as we know, delivers huge gains to private schools. I do not want to canvass all of those arguments again but, as I looked back through the Hansard and checked a few of the statistics, reports and so on, there are some things that I wanted to raise with the minister about his remarks throughout the debate. I also think it is worth commenting on the comments of the Speaker in the House of Representatives in the last couple of days concerning requests. I want to put on the record exactly what section 53 of the Constitution says. It provides that the Senate may, at any stage, return a bill to the House of Representatives with requests. Even if ‘at any stage’ it is interpreted as meaning ‘at any stage in the Senate’s initial consideration of the bill’, as has been suggested, as an argument against pressing the request, the Senate could press a request many times by reiterating it at each stage of the consideration of the bill. Even if the Senate was not able to press the same request, it could easily circumvent a restriction, if that was its intention, by slightly modifying the request each time it put it. As the Senate Clerk, Mr Evans, has advised us, there is no suggestion that the framers of our Constitution intended that requests should not be pressed more than once. It is quite clear that, in this place, we are entitled to do that as many times as is necessary. I think it is important to get that on the record. That advice is available to all senators, no doubt, who would like to see it.

I wanted to pick up on something Minister Ellison said in the last debate, and that was that the state governments were in favour of this legislation. We all heard that; some of us were open-mouthed in hearing it. I went back and had a look at some of the correspondence that has been received on this question from the states. One that I want to concentrate on today is that from the Queensland state government. There certainly was not unanimous support for this legislation in any quarter, even from the private school sector. The government cannot claim that there is unanimous support here. The Catholics have opted out. I have had many letters and phone calls from schools that are very hard done by in this legislation and they certainly do not support it in its current form. The Queensland state government said that they did welcome more funding going into non-government schools—we might agree to disagree with that—but that is about where their support stops for this bill. It is my understanding that Queensland drew the Prime Minister’s attention to the decline in funding to government schools as a proportion of funds provided to all schools, pointing out that it is a drop from 32.5 per cent in 1997 to 28.8 per cent in 2004. They offered the view that this was of great concern. The minister also said, in this place, that the state ministers had accepted the EBA as a fair enough kind of measure. Again, as I understand it, the Premier of Queensland said:

The EBA is a crude policy instrument that penalises Queensland government schools even though their enrolments are increasing by more than enrolments in non-government schools. For example, between 1996-1999, enrolments in Queensland government schools increased by 15,512 and enrolments in non-government schools increased by 14,752. Despite this, Queensland lost $5.4 million in 1999-2000 and is projected to lose $7.7 million in 2000-2001.

I think that even if the minister did not mislead this place, certainly his suggestion that state governments were in favour of maintaining the EBA is false. I certainly know that other states have complained about it on numerous occasions. The Queensland correspondence also says:

This bill represents a shift in the balance of Commonwealth funding away from government
and towards non-government schools. This shift represents a fundamental change in the partnership between the Commonwealth and states which has been a cornerstone of education funding policy since the mid-1960s.

They also drew attention to the disadvantage for people who rely on government education who are living in rural and remote areas and for parents of children who have special needs.

Another matter the Queensland government raised was the fact that there will be numerous instances under the new SES model in which non-government schools in Queensland will receive more total government funding—that is, Commonwealth and state—per student than neighbouring state schools. I would like a response from the minister to that. I would like to know whether the government has checked out those figures that were produced by Queensland, and validated, I understand, by Price-WaterhouseCoopers. If this is the case, as Queensland believes it is, we have a very serious situation indeed on our hands.

A case in point is an independent secondary school in the Brisbane region which will receive total government funding of $5,651 per student in 2004. A neighbouring state high school will receive just $4,996 per student in the same year, and that includes a share of central overhead costs; so it is not simply coming from the global budget of the school. They say that there are many similar examples throughout Queensland. I think this raises the question of how a state secondary school can possibly offer their students all of the resources necessary to deliver a good education on $4,996 a head. Parents know that is not enough money. That is why more and more of them are prepared to pay extra so that their child can be in a school which is better funded. Many schools charge fees of more than twice that amount. Of course, many schools have those fees topped up by fundraising, which can be very substantial, and each school receives Commonwealth and state grants. State schools can, of course, fundraise—and many of them do—but many of them are unable to fundraise to anything like the extent that even some government schools in better-off suburbs can. Many of them certainly do not have anything like the opportunities available to non-government schools, many of which are getting a huge handout from this bill.

The other issue is that there are limits on fees and levies which can be paid to these schools. In most states the state government sets a limit—and quite rightly. We should not be seeing user-pays come into our public education—I am not advocating that. I am pointing out that the parents in those schools do not have any opportunity, except through fundraising, to raise the amount of money spent on each student in that school. If they see that the school is hopelessly underresourced—as most state schools are—their only option is to take their children out of that school and send them to a private school—and I think this goes to the crux of this whole question and this bill. The result is that the private sector can confer serious advantage to their students at the expense of government schools.

The Queensland Premier says that the result of the bill will be that parents who do not choose the non-government option or cannot afford to do so will be left with a degraded, poorly funded public education sector. The Queensland state government has pointed out that this measure is about making more money available to be spent on those advantaged students, as there is no requirement for the schools to reduce their fees. The government’s claim is that this measure will make choice a reality for more parents, and clearly that is hogwash. As I said in my last contribution to this debate, we have seen Canberra Grammar School, which receives more then $1 million from this measure, advertising for a person to promote the school. We are not going to see any school reduce their fees as a result of this measure. I think Wesley said they might reduce it by $200 per student, but that is a fraction of what they will receive from this bill per student.

As I understand it, Queensland are also not happy with some aspects of the accountability arrangements that are proposed in the bill. They point out that, through MCEETYA, the states have already agreed to a set of national goals for schooling and are finalising a series of performance measures
and targets, and they see no reason to pro-
vide the Commonwealth minister with the
ability to short-cut this process. Queensland
also complained about the consultation on
this bill. Only two weeks ago they said that it
would have been appropriate to discuss the
bill at MCEETYA or at COAG. Maybe dis-
cussions have taken place in the last two
weeks with each of the state ministers—I do
not know. Perhaps the minister can advise us
on that. But to come into this chamber and
suggest that the states are now ticking off
this bill is grossly wrong. Dr Kemp often
justifies this bill on the basis that:
... the socioeconomic profile of non-government
school parents is today very similar to that of
government school parents.
That is a quote from a recent document that
was distributed from Dr Kemp's office.
Again, that can be quite solidly refuted.
This year, Barbara Preston looked at the
data in relation to the type of school attended
and seven parental income brackets. That
data illustrated that:
• the wealthier the family, the more likely it is that the
children will attend private school;
• in the secondary years it is approximately 2½ times
more likely that the children of the highest income
bracket will attend private schools than those in the
lowest;
• in primary school there is roughly double the possi-
bility;
• the difference is not confined to the extremes. The
positive relationship between income bracket and the
type of school attended is clear across all brackets.
I wanted to get that on the record because we
have heard so much about choice and how
parents are struggling—and indeed they are.
I make no claim that they do not struggle. I
know a lot of parents who sacrifice a great
deal in financial terms in order to send their
children to non-government schools, and I do
not deny them that right. But this bill is
about something else. This bill is about re-
warding those schools which draw from
communities which are very well placed to
pay very high fees. Again, I want to draw
attention to the differences between those
schools that will benefit so hugely from this
bill and government public schools. In some
ways, I guess this legislation has been useful
to us in drawing attention to those huge dif-
ferences.
There is a huge public outcry about this
legislation. I hope it is felt by the govern-
ment at the next election. I hope the fury that
I am hearing about is reflected. I hope that
Labor takes this opportunity to take advan-
tage of that fury instead of giving in—and I
was very heartened to hear what Senator
Carr said today. Again I advise that the
Democrats will insist on these amendments
and the requests because we think they are
the least that this place can do.

Senator BROWN (Tasmania) (10.52
a.m.)—It is crunch time as far as this educa-
tion legislation is concerned. I am concerned
that we are about to see the prognostication
of opposition leader Kim Beazley on 4
August last come true. He said:
We would not try to block the bill. That would
simply produce the situation where nobody got
any money. So we certainly won't be trying to do
that.
We ought to be standing firm on this matter. I
agree with previous speakers that this is one
of the most important pieces of legislation
that we could see in this place, because not
only does it distribute 65 per cent of the
money to private schools, which have some
30 per cent of the students, but also, when
you look at it in the reverse, it distributes
only 35 per cent to the public school system,
which has the big majority of students in this
country. The philosophy and the drive of this
government indicate that this change in di-
rection will go a lot further. While the Labor
Party might feel that it will go to the next
election campaigning on this matter and will
pick up votes on it, I think we have to be
sanguine enough to say, 'We don't know
what's going to happen at the next election.'
It may well be that the Howard government
will be returned and, when and if that hap-
pens, things will get worse still. The imbal-
ance between the wealthy and the poor in
this country will grow, and with that we will
see an accelerated imbalance between the
wealthy and the poorer schools in the coun-
try.

Senator Ferris—That is not true.

Senator BROWN—Senator Ferris says
that is not true. It is true. You cannot put
your head in the sand and deny the statistics
that show that the gap between the rich and
the poor in this country is growing. You cannot deny what is in front of us on our desks at the moment, which shows that there is a massive spending boost to already wealthy schools at the expense of the public school system in Australia. I as a Green am not going to stand for that. I am not going to demur at this confrontation with the government. I am not going to allow myself to be found voting for this wretched piece of legislation that sets its face against the public school system in Australia. I would remind senators that this legislation would be unconstitutional in the United States, where the government is not allowed to put money into private school coffers at all. What we are seeing here is an historic destruction of the public school system at the expense of the privileged private school system. We are seeing a loss of that dictum that says: ‘Every child in this country should have an equal right to an equal quality education.’ The minute you depart from that you enter the field of discrimination. This legislation is high discrimination against millions of Australian students. Senator Crossin very eloquently pointed to those who are in the most disadvantaged sector of our community, the first Australians themselves. I can tell you that this legislation is going to do nothing to try to close the gap, the disadvantage, for indigenous people and indeed other people who do not have adequate facilities in the 21st century.

Senator Carr said, ‘We have sought to persuade this government through all possible means.’ But I think that in brackets after that comes, ‘Sadly we must now capitulate.’ Senator Carr said, ‘We are calling on the government to change its position; even now it is not too late.’ But in 10 or 20 minutes or half an hour from now, we will see whether it is too late. That will be demonstrated to us by who is on which side of this chamber standing up for the public education system and making sure that the Senate does use its powers to get a fair deal for public education in this country. The Labor opposition says that the government is seeking to blackmail and hold to ransom the students of this country? We are about to find out. I would say to the opposition, ‘Don’t you be a party to that. You have described it exactly but don’t you be party to it, because going to the government side in this matter, in being faced down by the House of Representatives, is to do just that.’

The opposition says that the government cannot hide behind threats of a constitutional crisis. We are nowhere near a constitutional crisis on this matter. As Senator Allison pointed out, we are within the constitutional right and established powers of the Senate in this matter. It is important that, where the government is doing the wrong thing by the nation and its education system, the Senate exercise that right and that power. Let me say to all senators that the government needs to be tackled on this matter; it needs to be confronted on the matter. There is no doubt that funding for the school system will continue. That is the responsibility of the government. We are talking about some tens of millions of dollars being redistributed through requests made by the Senate. We are not talking about not funding the school system; we are talking about a minimal redistribution to the public school system, to those most in need.

It is a minimal stand that the Senate is taking. It is not an ambit claim. It is not dictating to government, ‘You must abandon your philosophy,’ repugnant as that philosophy may be. It is simply saying that we have to hone back the cutting of the funding to the Australian public school system. Even at this eleventh hour, I say to the Labor Party: stand on your principle, stand by your own position. Stand up to this government, and the Australian electorate will thank you for it. The Australian electorate does not want the government to get away with this legislation. After all, it affects so many of the children of this nation—the next generation of this nation. It is time for a stand, and this is the place to do it.
senator wants to make his contribution to this debate. I, for one, would certainly welcome his views. I want to take a few moments, however, to address the chamber on the matter that is now before us. I have been stimulated to do so by the remarks of Senator Brown, who has just now resumed his seat. Senator Brown has an unerring ear for the dramatic. I do not mean that as a criticism, because quite clearly this legislation before the chamber is an important and defining piece of legislation for Australia.

There is absolutely no doubt that education is the most fundamental of all issues for developed and developing countries. Access to educational opportunity for all is what defines a fair country from a country that lacks fairness. It is also true that the Australian Labor Party in government has been a party committed to the principles of equal opportunity, fairness and the right of every younger person in Australia to have access to the best education that can be possibly provided. That is the only way for the true talents of Australians to be properly tapped and for the true creativity of this nation to reach its natural optimum. It is the only way to give ordinary Australians a chance to learn the skills and to obtain the qualifications they need to be a useful person in society and to understand what is happening in the wider world.

It is right to emphasise with some drama the importance of this legislation. It is right to point to the perfidy of this government because of this legislation. In 1996, 43 per cent of funding went to government schools. In 2004, as a consequence of this bill, 34 per cent of funding will go to government schools, which is an actual reduction. Just as education was one of the key issues in the still disputed United States election—with the rivals, Bush and Gore, trying to outspend one another—in Australia the government is reducing the amount of expenditure as a percentage of total outlays.

As countries within our region aspire to lift their economic standards through education in real terms, Australia has a government which in real terms is cutting back. We have a government in Australia that is shifting educational opportunity from all to just the wealthy. It is removing the right to education from ordinary citizens and giving it to those who can afford it, thus seeking to introduce and to perpetuate inequality of opportunity in Australia. So it is right to condemn this government.

I do not accept the definition applied to the Labor Party by the Greens. It is true that this is a dramatic piece of legislation, and it is true the government should be rightly condemned for its perfidy and for its attempt to turn back the clock to the 19th century by rewarding wealth and privilege over the right of all, but this legislation will be an election issue. The Labor Party will be fighting an election on this legislation.

Senator Ellison—We welcome it.

Senator COOK—You welcome it. You are welcome to welcome it, because we will join you on the electoral battlefield over this legislation, as we have done and will continue to do in this chamber. Labor will put to the Australian people the stark choices they are faced with: the Liberal option of education for the well-heeled and better off in society, or the Labor option of access to education for all equally and according to merit and attainment. People will be able to make a choice. We will talk about the nation building elements of education as well and the importance of a highly educated society in the 21st century. We will talk about all of those things and point to the government’s abysmal record of reduction in real terms in Commonwealth outlays on education expenditure. So it will be an election issue.

Let me just turn the question back on the Greens and the Democrats. If this is going to be one of the defining issues at the next election, will the minor parties join the Labor Party in defeating the Liberal-National coalition, or will they not? That is a key question here. It is all right to make a proselytising speech in this chamber, but when you are called out and have to front up for your convictions, as you do in an election, where you put your preferences and which of the two major parties you prefer for government is what you mean by what you say. So the challenge goes back the other way. If your convictions are real, do not judge people by their speeches—judge them by their actions.
And the Australian people will have a decision in this is when they vote. What you do with your preferences is what you do for education.

*Senator Brown interjecting—*

*Senator COOK—*Because you say—through you, Mr Temporary Chairman; I do not want to be disorderly and recognise disorderly interjections—

*Senator Lightfoot—*Heaven forbid!

*Senator COOK—*Heaven forbid, exactly. I am a very orderly senator, as you would know, Senator Lightfoot.

*The TEMPORARY CHAIRMAN (Senator Calvert)—*I think it must be getting close to Christmas!

*Senator COOK—*I am disarmed by such scathing criticism. My God! The fundamental point comes down to this: whatever we do here today and whatever happens to this bill, there is still the dividing line between the two major parties. That dividing line is education and who will do the right thing by Australia and who will protect the privilege of the wealthy in Australia. We are on the side of doing the right thing; they are on the side of protecting the privileged—that is the choice. When it comes to polling day and the preferences go to the other side, all I will have to say is that you did not mean a word of the speeches you made in this chamber. If the preferences come to our side, you are entitled to the respect and dignity of a party standing up for what is right in the defence of the entitlement of Australians to equal access to education—and that is the issue.

*Senator Harris (Queensland) (11.09 a.m.)—*Rising to speak on the States Grants (Primary and Secondary Education Assistance) Bill 2000, I would like to briefly refer to the message that has come back from the House of Representatives. The House of Representatives returns the bill and transmits to the Senate the following resolution which was agreed to by the House of Representatives on this day. I would like to focus on item (d) because it goes to the essence of the debate we are having today. In this item the House of Representatives:

(d) calls on the Senate to agree to the Bill as transmitted to it by the House of Representatives without requests, amendments or further delay.

So we have the government, through the House of Representatives, calling on the Senate to actually disregard all of the input of the senators whose responsibility it is to represent their states. I emphasise the latter. It is the prerogative of the House of Representatives to put forward legislation but it is the responsibility of the senators in this place to view that legislation based on their representation of their state. The essence of the bill is that it will appropriate additional funding to schools. I remind the Senate that approximately 70 per cent of the students in Australia attend government schools. I, like other senators, have received overwhelming correspondence in regard to this issue. I would like to quote a letter from the Monto State School Parents and Citizens Association in Queensland:

I am writing on behalf of the Monto State School Parents & Citizens Association. Monto is a rural community approximately two hours drive west of Bundaberg in Queensland. There are presently 215 students enrolled at the school from 129 families. Concern has been expressed at the Bill presently before the Senate relating to the funding for schools, in particular the amount apportioned to Private Schools.

Last year we were the victims of Government cut backs—

to clarify, they are referring to the Queensland Labor government—

when our Groundsman’s hours were slashed in half to 22 hours per week. We made representations to The Queensland Education Department and various politicians without success. The cut in hours came about due to a ridiculous mathematical formula revolving around the number of students at the school. The student number has increased this year but the Groundsman did not get his hours back. The school grounds remain the same size and require the same amount of maintenance but there is only so much one man can do with 22 hours.

Now we see this Bill, which will give Private Schools a great deal more funds than Government funded schools. Why? There is a great deal of anger in the Monto community over this Bill. On the evening news on Sunday 19 November the matter of funds for Kings College was broadcast. To see a Private School being given
$1,000,000.00 to upgrade their oval made no sense, considering we are not able to have the funds to have a full time groundsman. One million dollars would keep him employed for quite a while.

Further in the correspondence:

Contained in the correspondence I received from the Queensland Council of Parents & Citizens Association Inc is the following passage which relates to the legislation changes, “The net result of the new funding model is that 61 category 1 schools, the wealthiest category, out of 2,620 non-government schools will receive an extra $57 million per year.

This is an average gain of $900,000 for those 61 category 1 schools. The letter goes on to say:

This is an average gain of $900,000. In fact, 70% of non-government schools across Australia will receive no extra funding at all. 54 of the 61 category 1 schools are in Sydney or Melbourne.” The meaning of this is quite clear. There is no equity in the new legislation and it reeks of favouritism.

That is quoting from one of the many hundreds of pieces of correspondence that I have received in relation to this bill. Overwhelmingly, the correspondence that I have received does not call for amendments to the bill; it calls for the bill to be opposed. I believe it is incumbent on the Queensland senators to listen to that overwhelming message that has been coming from the government schools. I have received two pieces of correspondence in support of the bill—two in support and hundreds against. In light of that response from the people of Queensland, I will be opposing the message from the House of Representatives.

Senator BROWN (Tasmania) (11.16 a.m.)—I want to respond to Senator Cook. Senator Cook said that preferences will be important for the Democrats and the Greens at the next election and that Labor will be going to the election on this. Let me say to Senator Cook and the Labor Party: you have to judge people on what they do, not on what they say. When you go to an election you have to judge on performance, not on promise. I have said to my party in Tasmania: how can we give preferences to a Labor Party which wants to drive the chainsaws into the tall forests faster than a coalition? The nationwide message that comes out of today, if Labor is seen to be voting with the Liberals on the other side of this chamber, is: what is the difference between the two? Is this a ‘goversition’ or an ‘opposment’? Isn’t this the ‘Laberals’ again? Isn’t this the Australian public being denied a real choice by the two big parties—Tweedledum and Tweedledee?

I know that the Labor Party in past government has a different record from the coalition. I suspect that the Labor Party would never have come up with this piece of legislation that the Howard government has brought before this Senate. But I reiterate: the crunch time is here and the opposition should stand firm on this matter. I have no doubt it will be resolved before the end of the year. I point out that the requests ask less than the amendments coming next. They are very modest requests for some remediation of the most repugnant part of this legislation to divert some money into the most needy sectors of the public school system. The opposition should stand on those requests, with other parties in this place, or the electorate will see that and we will have to take that into account as we go to the next election.

Senator CARR (Victoria) (11.19 a.m.)—Senator Brown ought to know that his choices and his party’s choices at the next election are quite limited. He ought to know that. He ought to understand what the options are. The fact remains that presumably he will be asking his supporters to make decisions about who they think would produce the best government in this country. On the question of education, I do not believe, Senator Brown, you could possibly argue anything that would suggest that the Liberal Party has the interests of Australian children in mind.

Senator Brown—We’ll see how you vote.

Senator CARR—Senator Brown, you will see how we vote in a few minutes. We will see how you vote at the next election, like us all. Minister, I think our position has been spelt out perfectly clearly: nothing matters more than the education of our children. It is at school that children develop, discover and become adults. It is at school that children learn about the world and their
place in it. They learn in many other places as well but school is central to that learning process. They learn with their families and with their friends. They learn through the media. They learn through a whole range of avenues. But school is the central socialising process. Schooling is central to children’s lives. I would suggest that the policies that underpin schooling shape that experience. That is why this bill is so important. How we educate our children in school both reflects and reproduces the sort of society that we are. There are a number of former teachers in this chamber. I do not think I would take long to persuade them that schooling has the potential to transform society and certainly to profoundly change the life chances for individuals.

Australia’s children are a collective responsibility for us all in our roles as legislators, in terms of our funding to teachers, and of course as parents and citizens and taxpayers. This Senate has to understand that our country’s future and the legacy that we leave behind will be determined by the actions that we take on bills like this and on the policies that government pursues in regard to schooling. Labor’s commitment has been clearly spelled out—our commitment to universal, comprehensive public education is central to our platform and informs all about our policy development. That priority is expressed in the phrase ‘the knowledge nation’. The knowledge nation idea encapsulates the concept of collectivity, universality, excellence of innovation and quality in education. In school education, which is the site of the acculturation and intellectual development of children as they grow towards adulthood, we must convey to children that we value and respect all equally. That does not mean that we must treat every child the same as every other child. Some children, due to physical or intellectual disability, need additional assistance. Children who come from disadvantaged backgrounds, who do not enjoy the social privileges, are entitled to additional assistance. Some children will need to be encouraged to pursue education much more than others, because at the moment the cultural and social pressures are on them not to do so: I speak of our Aboriginal children. But not just those; working class children in the west of Melbourne, for instance, require additional assistance. This government turns all that on its head. It says: the people that need additional assistance are the wealthiest, the most privileged, the most affluent. In the name of social justice it hands out millions and millions of dollars to the already advantaged. Our specific responsibility as legislators in the Commonwealth is to ensure that all Australian children, wherever they live, whatever their background, have access to schooling that meets adequate community standards.

That is essentially what the Whitlam government took upon itself when it assumed responsibility for the funding of schools on the basis of need. Thirty years on from the Karmel settlement, as it is known as, it is something that remains for us all to be proud of. It recognised that, whatever kind of school a child attended, we owed them an opportunity for a decent education; that the Commonwealth should recognise that, while the primary responsibility of governments ought to be a strong and vigorous public system, the choices of those who wanted, for example, a Catholic schooling or a Jewish education should also be supported; and that needy schools should be subsidised so that school learning was not at a lower level for those children. Labor’s Disadvantaged Schools Program, one of our policies, addressed that problem quite directly. That program was abolished by this government. The aim of this government’s policy has been to actually expand the gap, to widen the chasm, between the rich and poor in terms of educational opportunities. On top of that we have seen, through the actions of this government, the resurrection of the ghost of the state aid debate. This government ought to be condemned.

The bill before the parliament allocates massive windfall gains in Commonwealth moneys to the richest private schools while leaving the many needier non-government schools to basically go without. The bill basically provides nothing in real terms, apart from indexation, for government schools. This is why I say the bill is unfair. It is divisive. The policies are so blatantly unjust that it is obscene. This is why the vast majority of Australians are so angry about what this
government has done in schools. This is why this is burning such a hole in the government. I have absolutely no doubt that the empirical advice coming to you, Minister, in terms of your survey results will back up that claim. What this government has done is congratulate itself for stirring up sectarianism, religious bigotry and racial intolerance, all of which have accompanied their schooling policy. It has produced the highest level of prejudice and divisiveness that we have seen in 30 years. That is quite an achievement, Minister. The anger in the electorate, I am absolutely convinced, will be shown at the ballot box. The states grants bill is an example in legislative form of just how flawed the government thinking is in terms of its educational policy. The formula lacks transparency; it lacks clarity; it lacks equity. It is a formula which pretends to be fair but is in fact unjust, inequitable and divisive. The funding formula makes facile and tragically wrong assumptions about the nature of private education in this country. It assumes that the elite, exclusive, wealthy schools that cater for a tiny privileged echelon in the community whose parents can afford the $14,000 a year per child fees are essentially no different from the lowest-fee, most needy, most modest schools in our country.

As for this formula developed by Professor Farish of the University of Melbourne, Professor Teese made the point that it advantaged what he called ‘predator’ schools. It seems that the professor that drew the scheme up was an epidemiologist. He was not an educationalist; he was from the medical faculty of Melbourne University. Frankly, it is not surprising that the government should find itself in so much trouble over this measure. I do not believe that his expertise and his experience was in the field of drawing up these measures. It is not a transparent system.

The decision to exclude from the model the applications to the Catholic education system and to ensure that its schools are in fact no worse off makes the point of just how ridiculous the system is: it only applies to such a tiny minority of non-government schools. Frankly, the government has a situation where it has now proposed to us that the amendments that we are proposing cannot be accepted. The government has essentially remained intransigent, and it does itself no credit in that process. It has rejected on numerous occasions the request by the Senate. It has frankly refused to discuss the issues and it has sought to avoid its responsibilities, and in doing so has essentially demonstrated its priorities.

The government says in return that, if the bill is not passed, essentially it is prepared to blackmail the 3.2 million Australians that are dependent upon this funding. Of course, that is not to mention the parents of the 3.2 million Australian students that depend on this money. It says it will block money to Australia’s 10,000 schools. It says that the 7,000 government schools, the 1,700 Catholic schools and the other 900 non-government schools will have to do without. It is prepared to hold hostage 3.2 million Australians because the Labor Party has essentially exposed the farce of its funding formula.

This bill is unfair. It is outrageous. It is repugnant. But the situation is that it is the last day of the parliamentary sitting and the options before the chamber are quite stark. We are not a party that will deny funding to those 3.2 million Australians. We will pursue this issue vigorously. We have made it clear what our position will be in government. We have made it clear what our position will be in the run-up to the next election. We have made it clear what our position will be in government. The fact of the government’s blackmail and of it holding hostage those 3.2 million Australians remains. We cannot allow those children to go without and therefore we are obliged to allow the bill to pass.
ernment is moving that this request not be pressed, where we would have faced an unprecedented situation if that motion were to fail because the Senate has never advanced that far in pressing a request a third time. So the situation has reached a point where a precedent could have been established where we would have traversed ground not previously covered.

I will just point to some issues which have been raised by senators in speaking against this bill and firstly deal with comments made by Senator Carr. Senator Carr mentioned that in some way there was some qualification from Father Tom Doyle of the National Catholic Education Commission. On 23 August this year Father Doyle issued a media release in which he stated that:

The Senate should pass the State Grants Bill 2000 intact ...

He went on to say:

The Bill has the support of the—National Catholic Education Commission—and the State and Territory Catholic Education Commissions as it recognises that the allocation of funds is based upon need.

There was also a statement on 17 October this year by Peter Tannock, the Chairman of the National Catholic Education Commission, that said:

The NCEC recommends that the Commonwealth Parliament pass the legislation as soon as possible. It is important to remove the uncertainty about the availability of funding for January, 2001.

That is an essential point, because what the opposition and others have done here is to bring down to the wire the question of funding in relation to a bill which we are all agreed is very important and funding in relation to a question on which we are all agreed is very important, and that is: the provision of a good education to all Australians no matter where they are, no matter what their background and no matter what school they attend. In this bill we have billions of dollars of government funding for both government and non-government schools, funding which can be paid as soon as 1 January 2001, which is just over three weeks away. That is the urgency of the passage of this bill and that is the need for certainty that Dr Tannock mentioned in his release, and to have blocked this bill further, to have delayed it further, would have jeopardised the passage of this bill which related to that enormous amount of funding for education in this country.

Senator Allison raised a point in relation to education funding in Queensland and put a question to me as to whether the figures had been verified and that in round terms there was funding of $5,000 per student at a government school when the average was $6,000. The government has verified those figures. Indeed, the Prime Minister wrote to Premier Beattie on 3 December this year in relation to funding, and I quote the Prime Minister’s letter:

Based on your own advice, it is clear that the total State funding provided to the government school in question is significantly less than the national and State averages. This raises questions about your Government’s commitment to government schools, particularly in the context of the new and growing revenue available to States through A New Tax System. I understand that analysis by the Department of Education, Training and Youth Affairs suggests that in 2000-01 the Commonwealth increased its funding to government schools in Queensland by 4.2 per cent compared to an increase in State funding of 0.8 per cent.

What the Prime Minister is putting very clearly there to Premier Beattie is that the Commonwealth government had increased funding to government schools by 4.2 per cent, as opposed to the state government, which only increased it by 0.8 per cent. What is more, the Prime Minister pointed to the fact that under the new tax system the states will have the revenue from the GST—revenue they never had before.

Senator Brown mentioned that, if this bill were in the United States of America, it would be unconstitutional because government moneys cannot go to private schooling in that country. With the greatest of respect to the United States of America, I say that they have their Constitution and we have ours. They have in their Constitution the right to bear arms, and I am sure Senator Brown, coming from Tasmania, would be the first to say that that is not a provision we would welcome in our own Constitution, particularly when one considers the state that
Senator Brown comes from. So I think that analogy is not a good one to draw.

Senator Crossin’s criticism of funding for indigenous education and the provision we made for it insofar as this bill is concerned does not recognise the funding that we have provided for in the Indigenous Education (Targeted Assistance) Bill 2000. In that bill we provided, for the quadrennium 2001-04, an appropriation of some $591 million in grants to indigenous education providers in the states and territories. In that bill alone we provided $591 million specifically for indigenous education. That is in addition to what this bill provides in various forms for indigenous education via the funding. Of course, this bill contains total funding of $22 billion. I want to place on record that the government are totally committed to indigenous education. We recognise that there is a great challenge in relation to indigenous education, one which has not been fully met and one which will take a great deal of effort to meet. We are committed to meeting that challenge, and we recognise that across the chamber there is a commitment to indigenous education. But what we think is entirely inappropriate is to turn it into a political football. Let us work together to improve the outcomes in relation to indigenous education in this country.

There has been comment made about the question of provision of government funding to non-government schools. In a letter to the Australian on 6 November this year, Audrey Jackson, the executive director of the Association of Independent Schools of Western Australia, wrote:

It is time to stop taking the narrow view, with a focus on the larger, high fee, longer-established schools, and to consider the benefits across the sector. In the SES, the government has developed a method of funding that truly recognises the circumstances of schools in rural and remote Australia.

What Ms Jackson was referring to there were independent schools in such places as Coolgardie, Carnarvon, Gibson and Mukinbudin, and also those independent schools in the Pilbara, the Kimberley and the Great Sandy Desert. What Ms Jackson went on to say was that these schools will benefit from the implementation of the socioeconomic status model of funding since the maximum funding level has increased to 70 per cent of the average government school recurrent cost. What she is saying is that these independent schools, dealing with some of the most disadvantaged people in this country—geographically, socially and otherwise—were going to receive more funding as a result of our SES funding model. I think that is a salutary point that is made. I know those areas because they are in my state, and that is why I refer to them. But, of course, this has application across the nation and not just in Western Australia.

We have now reached the time when we have to realise the seriousness of any delay in the passage of this bill. If the government’s motion is defeated, it will jeopardise the passing of the bill. I welcome the comments which I hear from Senator Carr in his closing remarks that the opposition will be supporting the bill. In that regard, we take it that the opposition will be supporting the government’s motion that this request not be pressed. If, however, the opposition is minded that it should oppose the government’s motion, I foreshadow that we will divide on the question.

Senator Allison (Victoria) (11.44 a.m.)—I apologise for again seeking to make a contribution after the minister has summed up, but I feel obliged to do that because Senator Carr has just dropped a fairly large bombshell on this place and it cannot go unremarked. He says that the ALP are obliged to allow the bill to pass. I think we probably all know in this place that the ALP have known that all along, and in fact they indicated it from the very early stages of this debate. So what we have seen here is a fairly farcical exercise in time wasting. Those of us at this end of the chamber have hoped against hope that the ALP would change their mind, but it has been fairly clear right from the beginning that Mr Lee, the shadow spokesperson for schools, was always going to give in on this bill. I will be asking at the next election all of those people associated with the government and the non-government sector to remember that, because
this has been a real waste of time and a great disappointment.

We do not know that we will have an ALP government at the next election, and I think the fact that the ALP have not been prepared to insist on their amendments or on this request is an indication that they are weak in this area of public education and supporting the public sector. I do not think people are going to be persuaded that, just because they hung out for a couple weeks on their amendments, the ALP are likely to do better on public education than even the coalition. I do not think they can bask in the glory of this last couple of weeks of wasted time. It was never going to draw anything out of the government in any case. If you want to be serious in this place about getting some concessions, getting amendments put and getting them accepted, you do not flag at the outset that you are not actually going to insist—but Labor did that. The government simply had to wait it out, and it has been clear that that is what has happened.

There was, as I said, no obligation for this bill to pass or at least no obligation for the Senate to accede to the request of the House of Representatives. This should very much have been sheeted home to the government. It is the government bill, it is a very unpopular bill and it is a bill which is wrong in so many respects. It should have been amended by this place. Of course, I would have preferred the Democrats amendments, but we got stuck with the ALP’s second-best amendments and now we hear that even they are not going to be insisted upon. So it is a great disappointment. I can promise the ALP that we will be not only drawing attention to the coalition’s record on public education and on this in terms of electoral support, but my key concern is what is going to happen to public education in the long term. That raises real questions that have not been answered in this place. Again, I say that it is a great disappointment.

Question put:

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

The committee divided. [11.54 a.m.]

(The Chairman—Senator S.M. West)

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<th>Ayes</th>
<th>57</th>
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<td>Noes</td>
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<td>Majority</td>
<td>46</td>
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AYES

Bishop, T.M. 
Buckland, G. 
Campbell, G. 
Carr, K.J. 
Collins, J.M.A.

Boswell, R.L.D. 
Calvert, P.H * 
Campbell, I.G. 
Chapman, H.G.P. 
Conroy, S.M.
Motion (by Senator Ellison) put:

That the report of the committee be adopted.

The Senate divided. [12.02 p.m.]

(The President—Senator the Hon. Margaret Reid)

Ayes............ 52
Noes............. 11

Majority........ 41

AYES

Bishop, T.M. Buckland, G.
Calvert, P.H * Campbell, G.
Carr, K.J. Chapman, H.G.P.
Collins, J.M.A. Conroy, S.M.
Cook, P.F.S. Coonan, H.L.
Crane, A.W. Crossin, P.M.
Crowley, R.A. Denman, K.J.
Eggleston, A. Ellison, C.M.
Evans, C.V. Faulkner, J.P.
Ferris, J.M. Forshaw, M.G.
Gibbs, B. Gibson, B.F.
Harradine, B. Herron, J.J.
Hill, R.M. Hogg, J.J.
Hutchins, S.P. Kemp, C.R.
Knowles, S.C. Lightfoot, P.R.
Ludwig, J.W. Lundy, K.A.
Macdonald, J. Mackay, S.M.
Mason, B.J. McGauran, J.J.J.
McKiernan, J.P. McLucas, J.E.
Murphy, S.M. Newman, J.M.
O’Brien, K.W.K. Patterson, K.C.
Payne, M.A. Ray, R.F.
Reid, M.E. Schacht, C.C.
Sherry, N.J. Tambling, G.E.
Tchen, T. Troeth, J.M.
Watson, J.O.W. West, S.M.

NOES

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

* denotes teller

Question so resolved in the affirmative.

Resolution reported.

Adoption of Report

AYES

Bishop, T.M. Buckland, G.
Calvert, P.H * Campbell, G.
Carr, K.J. Chapman, H.G.P.
Collins, J.M.A. Conroy, S.M.
Cook, P.F.S. Coonan, H.L.
Crane, A.W. Crossin, P.M.
Crowley, R.A. Denman, K.J.
Eggleston, A. Ellison, C.M.
Evans, C.V. Faulkner, J.P.
Ferris, J.M. Forshaw, M.G.
Gibbs, B. Gibson, B.F.
Harradine, B. Herron, J.J.
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Reid, M.E. Schacht, C.C.
Sherry, N.J. Tambling, G.E.
Tchen, T. Troeth, J.M.
Watson, J.O.W. West, S.M.

NOES

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

* denotes teller

Question so resolved in the affirmative.

Resolution reported.

Adoption of Report

Motion (by Senator Ellison) put:

That the report of the committee be adopted.

The Senate divided. [12.02 p.m.]

(The President—Senator the Hon. Margaret Reid)

Ayes............ 52
Noes............. 11

Majority........ 41

AYES

Bishop, T.M. Buckland, G.
Calvert, P.H * Campbell, G.
Carr, K.J. Chapman, H.G.P.
Collins, J.M.A. Conroy, S.M.
Cook, P.F.S. Coonan, H.L.
Crane, A.W. Crossin, P.M.
Crowley, R.A. Denman, K.J.
Eggleston, A. Ellison, C.M.
Evans, C.V. Faulkner, J.P.
Ferris, J.M. Forshaw, M.G.
Gibbs, B. Gibson, B.F.
Harradine, B. Herron, J.J.
Hill, R.M. Hogg, J.J.
Hutchins, S.P. Kemp, C.R.
Knowles, S.C. Lightfoot, P.R.
Ludwig, J.W. Lundy, K.A.
Macdonald, J. Mackay, S.M.
Mason, B.J. McGauran, J.J.J.
McKiernan, J.P. McLucas, J.E.
Murphy, S.M. Newman, J.M.
O’Brien, K.W.K. Patterson, K.C.
Payne, M.A. Ray, R.F.
Reid, M.E. Schacht, C.C.
Sherry, N.J. Tambling, G.E.
Tchen, T. Troeth, J.M.
Watson, J.O.W. West, S.M.
Thursday, 7 December 2000

SENATE

Watson, J.O.W. \hspace{1cm} West, S.M.

NOES

Allison, L.F. \hspace{1cm} Bartlett, A.J.J.
Bourne, V.W * \hspace{1cm} Brown, B.J.
Greig, B. \hspace{1cm} Harris, L.
Lees, M.H. \hspace{1cm} Murray, A.J.M.
Ridgeway, A.D. \hspace{1cm} Stott Despoja, N.
Woodley, J.

* denotes teller

Question so resolved in the affirmative.

Bill read a third time.

COMMITTEES

Information Technologies Committee

Report

Senator FERRIS (South Australia) (12.11 p.m.)—I present the final report of the Select Committee on Information Technologies, together with the minutes of proceedings for the 38th and 39th Parliaments.

Ordered that the report be printed.

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

Leave granted.

Senator FERRIS—I move:

That the Senate take note of the report.

I seek leave to have my tabling statement incorporated in Hansard.

Leave granted.

The statement read as follows—

As Chair of the Senate Select Committee on Information Technologies, I table this morning the final report of this Committee. This report reviews the major findings of the four reports tabled in the 39th Parliament.

The Committee, re-established by the Senate on 25th March last year, has played an important role in evaluating self-regulatory codes in the information industries; in monitoring the social and economic impact of information technologies; and in examining the Government’s regulatory regime for dealing with offensive material on the Internet through its Online Services Bill.

The majority of the Committee supported the passage of the Bill without amendment. As governments become more experienced and technology-savvy and as consumers, particularly parents, become more aware and empowered in their dealings with the Internet, I am confident that we will see this important legislation become increasingly effective in protecting children from offensive material on the Internet.

Our next and most publicly debated report was tabled in March of this year and explored the contentious issue of Internet gambling. The report, NetBets, found that the existing interactive gambling models fell well short of the most basic measures that needed to be adopted to ensure safer gambling conditions for consumers.

For example, the Committee found there were inadequate warnings about the dangers of problem gambling; players were not informed about the odds of winning or losing; the player exclusion measures were grossly inadequate; and there was no permanent display of wins and losses.

Consequently, the Netbets report recommended a number of harm minimisation policies, which would offer some protection against an increase in problem gambling.

However, the Internet gambling industry faces a serious public image problem. In fact while much of the community concern with gambling is related to poker machines, Internet gambling has also been perceived in the same negative way. Unfortunately the industry’s lack of progress in dealing with this negative public perception and its reluctance to adopt the Committee’s recommended voluntary pause on the introduction of new gambling sites, this Government yesterday placed a ban on new Internet gambling sites until May next year.

Our report into the way complaints against the media are dealt with was the focus of our next report, tabled in April of this year.

We heard many stories of gross invasions of privacy by the media and more alarming we found that the process of making a complaint against a newspaper or radio program was often a frustratingly slow and complicated process.

In an effort to more efficiently streamline the process of making a complaint against the media and ensuring that complaints were taken seriously, the Committee recommended the creation of a Media Complaints Commission (MCC).

This independent statutory body would be formed to help individuals in making their complaints and would act as a ‘one stop shop’ for all complaints against the media. The MCC would also function as a final arbiter for complaints.

The Committee felt that it was important that the MCC be there to empower individuals when making a complaint and to act as an independent link between ‘community and proprietor.’

Our report into e-privacy was tabled last month looking into the privacy implications of consumer information that was being obtained through electronic transactions.
It also examined the privacy obligations of organisations that have access to consumer databases and importantly it looked at the rights consumers have when accessing personal information about themselves held in consumer databases.

This report recommended the implementation of a privacy webseal to assist consumers when accessing the privacy credentials of an organisation. The webseal would also provide a range of information and services to empower consumers to assess an organisation’s policy and commitment to privacy.

I commend our final report to the Senate.

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

Leave granted; debate adjourned.

ROADS TO RECOVERY BILL 2000

In Committee

Consideration resumed from 6 December.

The bill.

Senator GREIG (Western Australia) (12.12 p.m.)—I move the following amendment to the Roads to Recovery Bill 2000:

(1) Clause 3, page 2 (line 17), at the end of the definition of road, add:

; (g) a covered car park adjacent to a railway station or bus interchange.

This amendment would have the effect of altering slightly, or providing an addition to, the definitions of those things which might be considered a road in relation to those sorts of things that local councils could provide funding to once this Commonwealth funding has been made available to them. As it stands in the bill, the definition of a road would include any of the following associated with a road: first, a traffic sign; second, traffic control equipment; third, street lighting equipment; fourth, a vehicular ferry; fifth, a bridge or tunnel, including a bridge or tunnel for the use of pedestrians; and finally, a path for the use of persons riding bicycles.

As I said in my speech on the second reading, it is encouraging that this road funding is being made available to those other sorts of things and not simply and specifically for roads. However, we propose that the definition be expanded slightly to include one further thing; that is, that the funding ought to be made available through local government to a covered car park adjacent to a railway station or bus interchange.

It is clear from the evidence that there are many people using public transport, be it train or bus. That is a good thing socially and environmentally. But the evidence also illustrates that there are many people who might be encouraged to make better use of trains and buses but who choose not to do so because of the difficulties they may have experienced in relation to leaving their family car, or their key method of transport, at the bus or train station. It is often the case that these car parking areas at interchange stations are unshaded, making it prohibitive to leave your car there all day. That is very much the case in warmer climates and in inclement weather. In many cases, these car parks are unlit, providing insecurity for both the car and the passenger. As a consequence, there is evidence to suggest that there are many people who would make better use of public transport if there were better intermodal operation—that is, if better opportunities were provided to people to access these places.

I note from an article by Matthew Rogers in the Sunday Telegraph of 26 November that the increase in fuel prices which we currently experience has seen a dramatic boost in demand, particular for rail travel. Mr Rogers says in his article that commuters from Sydney’s western suburbs are behind an unprecedented boom in demand for rail travel. Stations in the city’s west and inner west are reporting passenger increases of up to 60 per cent on last year’s numbers. Figures obtained from the Sunday Telegraph show that some 12,000 more people are catching trains each day than at the same time last year. Most of that growth is coming from the suburbs of Liverpool—up some 59.7 per cent on a year ago; Strathfield up 38.1 per cent; Hurstville up 26.4 per cent; Bankstown on eight per cent; and Parramatta on almost eight per cent. The daily increase in train patronage is the equivalent of a capacity crowd at the Sydney Entertainment Centre. It is quite extraordinary, illustrating two things: when encouraged to do so, people can and will use public transport and, when you do have that change in transport behaviour, there needs to be a governmental
response to that in terms of best facilitating that and making the best options available to people.

In moving this amendment, what we are seeking to do, quite clearly, is to ensure that local governments, if they have the option and they choose to, are able to use some of this funding to upgrade or introduce quality car parking stations which are covered and are security protected with lighting for both the vehicles and the passengers, as a carrot, as it were—rather than a stick—to try to draw more people to those stations and to make better use of them. I understand that Labor have indicated that they will not be supporting this amendment, and I express genuine disappointment at that, particularly when you look at this article in the Sunday Telegraph and you see that the suburbs and areas mentioned in that particular article are Labor constituencies, Labor seats. I would have thought that, with these kinds of mortgage belt areas, where people are living in the outer suburbs and are, of necessity, using the train to access workplaces in the city, this would be something that the Labor Party ought to support. I do not see this change as being particularly astonishing or remarkable; I see it as being very sensible. It is good public policy. I would have thought that Labor would have been behind that. Once again I sincerely plea with Labor to give serious consideration to this amendment. I believe it is worthy of consideration. If this amendment is passed, it will make no fundamental change to the bill or to the act. It makes terrific sense on social and environmental grounds. I commend the amendment to the Senate.

Senator IAN MACDONALD (Queensland—Minister for Regional Services, Territories and Local Government) (12.19 p.m.)—While I appreciate the reasons behind Senator Greig moving this amendment, the government will not be supporting the amendment, because it really does extend the definition of a road beyond what one would normally anticipate would be a road. The sealing of car parks, particularly around railway stations, is something that the state governments are principally responsible for. In our view, it is something the state governments should do. The underlying principle of the whole roads to recovery grant was to ensure that this was additional money and that state governments, in particular, would not take the opportunity to cost shift from the things for which they are responsible and the things they should be funding and then put that responsibility on councils.

In addition, for consistency, the definition we have adopted, with one minor exception, is the definition of a road under the Australian Land Transport Development Act, which deals with national highways. For legislative consistency, we have adopted the same definition with, as I say, a minor exception which deletes boat ramps from the definition. I am not quite sure—and my advisers have said that they are not quite sure—why boat ramps are included in definitions of the national highway, but we have deleted it from this one. For legislative consistency, we hope to maintain the definition that is in the act when the federal parliament is dealing with similar issues.

Senator MACKAY (Tasmania) (12.21 p.m.)—Senator Greig is correct: the Labor Party is not in a position to support this amendment. I am advised by Mr Martin Ferguson that he and his office are concerned about the time frames in relation to the circulation of the amendment. I understand that it was advised to their office only after lunch yesterday. Their concern is that in fact the bill has been in circulation since Wednesday last week, and their view is that it is a somewhat ad hoc way to approach the issue of transport. As the government has outlined, this bill is essentially about roads, and the Labor Party is happy with the definition as it exists in relation to roads. While we are not necessarily averse to it in another form, we believe that in relation to this legislation it is somewhat ill fitted.

I have been asked to point out to the Democrats that, if the issue of transparency is of concern, the Labor Party would question why no support was provided for the speed rail probity inquiry, which would have provided some transparency in relation to that process. I am also advised by Mr Ferguson that Labor would appreciate more consultation with the Democrats in relation
to transport matters and, in particular, to the timing, which would have allowed us to consider this in a more relaxed environment. However, I am cognisant of the fact that we are dealing with this bill in an expeditious fashion and that we have not got the same amount of time that we normally would have. Labor is concerned that this is a bit of an ad hoc initiative and that it does not fit with the general thrust of the legislation in terms of the definitions. On behalf of Mr Ferguson, I would also like to convey that, as far as Labor and he are concerned, a more cooperative relationship in relation to transport may be an objective that could be pursued between the two parties in relation to timeliness, contact and context.

**Senator HARRIS** (Queensland) (12.24 p.m.)—I rise to briefly comment on the Democrats’ amendment and to indicate that One Nation will not be supporting the amendment. I would also like to take this opportunity to make a couple of comments. Firstly, I wish to commend the government for its funding package for roads, which is going directly to the councils, and to speak briefly on some issues relating to areas in North Queensland. The Cook Shire, which is a substantial shire in the north of Queensland that takes up predominantly the entire Cape York Peninsula, does have a particular problem in relation to roads. It is heartening to see in the government’s proposal for Queensland that the existing allocations for identified road grants will rise from 18.7 per cent to 20.8 per cent—a substantial increase. Returning to the issue of the Cook Shire, which finds itself in an extremely high rainfall area and where the roads suffer substantial erosion, I take this opportunity to call on the federal government to look at its predilection in relation to roads. All of the roads in the Cook Shire are predominantly dirt or gravel formed roads and they suffer considerably during the wet.

The other area I would like to briefly speak about is the tableland, consisting of the Mareeba Shire, the Atherton Shire, the Herberton Shire and the Eacham Shire. The roads within those shires are predominantly bitumen. There has been substantial development in the last couple of years on the tableland, particularly in the sugar industry. This expansion is extremely welcome following the downturn in other agricultural activities up there, particularly in the tobacco industry. This expansion, from approximately a million tonnes annually to two million tonnes, has also brought a heavy impact on the road infrastructure. So, again, I commend the government in the passage of this bill in that the funding will go directly to those shires. I hope it will help to alleviate in some way the extra pressure on the local governments.

Having said that, I would like to place on record the concern of Pauline Hanson’s One Nation about the cost of fuel, and that has been raised before in this debate. What is the use of upgrading a road if you cannot afford the cost of the fuel to travel on it? That would be my only criticism in relation to this bill: the government has failed to listen to the cries for help from the Australian people about the cost of fuel. I see this bill as a step in the right direction. It will help the local governments in their local areas. I ask the government to also take into consideration the particular impacts in the Cook Shire in relation to their heavy rainfall and also the impact of the increased traffic on roads in the local shires of the Atherton Tableland, which is related to the expansion in the sugar industry. Finally, I believe that the amendment put forward by the Democrats could raise considerable long-term problems in relation to the allocation of this funding.

**Senator GREIG** (Western Australia) (12.30 p.m.)—I will take a brief opportunity to respond to my critics. The minister, perhaps not surprisingly, raised the issue of the state and Commonwealth nexus. Last Sunday, at Government House in Sydney, I had the privilege to listen to the last in the current series of the Boyer Lectures, where the Chief Justice of the High Court, Mr Murray Gleeson, spoke on the role of the law in the Constitution. He mused over the fact that, at a function he attended recently, it was brought to his attention that the UN had declared next year the International Year of the Elephant. In response to this, it was suggested that each nation would produce a book to celebrate this: the US would produce a book called...
‘Elephants: how to manage them and profit from them’; the Germans would produce a book called ‘Elephants: their training and discipline’; and the Australians would produce a book called ‘Elephants: a state or federal problem’. The more time I spend in this place, the more nationalist I become.

The nexus we continue to experience between state and Commonwealth jurisdiction is frustrating. However, I do not think the minister was saying that my proposal could not be done but rather that it ought not be done. There is a fundamental difference. Senator Mackay mentioned the Speedrail inquiry. In all sincerity, I did not understand the nexus; however, she went on in a more general sense to talk about cooperation between Labor and the Democrats. I have no difficulty in encouraging that, as I would with the government—I am nothing if not reasonable. However, I state clearly for the record that the reason I had not contacted Labor directly with my amendment is that I thought it was very simple and spoke for itself. I did not think it needed explanation. I was not proposing fundamental or comprehensive changes to the bill. My recollection is that my amendment was circulated before your second reading contribution and, with respect, I had no consultation from your office on the second reading amendment.

Senator Harris referred to the potential long-term problems with my amendment. With respect, Senator Harris, I do not concede that. I see no comprehensive or ongoing difficulty with the amendment. I wonder, if this amendment were to pass, whether many councils would take advantage of it. Certainly the opportunity is there for them, but my experience in liaising with delegates at the ALGA conference, which concluded in Canberra in recent days, was that there is a great sense of excitement and tremendous enthusiasm. The minister was quite right when he said in his second reading speech that both governments are extremely keen for this money, and I can understand that, having come from a local government background. I note with interest that my old bailiwick, in the town of Vincent, will receive $160,000 over four years, which is about enough money to seal two rights of ways of about 100 metres in length. So it is not overwhelming in the inner city areas.

In summing up, I concede that I am not going to win this one, but I do think it was a genuine attempt on my part to bring some focus back to public transport in what has been a very vehicle based, fossil fuel based debate. I think all too often we lose sight of what we really need to do: to get people out of cars, to get pollution out of the air and to have strong, sensible, national and state based transport polices that focus far more strongly on public transport.

Senator MACKAY (Tasmania) (12.34 p.m.)—I want to take the opportunity to put one thing on the record, and I would appreciate some indication from Senator Greig. It was my understanding—and if this has not occurred, I will chase it up—that Martin Ferguson’s office had provided you with our proposed second reading amendment. It was my understanding that it was provided to your office.

Senator Greig interjecting—

Senator MACKAY—Okay. If it was not, I will chase it up and find out what happened to it. That was certainly my understanding, and it is something that we would normally do. Just to provide some context for the allusion to the Speedrail issue, our contention is that transport does need to be dealt with in a holistic sense in terms of its intermodal capacity and all forms of transport. In relation to this amendment in particular, we believe we are dealing with a roads bill. This does not mean to say that there may not be some mechanism which we can discuss with the Democrats and potentially the government to cover the types of issues that you have raised here.

Senator Greig, I found your joke very amusing, and I do not share the minister’s view that it is therefore a state issue. One could draw on anything being a state issue—for example, internal transport and airports. If they are a state issue in New South Wales I think that is probably news to the New South Wales government with the various media speculation that is occurring at the moment. I just wanted to put that on the record. If you did not get a copy of that, I will chase that up.
for you. Just to reiterate: we will not be supporting this amendment in the context of this particular bill.

Question put:
That the amendment (Senator Greig's) be agreed to.

The committee divided. [12.41 p.m.]
(The Chairman—Senator S.M. West)

Ayes........... 11
Noes........... 42
Majority........ 31

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

NOES
Bishop, T.M. Buckland, G.
Carr, K.J. Campbell, G.
Conroy, S.M. Collins, J.M.A.
Coonan, H.L. Cook, P.F.S.
Crossin, P.M. Crane, A.W.
Denman, K.J. Crowley, R.A.
Evans, C.V. Eggleston, A.
Gibson, B.F. Evans, C.V.
Hogg, J.J. Eggleston, A.
Kemp, C.R. Knowles, S.C.
Lightfoot, P.R. Ludwig, J.W.
Lundy, K.A. Macdonald, I.
Mackay, S.M. McGauran, J.J.
McKernan, J.P. McLucas, J.E.
Murphy, S.M. Newman, I.M.
O'Brien, K.W.K. * Payne, M.A.
Reid, M.E. Schachter, C.C.
Sherry, N.J. Tambling, G.E.
Tchen, T. Tierney, J.W.
Watson, J.O.W.

* denotes teller

Question so resolved in the negative.

Progress reported.

TELECOMMUNICATIONS LEGISLATION AMENDMENT BILL 2000
Second Reading

Debate resumed from 30 November, on motion by Senator Ellison:
That this bill be now read a second time.

Senator PATTERSON (Victoria—Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs and Parliamentary Secretary to the Minister for Foreign Affairs) (12.45 p.m.)—If no-one on the other side is going to speak on the Telecommunications Legislation Amendment Bill 2000, I want to make a couple of comments. This bill clarifies the government's existing powers to safeguard the public interest in electronic addressing services including domain name management. The bill is a key element in the framework for the introduction of competition to the .au domain space. The bill ensures that the government has the necessary powers to safeguard the public interest in electronic advertising services, such as Internet domain names. This will underpin the government's policy of responsible self-regulatory management for the .au Internet domain. It is important that the government ensures that a safety net is in place in case problems arise in the future. The government's position on the introduction of competition to domain name registration has the support of the Internet industry, auDA and other major players in the domain name space. These amendments recognise the importance of electronic addressing services such as domain names to end users by ensuring that the Australian Competition and Consumer Commission has powers to direct a manager of electronic addressing in relation to consumer protection matters as well as competition matters. The amendments will also ensure that the government has a number of options as to how it can become involved in electronic addressing management to ensure a sensible safety net underpins self-regulation of this important Internet infrastructure. I commend the bill to the Senate.

Question resolved in the affirmative.

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

COPYRIGHT AMENDMENT (MORAL RIGHTS) BILL 1999
Second Reading

Debate resumed from 7 November, on motion by Senator Heffernan:
That this bill be now read a second time.
Senator BOLKUS (South Australia) (12.48 p.m.)—I say at the outset that there has been some movement on the Copyright Amendment (Moral Rights) Bill 1999 legislation. There has been some movement by the government, and we are pleased to see that. We are pleased to see that the government has seen some sense and done a backflip in response to the opposition’s concerns about the proposed moral rights legislation as it was first drafted. The government has recognised at last that what it was proposing to do was, in essence, the wrong thing. It was proposing to take an agreement that was made specifically for the film and TV industry and apply it across the entire arts industry. For some time we have made it very clear that this situation was unacceptable. We have been prepared to specifically amend the bill to implement a comprehensive moral rights regime to reflect the film and television agreement and concerns within the wider arts industry. As I say, the government, aware that both Labor and the Democrats were prepared to support amending this legislation, has at last seen some reason and has substantially adopted Labor’s amendments. These amendments will now be introduced by the government. We are prepared to support them because they are significant improvements on the government’s initial bill. As the government is aware, there is still some concern in the arts industry in relation to the application of certain parts of this legislation. Therefore, we will be watching its application closely, and we will be prepared to make further amendments to the bill if required.

One aspect of moral rights that is not specifically addressed in this legislation is moral rights for indigenous Australians. For indigenous Australians, art is an expression of all aspects of life and identity, and art is a major way of passing on culture to future indigenous generations. Many indigenous artworks depict culturally important content such as creation stories and ceremonies. Certain images, techniques and styles have developed over time, originating from and identifying particular indigenous groups. Indigenous law and custom may control the use of these. Therefore, accuracy of reproduction of an artwork can cause deep offence to those familiar with the Dreaming. I believe that the introduction of moral rights of authorship and integrity will be significant for indigenous artists. There are of course issues in relation to extending moral rights protection to indigenous clans over works that contain traditional ritual knowledge. This has not been addressed in the current legislation. We give a commitment to consult extensively with indigenous artists and communities and other parties as to the most appropriate way of extending specific moral rights to indigenous artists.

Having said all that, this legislation has taken a long road to get to this stage. It must be remembered that the Labor Party first promised an examination of moral rights for artists by the Keating Labor government at the 1993 federal election. In June 1994, the ministers for arts, justice and communications jointly released a discussion paper entitled Proposed moral rights legislation for copyright creators. From these discussions, draft moral rights amendments were prepared and circulated just before the election in February 1996. Unfortunately, as we all know, there was a change of government. That led to the current government taking what we believe to be a less than satisfactory approach to moral rights since 1996. The Copyright Amendment Bill 1997 was introduced in June 1997 and was referred to the Senate Legal and Constitutional Legislation Committee. That committee reported in October 1997. Because of, essentially, the government’s inability to resolve industry differences, the government withdrew the moral rights provisions of the Copyright Amendment Bill 1997. Senator Alston, then Minister for the Arts, gave a commitment in June 1998 that he would reintroduce moral rights amendments by the end of 1998 after further consultation. The government finally got around to introducing this bill, the Copyright Amendment (Moral Rights) Bill 1999, in December 1999. When we finally got the legislation, it was sadly lacking in substance and demanded significant amendment. As I said earlier, we have drawn a number of concerns to the government’s attention. At last they have listened to most of them, and that is why at this stage we are supporting the
amendments that are being proposed by the government today.

The introduction of moral rights for Australian artists is a significant achievement. Moral rights seek to complement existing economic rights but, unlike economic rights, moral rights seek to deal with the creator’s honour and reputation through the way their work is used. We believe this bill, as well as having a philosophical commitment to moral rights, should address Australia’s obligations under the 1971 Paris Revision of the 1928 Berne Convention for the Protection of Literary and Artistic Works. Labor support moral rights because they provide recognition that a work is part of an author’s character and personality and therefore any unauthorised change to the work could reflect badly on the author. The right of individuals to protect the integrity of their work and the right to have their work attributed to them are at the core of moral rights. The right to be able to protect a work from derogatory treatment has also been addressed. ‘Moral rights’ is defined to mean the following three rights: the right of attribution of authorship, the right not to have authorship falsely attributed and the right of integrity of authorship. I am pleased that the government has done this backflip at the last moment. It is now moving substantial amendments to its original bill. It is now taking what we believe to be a more bipartisan and inclusive approach to the introduction of comprehensive moral rights legislation for all Australian artists by moving the amendments the opposition will be supporting today.

In conclusion, on behalf of the opposition I would like to thank the government for its cooperation in adopting the majority of Labor’s concerns in relation to the inadequacy of the initial bill. I also place on record the work of the previous shadow minister for the arts, Duncan Kerr, and the shadow Attorney-General, Robert McClelland. The opposition would also like to acknowledge the work— and I must stress this—of the Arts Law Centre of Australia, especially Delia Browne, who is a respected moral rights expert. The centre’s ongoing work to achieve moral rights for Australian artists has been brought to fruition in the amendments that we are accepting today. Labor will be supporting the circulated government amendments. We welcome the introduction of moral rights for Australians and this legislation, to the extent that it does that.

Can I also indicate that there will be some amendments moved by the Australian Democrats. We are disappointed that we are not in a position to have given them greater consideration. They were presented to us at about 11 a.m. this morning, less than two hours ago. There has been absolutely no consultation with the opposition on these amendments. We are not aware, for instance, of the extent, if any, of any consultation that the Democrats have undertaken with indigenous artists in forming these amendments. We understand the spirit and direction they want to take, but I think this legislation demands more than a less-than-two-hour consideration of amendments such as the ones that are to be moved by the Democrats. The issues of moral rights for indigenous artists are serious issues. We think it would be appropriate for the government to instigate an inquiry into moral rights for indigenous artists, and such an inquiry would be supported by the opposition. We cannot support Senator Ridgeway’s amendments if he decides to go ahead with them today. We cannot support them at this stage but, as I signalled earlier, this area does require attention and will be given attention by Labor in government. As I say, there probably is a very good case for an inquiry into this area in the interim.

Senator RIDGEWAY (New South Wales) (12.57 p.m.)—The Australian Democrats see today as a very important day for the Australian arts community. I believe that Australia is a step closer to fulfilling our obligations under the Berne convention. I would also like to be able to say that I am pleased about Australia meeting a debt to our indigenous arts community by recognising their very particular moral rights at both the individual and collective level. I will talk more on that, in the committee stage. I would like the chamber to note that I am attempting to shorten my speech during the second reading debate in order to talk more specifically about indigenous moral rights. Perhaps
it may well come about, as part of the government’s undertaking today, that they will address a number of issues that I raise. Nevertheless, the Australian Democrats congratulate the government on its amendments and are pleased to be able to support the package of amendments tabled today to introduce moral rights into the Australian Copyright Act.

Special congratulations are also due to the Arts Law Centre of Australia and most especially its Director, Ms Delia Browne. She has worked tirelessly bringing this legislation to fruition. Without her dedication and passion on this issue over the last decade, the arts practitioners of Australia would surely be seeing a very different set of amendments being considered in this chamber. Credit also needs to go to Tamara Winikoff of the National Association of the Visual Arts, Jose Borghino of the Australian Society of Authors, Sue McCreadie and Ian David of the Australian Writers Guild, and Richard Harris of the Australian Screen Directors Association. Every one of them has worked hard to negotiate these amendments and reach consensus amongst themselves, the artists they represent and the government. In reaching that consensus, much ground has been conceded by the arts sector, the film and television sector and the government.

The Australian Democrats are particularly mindful of the concerns still held by the arts sector as to how the bill in its form today will work in practice. In recognition of the other strengths of the bill and the overall benefits that legislative moral rights protection could bring, the ASA and the Arts Law Centre have put those concerns to one side, and recommended the enactment of the bill, which we are happy to support. However, I would like to put those concerns on the public record. They relate to the sections of the bill that deal specifically with the agreement that was negotiated by the film and television sector with the government and, in turn, how that agreement will impact on the rest of the arts sectors. Those sections are 195AM, 195AN subsection (4), 195AW, 195AZM, 195AZN and 195AZO.

It is the Democrats’ understanding that the agreement reached between the film and television sector was only ever meant to apply to that particular sector and it was on that basis that other art sectors felt it appropriate not to be directly involved in those negotiations. It is also my understanding that the government has developed amendments which will establish two consent procedures that will operate side by side for the film and television sector and also for the rest of the arts sector. This is borne out by sections 195AW and 195AWA. Whilst it is clearly not an ideal situation and will create some anomalies, all parties to that agreement have entered into this outcome in good faith, and the Democrats commend them for that.

The effect of these consent provisions will be that already published novels, plays and musical works which at some point in the future become incorporated into a film or television adaptation will be subject to the consent provisions that apply to the film and television sector. In effect, it means that the duration of the moral right of integrity of authorship in relation to a novel which is adapted for film will die with the author and not continue for the life of copyright protection, that is, another 50 years. That is something that will create a situation where the right of integrity of authorship will vary from one novel to another, depending on whether they have been adapted for film and TV or not.

The Australian Democrats will therefore be watching very closely to see how those provisions operate in practice and to what extent other measures to protect the rights of authors are able to operate to good effect. In particular, the Arts Law Centre and the ASA are placing great faith in section 195AWB, which provides that consents are invalidated by duress or false or misleading statements. However, the reality that consents with waivers recently became common practice in contracts for sectors of the arts industry only heightens the need for all parties to the negotiations surrounding this bill to make sure that the good faith with which those agreements have been entered into is not allowed to dissipate.

The Australian Democrats also want to give credit to the government for the significant advance in its position on the operation
of moral rights in relation to public art. We welcome these new amendments in 195AT. We believe they will assist greatly in fostering the development of a public art code of conduct. The Democrats therefore welcome these amendments. We endorse them with the reservations I have mentioned. We hope that the good faith of the parties will continue into the future so that all authors and our arts industry as a whole will benefit from this consensus outcome.

I note the comments from my colleague in the opposition in terms of the indigenous moral rights provision that I have put forward on behalf of the Australian Democrats. It needs to be said for the record that, whilst there have been attempts to deal with these issues over a long period, I do not think it is fair to say that consideration of this issue has been left to the last two hours. Clearly, this is an issue that has been raised time and time again by indigenous people. It is an issue that I raised with the shadow spokesperson for arts some four weeks ago. At that time I did not have to hand a copy of an amendment. That has now been provided. It simply needs to be stated for the record that consultation did occur. Whilst the ALP is not prepared to support that, I would hope that it is prepared to support a further inquiry and specific actions by the government to ensure that indigenous moral rights are dealt with adequately.

Senator BARTLETT (Queensland) (1.04 p.m.)—In the interests of facilitating the passage of this and other bills in this hour, I will speak more briefly than I would otherwise have. As Senator Ridgeway has indicated, the issue of copyright is a significant and important one and, in a way, it is a shame that we cannot have a more fulsome debate on the broader issues. I do want also to flag some other matters to put it in the broader context of the need for ongoing reform in the area of copyright.

This particular legislation goes part way to doing that. It has taken a fair while to appear, and I think we need to continue to make the point that there are other areas where we need action, particularly if we are to honour all the obligations we have made in international law in relation to human rights, culture and other areas. These include things such as directors’ copyright, resale royalty rights—which is particularly important for indigenous artists whose works are now being sold for hundreds or thousands of dollars when they were bought for maybe a couple of hundred dollars a matter of years ago—comprehensive legislation protection for indigenous copyright, both individual and collective, and also the issue of performance copyright, which is an economic right rather than a moral right and therefore, in that sense, not necessarily appropriate for this legislation. But the broader issue of copyright reform and the need for further action in relation to that needs to be acknowledged.

At the moment the Copyright Amendment (Moral Rights) Bill provides that authors of literary, dramatic, musical or artistic work shall be granted moral rights protection in their work in which the copyright subsists, but performers in sound recordings are not included in that. Certainly my view is that we need to include accreditation to and preservation of integrity in performers’ audio and audiovisual work. This was something that was mentioned in the present government’s pre-election arts policy ‘For art’s sake—a fair go’, which indicated it would devise workable performance copyright legislation. I trust the government is still working to deliver on that commitment.

It is important that performers be given a legal right to receive equitable remuneration for the reproduction, public performance, broadcasting and communication to the public of their recorded performances. The World Intellectual Property Organisation, WIPO, adopted the World Performances and Phonograms Treaty in Geneva in 1996, which protects all of those performers’ rights in sound recordings. The treaty has provided important economic incentives for performers, yet under the current copyright law in Australia there is no protection for performers. The only right performers currently have is where a sound recording of a performance is used in a film and the recording was not initially authorised for that purpose.
Under the copyright law there are two copyrights relevant to the music industry, neither of which give rights to performers on sound recordings. One of those is a musical work in a work comprising both music and lyrics, and the owner of the copyright there in the musical work is in the songwriter. The second copyright is the sound recording which is a work comprised of a series of recorded sounds and the sound is on a disc or a record. The owner of copyright in a sound recording is the person who paid for it, which is usually the record companies. The largest owners of these copyrights, of course, are the major record companies.

As a result of the copyright, the owners have the right, among other rights, to play the work publicly, to broadcast or to copy the work, most usually through the selling of CDs and so on. When either copyrights are played publicly or broadcast, the venues such as entertainment centres, pubs, hairdressers, restaurants, radio stations, cinemas and so on have to pay for the right to do that. They pay two licence fees. The fee for the musical work goes to APRA, which distributes that income to songwriters, and the fee for the sound recording goes to the PPCA, which distributes that income to the owners of the sound recordings and artists entitled to an artist royalty.

Any payments performers currently receive under their contracts with record companies and/or from the PPCA are based on their contribution to the recording costs of sound recordings, not linked to their performance per se. Although the record company pays the initial recording costs, the record company recoups those costs from the performers. That is the artist’s royalties. So, in effect, performers are paying for the costs of recording. That is not so for composers. As a result of the copyright entitlements in the act on the musical work, composers are paid a royalty, known as a mechanical royalty, on every record from the first record sold.

Recognising performers’ copyright would give performers with recordings the same rights and economic stream as other copyright owners; it would not be an equivalent income stream but the same rights to some economic stream. In contrast to the existing rights under the act, performers would have rights in relation to a range of uses of authorised recordings for performances and moral rights. It is my view that performers are entitled to equitable remuneration in recognition of the value of their performances. I am sure all of us could list—and I would if I was not rushed for time—any number of well-known songs where the performer, whether it is a singer or other musicians, clearly contributed to the success of that recording yet they have no copyright under law; only the writer of the song does.

Because performers have no legal rights for negotiating directly with end users of recordings on which they have performed, they have no opportunity to establish income streams which are independent of the maker of the first recording of a live performance. So if performers are granted legal rights to their performances, they will be entitled to receive payment for the use of their recorded performances. Performers would receive remuneration for the reproduction, broadcasting and public performance of their recordings, as do the composers and the owners of sound recordings currently.

Because performers have no rights, they have extremely limited income streams, and I think that this point needs to be made. If we are looking at trying to encourage or generate economic incentives for the arts industry and the music industry, some guarantee of income stream—some right to that through the work of the performer—is absolutely crucial. The average income for an Australian musician—a non-composing one—is well below average weekly earnings. I think addressing something such as performance copyright would go some way to improving the opportunities for people who wish to pursue activity in the arts industry and the music industry.

I do urge the government, in their ongoing efforts to improve, reform and update copyright law, ideally to address all of those issues I outlined at the start of my contribution, but particularly performance copyright. As a former musician of absolutely no note whatsoever, I could be seen to have an interest in that. Certainly, from my previous expe-
rience and involvement in the music industry, I am well aware of the sacrifices people make, the very limited opportunity to earn a decent living and the fact that performers of whatever type—whatever instrument or voice—make an integral contribution to the value of a sound recording. Their contribution and the rights attached to that recording should be enshrined in law, as it currently is for the composers of those works.

Senator PATTERSON (Victoria—Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs and Parliamentary Secretary to the Minister for Foreign Affairs) (1.12 p.m.)—It has been a long haul in the issue of moral rights. I was shadow minister for the arts—I cannot actually remember when; it may have been the mid-nineties—and this was an issue then when Labor was in government. It is a tough issue; it is not easy, and I am delighted that it has been the coalition government that has finally brought legislation into this chamber to deal with the issue of moral rights.

I think I read about six folders of material on moral rights, and I realised what a complex question it is. There are arguments and views on all sides. I visited the Arts Law Centre and I know that they have had a particular role to play in this issue over many, many years. Labor had 13 years and they got to exposure draft bill stage, and this was an issue then when Labor was in government. It is a tough issue; it is not easy, and I am delighted that it has been the coalition government that has finally brought legislation into this chamber to deal with the issue of moral rights.

Delia Browne from the Arts Law Centre has brought her knowledge and experience to this debate and has contributed enormously, as has been said by the Democrats and the Labor Party. She also brought to bear her skills in consulting and has brought consensus among the various interests within the arts community. Anybody who has read anything on this area realises that there are various views even within the arts community about the issue of moral rights. So our congratulations ought to go to Delia Browne for the contribution that she has made to this debate and to this bill.

The bill is another important landmark in the government’s ongoing program of copyright reform. It establishes for the first time a comprehensive regime for the protection of the moral rights of Australian authors, artists and film makers. It implements the coalition’s commitment at the 1996 election, reiterated at the 1998 election, to develop legislation to ensure greater respect for the integrity of creative endeavour.

There has been increasing criticism that Australia’s implementation of its obligations under the Berne convention is fragmentary and incomplete. This bill will address those criticisms. This bill is not just about fulfilling international obligations. More importantly, it is about acknowledging the great importance of respect for the integrity of creative behaviour. At its most basic, the bill is a recognition of the importance to Australian culture of literary, artistic, music and dramatic works and of those who create them. The government recognises the concerns of users of copyright, such as broadcasters, advertising agencies, film makers and newspaper publishers, that moral rights will unduly hamper their existing practices. However, if a user of a work respects the rights of the creator, the user will not need the author’s permission in making use of that work. Thus, if a user acknowledges, where reasonable, the authorship of the work and, where reasonable, avoids treatment that is prejudicial to the reputation of the author, there can be no objection by the author or the creator.

The government’s intention is that as a result of these amendments the broader film industry consent provision currently in the bill will only apply to the extent that a work is actually included in a film. If a work is never included, the restricted consent provision we are introducing today will operate to limit the range of acts and omissions to which the consent may be sought. The existing consent provisions reflect the outcome of close to two years of negotiations with the film industry, represented by the Film and Television Group, a body with representatives from all sectors of the film industry and established by the industry to develop a unified industry position on moral rights.
The bill is another initiative from a government committed to reshaping copyright for the 21st century and beyond. We have addressed the main issues of controversy and have worked hard to accommodate as far as possible the views conveyed to us.

I wish to respond to a couple of comments. Senator Ridgeway received a letter from Senator Alston dated yesterday, and I wish to read into Hansard the relevant part of that letter:

However, I will ask my Department to give serious consideration to the principles underlying your proposals in the context of its development of legislative amendments and other measures to address the issues you raise. I have asked my Department to bring forward a final proposal for the consideration of myself and my fellow Ministers early in the new year. I undertake to ensure that you—

that is, Senator Ridgeway—

are consulted in my Department’s deliberations, including on draft proposals and legislative amendments. I will also ensure that my Department consults with representatives of appropriate peak Indigenous bodies.

I wanted to put on the record that commitment that the minister has made to Senator Ridgeway.

With regard to the comments Senator Bartlett made about actors being granted moral rights in relation to films, the bill deals with moral rights in works and films as required by the Berne convention, of which Australia has been a member for many years. Performers’ moral rights are dealt with in the WIPO Performances and Phonograms Treaty concluded in 1996 and not yet in force internationally. The government has consulted affected interests on the possibility of legislating for the obligations under that WIPO treaty, including performers’ moral rights. Further consideration will be given to this issue following a diplomatic conference taking place in Geneva as we speak to adopt a protocol to the WIPO treaty to cover performers’ rights in films, TV programs and other audiovisual productions. I hope that addresses some of the concerns that Senator Bartlett had.

In closing this debate, I want to again say that it is easy to run away from the tough tasks. It is easy to put it off and keep having consultations. It takes a government that is committed to appropriate reform to bring in these sorts of reforms to address, to the best of our ability, the issues that have concerned both sides of the industry—the artists and those who use the works of artists—and to accommodate the very differing views. The bill, with the changes that are being moved, forms a balanced package of rights that will represent a great advance in the recognition of, and respect for, the creativity of authors, artists and film makers. It is a workable scheme. It deserves the strong support of this parliament. I commend the bill to the Senate.

Question resolved in the affirmative.

Bill read a second time.

In Committee

The bill.

Senator PATTERSON (Victoria—Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs and Parliamentary Secretary to the Minister for Foreign Affairs) (1.19 p.m.)—I table a supplementary explanatory memorandum relating to the government amendments to be moved to this bill. The memorandum was circulated on 7 December 2000. I seek leave to move government amendments Nos 1 to 21 together.

Leave granted.

Senator PATTERSON—I move:

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

1A Subsection 55(2)

Repeal the subsection.

(2) Schedule 1, item 1, page 9 (lines 4 to 8), omit paragraph 195AE(2)(a), substitute:

(a) to insert or affix, or to authorise the inserting or affixing of, a person’s name in or on the work, or in or on a reproduction of the work, or to use, or to authorise the use of, a person’s name in connection with the work, or in connection with a reproduction of the work, in such a way as to imply falsely that the person is an author of the work; or

(3) Schedule 1, item 1, page 9 (lines 23 to 26), omit paragraph 195AF(2)(a), substitute:
(a) to insert or affix, or to authorise the inserting or affixing of, a person’s name on the film or on a copy of the film in such a way as to imply falsely that the person is the director, producer or screenwriter, as the case may be, of the film; or

(4) Schedule 1, item 1, page 13 (lines 6 to 9), omit subsection 195AN(4), substitute:

(4) If:

(a) a cinematograph film; or

(b) a literary, dramatic, musical or artistic work as included in a cinematograph film;

has 2 or more authors, the authors may enter into a written co-authorship agreement by which each of them agrees not to exercise his or her right of integrity of authorship in respect of the film or work, as the case may be, except jointly with the other author or authors.

(5) Schedule 1, item 1, page 15 (lines 16 and 17), omit paragraph 195AR(2)(h), substitute:

(h) whether the work was made:

(i) in the course of the author’s employment; or

(ii) under a contract for the performance by the author of services for another person;

(i) if the work has 2 or more authors— their views about the failure to identify them.

(6) Schedule 1, item 1, page 16 (lines 21 and 22), omit paragraph 195AS(2)(g), substitute:

(g) whether the work was made:

(i) in the course of the author’s employment; or

(ii) under a contract for the performance by the author of services for another person;

(7) Schedule 1, item 1, page 16 (after line 24), at the end of subsection 195AS(2), add:

; (i) if the work has 2 or more authors— their views about the treatment.

(8) Schedule 1, item 1, page 17 (line 31) to page 18 (line 8), omit paragraph 195AT(2)(b), substitute:

(b) if paragraph (a) does not apply—the owner complies with subsection (2A) in relation to the change, relocation, demolition or destruction.

(9) Schedule 1, item 1, page 18 (after line 8), after subsection (2), insert:

(2A) This subsection is complied with by the owner of a building in relation to a change in, or the relocation, demolition or destruction of, the building if:

(a) the owner has, in accordance with the regulations and before the change, relocation, demolition or destruction is carried out, given the author or a person representing the author a written notice stating the owner’s intention to carry out the change, relocation, demolition or destruction; and

(b) the notice stated that the person to whom the notice was given may, within 3 weeks from the date of the notice, seek to have access to the work for either or both of the following purposes:

(i) making a record of the work;

(ii) consulting in good faith with the owner about the change, relocation, demolition or destruction; and

(c) the notice contained such other information and particulars as are prescribed; and

(d) where the person to whom the notice was given notifies the owner within the period of 3 weeks referred to in paragraph (b) that the person wishes to have access to the work for either or both of the purposes mentioned in that paragraph—the owner has given the person a reasonable opportunity within a further period of 3 weeks to have such access; and

(e) where, in the case of a change or relocation, the person to whom the notice was given notifies the owner that the person requires the removal from the work of the author’s identification as the author of the work—the owner has complied with the requirement.

(10) Schedule 1, item 1, page 18 (lines 18 to 34), omit paragraph 195AT(3)(b), substitute:

(b) if paragraph (a) does not apply—the owner complies with subsection (3A) in relation to the change, relocation, demolition or destruction.
(11) Schedule 1, item 1, page 18 (after line 34), after subsection (3), insert:

(3A) This subsection is complied with by the owner of a building in relation to a change in, or the relocation, demolition or destruction of, the building if:

(a) the owner has, in accordance with the regulations and before the change, relocation, demolition or destruction is carried out, given the author or a person representing the author, or the authors or the persons representing the authors, whose identity and location the owner knows, a written notice stating the owner’s intention to carry out the change, relocation, demolition or destruction; and

(b) the notice stated that the person to whom the notice was given may, within 3 weeks from the date of the notice, seek to have access to the building for either or both of the following purposes:

(i) making a record of the artistic work;

(ii) consulting in good faith with the owner about the change, relocation, demolition or destruction;

and

(c) the notice contained such other information and particulars as are prescribed; and

(d) where the person to whom the notice was given notifies the owner within the period of 3 weeks referred to in paragraph (b) that the person wishes to have access to the work for either or both of the purposes mentioned in that paragraph—the owner has given the person a reasonable opportunity within a further period of 3 weeks to have such access; and

(e) where, in the case of a change or relocation, the person to whom the notice was given notifies the owner that the person requires the removal from the building of the author’s identification as the author of the artistic work—the owner has complied with the requirement.

(12) Schedule 1, item 1, page 18 (line 35), omit “and (3)”, substitute “, (2A), (3) and (3A)”.

(13) Schedule 1, item 1, page 19 (lines 7 to 24), omit paragraph 195AT(4A)(b), substitute:

(b) if paragraph (a) does not apply—complies with subsection (4B) in relation to the removal or relocation.

(14) Schedule 1, item 1, page 19 (after line 24), after subsection (4A), insert:

(4B) This subsection is complied with by the remover in relation to the removal or relocation of a moveable artistic work if:

(a) the remover has, in accordance with the regulations and before the removal or relocation is carried out, given the author or a person representing the author a written notice stating the remover’s intention to carry out the removal or relocation; and

(b) the notice stated that the person to whom the notice was given may, within 3 weeks from the date of the notice, seek to have access to the work for either or both of the following purposes:

(i) making a record of the work;

(ii) consulting in good faith with the remover about the removal or relocation;

and

(c) the notice contained such other information and particulars as are prescribed; and

(d) where the person to whom the notice was given notifies the remover within the period of 3 weeks referred to in paragraph (b) that the person wishes to have access to the work for either or both of the purposes mentioned in that paragraph—the remover has given the person a reasonable opportunity within a further period of 3 weeks to have such access; and

(e) where the person to whom the notice was given notifies the remover that the person requires the removal from the work of the author’s identification as the author of the work—the remover has complied with the requirement.

(15) Schedule 1, item 1, page 20 (line 17), after “omission”, insert “—films or works in films”.

(16) Schedule 1, item 1, page 20 (after line 17), before subsection (1), insert:
(1A) This section applies to a work that is:
(a) a cinematograph film; or
(b) a literary, dramatic, musical or artistic work as included in a cinematograph film.

(17) Schedule 1, item 1, page 21 (after line 9), after section 195AW, insert:

195AWA Author’s consent to act or omission—work that is not a film or included in a film

(1) This section applies to a literary, dramatic, musical or artistic work other than such a work as included in a cinematograph film.

(2) It is not an infringement of a moral right of an author in respect of a work to do, or omit to do, something if the act or omission is within the scope of a written consent genuinely given by the author or a person representing the author.

(3) Subject to subsection (4), a consent does not have any effect unless it is given:
(a) in relation to specified acts or omissions, or specified classes or types of acts or omissions, whether occurring before or after the consent is given; and
(b) in relation to either of the following:
(i) a specified work or specified works existing when the consent is given; or
(ii) a specified work, or works of a particular description, the making of which has not begun or that is or are in the course of being made.

(4) A consent may be given by an employee for the benefit of his or her employer in relation to all or any acts or omissions (whether occurring before or after the consent is given) and in relation to all works made or to be made by the employee in the course of his or her employment.

(5) A consent given for the benefit of the owner or prospective owner of copyright in the work or works to which it relates is presumed, unless the contrary intention appears in the consent instrument, to extend to his or her licensees and successors in title, and to any persons who are authorised by the owner or prospective owner, or by such a licensee or successor in title, to do acts comprised in the copyright.

195AWB Consent invalidated by duress or false or misleading statements

(1) If a person applies duress to an author, or to a person representing an author, in connection with the giving of a consent for the purposes of section 195AW or 195AWA, the consent does not have any effect.

(2) If:
(a) a person makes a statement to another person; and
(b) the person makes the statement knowing:
(i) that the statement is false or misleading in a material particular; or
(ii) that a matter or thing has been omitted from the statement without which the statement is false or misleading in a material particular; and
(c) the person makes the statement with the intention of persuading the other person to give, or not to give, a consent for the purposes of section 195AW or 195AWA;

the consent does not have any effect.

(18) Schedule 1, item 1, page 21 (lines 23 and 24), omit “the author’s legal personal representative”, substitute “a person representing the author”.

(19) Schedule 1, item 1, page 28 (line 32) to page 29 (line 5), omit subsection 195AZO(2), substitute:

(2) Subject to subsection (3), the right of integrity of authorship in respect of a literary, dramatic, musical or artistic work, other than such a work as included in a cinematograph film, subsists in respect of a work made before or after the commencement of this Part.

(20) Schedule 1, item 1, page 29 (lines 7 and 8), omit “a work under paragraph (2)(a)”, substitute “a work referred to in subsection (2) that was made before the commencement of this Part”.

(21) Schedule 2, page 31 (after line 1), at the end of the Schedule, add:

10 After section 195AV
Insert:
Matters to be taken into account

In determining whether a person has authorised the doing of an act that is an infringement of moral rights, the matters that must be taken into account include the following:

(a) the extent (if any) of the person’s power to prevent the doing of the act concerned;

(b) the nature of any relationship existing between the person and the person who did the act concerned;

(c) whether the person took any reasonable steps to prevent or avoid the doing of the act, including whether the person complied with any relevant industry codes of practice.

Communication by use of certain facilities

A person (including a carrier or carriage service provider) who provides facilities for making, or facilitating the making of, a communication is not taken to have authorised the doing of an act that is an infringement of moral rights merely because another person uses the facilities so provided to do such an act.

Senator BOLKUS (South Australia) (1.20 p.m.)—I indicate that the opposition support these amendments. As I said earlier in the debate, they reflect the position that Labor have taken for some time on this legislation. We are pleased that the government has finally seen fit to accept Labor arguments on the bill and, as a consequence, we will support these amendments.

Amendments agreed to.

Senator RIDGEWAY (New South Wales) (1.20 p.m.)—by leave—I move Democrats amendments Nos 1 to 3:

(1) Schedule 1, item 1, page 5 (line 12), at the end of the definition of work, add “, and includes an Australian indigenous cultural work.”

(2) Schedule 1, item 1, page 3 (after line 17), after the definition of attributor, insert:

Australian indigenous cultural work means a work of cultural significance to Aboriginal and Torres Strait Islander peoples.

(3) Schedule 1, item 1, page 5 (lines 13 and 14), omit section 190, substitute:

Moral rights conferred on individuals

Subject to section 190A, only individuals have moral rights.

Moral rights in relation to Australian indigenous cultural work

(1) Moral rights in relation to an Australian indigenous cultural work created by an indigenous author, under the direction of an indigenous cultural group, may be held and asserted by a custodian nominated by the relevant indigenous cultural group as its representative for the purposes of this Part.

(2) In this Part, for the purposes of its application to Australian indigenous culture works, a reference to an author is to be taken as a reference to a custodian nominated under subsection (1).

The Australian Democrats are proud to move these amendments that will introduce indigenous moral rights into Australian law but disappointed that the government and the opposition will not be supporting them. I think it does need to be put on the record that we have been encouraged to move these amendments as a result of the strong support we have received from indigenous artists and representative organisations across Australia. I intend to refer to some of the comments that have been forwarded to me in recent days.

First, I think it is important to explain why indigenous Australians feel so strongly about the need for steps to be taken to have their cultural rights recognised and protected in the non-indigenous legal system. Ms Terri Janke, a well-known indigenous solicitor and a person who can be described as an expert in relation to intellectual property rights, was commissioned by ATSIC and AIATSIS to prepare a report on how indigenous cultural and intellectual property rights could be advanced in Australia. That report, entitled Our Culture: Our Future, was released last year. It is the culmination of many years of community consultation and research by Ms Janke. It has been described as a groundbreaking analysis and blueprint, and it has guided the Australian Democrats in the development of our amendments on indigenous moral rights.
The author of *Our Culture: Our Future*, Terri Janke, explains that indigenous art and cultural expression is interwoven with indigenous identity and that they both reinforce and define the other. The protection of indigenous cultural expression in all its varied forms is therefore a key means by which governments can demonstrate that they value those indefinable qualities that distinguish Aboriginal and Torres Strait Islander peoples. I will not go into detail about what Terri has to say about that, but the Australian Democrats drafted these amendments with the recommendations of the Janke report.

I note the response from the government—an undertaking to look at these issues again in the new year—but I think Terri Janke’s comments capture some of the main principles that need to be reflected in our national laws. Those principles include that art is the primary vehicle for indigenous cultural expression. It can take many forms, but it is through our art that we express our identity and our history and transmit culture to our children. Indigenous artwork is also a means by which customary laws and practices are learnt, reinforced and respected. Indigenous art is not just something of aesthetic beauty; it has layers of meaning, some of which the unpractised eye is oblivious to, and it should be respected and revered. Indigenous cultural expression is part of indigenous heritage. It is not owned by individual artists; they are custodians of the knowledge and wisdom it incorporates and reflects, which is the heritage of the community from which it originated countless generations ago.

The second last point is that indigenous moral rights are therefore collective rights that are inalienable from their community of origin, no matter who buys an art work, no matter who dances a corroboree. They are required to pay respect to the appropriate community whose culture is embodied in that work. They are required to uphold the right of integrity and the right of attribution of that group or the individual nominated by that group to exercise those moral rights. Indigenous moral rights carry with them a weight of individual responsibilities. As someone authorised to paint your community’s dreaming, an artist takes on many responsibilities as a custodian which carry with them grave and very harsh penalties if breaches occur, regardless of who carries out those breaches.

It is these principles which the Australian Democrats and I personally believe are long overdue in our national laws. It is these principles that need to be incorporated into our copyright act and other legislation, including the Aboriginal and Torres Strait Islander Heritage Protection Act, to ensure that indigenous cultural and intellectual property rights are fully recognised, understood, appreciated and protected. These outcomes are critical to the practices and maintenance of indigenous cultures in Australia and therefore the very identity of Aboriginal and Torres Strait Islander peoples.

Our amendments will recognise Australian indigenous cultural work, which includes literary, dramatic, musical, artistic and cinematographic works. These works are distinguished from other works by their significance to Aboriginal and Torres Strait Islander peoples. Perhaps the most important feature of indigenous moral rights contained in our amendments is the recognition that these rights are both collective and individual. Each community determines how they deal with that, and I will leave that discussion for another time.

The story in all of this relating to the need for adequate protection of indigenous moral rights is perhaps best illustrated by the recent actions of the International Olympic Committee in relation to its own web site. This is a story that I think has been untold and unheard of in Australia. I have been informed by the National Indigenous Arts Advocacy Association that the site has been displaying and promoting significant Aboriginal works as free downloads to be used as computer wallpaper without having sought the artists’ consent. Since the IOC is based in Switzerland, Swiss law applies, which requires substantial legal costs in both Australia and Switzerland. Under Swiss law, the artist has the moral right to decide whether, when and how the work may be altered and whether, when and how the work may be used to create a derived work. This gives the indigenous
artists another claim not yet available in Australia; that is, to protect the integrity of their important cultural works. To date, NIAAA reports that correspondence with the International Olympic Committee has demonstrated its unmitigated contempt for indigenous Australians’ rights in pursuing the case.

NIAAA is demanding, on behalf of those artists, that the downloading of the art works cease, that damages be paid for copyright infringement, that additional damages be paid for breach of moral rights and that the payment of licences for approved usage be made. In addition to that, NIAAA is also demanding that an official letter of apology from senior IOC directors be presented to the artists who have had their works abused and that that letter be posted on the IOC web site. The clear message from this example is that many people, both in Australia and overseas, continue to regard indigenous cultural expression as a resource that is open to use by anyone. If these things were to happen here, our laws would be inadequate. There is no protection. However, in this case indigenous people are able to go offshore and use Swiss laws to at least try to assert the protection of their rights.

The urgency for adequate protection against what, to many indigenous communities, is a form of sacrilege has been accentuated by the exponential growth in the demand for indigenous cultural works in both Australia and internationally. The indigenous culture industry is currently estimated to be worth some $85 million per annum. The famous auction house of Sotheby’s grossed in excess of $4 million at a single auction of indigenous fine art this year, a record figure for an industry that is barely four decades old but has the unique claim of originating from the world’s oldest living cultures. It is not surprising that this vibrant sector of the national and international fine arts market is described by specialists in the industry as the raging bull of Australian art. But how long will indigenous cultures continue to win such accolades if they are left to flounder with a system of laws that do not even begin to recognise their fundamental characteristics and provide appropriate measures of protection?

In a year when Australia reflects its pride in Aboriginal and Torres Strait Islander cultures by showcasing them at the Sydney Olympics, how is it that members of the government can dismiss outright all efforts to extend basic legal protections for these cultures? As Patrick Dodson said recently:

We can have no more of a schizophrenic national behaviour where the people celebrate existence, while those who are guided by the political pragmatism of the day deny us the rights to our country and the rights to maintain our spiritual strength.

We have to take matters beyond a faint recognition of the existence of Indigenous people and the things that are important to us, to an embracing, by a mature nation, of that which makes us Aboriginal—our unique identities, our laws and languages, our responsibilities to the country and the rights to maintain our spiritual strength.

It is a sad fact that in the year 2000 every indigenous community contemplating entering the art market faces a double-edged sword—the commercialisation of part of their culture and the associated potential economic returns versus the loss of any control, on the part of the community which owns it, over how that work is used, displayed, copied, modified and so on.

There is a need for legislative recognition, and I would have hoped that the government would have seen fit to bring that forward today. Even this morning, with the Prime Minister’s own commitment to reconciliation, it seems to me that even in practical terms this is a very simple and easy thing to do, and so far the government has not come on board. There is a need, I think, to recognise that this is a market open to abuse of indigenous peoples and there would inevitably be not just dispossession in the historical sense but also in the very real, modern and contemporary sense of art that is an expression of identity itself. I do not want to refer too much to other cases other than mentioning the Carpets case from 1994. People may remember that as one dealt with by the Federal Court and one where indigenous artworks were appropriated and used as part of images that were reproduced in the manufacture of carpets.

In closing, I would like to list the indigenous arts organisations which have whole-
heartedly supported the amendments for indigenous moral rights, which I tabled today. This list includes very well-known individuals as well as organisations which are operating from or representing remote indigenous communities across the country. The very broad support base that these people represent provides some indication of the importance of these amendments and what they hold for indigenous arts communities: Mr Djon Mundine of the National Gallery of Australia; Ms Hetti Perkins, the Curator of Aboriginal and Torres Strait Islander Arts at the New South Wales Art Gallery; the board and artist membership of the Boomalli Aboriginal Artists Company-operative; Mr Kevin Frances of NIAAA; Ms Justine Saunders, an actor; Mr Geoff Clark, the Chair of ATSIC; Ms Cathy Craigie, a member of the Aboriginal and Torres Strait Islander Arts Board of the Australia Council; the coordinators of the Buku-Larrnggay Mulka Centre in Yirrkala; Bangarra Aboriginal Dance Theatre; Delia Browne of the Arts Law Centre; Anna Ward of VISCOPY; Jose Borghino of the Australian Society of Authors; and Tamara Winikoff of NAVA.

I think that people have clearly expressed their views as to why these amendments ought to be supported. Whilst I understand that the government is not prepared to support them and that the ALP have clearly put their indication on the table, I am disappointed because there is an opportunity to do something really important. It needs to be handled properly. To give us less than two hours notice of a batch of amendments, I think, really betrays the fact that what we have here is something that is very much more in line with a cynical manoeuvre of playing politics rather than an intention to get an outcome. You cannot expect to come in here with less than two hours notice of an important issue such as this and then criticise others for not supporting your amendments. These amendments are important. They need to be addressed. We needed more time to address them, but to give less than two hours is a bit rich, and you yourself understand that.

Senator BOLKUS—We have had these amendments for two hours. I have been concerned about this issue for quite some time, but we had not seen these amendments before 11 o’clock this morning. Senator Ridgeway’s performing that sort of manoeuvre, cynical as it is, really reflects on a whole group of people who have been concerned about this issue and who have not been in his loop over the last few hours. The speech he just gave would have been prepared before 11 o’clock this morning. He would have known before 11 o’clock this morning that he would be moving these amendments. Was there any attempt to consult with Labor? No. I think that reflects very badly on Senator Ridgeway.

We are concerned to get an outcome on issues such as this, but it is unfair to people on our side of politics who have been concerned with the issue for this to be sprung on us in the last two hours and for Senator Ridgeway to then go on to say, ‘This is really disappointing. Labor has disappointed us again.’ This is just playing politics at the base level. He knew full well what we would do if he
sprang these amendments on us at the last moment. He knew full well what would happen if he sprang them on us in a debate which is listed as non-controversial. There is no capacity for divisions at this time of the day. I think what he has really done is let down the people he has worked with—the Djon Mundines and others. He let them down because he did not embark upon a healthy consultative process.

I am one who has been involved in this issue for quite some time, even from the time I was Minister Assisting the Treasurer in financial matters and Minister for Consumer Affairs. I would have liked to have been consulted by Senator Ridgeway on these particular amendments. I would have liked to have had some time to address them. I am disappointed in him in that he has sprung these on us at the last moment, knowing full well that he would not get a positive response.

I can anticipate that Senator Ridgeway will now put out a press statement saying, ‘Labor betrays indigenous Australians.’ I say that that would be totally unfair. We could put one out saying, ‘Ineptitude of the Democrats,’ or, ‘Who’s going to keep the Democrat bastards honest?’ and so on. We could indulge in that, but we will not.

I say to Senator Ridgeway: the best way to progress these issues is not to spring them on people at the last moment. It is probably more important to embark upon a consultation process than to prepare his speech and press statement. Hopefully next time we can actually get this right. As I said, I am in a sense personally offended, because this is an issue that has been very close to me for a long time. Other people in the Labor Party have been addressing it for a long time as well. We would have liked to be in a better position to consider these amendments. To spring them on us now is a base, cynical manoeuvre. I do not say that with any degree of spite; I say that with a sense of frustration.

Senator Patterson (Victoria—Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs and Parliamentary Secretary to the Minister for Foreign Affairs) (1.37 p.m.)—I will not comment on the remarks of Senator Bolkus as to Senator Ridgeway’s motives. All I will say is that the coalition has concerns about the amendments. First, there is a concern about the definition of ‘Australian indigenous cultural work’ as it stands. That really needs a lot more work. There are some issues pertaining to the constitution. There are some issues of the trust, there are fiduciary issues and there are some issues about the obligations and duties of representatives.

The time we have had to consider these amendments has not been long enough. I think we had the amendments a bit longer than did Labor but not long enough to address the issues that have been presented as they have been. We do not have a problem with the issue of recognition of indigenous cultural and artistic rights—I think Senator Alston’s letter indicates that—but I point out that the bill in its current form will address some of the concerns Senator Ridgeway raised, irrespective of whether they are indigenous works of art or works of art undertaken by non-indigenous people. The specific issues that he raises in his speech really need to be addressed much more carefully and in a much more detailed manner. This bill has been around for a while; it did not just appear yesterday. Amendments of the sort that are before us really need much greater and much more careful attention. For that reason the coalition will not be supporting the amendments put forward by the Democrats.

Amendments not agreed to.

Bill, as amended, agreed to.

Bill reported with amendments; report adopted.

Third Reading

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

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

Second Reading

Debate resumed from 27 November, on motion by Senator Ellison:

That this bill be now read a second time.
Senator CHRIS EVANS (Western Australia) (1.40 p.m.)—I am conscious that we have made very little progress this lunchtime on the passage of the bill, so I was going to suggest to the parliamentary secretary, Senator Patterson, that, given the timing, I seek leave to incorporate my second reading speech rather than delay the Senate for 20 minutes by reading it. I am happy to allow her to have a look at it, but there is nothing in it that is offensive or controversial.

Senator Patterson—Firstly, I have a problem with the incorporation of a speech, especially when I have not seen it. Even when I have seen it, I think it is a habit we should not get into. I personally have that view, and I am on duty in the chamber at the moment. If you could abbreviate your speech, that would be wonderful, but I would ask you to actually make your comments.

Senator CHRIS EVANS—I will just make my speech then, and Senator Patterson can deal with the complaints at 3 o’clock in the morning when our colleagues show their concern.

This bill makes it harder for people ineligible for the Pharmaceutical Benefits Scheme, such as tourists, overseas visitors and people with non-resident status, to obtain subsidised drugs. The bill also attempts to reduce the incidence of doctor shopping—the practice of a person getting multiple prescriptions from different doctors. The opposition support these two goals. We agree with tightening up the eligibility arrangements. However, this should not be at the expense of the privacy of an individual’s health information.

The Pharmaceutical Benefits Scheme is a $3.8 billion program. It is a significant government program that provides the community with reliable and affordable access to necessary and cost-effective medicine. Under the scheme, the Commonwealth pays about 82 per cent of the cost of PBS listed drugs. Pensioners are required to pay only $3.30 for each script, which makes sure that they have access to the medicines they need at an affordable price. Considering the substantial benefits payable through the PBS, its entitlement arrangements should be properly administered to make sure only eligible people receive the benefits. The government must also be vigilant in making sure that the process of listing a new drug on the Pharmaceutical Benefits Scheme is properly administered and that access to low cost pharmaceuticals continues.

The opposition has serious concerns that the government’s implementation of the final report of the review of PBS listing arrangements will weaken the PBS listing process, particularly in the short term. Decisions to place new drugs on the Pharmaceutical Benefits Scheme are made on the advice of the Pharmaceutical Benefits Advisory Committee. No new drug can be made available on the PBS unless the committee has recommended it.

This committee undertakes rigorous assessments of the cost effectiveness of new drugs before it advises the government on whether the health benefits and costs of a new drug warrant its inclusion on the PBS. In the period 1994 to 1997, the PBAC reviewed 326 major applications. Of these, 182 applications were for new listings on the PBS and 51 were for applications for major changes in indications, conditions of use or prices applying to drugs that were already listed. The remainder were resubmissions or a review of the basis of its pricing negotiations requested by the manufacturers.

The work of this committee is highly involved and, therefore, it is critical that it comprises people with the necessary experience in interpreting pharmaco-economic analysis and balancing those considerations with other factors, such as clinical need, equity of access, rule of rescue and the total costs to the health care system. The committee’s work is not straightforward. Interpreting the data and getting the balance right rests on the committee members possessing the right mix of skills and experience. It is estimated that it takes approximately 18 months for new members to develop that necessary experience.

Considering the volume of submissions and the complexity of the decisions before the committee, it is very concerning that the government is intending to overhaul the membership of the committee and replace up to six of its members, including its chair,
Professor Don Birkett, on 31 December. This, we believe, will create a vacuum on the committee, especially considering no transition arrangements are in place for the new chair. The opposition do not oppose reform in the composition of the Pharmaceutical Benefits Advisory Committee or placing limits on members’ terms. However, transition arrangements must be put in place first so the committee’s expertise is not lost. Senator Tambling’s own report states:

The introduction of an overall limit that applies to the number of years any one member could serve would ensure that membership was regularly turned over in future. A possible disadvantage of this system is that some highly valuable members could be retired prematurely. Their departure could create a gap in experience and expertise that may be affected during a transitional period until suitable replacements could be found and gain the necessary experience.

Senator Tambling’s final report goes on to state:

The role of the Chair is particularly important to the PBAC. This is primarily due to the need to show consistency of decision-making over long periods of time. This is accentuated by the inherent comparative nature of the work of the committee. There are significant advantages in these circumstances in having a PBAC Chairman with full working knowledge of the practices of the Committee and as a repository of corporate knowledge as to how the PBAC has tackled similar decisions in the recent past.

Clearly, Senator Tambling is ignoring the findings of his own report.

The Australian system of listing drugs for subsidy is recognised as a world leader and, consequently, proposals to alter the committee must be properly considered and not rushed through the parliament. As the former head of the department of health and now Professor of Health Policy at La Trobe University, Professor Stephen Duckett, pointed out on ABC Radio last Friday:

Australia is a very small country, and the number of people with expertise in pharmaco-economics is very, very limited. So arguments about new blood and so on really just don’t make any sense. What they’re trying to do is get rid of the people who know what it’s all about and who are being very rigorous in the application of the value-for-money principles.

It is irresponsible for the government to move these amendments to the PBAC without first putting in place those proper transition arrangements. That is why the opposition will move a second reading amendment to adjourn debate on the bill and refer the amendments to the Community Affairs Legislation Committee for consideration and report by 28 February 2001.

These changes to the PBAC need to be properly considered and transition arrangements need to be put in place. The opposition sees no need to rush the government’s PBAC amendments through the parliament. Interim arrangements are already in place for the six committee members whose terms expire on 31 December. What the government does need to do is to put in place transition arrangements. These transition arrangements are required for the changes recommended to both the composition of the committee and members’ terms. The government would, therefore, be better off, we think, withdrawing its PBAC amendments until those transition arrangements are put in place.

I will now turn to discussing the primary aim of this bill, and that is to make sure that only eligible people have access to the PBS. The PBS scheme does not currently require a person to prove their eligibility. Conventional patients must produce a health care card, but for the general benefit no proof of eligibility is currently required. It has therefore been difficult for pharmacists to determine the entitlement status of a customer or to recognise doctor shoppers. The desirability of tightening the legislative requirements to enable dispensers to check a customer’s eligibility is therefore recognised, provided that this is done in a cost-effective way.

This bill will require doctors and other prescribers to put the patient’s Medicare number on each prescription. This will allow pharmacists to check who is eligible for the PBS and assist the HIC and pharmacists to identify doctor shoppers. When fully implemented, the government will not pay pharmacists unless they have checked the person’s Medicare number and expiry date before dispensing the medicines. In addition, if the number is incorrect when compared to the HIC data, pharmacists will be responsible
for tracking down the customer in order to correct their Medicare number or obtain the balance of the payment for the pharmaceuticals. The bill permits pharmacists and doctors to retain the Medicare numbers for future use for the same patients but requires them to maintain the privacy of this information. The bill creates various offences for disclosing or misusing Medicare numbers.

There are a number of groups of people who may not have Medicare cards but who are eligible for pharmaceutical benefits, including people with disabilities in the care of a guardian, people who are itinerant, some Aboriginal people, visitors from overseas countries with which Australia has a bilateral agreement, and a person in an emergency situation or someone who has temporarily lost their card. To make sure that in the implementation of this bill access to subsidised PBS drugs is not denied to these eligible people, the scheme will be required to include a number of exemptions. These exemptions, we think, should be made clear to the parliament before the bill is passed.

While the opposition supports the aims of this bill, the effectiveness of the measures, I think, is questionable. Under the new scheme, it will not be necessary to have your Medicare card to have a prescription filled. It will only be necessary to quote your family’s Medicare number and the expiry date of the card. Agents can still collect a prescription if they also know the Medicare card number or at least can quote the same number as appears on the prescription. This measure will not be effective against doctor shopping if there is no data matching. Doctor shopping involves consumers obtaining large quantities of subsidised drugs for recreational drug use, sale for profit, or sending to friends overseas, by presenting prescriptions from different doctors to different pharmacists for the same drug. This bill may not, therefore, make much impact in either controlling use of the PBS by ineligible people or abuse of the PBS by the doctor shoppers. It is, therefore, doubtful that the bill will save the Commonwealth the large amounts of money claimed. This saving might also be offset by the increased costs incurred by implementing these requirements.

The opposition’s privacy concerns relate to whether the mechanism used in this bill, the public exchange of Medicare numbers, is foreshadowing the government’s overall approach to medical records and the development of a unique patient identifier by the Health Insurance Commission. So long as health privacy legislation does not exist, it is premature to be introducing a unique patient identifier, and there is every sign that the Medicare number on people’s cards has been effectively used in this way under this bill. There are ways to overcome this problem and make sure that each person can have a unique patient identifier that is confidential and does not appear on the card itself. But this requires a lot more thought than the government has given to this issue so far.

The second privacy concern is how the government will use this information once it has been collected. The bill is unclear about this issue. There are currently specific Privacy Commissioner guidelines about the use of pharmaceutical data and matching with medical benefits data. During briefings, departmental officials have indicated that the data collected based on Medicare numbers will not be matched against existing MBS and PBS data, but there is nothing in the legislation to stop it. There would be problems with this approach, because there are ambiguities about the numbers on cards, and one cannot be sure who the medicine has been purchased for. This point needs to be clarified, and I would appreciate it if the parliamentary secretary, in reply, could indicate to the Senate how the rules will operate for collecting data based on Medicare numbers and matching this against other HIC data as allowed for by this legislation.

These measures are being introduced separately from the legislation planned to implement the Better Medication Management Scheme. The BMMS promises to develop an electronic system for patient medication records that can be accessed by doctors, pharmacists and patients. The government has still not properly explained why it is introducing these two e-health schemes separately. The government is, we believe, creating one unique patient identifier to check a patient’s eligibility for the Pharma-
ceuatical Benefits Scheme and has flagged separate legislation to create another identifier to allow doctors, pharmacists and patients to access medication records as part of the Better Medication Management Scheme. Australians are going to have multiple unique patient identifier numbers, and none of them will be covered by a national health privacy regime.

Personal health information should not go online until the rules as to how the information is to be used are properly explained. The transition to electronic health records must be managed sensitively and be accompanied by strong privacy laws. The confusion surrounding unique patient identifiers needs to be cleared up. Government plans for electronic health records and unique patient identifiers need to be very clearly spelt out.

As I said at the start, the opposition supports the two primary aims of this bill: to ensure that the subsidised use of pharmaceuticals is available only to those who are eligible and to significantly limit the doctor shopping that is occurring. Whether these measures will have the desired effect, however, is questionable.

Finally, I wish to move a second reading amendment which will address concerns about the need for transitional arrangements and concerns about how the government is proposing to implement changes to pharmaceutical benefits. I understand that that matter will be considered when we resume debate on the bill later today. I move:

At the end of the motion, add:

“and that:

(a) the amendments to the bill, circulated by the Government on sheet FC259 (REVISED), be referred to the Community Affairs Legislation Committee for inquiry and report by 28 February 2001; and

(b) further consideration of the bill be postponed till the next sitting day following the presentation of the report mentioned in paragraph (a)”.

Debate (on motion by Senator Patterson) adjourned.

MINISTERIAL ARRANGEMENTS

Senator HILL (South Australia—Minister for the Environment and Heritage) (2.00 p.m.)—by leave—I inform the Senate that Senator Richard Alston, the minister for communications, will be absent from question time today. Senator Alston is leading a trade delegation to India. During Senator Alston’s absence I shall take questions relating to the Agriculture, Fisheries and Forestry portfolio. Senator Minchin will take questions directed to the Communications, Information Technology and the Arts portfolio and questions relating to Arts and the Centenary of Federation. Senator Ellis will take questions relating to the Employment, Workplace Relations and Small Business portfolio as well as Employment Services.

QUESTIONS WITHOUT NOTICE

Second Sydney Airport

Senator O’BRIEN (2.01 p.m.)—My question is addressed to Senator Macdonald, the Minister representing the Minister for Transport and Regional Services. In the light of the media reports that the government is considering locating a second airport at Kurnell, can the minister now confirm that the estimated cost of relocating the Caltex refinery from Kurnell to the Hunter region in New South Wales would be some $2 billion? Can the minister also advise the Senate whether the estimated cost of the construction of a tunnel and rail link between Kingsford Smith Airport and the proposed new Kurnell airport would be in the vicinity of $2 billion to $3 billion? Can the minister further provide the Senate with the estimated cost of the construction of any airport on the Kurnell site?

Senator IAN MACDONALD—I do not comment on unsubstantiated media reports. What I do note is that for 13 years the Labor Party were in government, for 13 years they had the opportunity to do something about the problems that exist at Sydney airport and for 13 years the Labor Party did absolutely nothing.

Opposition senators interjecting—

Senator IAN MACDONALD—I hear some of the Labor Party senators interjecting and saying that Kurnell is the birthplace of
the nation; it is an argument that I find a little strange. I am wondering if what the Labor senators are saying is that it is okay to have oil tanks and industrial activity at the birthplace of the nation but not okay to have some other activity. So it seems to be typical of the Labor Party’s hypocrisy, typical of their lack of policy in any direction—no policy on Badgerys Creek, no policy on Sydney airport and no policy on anything. But, as I say in response to the question, it is not my practice to respond to unsubstantiated newspaper comment.

Senator O’BRIEN—Madam President, I have a supplementary question. Does the minister deny that the government is considering a second airport for the Sydney Basin at Kurnell? If he does not deny that, will he answer the question that I have asked for the Australian public? Will he also advise the Senate, if a second airport at the Kurnell site is under consideration, how that would impact on the management of airspace in the Sydney region? Has that been the subject of any investigation or studies? In particular, can the minister advise the Senate how the flight paths for aircraft operating on the parallel runways at Kingsford Smith Airport will be affected by the proposed runway on the Kurnell site?

Senator IAN MACDONALD—I have answered the question. I do not intend to comment on unsubstantiated newspaper reports. I can confirm that the government has been looking at the question of Sydney airport very closely, and the government will let Senator O’Brien know what it intends to do when a decision is made. But what I would ask is this: what is the Labor Party’s policy? Where are you going to put the airport? Is Kurnell your preference or do you want Badgerys Creek? Perhaps you want another runway at Kingsford Smith? Do you want it to go up to Newcastle? Whatever it is, we would be very pleased to hear about it, because for 13 years you were unable to tell the Australian public what you proposed. Perhaps you are in a position to do it now. Break your duck: make this the first policy announcement you are about to make. Senator O’Brien, you have some interest in these matters: make a big hit for yourself and announce the Labor Party’s policy on just this one issue. Then the Labor Party will at least have one policy. (Time expired)

Aboriginals and Torres Strait Islanders: Reconciliation

Senator FERRIS (2.05 p.m.)—My question is to the Minister for Aboriginal and Torres Strait Islander Affairs. How is the government building on its strong commitment to reconciliation through its support of the new foundation, Reconciliation Australia? Will the minister please outline any other initiatives on this very important issue?

Senator HERRON—I thank Senator Ferris for her question and for her continued interest in Aboriginal and Torres Strait Islander Affairs. In a ceremony this morning at Parliament House, the Journey of Reconciliation between indigenous and non-indigenous Australians continued with the passing of the baton from the Council for Aboriginal Reconciliation to the new foundation known as Reconciliation Australia. This significant occasion, witnessed by 300 indigenous and community leaders, saw the culmination of nine years work by the council with the presentation of its final report to the Australian government and the announcement of the board of Reconciliation Australia. The Prime Minister today announced that the proposals contained in that final report would now be considered within a spirit of immense goodwill and a desire to achieve the maximum level of agreement.

The nine directors of Reconciliation Australia are Ms Jackie Huggins, the deputy director of the Aboriginal and Torres Strait Islander Studies Unit of the University of Queensland; Mr Mark Leibler, senior partner of Arnold Bloch Leibler in Melbourne; Ms Shelley Reys, managing director of Arrilla Aboriginal Training and Development, Sydney; Mr Dick Estens, chairman, Gwydir Valley Cotton Growers Association; Dr Djiniyini Gondarra, chairman of the Uniting Aboriginal and Islander Christian Congress, Nhulunbuy; Mr Campbell Anderson, chairman, Business Council of Australia; the Hon. Fred Chaney, AO, deputy president of the National Native Title Tribunal; Mr Joseph Elu, chairman, Aboriginal and Torres Strait Islander Commercial Development Corpora-
This independent foundation aims to give effect to the council’s Australian declaration towards reconciliation. While there will be debate about what form reconciliation should take from here, there can be no doubt about the overwhelming goodwill within the Australian community in support of reconciliation. We have witnessed many events in the nation’s capital cities and in rural and remote locations, in places like Bega, Moree and Alice Springs, with public displays of the enormous generosity of spirit between indigenous and non-indigenous people. Most people want better life outcomes for indigenous people, who remain the most disadvantaged group in our society. That is why the Howard government is committed to practical reconciliation initiatives to overcome disadvantage, particularly in the areas of health, housing, education, employment and economic development. I am pleased to inform the Senate that $5.5 million in seed funding will be provided to Reconciliation Australia to ensure that the momentum towards reconciliation continues. The Prime Minister has also announced that donations to Reconciliation Australia will be fully tax deductible from today.

The government also announced today the site of the proposed Reconciliation Place within the parliamentary triangle in Canberra. Reconciliation Place will, among other things, acknowledge the history of the nation’s first people, our shared history and common bonds, the story of the separation of many indigenous children from their families and the significant achievements of indigenous Australians. The design of this national symbolic place will be determined through an open competition which will be announced early in the new year. It will be located on the east-west promenade in the parliamentary zone linking the National Library of Australia and the National Science and Technology Centre on one side to the High Court of Australia and the National Gallery on the other side. We are thus addressing the symbolic as well as the practical.

Finally, I would like to congratulate the council for its significant contribution to the Australian nation over the past decade. In particular, I pay tribute to council chairman Evelyn Scott, whose leadership, strength and dignity have seen the council achieve so much, particularly in the past 12 months, and to deputy chairman Sir Gustav Nossal. Reconciliation is now an unstoppable force. The council has played a major role in changing public attitudes. The council’s work has enriched Australia, and it is a more united country as a result.

**Regional Australia Communications Strategy: Research**

Senator Faulkner (2.10 p.m.)—My question is directed to Senator Macdonald, representing the Minister for Transport and Regional Services. Can the minister confirm that the Department of Transport and Regional Services commissioned $200,000 worth of public opinion research in non-metropolitan areas as part of the regional Australia communications strategy? Was this research undertaken by Quantum Market Research, with the results provided to the government very early this year in a 27-page report entitled ‘Communicating with Rural And Regional Australians—Research Report”? Finally, what possible reason can the Howard government have for spending taxpayers’ money on researching federal election voting intentions in inner city, outer city and country Queensland, the results of which are set out on page 6 of the Quantum report?

Senator Ian Macdonald—I am surprised that Senator Faulkner wastes the time of the Senate asking me all of these questions if he has the report in front of him and can give the answers. I can confirm that some survey was done almost a year ago. I apologise to the Senate for the fact that I do not have in my mind all the details of that report that was done about a year ago. I do not have that much of a retentive mind. As to the detail, I will find that out for Senator Faulkner and give him an answer as soon as I am possibly able. But I am afraid that I just do not have that with me at the moment.

I note in passing that since this report was done I think we have been through about five separate estimates committees—
Senator Mackay—I raised it at estimates. You would not give us the report.

Senator IAN MACDONALD—We have trawled through just about everything—most of it not related to estimates, most of it just a general fishing expedition. It costs the department and costs taxpayers an enormous amount of money to have people sitting there answering questions on notice. We costed questions on notice for last time, and it cost $90,000 to answer your questions on notice—questions that were put on notice at the end of the estimates committee proceedings, not asked during the day. They were not asked during the estimates committee; they were just dumped as the senators walked out. Why, amongst all that time that we spent trawling through everything, these questions were not raised, when we had people there and we had the information so that we could answer those things, I do not know. I do not know why that was not done. But, Senator Faulkner, I am sorry, I cannot remember the detail. I will get back to you as soon as I possibly can.

Senator FAULKNER—Madam President, I ask a supplementary question. Can the minister confirm that this research report was received by the government shortly before the Prime Minister’s grand tour of the bush in January and February of this year? Isn’t using departmental resources to undertake blatantly party political voting intention research just the latest rort of the Howard government? Isn’t it just an abuse of taxpayers’ dollars to fund pre-election market research which should only be funded by the political parties themselves?

Senator IAN MACDONALD—If it is blatant political research, it has certainly taken Senator Faulkner a long, long time to catch up with it. We have been through five estimates committees. Why didn’t you ask about it there? If it is so disgraceful, you are pretty slow catching up.

Senator Faulkner interjecting—

Senator IAN MACDONALD—Senator Mackay interjected that she had asked about it. It just has not come up. You want to get together and talk to each other occasionally. I know Senator Faulkner’s mind is fully focused on the rorts in the Labor Party in my state of Queensland. I know that is an enormous embarrassment to the Australian Labor Party. I know that Labor Party politicians and would-be politicians are going to jail because of rorts of the electoral system in Queensland. I can understand why Senator Faulkner focuses on these things. Any research that my department has done would have been done with the intention of helping regional Australia. (Time expired)

Rural Transaction Centres

Senator CRANE (2.15 p.m.)—My question is to the Minister for Regional Services, Territories and Local Government, Senator Ian Macdonald. Will the minister advise of progress with the coalition’s successful rural transaction centres initiative? Is the minister aware of any alternative policies for the delivery of services in regional Australia?

Senator IAN MACDONALD—It must be coming on to Christmas time, and the people of Australia are the ones who will benefit from the Howard government’s good management of the economy and its generosity. Today I am very delighted to tell Senator Crane that 13 communities which have not had the services of government or banking for many years past now will approach this Christmas with the knowledge that very soon their small community will have a rural transaction centre. Thirteen new, full rural transaction centres are being established in New South Wales, in the Northern Territory and in Victoria. Two existing rural transaction centres will be extended. This builds upon the 34 business planning grants which I announced just last Tuesday. This means that 49 small rural communities right throughout Australia which have never had these sorts of services will now have those services as a result of the Howard government’s initiatives. Those 49 centres have already received advice of their funding. Eighteen of them are already up and operating. Around Australia, 290 communities have been involved in this program, looking at how they will be able to participate in it. Shortly we will be announcing a field officer network to help other communities to get involved in this program.
It is a great program. It is now gathering momentum. It takes a while to get going. The average time from announcement to opening is about nine months: the shortest is six months and the longest is about 12 months. The program is now gathering momentum, and all of these communities are doing very well and will have a very, very good Christmas, content in the knowledge that they will now have these services provided thanks to the Howard government—no thanks to the Labor Party who have opposed this program and opposed the money for this program at every single stage. That has been the same for the Networking the Nation program, which is giving real telecommunications services to country people. It was opposed by the Labor Party at every single stage. As every local authority in Australia will tell you, they are delighted with the government’s $1.2 billion road package announced by the Prime Minister on Monday, just a week ago. Their faces at the ALGA conference in Canberra this week demonstrated how delighted they are that the Howard government has done this.

Mr Beazley, as usual playing catch-up politics, went down there yesterday and said, ‘We think the Howard government’s idea is a good one. We are going to match the funds.’ It took them a while. For the first few weeks they called it boondoggling and pork-barrelling. They criticised anyone involved in it but they eventually got the message that local government and the people of Australia love it. I am very worried, though, when I hear that Mr Beazley, while saying he would maintain funding, also said this yesterday:

... but while the government refuses to be honest about its funding formula—

and that brings a laugh to every local government—

I will not say that we will not change any aspect of this package.

That really means that we are going to get another Better Cities program—a lot of money to a few Labor councils and nothing to the rest of Australia. I must say I am very disappointed in Mr Beazley not confirming he will endorse the package entirely. (Time expired)

Senator CRANE—With all that good news I think we should have some more, given the closing of parliament, so I do have a supplementary question for the minister. How has this and other federal government programs helped regional Australia over the past year?

Senator IAN MACDONALD—Thank you, Senator Crane. I might just add—I know you get around a great deal—that in your community in Western Australia you would be aware that a rural transaction centre was opened at Kojonup. Of course, I have recently opened transaction centres at Bell and Kalbar in Queensland. I say to the Labor senators from Queensland: please come along next week when we open the next rural transaction centre in Blackbutt. You are all invited. I would love to see you come along.

We do not take deposits to the banks in brown paper bags, as Labor Party politicians in Queensland are apt to do, but all other services are provided at these rural transaction centres. It is good news for country people and good news for Australians all over. I wish all of country Australia—in fact all of Australia—a very merry Christmas and a very prosperous and successful new year next year as the Howard government’s programs continue to roll out and these beneficial programs are implemented.

Regional Australia Communications Strategy: Research

Senator MACKAY (2.21 p.m.)—My question is also to Senator Macdonald, as Minister representing the Minister for Transport and Regional Services. Isn’t the Quantum research described in the latest annual report of the Department of Transport and Regional Services as enabling the department to ‘improve its understanding of regional perception and attitudes and to communicate the government’s programs and services appropriately’? How can it assist the department’s understanding or communication to undertake detailed opinion polling into political leadership styles favoured in regional Australia, as is set out on page 12 of the Quantum report? How does it advance bureaucratic understanding of the issues to be told ‘politicians are thus more likely to be expected to be competent, honest people who
get the job done, rather than paragons of moral virtue?’

Senator IAN MACDONALD—All of my Christmases have come at once! I have actually received a question at question time from my honourable colleague and shadow minister in this place, Senator Mackay. Thank you very much for that, Senator Mackay. I appreciate your interest in policy matters that impact upon the Australian people. When you rose to your feet, I thought that you might have been following the Christmas spirit and would be telling the people of rural and regional Australia just what your policies for them might be as we approach the next year. But, alas, no policy from the Labor Party, only criticism and nitpicking.

The market research to which Senator Mackay has referred was undertaken by my department to ensure that the communication activities it conducts in regional Australia are effective and appropriate to the needs of rural and regional communities. In particular, it is being used to inform the development of a campaign which will provide regional communities with better information about government programs and the services which may be of assistance to them. Senator Faulkner, I hope you are listening to this because it sort of answers your question. I will not get back to you later because I am giving you the information now. The opposition are trying to paint this as a political exercise. They tried to paint the roads package, the $1.2 billion investment, as a boondoggle or as pork-barrelling. They fell really flat with that, and they eventually woke up to the fact that that scare campaign just went out the door. They are trying to find some other campaigns—

Senator Hill—Why do they hate the bush?

Senator IAN MACDONALD—I do not know why they hate the bush. Probably because very few of them ever go there and even fewer of them live there—that is probably why they do not have any interest in it. It is clearly not a political exercise. It is a legitimate effort by my department to ensure that its communication activities take account of rural and regional community needs and expectations.

Senator MACKAY—Madam President, I ask a supplementary question. Is the minister aware that this same market research report points out on page 12:

Communicating to the public that political leaders are reflecting this (fundamental shift in Australian’s expectations of leadership) is crucial to gaining public support (something Jeff Kennett realised too late in Victoria).

Why has the Commonwealth taxpayer forked out $200,000 for the Howard government to be told about the political flaws in Jeff Kennett’s approach to rural and regional issues? Isn’t this just a $200,000 subsidy from the taxpayer to the coalition parties’ rural and regional campaign for next year’s election?

Senator IAN MACDONALD—I always try to tell Senator Mackay and her colleagues: do not judge others by yourselves. Because the 13 years of Labor were full of rorts, contracts going to favoured people and lots of political quizzes and polling, do not attribute that to other people. Just because you did it in government—and have a look at what is happening in the Labor Party in Queensland—do not relate it to anyone else.

Undertaking market research to inform communication activities is not a new or unusual phenomenon. It is a legitimate exercise and it is very appropriate. It is something that has been going on for quite some time, and it is something that was released some time ago—I do not even have the exact date. If it was so bad, why has the Labor Party taken 12 months to understand this?

Aboriginals: Pyrton Site, Western Australia

Senator GREIG (2.27 p.m.)—My question is directed to the Minister for the Environment and Heritage, Senator Hill, and is in reference to the women’s prison proposed for the Pyrton Training Centre at Eden Hill in my home state, Western Australia. The minister would be aware that this proposal is situated on a registered Aboriginal site and that to continue with it will inevitably result in an Aboriginal people being incarcerated at that site. I ask the minister: why, despite promises that a decision in relation to this site would be made by the middle of July this year, has it been reported as recently as early November of this year that no progress has
been made on this decision? Minister, given the mood of reconciliation across the country, can you give reasons for the delay and indicate how much longer it will take for a sensible decision to be made?

**Senator HILL**—This is a complicated and important matter. The site in question was previously a children’s hospital. It no longer is—it is vacant now. The Western Australian government was proposing to utilise the buildings as an early release centre for women. Some Aboriginal people argued that this would amount to a desecration, and they sought an order under the Commonwealth Aboriginal heritage sites legislation. This is unusual in the sense that it is not an interference with the site in terms of the construction of a building or some physical damage to a site; it is a change of use that is being put as amounting to a desecration. It raises significant questions of law and significant questions of anthropological interpretation.

The Commonwealth legislation prescribes processes that have to be gone through, including satisfying me as to whether there is Western Australian legislation that offers adequate protection, a procedure for appointing a reporter, and various other processes. I have been working through those processes and have satisfied myself that the Western Australian law did not cover this particular circumstance. I sought and received a report which was helpful in my deliberations. I have sought further anthropological advice, in view of the complexities of the matter in that field, and I am still awaiting that advice. I have inspected the site. I have perused all the submissions that were put in in the reporting process and I am seeking to make a decision as quickly as possible. I am also seeking to make a decision that will be the best possible in all the circumstances and, because of the complexities that I have outlined, that is taking a little longer than I would have otherwise wished.

**Senator GREIG**—Madam President, I ask a supplementary question. I thank the minister for his answer and acknowledge some of the complexities to which he refers. I now ask the minister: is he aware that a second application has been received, under the Aboriginal Heritage Act 1972, for development on this site, including gas mains, plumbing and bore work? Does he think it is appropriate for work to begin on this site, given that no decision has been made?

**Senator HILL**—The Western Australian government agreed to hold further conversion works on the site for their choice of building. I believe that they are meeting the undertaking they gave to me. That means that there is no immediate threat. That means that the job of seeking the best anthropological advice can be undertaken and that we will make the right decision in all the circumstances. The honourable senator says it is going to be used for incarceration, but the authorities in Western Australia would say that that is not the case. In fact, it is to allow women in the final stages of detention some access to the community. Some of the Aboriginal women who are likely to be located on the site actually advocate the site as suitable for that particular purpose. The matter is complex, and I suggest to the honourable senator that it is being dealt with sensitively and properly.

**Election Research: Funding**

**Senator ROBERT RAY** (2.33 p.m.)—My question is directed to Senator Hill representing the Prime Minister. When did the Department of Transport and Regional Services pass a copy of the Quantum Research paper titled *Communicating with rural and regional Australians* to the Department of the Prime Minister and Cabinet or in any way inform Prime Minister and Cabinet that the report contained public opinion research regarding federal voting intentions? Given that the Department of the Prime Minister and Cabinet is considered to be the watchdog of appropriate standards of behaviour of the Australian Public Service, did PM&C officers raise the misuse of taxpayers’ funds on this partisan political opinion research contained in the Quantum Research report?

**Senator HILL**—I am asked, in that question, to assume a number of things. While I would like to interpret all Labor Party pleadings in good faith, sometimes I wonder whether that is a wise thing to do. I am asked to accept that there is a report with partisan
political opinion taking within it. I have not seen this report. There is confusion on the Labor side as to whether or not it was introduced at estimates. The shadow minister responsible says that it was. Why, therefore, weren’t all the details explored at that time, when the paper could be tabled and our side of the chamber could see what is asserted by Labor here today? Will the Labor leader hand me this report so that I can peruse it during question time, so that I can make a judgment on what they assert? Of course he won’t. Nobody is producing it. Show it to us. Let us see it. Was it put down in estimates, Senator? They do not know whether or not it was put down in estimates. I have not seen this report. I do not know that it exists. I am asked to assume that it contains partisan political information. No opportunity to make an assessment has been given to me. If I have not seen the report, if I do not know of it, obviously I do not know if and when it was given to the Prime Minister’s department. Normally, I would say that I would seek the advice of the department but, if the Labor Party is not prepared to put the paper on the table so that I can identify it for the Prime Minister’s department, it seems to me that it is a very hard question to ask.

Senator ROBERT RAY—Madam President, I ask a supplementary question. I ask the minister: without seeing this report or any other report, is it appropriate for taxpayers’ money to be spent by departments in ascertaining future voting intentions by categories? The minister can at least answer that.

Senator HILL—That is a hypothetical question.

Opposition senators interjecting—

Senator HILL—I am asked a hypothetical question.

The PRESIDENT—Senator Ray has asked a question and he is entitled to hear the minister’s answer, which he could not possibly do at present.

Senator HILL—I am asked a hypothetical question: would it be proper for the Commonwealth government to conduct research that asked about voter intention?

Senator Cook—Answer it!

Senator HILL—The standing orders tell me I shouldn’t.

Gene Technology: Human Cloning

Senator HARRADINE (2.37 p.m.)—My question is addressed to Senator Herron. What is meant by the term ‘whole human being’? Does the term include a human embryo or a human foetus?

Senator HERRON—It sounds to me like a deep philosophical question that I am unable to answer. I could quote Plato and perhaps Juvenal’s satires and say that it means we should pray for a healthy mind and a healthy body. I understand that Senator Harradine is speaking in the context of the present debate, so I will give it a try. As I understand it, a human being commences at the time of fertilisation of a human ovum by a human sperm and it continues until the death of that being. Hopefully, along the way, they achieve Juvenal’s prayer of a healthy mind and a healthy body in the process.

In the context of the present debate on cloning and gene technology, the Senate would be aware that the government moved an amendment to the Gene Technology Bill 2000 that prohibits the cloning of whole human beings. I sought advice from the minister about this question and, in that context, I understand that that amendment was designed to reflect the government’s view—a view that is shared by state and territory governments as well—that the cloning of human beings should be banned. Senators will, of course, be aware that the Commonwealth must work with the states and territories on these issues. To that end, the Commonwealth has already initiated a process through which it will work with the state and territory governments to develop nationally consistent legislation on this matter.

As Senator Harradine is aware, there is a great deal of public interest in this issue, including an inquiry being undertaken by the House of Representatives Standing Committee on Legal and Constitutional Affairs. As part of that inquiry, a wide public consultation process seeking views on human cloning, including therapeutic cloning and the use of human stem cells, is taking place. Senator Harradine would also be aware that
recommendation No. 1 of the Australian Health Ethics Committee 1998 report to the Minister for Health and Aged Care, entitled

*Scientific, ethical and regulatory considerations relevant to cloning of human beings*, states:

The Commonwealth government, through the Minister for Health and Aged Care, should reaffirm its support for the UNESCO Declaration on the Human Genome and Human Rights, in particular article 11, which states ‘Practices which are contrary to human dignity, such as reproductive cloning of human beings, shall not be permitted.’ States and competent international organisations are invited to cooperate in identifying such measures to be taken to ensure that the principles set out in this declaration are respected.

I believe that the government’s amendments to the Gene Technology Bill 2000 fulfil this recommendation as an interim measure until states and territories have their own legislation in place. The Australian Health Ministers Conference has already had preliminary discussions on this issue and there will be a meeting of officials to progress the development of model legislation on 15 December this year.

**Senator HARRADINE**—Madam President, I ask a supplementary question. Given the fact that the minister has obviously included a human embryo and human foetus in the term ‘whole human being’ and, given the fact that in no way can they be described as a part human being, as against a whole human being, would the government consider amending the legislation to make that absolutely clear to everybody?

**Senator HERRON**—That is already under debate in the Senate and I am not at liberty to answer that question.

**Centrelink: Child Care Benefit**

**Senator McLucas** (2.41 p.m.)—My question is to the Minister for Family and Community Services, Senator Newman. Can the minister confirm that her department has conducted research showing that over 100,000 families receiving the Child Care Benefit are likely to receive debt notices from Centrelink in the July quarter next year when their taxable incomes are found to be higher than their estimated incomes? Can the minister confirm that these debts could be as high as $5,000 per family? What action will the minister take to prevent families from falling into debt with the Child Care Benefit?

**Senator Newman**—I do not know whether you would call it research or not, but the department has advised me that there is the potential, as there always has been with families estimating their income, to have people end up with a debt to Centrelink at the end of the year. The government is mindful of that and does not want that to happen, and therefore the department is working very hard to prevent that happening where possible. I point out, of course, that under the system we inherited, people who underestimated their income ended up with a debt at the end of the year, but for people who overestimated their income and would have been entitled to more money, there was no provision for that to happen at all. We have now changed the law so that, if you underestimate, you have a debt but, if you overestimate, the taxpayer owes you money. That is a much fairer system. We want to make sure, by providing assistance to families in their first experience—for some of them—for the estimation of their income, that they do not fall into debt. We have a number of strategies that we are considering implementing that will make it easier for families.

**Senator McLucas**—Madam President, I ask a supplementary question. Can the minister confirm that the likelihood of many families accruing large debts was raised with her prior to the introduction of the Child Care Benefit but that she insisted on the income estimation system being adopted?

**Senator Newman**—I cannot acknowledge that all.

**Australian Federal Police: Netherlands Drug Seizure**

**Senator Mason** (2.43 p.m.)—My question is to the Minister for Justice and Customs, Senator Vanstone. Will the minister inform the Senate of the details of the major drug seizure in the Netherlands yesterday? What role did the Australian Federal Police play in this operation which has successfully foiled the importation of a large shipment of amphetamines believed to be destined for Australia?
Senator VANSTONE—It is a great pleasure to answer the question from the honourable senator, who maintains a close interest in law enforcement matters, particularly drug seizures. This joint operation between Dutch authorities and the Australian Federal Police commenced over a year ago. The Australian Federal Police deserve at the very beginning to know that they have the government’s congratulations and I would like to think they have that of the parliament as well—but I cannot speak for members on the other side. They successfully foiled the importation of a very large shipment of amphetamines believed to be destined for Australia. Intelligence indicated that a crime syndicate, allegedly arranging to have the drugs sent to Australia, was planning to do so in machinery parts. In a coordinated operation, search warrants were executed, I think the day before yesterday, both in Holland and in Australia. Dutch police have now seized 3,000 kilos of cannabis, 200,000 MDMA tablets, 100 kilos of cannabis resin, nine firearms with ammunition and a large amount of cash. Much of this would have landed on Australian shores had it not been for this operation. A total of 57 premises were searched in Holland and 14 people arrested. The Australian Federal Police executed search warrants on premises in Queensland and Western Australia and, over this operation, have arrested four people and seized over 50 kilograms of MDMA over the past 12 months. The operation was conducted by one of the mobile strike teams funded under the National Illicit Drug Strategy.

Despite our distance from source countries, we are not immune from the operation of these syndicates. To them, borders between countries are simply irrelevant. To beat the crime syndicates, law enforcement agencies are now pooling their resources and intelligence to take the fight right up to the primary organisers of the drug trade. The critical factor for the success of the current operation is the information that was fed back to Holland by the Australian Federal Police following the two major MDMA seizures that occurred in Australia in January this year. I am advised that this information greatly assisted the Dutch authorities. The plain facts are that Australia is now recognised as a major player in the international arena. Equally—and something members of the opposition might like to take into account—as the Federal Police Commissioner says, the Australian Federal Police have never been better funded, never been better resourced. We put the resources into the Australian Federal Police and, in particular, into the international cooperation efforts to fight transnational crime, and we have been reaping the rewards just as other countries have. Countries want to form partnerships with our law enforcement agencies because of their reputation for professionalism and effectiveness. They actually want to form partnerships with us.

Some other examples that I could go on with would be the arrest of two major Australian based drug traffickers in Hong Kong and the seizure of 20 kilos of ice; the arrest of two people in the United States in possession of 780 kilos of compressed cannabis; the arrest of four major drug traffickers in Malaysia and the seizure of 113 kilograms of methamphetamine and 37 kilograms of precursor chemicals; and the recent operation in Fiji. Two years ago the Prime Minister said that he wanted the Federal Police to become a police force second to none, and I think I can say that we have done it.

Aviation: Safety

Senator LUDWIG (2.48 p.m.)—My question without notice is to the Minister representing the Minister for Transport and Regional Services, Senator Ian Macdonald. The minister would recall the weight given by the Civil Aviation Safety Authority to breaches of pilots’ flight and duty time limits in relation to the Whyalla accident earlier this year. The minister would also be aware that Civil Aviation Order 48 limits flight and duty times for commercial pilots. Can the minister tell the Senate that all Australian high-capacity regular passenger transport operators are in compliance with the provisions of CAO 48?

Senator IAN MACDONALD—Could I just get Senator Ludwig to nod or shake his head? Do I understand the question—you want me to assure you that every airline and every aircraft operator in Australia is—
Opposition senators interjecting—

Senator IAN MACDONALD—I am just wanting to make sure that that is the question. Is that the question?

Senator Ludwig—Yes.

Senator IAN MACDONALD—So Senator Ludwig wants me to tell the Senate whether every airline operator and aircraft owner and operator in Australia is complying with a particular civil aviation order.

Senator Ludwig—Madam President, I rise on a point of order. Obviously Senator Macdonald misheard the question. I am quite entitled to say it again if he likes so that he can get it clear.

Senator Carr—So he can give an answer for a change.

The PRESIDENT—Order! Senators will abide by the standing orders. Senator Ludwig has the call.

Senator Ludwig—The question went to high-capacity regular passenger transport operations. The senator may not have heard that, so I make it plain.

The PRESIDENT—I think there was noise at the time the question was being asked.

Senator IAN MACDONALD—So it is only the high-capacity operators? Senator, you are asking me, representing the Minister for Transport and Regional Services, Mr Anderson, to confirm things that are the duty of the regulator to regulate.

Senator Hill interjecting—

Senator IAN MACDONALD—Yes, I will perhaps say it even more slowly, Senator Hill. Politicians do not regulate and enforce safety regulations. Senator Ludwig, you have been here long enough to know that there is a Civil Aviation Safety Authority that does that. As I often say in this chamber, heaven forbid that you would ever want Mr Anderson, me or any other politician to check what each aviation operator is doing and whether they are complying with the rules. Senator, if it is a serious question and one which you are interested in, it is a nice change from the other things that we often have to read about that are happening in Queensland that your party is involved in. But, if it is a serious question, I will refer it to the Civil Aviation Safety Authority, which is the regulator, which is tasked with the duty of following those things through and ensuring they are complied with. If it is a serious question, I will refer it to the safety regulator and I will get you an answer as soon as I possibly can.

Senator LUDWIG—Madam President, I ask a supplementary question. One would have assumed that the safety authority would have kept the minister apprised. While the minister is seeking a response to that question, can he also provide the Senate with details of any relief from the provisions of CAO 48 granted by CASA to any high-capacity regular public transport operator? Minister, could you also make sure that that advice includes the name of the airline, the nature and basis of the relief from CAO 48 and the duration of the relief?

Senator IAN MACDONALD—I will refer that to Mr Anderson and see if the Civil Aviation Safety Authority can get you that information. Thank you for acknowledging that it is not me, a politician, who has all that information; it is the Civil Aviation Safety Authority. I accept your acknowledgment that we will get that information from the regulator.

Cystic Fibrosis: Carers Allowance

Senator BARTLETT (2.53 p.m.)—My question is to the Minister for Family and Community Services. Minister, are you aware that parents whose children suffer from cystic fibrosis, a condition which is always fatal, do not automatically qualify for carers allowance, formerly known as the child disability allowance? Nearly 2,000 Australian children suffer from cystic fibrosis, with many dying before they reach adulthood. Other fatal conditions are included in the severe disabilities category, which automatically qualifies them for carers allowance; other less severe medical conditions qualify by means of a special care needs criteria. Why has the minister indicated that the next review of special needs will not occur until 2002? Will the minister consider addressing this issue now?

Senator NEWMAN—Cystic Fibrosis is one of the conditions which are accepted on
a case by case basis for the payment of carers allowance. What has happened is that, with the change a year or so ago to the child disability allowance—

Honourable senators interjecting—

The PRESIDENT—Order! There is too much noise. Senator Bartlett is entitled to hear this answer.

Senator NEWMAN—Senator Bartlett actually knows the answer. There are certain very serious conditions listed for automatic entitlement to the payment. As Senator Bartlett does know, with cystic fibrosis there is great variation in the impact on the care that is required for those children. Some require much greater care than others and it therefore has to be assessed on a case by case basis; they are just not automatically entitled. I do not seem to have the figures here, but a substantial number of children who have cystic fibrosis have been accepted since the arrangements were changed. I think that, for most people who are looking at it closely—including the paediatric specialists that we consulted during the review—it is believed that the current arrangements are fair. There is, of course, an arrangement where there will be a further review. At this stage, there will not be any speeding up of that. But I do write back to parents in these terms when they have a concern about the matter. They also have the right, of course, like anybody else entitled to social security, to a review of the decision by the original decision maker, a review by the review officer—a senior officer in the department—and, if they feel the need to go further, they have the Social Security Appeals Tribunal, the AAT and even the Federal Court. There are plenty of appeals in the process, as you know very well, Senator. I have no intention to be unduly tough on families who are providing care for children with cystic fibrosis, but the fact remains that the advice that comes to us is that you cannot say that all children with cystic fibrosis require the same level of intensive care, which is what the list of automatic acceptance means for this payment. There are a considerable number of children who have been entitled to that allowance since the arrangements were changed.

Senator BARTLETT—Madam President, I ask a supplementary question. Minister, the present qualification criteria for carers allowance require that, if the condition is not listed as severe disability, children must suffer a developmental delay before they qualify for the allowance. Surely it is because of the vigilance of parents who provide hours of physiotherapy daily to their children who have cystic fibrosis that these children are not developmentally delayed, even though they may well not live through to adulthood. The concerns continue to be raised by the carers association because of this point. Minister, will you give consideration to the families whose children will die of this condition and acknowledge that cystic fibrosis is a severe disability; at the very least, will you develop special needs criteria for sufferers while you still remain a minister? Is not the point of this that, while people have the opportunity for assessment and appeal through all those processes, given the burden that parents already have, why should they have to go through all these steps to get their entitlement? (Time expired)

Senator NEWMAN—I have great sympathy for any parent who is trying to raise a child with a serious disability. But as the senator knows, there are great levels of disability, from minor to profound, with various levels of severity between. It is always going to be difficult for any determination of where the line is drawn. There is not a line anywhere that excludes children with cystic fibrosis from eligibility for this payment. It is decided on a case by case basis. That surely is fair. Senator, you would know, I hope, that the reason children with cystic fibrosis are increasingly not developmentally delayed is that research has shown what early intervention by professionals and by the families can do to achieve a much longer life for these children. Some are living significantly longer than they ever did in the past. (Time expired)

Aged Care Complaints Scheme

Senator CROSSIN (2.59 p.m.)—My question is to Senator Herron representing the Minister for Aged Care. Does the minister recall the Ombudsman’s report on the systemic flaws in the government’s Aged Care Complaints Scheme released in July
this year? Didn’t this report recommend changes to the aged care principles to allow the complaints scheme to access records of all complaints within nursing homes? In fact, didn’t the department agree in July to implement that change? Why haven’t those principles been amended and, given the obvious faults in the government’s aged care complaints system, why hasn’t there been urgent action to implement improvements that were recommended by the Ombudsman?

Senator HERRON—What an extraordinary question coming from the opposition. After 13 years of having control of aged care, they are now complaining about the complaints system, which they did not institute. They had 13 years to put in a complaints system, and they did not address it. Now that the government has put in a complaints system, Labor are complaining about the complaints system. It shows the state of disarray in the Labor Party. Like my esteemed colleague on my right, I am in the spirit of Christmas—the spirit of goodwill, peace and harmony to all men.

Senator Chris Evans—Madam President, I would like to take a point of order so that Senator Herron can find his brief. That might allow him to answer the question rather than to rave on. This is an important issue about an ombudsman’s report that was highly critical of the aged care complaints system. I think the Senate deserves a proper answer.

The PRESIDENT—There is no point of order.

Senator HERRON—It really does upset them when you bring their own inadequacies back to face them.

Senator Schacht—Say ‘sorry’.

Senator HERRON—I have. The complaints mechanism has been put in place, and I have spoken about it on many occasions. There is an opportunity for anybody to ring the complaints ombudsman to speak about this issue. He is known as the Commissioner for Complaints. That mechanism is in place. Anybody who has a concern can complain about it. I suggest Senator Crossin rings him and tells him about her concern so that he can address the problem.

Senator CROSSIN—Madam President, I ask a supplementary question. Can the minister confirm whether the government has also failed to implement any of the other nine recommendations of the ombudsman’s report? Isn’t it a fact that many of the flaws in Minister Bishop’s complaint system, as identified by the ombudsman, contributed to the mishandling of serious complaints concerning resident care in the Thames Street Hostel?

Senator HERRON—I would not give a commitment for the government to act on every recommendation that is put forward by any mechanism; nor did the Labor Party when it was in power. They are reports that government acts on. To make the allegation that the government is not fulfilling the requirements of the best possible aged care system in this country is not correct. In relation to the Thames Street nursing home, which Senator Crossin has asked me about, my understanding is that in December last year a complaint was lodged with the Complaints Resolution Scheme by the Australian Nursing Federation in relation to staff issues at 75 Thames Street. The minister has advised that the Complaints Resolution Scheme acted within days of receiving the complaint by directing the service provider to respond to the issues. I assure Senator Crossin that, as in all other complaints, the government is acting in the interests of the patients. (Time expired)

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

ANSWERS TO QUESTIONS WITHOUT NOTICE

Standing Advisory Committee on Commonwealth-State Cooperation for Protection Against Violence

Correctional Facilities: Privatisation

Minister for Employment, Workplace Relations and Small Business: Telecard Extradition Detainees

Senator VANSTONE (South Australia—Minister for Justice and Customs) (3.03 p.m.)—I have a number of answers to questions to incorporate into Hansard. One is to Senator Harris in relation to SAC-PAV. One
Leave granted.

The answers read as follows—

Senator Harris asked the Minister representing the Attorney-General without notice on 30 September 2000:

Does the government intend to utilise SAC-PAV at the Sydney Olympic Games, the Paralympic Games or the imminent World Economic Forum to be held in Melbourne on 11 September?

Senator Vanstone - The Attorney-General has provided the following answer to the honourable senator’s question:

The Standing Advisory Committee on Commonwealth/State Co-operation for Protection Against Violence (SAC-PAV) is a Commonwealth/State committee responsible for advising Governments on counter terrorism strategies and policies and co-ordinating the development of a nation-wide counter terrorism capability. It has no operational role. The operational elements of the nation-wide counter terrorism capability are provided by the police services or, if the police are unable to deal with a situation, the Defence Force may be called out to assist. SAC-PAV, therefore, has no direct role in either the Sydney Olympic Games, the Paralympic Games or the World Economic Forum. SAC-PAV has supported Games security to the extent of providing some training for police and facilitating several counter terrorism exercises. Security at the Olympic and Paralympic Games is the responsibility of the NSW Police Service and the other State police services in relation to the Olympic football games being played in their States. The Victoria Police are responsible for security at the World Economic Forum.

On 30 November 2000, Senator McKiernan asked me a supplementary question about the privatisation of correctional facilities. In my reply, I stated that I would ask the Attorney-General’s Department to some information about past practices in government run prisons. The Department has provided me with the following examples from the 1978 Royal Commission into New South Wales Prisons which illustrate where Governments have failed to provide appropriate correctional facilities.

The 1978 Royal Commission into New South Wales Prisons found examples of brutal penal methods in Government run prisons. These methods were referred to by Mr Justice Nagle, the Royal Commissioner, as a ‘regime of terror’, and as ‘...brutal, savage, and sometimes sadistic physical violence’.

The Royal Commission found that in Grafton Gaol, until 1976, there was systematic beating of prisoners upon their arrival, euphemistically termed a ‘reception biff’. Three or four officers wielding rubber batons ‘usually administered the beatings. The Royal Commission also found that prisoners were subjected to extreme violence for days, weeks or on an ongoing basis, where mindless beatings were inflicted for trifling ‘offences’ such as glancing out of the yard in which a prisoner worked.

In its investigation of Bathurst Gaol the Royal Commission found that the gaol had no glass in the windows and that prisoners spent about 18 hours a day in their cells. Rain and sleet frequently wet prisoners’ bedding, and there was no heating in the cells despite the extreme cold experienced in Bathurst. The brutal history of Bathurst included officers’ retribution for a sit-in which involved a systematic flogging of a large number, if not all, of the prisoners in the gaol. In 1974, in response to a prison riot, prison officers were issued with arms, and without having been so ordered, began firing on the prisoners. Subsequent medical examinations revealed that approximately twenty prisoners were wounded by gunfire, some of them seriously, with one becoming a paraplegic. The shootings were in direct contravention of instructions from headquarters.

The Royal Commission identified that these publicly run prisons suffered practices that were ‘utterly opposed to normal standards of decent human conduct’.

Senator Faulkner (Hansard p19850) asked the Minister for Justice and Customs, without notice, on 28 November 2000:

(1) Does the minister recall telling the Senate on 12 October that the costs of the AFP investigation into the Reith telecard fraud from May to October totalled $15 440, an average of $3000 a month?
(2) Can the minister confirm AFP evidence at estimates last week that the total AFP cost, as at 10 November, had blown out to $72,223?

(3) How has this impost on the taxpayer blown out by almost $57,000 in less than a month, particularly given that the number of staff on the case seems to be approximately the same as during the five-month period from May to October?

Senator Vanstone – The answer to the honourable senator’s question without notice is as follows:

(1-3) In my response to Senator Faulkner I indicated that as to the make-up of the costs, I would seek advice from the Federal Police.

I am advised that the costs incurred as at 10 November 2000 are comprised of:

$68,351.70 for employee expenses which include a total of 746 hours incurred by officers from the Head Office Investigations Team, Southern Operations and AFP London Liaison Office. These employee expenses include direct salary costs incorporating composite allowance, as well as accrual costs including recreation leave, long service leave, superannuation and Comcare.

$372.30 for record searches and $3,499.68 for travel expenses.

Senator Amanda Vanstone – On 30 November 2000 (Hansard Page 20116) Senator Greig asked the following questions, without notice, in relation to two Mexican extradition detainees at the Port Phillip Prison in Victoria:

Is the Minister aware that, as this prison has no segregated facilities for remand prisoners, these men have been housed with some of Victoria’s most dangerous and convicted multiple murderers and rapists for the past two years? Is the Minister also aware that the International Covenant on Civil and Political Rights, to which Australia is a signatory, requires segregation of convicted and unconvicted prisoners, and that Victoria is the only Australian state which does not provide that facility? Given that the federal government has the constitutional power to ensure that State governments provide that remand and sentenced prisoners are separated, what is the Minister doing to correct that situation in Victoria?

As a supplementary question, the honourable Senator asked whether the Commonwealth would consider finding some other place for these detainees to go to, to comply with our international obligations, given that the Extradition Act 1988 does not specify that extradition detainees need to be detained in the state in which they were apprehended.

In the course of my answer, I undertook to provide further information. Additional information in response to the honourable Senator’s question is as follows:

The first point is that the two men in question are being held in custody for legitimate law enforcement purposes. Their custody over the past two years has been ordered and authorised by judicial decisions at various levels. They remain in custody pending the outcome of challenges under the Extradition Act 1988 (the Act).

Given the absence of federal prisons, the Commonwealth’s extradition legislation utilises State and/or Territory law with respect to the confinement of extradition detainees. Accordingly, persons detained in Australia under the Act are housed in State and/or Territory facilities and their conditions of custody are essentially matters for State and/or Territory authorities. The circumstances of the custody of the two Mexican detainees in question at the Port Phillip Prison is therefore a matter for the Victorian authorities.

I am advised that Australia’s international obligation with respect to the segregation of convicted and unconvicted prisoners under the International Covenant on Civil and Political Rights is not an absolute one, in view of Australia’s reservation that the principle of segregation, while accepted, “is an objective to be achieved progressively”. Accordingly, no clear reason exists for the federal government to consider intervening in the affairs of the State to provide that remand and sentenced prisoners be separated.

It is not possible for the Commonwealth to move the detainees in the way suggested by the honourable Senator. I am advised that the Act makes provision for the transfer from one State or Territory to another of extradition detainees before the commencement of extradition eligibility proceedings by a Magistrate, but not after. In this case, extradition eligibility proceedings in respect of the two Mexican detainees concluded on 17 December 1999 when a Victorian magistrate found both were eligible for extradition to Mexico in respect of all offences for which extradition is sought by Mexico. While the two men are entitled to exercise (as they currently are) rights of review and appeal under the Act against the Magistrate’s eligibility finding, there is no power under the Act to transfer them outside Victoria.
Zambia: Heavily Indebted Poor Countries Initiative

Senator HILL (South Australia—Minister for the Environment and Heritage) (3.04 p.m.)—I have further information in answer to a question that was asked of me by Senator Woodley yesterday relating to Zambia and the HIPC rules. I seek leave to have that incorporated in Hansard.

Leave granted.

The answer read as follows—

Supplementary Question: Senator Woodley

Wednesday 6 December

Madam President, I ask a supplementary question. I thank the minister for this answer and particularly note that Australia is not one of the nations to which Zambia is indebted. Minister, would the government agree that the following statistics mean that in Zambia’s case the HIPC rules must be changed? Zambia has the highest rate of AIDS orphans in the world - about one in seven children - and one in five adults has HIV/AIDS. In 1998, 73 per cent of the population lived in households with monthly average adult expenditure of less than $A25 per month, and Zambia’s spending per head on health is about $30 per year. Could you indicate whether you agree that the HIPC rules may not work in their case?

Response by Senator Hill to the Senator’s question is as follows:

Zambia is expected to qualify for debt relief under the Heavily Indebted Poor Countries (HIPC) Initiative this week.

On 1 December 2000, the IMF Executive Board agreed to accelerate delivery of HIPC debt relief in exceptional cases, such as that of Zambia. Zambia faced the exceptional circumstance that even after the provision of debt relief, its debt servicing obligations would rise in 2001 and remain above the amount paid in 2000 until 2004.

Each country under HIPC has a Poverty Reduction Strategy in place, and agreed, prior to debt forgiveness occurring. These strategies, which are country owned documents, take account of special circumstances such as the HIV/AIDS pandemic where this is clearly having a substantial impact.

As a result of this decision, and the decisions of other HIPC creditors, Zambia’s debt, service payments in each of the next three years will be lower than their payments this year. Without any HIPC assistance, Zambia’s debt service would have almost doubled next year.

At the recent Annual Meetings of the IMF and the World Bank, Australia welcomed steps the Fund and Bank have taken to accelerate implementation of the HIPC Initiative and called on them to do all they can to bring 20 countries to their ‘decision points’ (the point at which they qualify for debt relief) by the end of this year. Achieving this target is expected to deliver agreement to write off well over $US30 billion ($A45.6 billion) in debt servicing under HIPC, and a total of $US 50 billion ($A91.0 billion) overall (taking into account traditional debt relief mechanisms).

Australian Taxation Office: Company Audits

Senator KEMP (Victoria—Assistant Treasurer) (3.05 p.m.)—On Wednesday, 6 December, Senator Sherry asked me a question relating to an ATO audit. On Tuesday, 5 December, Senator Cook asked me a similar question about the same matter. I seek leave to incorporate the two responses into Hansard.

Leave granted.

The answers read as follows—

On Tuesday 5 December 2000 Senator Cook asked me:

Can the Minister confirm that the Mr. Stephen Breckenridge of KPMG made a complaint to Commissioner Carmody regarding the conduct of the Australian Taxation Office auditor Mr. Bob Fitton who was at the time auditing a big business client of Mr. Breckenridge? Can the Minister also confirm that after an investigation was completed into Mr. Breckenridge’s complaints, the author of the report found there was no substance to any of Mr. Breckenridge’s complaints against Mr. Fitton? Why, then, was a new case manager required to be briefed up on the audit case in question if none of Mr. Breckenridge’s complaints were found to have any substance at all?

If it is true that the ATO only removes officers in cases based on merit, what was the so-called merit when Mr. Fitton was removed at the request of Mr. Breckenridge? Can the Minister also confirm that after an investigation was completed into Mr. Breckenridge’s complaints, the author of the report found there was no substance to any of Mr. Breckenridge’s complaints against Mr. Fitton? Why, then, was a new case manager required to be briefed up on the audit case in question if none of Mr. Breckenridge’s complaints were found to have any substance at all?

I now seek leave to have this incorporated in Hansard.

In one case in which Mr. Breckenridge was involved, I am advised by the Australian Taxation Office that the officer was not removed from the audit, although the role of the officer did change. The Australian Taxation Office further advised that this change did not prevent or hinder appropriate action being taken in the case.
Beyond this, my advice is that it would be inappropriate to comment further on the matters raised in the question.

On Wednesday 6 December 2000 Senator Sherry asked me:

I ask the Assistant Treasurer to repeat the assurance he gave the Senate yesterday in relation to two questions as to whether Mr. Breckenridge of KPMG pressured the ATO to remove ATO auditors from audits of his big business clients that ‘on no occasion did the ATO remove an officer from an audit’. I would appreciate a repetition of that assurance. I also ask the Assistant Treasurer: have senior members of the ATO executive accepted hospitality from Mr. Breckenridge? If so, what is the extent of that hospitality? Also, is it true that telephone surveillance was applied to ATO auditor Mr. Robert Fitton and former auditor Mr. Christopher Sage in response to pressure from Mr. Breckenridge?

Will the Assistant Treasurer give an unequivocal undertaking to report back to the Senate on your response to these allegations?

I now seek leave to have this incorporated in Hansard.

I can confirm, on the advice of the ATO, that Mr. Fitton was not removed from audits of any high wealth individuals, or any other case, at the request of Mr. Breckenridge, although as previously noted, his role in one audit did change. I have nothing further to add to my previous statement.

I have been advised that the ATO has very strict rules about the acceptance of hospitality, especially in the context of an audit. They back this up with a strong on-going staff awareness program and internal assurance activities. The ATO has advised me that they are not aware of any impropriety in relation to the acceptance of hospitality from Mr. Breckenridge, or of any breach of their strict guidelines.

In relation to the question of telephone surveillance of Mr. Fitton and former auditor Mr. Christopher Seage, I am advised by the ATO that there was no tapping of telephones.

GOODS AND SERVICES TAX: PUBLIC OPINION POLLING

Return to Order

Senator HILL (South Australia—Minister for the Environment and Heritage) (3.05 p.m.)—by leave—On 4 December, the Senate ordered the return immediately after question time today of all GST related public opinion polling commissioned by government departments between 1 January 1999 and 30 September 2000. I understand that requests have been made of departments as to whether they have such information available for the Senate. I am told that the answer is not yet complete, and on that basis it is not possible for me to meet the order of the Senate at this time.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (3.06 p.m.)—by leave—I move:

That the Senate take note of the statement.

In addressing this issue, can I say to Senator Hill that, while he has given a very brief report to the Senate about progress on this matter, it would have been far more appropriate for him to provide the information that is available now to the Senate, and perhaps he would make the qualification that not all the material is in the hands of the department and, therefore, can be collated and provided in response to the order of the Senate. Secondly, if the Senate is to accept the explanation that Senator Hill has given, I would ask the Leader of the Government in the Senate to indicate that that material would be provided out of session, because it certainly is not reasonable in the circumstances for the Senate to have to wait until sittings commence in the year 2001. So I would like to use this opportunity to ask Senator Hill, firstly, if he would indicate, on behalf of the government, whether he would be willing to make a commitment to table before the Senate rises for the Christmas recess that material that is available, and, secondly, if Senator Hill would indicate a willingness to table the information out of session as soon as it is available.

Senator HILL (South Australia—Minister for the Environment and Heritage) (3.08 p.m.)—It sounds like a continuation of question time.

Senator Faulkner interjecting—

Senator HILL—I would like to take the question on notice, actually.

Senator Faulkner—It is not hypothetical.
Senator HILL—I cannot immediately see why material that is available cannot be produced through the processes that exist between sittings of the Senate. I will explore that further, but I need to find out what is available in order—

Senator Faulkner—Could you report back before we rise?

Senator HILL—I think that is a fair thing to ask of me. I will make some further inquiries and try to give a fuller answer a little later in the day. In answer to the supplementary question, I will try to let Senator Faulkner know.

Question resolved in the affirmative.

ANSWERS TO QUESTIONS WITHOUT NOTICE

Derby Tidal Energy Project

Senator HILL (South Australia—Minister for the Environment and Heritage) (3.09 p.m.)—Some little time ago, the Senate ordered that I table an assessment by KPMG for the Australian Greenhouse Office on the Derby tidal energy project. I indicated to the Senate then that I had been unable to do that because of various commercial-in-confidence matters. I am told that KPMG, being the party that had objected to the tabling, has now withdrawn that objection and, therefore, in response to the order of the Senate of 4 October 2000 I table the assessment to which I just referred.

Election Research: Funding

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (3.10 p.m.)—I move:

That the Senate take note of the answers given by the Minister for Regional Services, Territories and Local Government (Senator Ian Macdonald), to questions without notice asked by Senators Faulkner and Mackay today, relating to the regional Australia communications strategy and research undertaken by Quantum Market Research.

Today, again, the Howard government have been caught out using taxpayers’ money for purely political purposes. Of course, they are doing so to try to suss out what the Australian electorate is thinking. But what would normally happen is that this sort of information would be paid for by political parties, not the Commonwealth taxpayer. The opposition have obtained a piece of Quantum Market Research information titled Communicating with rural and regional Australians. It was put together for the government, and a concerned whistleblower has provided that document to the opposition. That report states that the sources for the data were from Quantum’s AusScan data, plus a consultancy report worth $148,000 for a quantitative analysis ordered for the Department of Transport and Regional Services. Of course, we had a look at the DOTARS annual report and found that Quantum had been asked to determine issues that affect regional and rural Australians, feeding into the government’s so-called Regional Australia Strategy. There was another $48,000 set aside for Quantum to research branding elements for the so-called Regional Australia Strategy, but this money also allowed for ‘the department to improve its understanding of regional perceptions and attitudes’.

Of course, we all know that this expenditure was about the Liberal and National parties’ political interests in regional and rural Australia. This document, which was requested by a department, contains outrageous political statements, such as ‘the welfare system is too open to being abused’. How is that sort of question relevant to the appropriate research on regional development? What about this statement:

Unions are too powerful and a barrier to progress. That sounds like push polling, I think you would agree. Worst of all, the bureaucratic document runs a question of federal voting intentions for 1999 through the most regionalised state in Australia—Queensland. Why would Commonwealth officers, why would the bureaucracy, be spending taxpayers’ money on party political polling? When Senator Hill was asked in question time today whether it was appropriate for a government department to commission research which indicated political party voting intentions, what was Senator Hill’s only device to avoid the question? He refused to answer the question. He said the question was hypothetical, therefore he would not answer it. This is worst answer that Senator Hill has given in this parliament since he has been a
minister. What a lame excuse, to duck behind the suggestion that the question was hypothetical.

The truth of the matter is that Australian taxpayers should not have Commonwealth departments funding political party research in the interests of the coalition parties. It should not happen and it has happened in this instance. The government has today been exposed for this massive abuse of taxpayers’ money—a most inappropriate expenditure of Commonwealth moneys. This is now becoming stock in trade for this government. This is the Liberal Party after free political information that should be paid for by the political party machine. This is the Mark Textor approach writ large using the department as a stooge. This is the way the Howard government does business, but today it has been exposed. (Time expired)

Senator McGauran (Victoria) (3.15 p.m.)—In response, this is the last debate to take note of answers to questions without notice for the year and what do we get? The Labor Party ending the year as they began it with absolutely no policy but attempting to dredge up some sort of scandal, as Senator Ian Macdonald quite rightly mentioned, as a distraction from their own murky activities in Queensland. If you want to discuss rural and regional policies—and I see Senator Mackay, the shadow minister, in the chamber; perhaps she is going to get up next—why don’t you turn your attention to the actual policy announcements that this government has made over the last 12 months? For 12 months you have had every opportunity to enter the debate, except you are constantly leading off with Senator Faulkner and Senator Ray, who attempt to dig deep and find these distractions. And what have you found?

The DEPUTY PRESIDENT—Would you address the chair please, Senator McGauran.

Senator McGauran—A report that is 12 months old that has already been brought up and questioned in estimates. It is old news. You are overdoing it. You are overcooking it because you simply will not turn your attention to the policies. A myriad of policy announcements have been made in the rural and regional areas. Quite frankly, whatever this report is—and you were not willing to put it on the table—

The DEPUTY PRESIDENT—Senator McGauran, would you please address the chair and cease to use the word ‘you’? Each time you use the word ‘you’, you are actually referring to the chair. The chair has done nothing in relation to the report or anything else that you have just been describing in the last minute and 20 seconds. So please address the chair.

Senator McGauran—Madam Deputy President, you certainly know how to stop someone in full flight. That seemed like a very fine point, Madam Deputy President. I take it very well and I will speak directly to you. I will look at you. I will address all my points to you. But somehow I want you to relay these comments to Senator Mackay and those on the other side of the chamber. It is most important that you get these points to them, Madam Deputy President. Frankly, they are going to overcook these issues. Now we are heading into an election year. Are you going to run the same policies as you have for the last 12 months into the election year? I invite you to, of course.

The DEPUTY PRESIDENT—Senator McGauran, please. The chair is not going to run policies in an election year.

Senator McGauran—I have done it again. It is going to be hard to change my ways, Madam Deputy President, because for all my time in parliament I have been addressing the opposition.

The DEPUTY PRESIDENT—And all my time I have been trying to ask you to address the chair.

Senator McGauran—I assure you that I am going to go away during the break and think hard and long about this point of order you are putting to me. Now, where was I?

Senator Carr—Where should you be? That is the other question.

The DEPUTY PRESIDENT—Senator Carr! Order!

Senator McGauran—There were many issues in question time. What is your tactics committee up to? Who is on it? Have
you left Senator Cook on the tactics committee? Please, in the new year get him off. You have had serious issues such as the defence announcement. This is a seminal issue in Australian political policy—not one question today on that matter. You are not even supporting us in regard to the roads funding. That has been a major announcement in the last fortnight in regard to rural and regional policy. Today we have had handed down the final reconciliation document—not one question, not one issue of debate in this chamber at all. Instead, again, you bring up spurious points in regard to some report handed down some 12 months ago. You have had the opportunity to discuss, and even agree with us by chance, Senator Vanstone’s announcement today on the ongoing aggression by this government over the last 12 months in regard to the drug debate. There has been major bust after major bust. Why don’t you attempt to at least join that debate? There is a myriad of debates you can involve yourself in, through you, Madam Deputy President, to Senator Mackay, who I am sure you will attempt to relay my comments to. We have had a major billion-dollar announcement in regard to salinity—another debate you can involve yourself in. The point is: you are a constantly self-confessed, carping opposition—

The DEPUTY PRESIDENT—Senator McGauran, please!

Senator McGauran—Madam Deputy President, are you saying I cannot say that—a self-confessed, carping opposition?

The DEPUTY PRESIDENT—It is the use of the word ‘you’. If you said ‘they’, you would be fine.

Senator McGauran—Well, I will do my utmost. I will be listening to Senator Mackay, because I think she will have the same difficulty as I am having here.

The DEPUTY PRESIDENT—If she does, I will pull her up.

Senator McGauran—Yes, I invite you to. In summary, I am sure I have made my point. But the irony of all of this is: of all the policies we have put down that the opposition object to and say such things as, ‘The sun will not rise if the GST comes in,’ isn’t it strange how they then go and support them? The opposition will go into the next election supporting all those policies. You are entering an election year. Far be it from me to give you some advice, but I am going to anyway: you have to change your whole position—again, by dumping Senator Cook and the like from the policy committee—and get some real policy debate at question time.

Senator Mackay—(Tasmania) (3.21 p.m.)—Despite the somewhat risible attitude of Senator McGauran, this is a very serious issue. What we have here today is $200,000 of taxpayers’ money being spent for essentially party political research. It is the case that it was raised in estimates, and I was the one who raised it in estimates. The reality is that the response I got completely disguised the nature of this report when it finally came to light. I would like to at some stage include in the Hansard the relevant estimates section which described exactly what this research project was supposed to be. Nowhere did it actually say that it was going to the nature of party political voting intentions—nowhere.

What I also found very interesting is Senator Ian Macdonald, who is not known for his veracity, not known for his capacity to answer questions, not known for his honesty—

The DEPUTY PRESIDENT—Order! Senator Mackay, I think you had better withdraw that.

Senator Mackay—I withdraw. He is not known for his capacity to answer questions anywhere except when it is a Dorothy Dixer, when he has it written out. He never answers questions in estimates. Senator McGauran knows this. That is why rural and regional estimates hearings go so long. What is interesting is that in the House of Representatives the Deputy Prime Minister, the Leader of the National Party, was asked whether he was aware of this report and he said, ‘No, I have not seen it.’ What does this mean? Does this mean Minister Macdonald has actually got the report which he admitted he had today—and in fact he had a brief—and he has not advised Minister Anderson? That is a bit strange. Anyway, the key points of it have permeated through the coalition’s election policy. We see the amount of money
being poured into Gwydir not just in Roads to Recovery, or ‘Roads to National Party recovery’, but in relation to a whole lot of other things as well. This Minister Macdonald—who has become somewhat of a joke, I have to say, not only on this side of politics—also said that he had released the report. Wrong. He has not released the report. Yet again he has come in here and misled the Senate—deliberately misled the Senate. He has not released the report.

The DEPUTY PRESIDENT—Order!

Senator Coonan—Madam Deputy President, I raise a point of order. The senator should withdraw that remark.

Senator MACKAY—I withdraw. He has somewhat disingenuously, and potentially inadvertently, misled the Senate by saying that he has released the report. Senator Macdonald seems to have a difficulty in terms of long-term memory, but the reality is we did traverse this considerably in estimates. I will be getting advice in relation to the responses of the public servants, because I do not think they knew about it either. I do not think they understood it either. This is not unusual for this minister. The reality is—and a number of us have been in politics for a very long time—when you do not have a very good minister you just give him a very limited brief and say, ‘For goodness sake, don’t answer any questions.’ If you want to be competent in estimates you actually have to have a degree of acuity; you actually have to have some degree of perspicacity. Neither of these attributes can be attributed to Senator Macdonald.

In the time remaining to me, let me turn briefly to some of the issues that were raised in this $200,000 Quantum research. Senator Faulkner has already talked about the federal voting intentions in Queensland; it is quite explicit in relation to this. We have also the quote that we used today: a reference to Jeff Kennett realising too late that his credentials were not very good in rural and regional Australia. I do not think that is an appropriate use of taxpayers’ funds. We have also got—and this is extraordinary; this is what the government spent $200,000 on:

We believe that this suggests a risk that Government may become irrelevant in the minds of country people...

At this stage, ‘don’t know’ response levels to questions are not yet growing significantly which suggests that the frustration and anger have not yet become indifference... However, unless this is addressed, we believe that this is only a matter of time.

This government spent $200,000 for that! You could stop anybody in regional Australia where you come from, Madam Deputy President, and they would be able to tell you that, but this government spent $200,000 of taxpayers’ money finding out the bleeding obvious. Further, Minister Macdonald did not give this information to Minister Anderson. Now, I know relationships are not terrific between the two ministers, but I would have thought that on something that was relevant to rural and regional Australia he might have slipped him a copy. But he did not. I repeat what Senator Faulkner said: this is a disgrace and I call on the government to publicly table this.

Senator COONAN (New South Wales) (3.27 p.m.)—What the Labor Party seems to be very confused about in relation to this report is its timing. It seems to have been raised in estimates and yet not until the last day of sitting has there been any question about this report, about the motivation for the report or indeed about any other aspect of it. Yet there is no doubt that it has been out in the public domain for some time.

Senator Mackay—No, it hasn’t.

Senator COONAN—It has, because the political reporter Kerry-Ann Walsh reported in the Sunday Telegraph as long ago as 23 July, in relation to the Victorian state elections, that there had been a rethink of federal government rural policies, and that the Victorian election had caused it to begin tracking the country mood through market research. The article specifically mentioned some AMR Quantum Harris market research undertaken by the Department of Transport and Regional Services. What it did not say, and what apparently was not known by the Labor Party, was that the Department of Transport and Regional Services had been conducting extensive market research since August
1998—that is, pre the Victorian election and certainly prior to Mr Howard’s bush trip. The argument that this research was driven by Mr Howard going to the bush was also drawing a pretty long bow. It seems that the Labor Party cannot get their chronology straight on this at all. This research that has been going on since August 1998 was to determine the extent to which rural and regional communities are aware of and know how to access federal government programs. That is a pretty legitimate type of research. You need to be able to target information to rural and regional Australia and people in the bush need to know how they can access services that will be of assistance to them.

The researchers also looked at the most effective media channels for communicating the message. Is there anything new about that, I ask you? Certainly with rural and regional communities there are barriers to effective communication and it is essential that research is conducted to be able to identify what those barriers are and to be able more effectively to help those in rural and regional Australia. To suggest at this stage that the research is somehow or other not a legitimate exercise seems to me to be drawing a very long bow indeed. On the last day of sittings, it is very little more than a diversionary tactic, a fairly typical one that we have come to expect in this place when Labor is otherwise having a bad time wallowing around in a policy vacuum. You have absolutely nowhere to go and nothing else to say, so what do you do? You try to dredge up things. What does the Labor Party do? It tries to dredge up some sort of report and to draw some inferences from it. Well, I do not think it is going to wash.

The research, when you do look at it, is being used to inform the development of a proper communication campaign for the Regional Australia Strategy. The Regional Australia Strategy, as most in this place would know—if indeed those on the other side have been listening—aims to better coordinate and present public information to regional Australians, to provide better access to Commonwealth programs and to facilitate the two-way process between the Commonwealth government and regional communities. That, in itself, is hardly surprising: that a two-way process actually delivers a better policy.

Of course, it really does not sit very well for the Labor Party to be criticising the government about its record on administration of regional policies. If you look at Labor’s record on administration of regional policies, you now understand why the Labor Party has suddenly decided that there is a great panic to win the bush vote and why you have Country Labor up and running all over the place. Labor’s main regional policy, which they crowed about, was called—somewhat amazingly—the Better Cities Program. The Better Cities Program was criticised broadly in many reports, especially by the ANAO. That office criticised the Better Cities Program because it had a lack of measurement of results against any specified outcomes. (Time expired)

Senator ROBERT RAY (Victoria) (3.31 p.m.)—The Prime Minister, Mr John Howard, often says his is not a poll driven government. The document that we obtained yesterday shows not only is he a poll driven Prime Minister; he is sticking the taxpayer with the costs. It is all very well for Senator Hill to take the first part of my question basically on notice today. But in the supplementary he was asked whether it is appropriate for governments to poll for voter intention. What did we get? One of the lamest excuses in history: ‘Oh, that question is hypothetical. I must obey standing orders and resist any temptation to answer the question.’ Senator Hill has led the Liberal Party in this chamber for nine or 10 years and today he was asked to show just a little leadership, and he refused to show any leadership.

If it is okay for governments to poll for voting intentions, then we have set a new low standard in the history of this parliament and the government of Australia. We have a government that spends hundreds of millions of dollars on advertising, many of them covering the dubious boundary of partisan political viewpoint. We have a government that spends millions of dollars on public opinion polling, be it quantitative or qualitative. Let me say for the record that I do not regard it as being illegitimate for the government to
use public opinion polling to assist it in coming to policy decisions. But in this instance it is a government in panic. In this instance it is a government that knows it is on the nose in rural areas, so it not only seeks to find out what some of the solutions might be; it also looks to their voting intention.

Let us have a look at page 6 to see what it says. It is broken into three categories—‘Inner Queensland’, ‘Outer Queensland’ and ‘Country Queensland’—and it has across the three categories: ‘Labor’—34 per cent, 39 per cent, 34 per cent’. It has: ‘Liberal’—29 per cent, 18 per cent, 13 per cent.’ ‘The Nationals’—5 per cent, 2 per cent’—and cop this one—‘Country Queensland, 3 per cent’. It has the Democrats at five per cent in ‘Inner Queensland’, three per cent in ‘Outer Queensland’ and three per cent in ‘Country Queensland’. One Nation: three per cent in ‘Inner’, eight in ‘Outer’ and a staggering 17 per cent in ‘Country Queensland’.

If you want to know why they are doing so well, it is because of the embourgeois National Party, whose spokesman we heard from earlier in this debate, who surveys rural Victoria from East Melbourne, who is so unbusy in his activities he can lend his brother a staff member for a considerable period of time. The National Party is the problem. You do not need to spend $200,000 to know why the coalition is on the nose in the bush: the National Party is the reason. People are sick of sell-out merchants. They are sick of these weak, spineless National ministers going into cabinet and being rolled. The current Treasurer really should not be paid what he is being paid, because it is just so easy to roll over the Nationals. He can do it in his sleep. He gets up in the morning, he goes into cabinet, gives them a couple of biffs—it is all over. The National Party have sold the bush right out.

Of course, this sort of surveying has been done in a number of ways. Apart from surveying voter intention, the other trick of this government is to get their lapdog pollster in and give him the work. There is never voter intention in any of his work that is given to government—that is all put in the back pocket and sent on to Robert Menzies House—and Textor, the Liberal Party pollster, has been up to this for years. In some ways I do not really want to put a stop to it because, even though the Liberal Party are getting his polling on the cheap by commissioning government departments to use him, he is such a bozo pollster that we do not really have to worry about him. We actually have to keep him in place, so there is no point in attacking him here. But Senator Hill had a chance today to say whether voter intention polling is a legitimate tool of government. We say we do not think it is. (Time expired)

Senator IAN MACDONALD (Queensland—Minister for Regional Services, Territories and Local Government) (3.36 p.m.)—It is pleasing that the three Labor speakers who have spoken, Senator Faulkner, Senator Ray and Senator Mackay, are still in the chamber. We have become used to the untruths that are emanating from the Labor Party and we have become used to the extent to which the Labor Party will go to divert attention from problems in their own area. We have heard these allegations made during question time and in the last 30 minutes about what this market research by Quantum was all about. Can I just say to the Senate and the people of Australia that I have been advised by Quantum Market Research and Mr Adrian Goldsmith, the director of that company, as follows:

I confirm that at no time did any of the market research work, qualitative or quantitative, conducted for the Department of Transport and Regional Services (DOTRS) in relation to the Regional Australia Strategies Study ask about or focus on the voting behaviours or intentions of the respondents interviewed.

We have just had an hour of Labor Party politicians, on the last day of sitting for this year, trying to mislead the Australian public in relation to these matters. It is absolutely refuted by the Quantum Market Research people. It is there:

... at no time did any of the market research work, qualitative or quantitative, conducted for the Department of Transport and Regional Services in relation to the Regional Australia Strategy Study ask about or focus on the voting behaviours or intentions of the respondents interviewed.

Senator Ray, what more do you want?
Senator Robert Ray—Why is it in the report?

Senator IAN MACDONALD—You should not only apologise to us and to Quantum Market Research but also apologise to the Senate.

Senator Mackay—Madam Deputy President, I raise a point of order. The minister is in fact being misleading. In the report it says, and Quantum have actually said, that Australia Scan, which is the company that was used, is a research service which Quantum researchers use to keep their finger on the pulse of what is going on in the hearts and minds of Australia. The reality is that Quantum subcontracted this to Australia Scan. So, Minister, you are misleading—tell the truth.

The DEPUTY PRESIDENT—There is no point of order, Senator Mackay.

Senator Faulkner—You are just a liar.

The DEPUTY PRESIDENT—Senator Faulkner, that is a disorderly interjection, and made even more so by the fact that you are not in your seat. Would you please withdraw.

Senator Faulkner—Yes, even though it is disorderly to do so because I am not in my seat.

The DEPUTY PRESIDENT—If you are going to interject in future, leave the chamber.

Senator IAN MACDONALD—I also point out that this is supposed to be some great revelation. There was a reference to some work allegedly done by a journalist back in July. I did not read that comment but, if it were true—and it appears from the information given to me that it is not—this is something that has been around the ridges since July. It was published in the newspaper. So the Labor Party have this great thing on the last day of sitting. I have not had a chance to look through a lot of this material since question time. I have not read the article, but I am told that was referred to by the journalist Kerry-Anne Walsh back in July in the year 2000.

It is important that this parliament should be dealing with matters of policy and of fact and with issues that are of importance and relevance to the people of Australia. We do not, in this chamber or anywhere else, emphasise and highlight the difficulties that the Labor Party is in with the fraud allegations in relation to the electoral system in Queensland and elsewhere.

Senator Robert Ray—Or the forgeries in Western Australia. We know all about them now.

Senator IAN MACDONALD—We talk about policy issues, Senator Ray. Senator Ray, you have been exposed—

The DEPUTY PRESIDENT—Address the chair, please, Senator Macdonald.

Senator IAN MACDONALD—Madam Deputy President, I assume you are going to call Senator Ray to order for the continuous yelling and shouting which you seem not to be able to hear.

The DEPUTY PRESIDENT—I would ask Senator Ray to reduce his noise level, and I would ask you to address the chair and to be careful not to reflect, Senator Macdonald.

Senator Mackay interjecting—

Senator IAN MACDONALD—If you can hear me above the shouting from Senator Mackay, still going on in spite of your ruling—

Senator Faulkner—You have been caught red-handed.

Senator IAN MACDONALD—It really demonstrates that Senator Ray and Senator Faulkner have been caught out yet again.

Senator Robert Ray interjecting—

Senator Faulkner—The 17 July executive meeting, Senator Ellison. You have been caught out. You ought to hand in your resignation.

Senator Ellison—Like hell I am.

DEPUTY CHAIR—Order! Senator Faulkner, Senator Ray and Senator Ellison, if you wish to have a conversation, please do so outside. Senator Macdonald has the call.

Senator IAN MACDONALD—The Labor Party have yet again devised a way to stop the truth from being heard in this chamber. (Time expired)

Question resolved in the affirmative.
COMMITTEES
National Crime Authority Committee
Report: Government Response

Senator ELLISON (Western Australia—Special Minister of State) (3.43 p.m.)—I present the government’s response to the report of the Parliamentary Joint Committee on the National Crime Authority on the third evaluation of the National Crime Authority, and I seek leave to incorporate the document in Hansard.

Leave granted.

The document read as follows—

GOVERNMENT RESPONSE TO THE RECOMMENDATIONS FROM THE 3RD EVALUATION OF THE NATIONAL CRIME AUTHORITY BY THE PARLIAMENTARY JOINT COMMITTEE ON THE NATIONAL CRIME AUTHORITY

The Report from the 3rd Evaluation of the National Crime Authority by the Parliamentary Joint Committee on the National Crime Authority was tabled on 6 April 1998. The Report makes 30 recommendations relating to the role, function and composition of the National Crime Authority; the reference system; powers and penalties; accountability and parliamentary supervision; and complaints.

The Government wishes to thank the members of the Parliamentary Joint Committee for conducting the evaluation of the National Crime Authority. Both the Government and the Parliamentary Joint Committee are confident in the ongoing capability of the National Crime Authority to continue its role in the fight against organised crime.

While acknowledging the work of the Parliamentary Joint Committee and agreeing with many of its recommendations, the Government is of the belief that some of the issues raised by the Parliamentary Joint Committee can be achieved by means other than those proposed. However, the Government will pursue a number of amendments to National Crime Authority Act 1984 where this is necessary to implement the agreed recommendations. This will result in a more effective and efficient National Crime Authority.

The recommendations made by the Parliamentary Joint Committee on the National Crime Authority, together with the Government’s response to each recommendation, are set out below:

Recommendation 1: That the National Crime Authority commence regular reporting on a comprehensive range of performance measures so that the Parliamentary Joint Committee and the community will be better able to assess its performance. (para. 1.129)

The Government is progressing arrangements for improved accountability for Commonwealth departments and agencies generally. It has introduced an accrual budgeting framework and requires government departments and agencies to report on performance indicators and output/outcome measures. All departments and agencies, including the National Crime Authority, have developed performance indicators and output/outcome measures in preparation for this year’s budget.

Recommendation 2: That the National Crime Authority’s base funding be urgently increased to ensure its ability to work with maximum effectiveness across the full range of organised crime activity. (para. 1.182)

The Government is committed to an effective national approach to dealing with organised crime and will continue to support Commonwealth law enforcement agencies appropriately. National Crime Authority funding is a matter for the Government to consider in the budget context. This Government has adopted a supportive approach to the performance of the National Crime Authority. Funds appropriated for the National Crime Authority have included substantial amounts to cover specific projects. Budgets for agencies such as the National Crime Authority generally now comprise one off elements for specific work covering a number of years as well as recurrent funding.

Recommendation 3: That a clear statement of the role of the National Crime Authority be included in the statute as an objects clause. (para. 2.119)

The Government agrees with the Parliamentary Joint Committee that the National Crime Authority’s role can be further clarified, but this can be done adequately without introduction of an objects clause into the National Crime Authority Act as suggested. The National Crime Authority’s role can be expressed in the National Crime Authority Act with clarity and certainty by amendment to existing provisions in the context of the matters raised by the Parliamentary Joint Committee in their report.

Recommendation 4: That the area of inquiry of the National Crime Authority reflect that its role is to counter criminal activity which is systematic and complex and which may, but not necessarily, be trans-or multi-jurisdictional. Where the area of inquiry involves intra-state investigations, such inquiry should only proceed by mutual agreement with
the relevant State or Territory and on a fully funded basis. (para. 2.124)

While the National Crime Authority’s role is to counter criminal activity that is systematic and may be multi-jurisdictional, there should be delineation between State or Territory police investigations and investigations carried out by the National Crime Authority. The National Crime Authority was established as a national agency and where it undertakes investigations within one State or Territory, it does so because that investigation has national significance. It is appropriate that the Commonwealth fund such investigations. It should also be noted that the States and Territories make a significant contribution through the secondment of staff.

Recommendation 5: That the statute be amended to provide that the Inter-Governmental Committee may refer matters for special investigation by the Authority which are framed in broad terms as to the characteristics of the criminality to be investigated. (para. 3.107)

The framing of references in broader terms is consistent with the decision of the Federal Court that references may be valid without specifying the offenders, the particular conduct, transactions or the time frame. As the High Court refused leave to appeal from that decision, it is neither necessary nor appropriate to make substantial changes to the provisions of the Act dealing with references.

The reference model is not intended to be used as a basis for a general investigative power. It is the framework under which the National Crime Authority can use the special powers that are not available to police forces with general investigative powers. Each reference, therefore, requires some factual basis to justify the use of the National Crime Authority’s special powers to enable the Inter-Governmental Committee to make a decision regarding the use of those powers. There is, however, a problem with current time constraints and it is proposed that the National Crime Authority Act be amended to allow the National Crime Authority to investigate related activity occurring after the date of the reference.

Recommendation 6: That, as a check and accountability measure within the system of broadly framed references, the National Crime Authority must first form the opinion that there is a reason to believe that ordinary investigative methods are unlikely to work before it can invoke its special powers. This incorporation of the ‘reason to believe’ test into the references scheme is subject to the adequacy of the balances for enhanced scrutiny contained in this report. (para. 3.107)

A “reason to believe” test is not required, because under the National Crime Authority Act as it stands, the Inter-Governmental Committee must consider, before approving a reference, whether ordinary police methods of investigation into the matter are likely to be effective. Such a test would only be necessary if references were not to be the means of instigating a special investigation. Given the response to recommendation 5, the incorporation of a “reason to believe” test, is unnecessary and could leave the Authority open to costly legal claims of dubious merit.

Recommendation 7: That the National Crime Authority itself, not a Director of Public Prosecutions, should make the decision about whether to indemnify a witness who claims self-incrimination. To protect against improper use of this power, each such decision must be referred immediately for examination by the Inspector General of the National Crime Authority. (para. 4.72)

The Government does not agree with the specific recommendation that the National Crime Authority itself not the Director of Public Prosecution should make indemnification decisions. It is not appropriate that a discretionary power to undertake not to prosecute be given to a law enforcement agency. However, the Government agrees with the Parliamentary Joint Committee that the current arrangements allow witnesses to frustrate the investigation process by refusing to cooperate, including asserting that self incrimination means they cannot answer questions.

The Government believes that there is an alternative solution to the problem identified by the Parliamentary Joint Committee. Amendments will be sought to the sections of the National Crime Authority Act, which provide for undertakings as to use of incriminating evidence. The proposed amendments will provide automatic immunity from use of self incriminating evidence against the witness. The effect would be that, where a person claimed the privilege, they would still be required to give the evidence but it could not be used in a criminal proceeding or a proceeding for the imposition of a penalty. However, any evidence identified as a result of that answer (derivative use) would be permitted. The provisions will be consistent with those in the Australian Securities and Investments Commission Act 1989.

Recommendation 8: That no privilege against self-incrimination should attach to summonsed documents. (para. 4.72)
The Government supports this recommendation and will seek to clarify this provision because the law has changed fundamentally since the introduction of the Act. The privilege against self-incrimination applies to statements made by the person claiming privilege. It also applies to documents that the person is required to produce, but only so far as the documents equate with testimonial evidence. Consistent with the common law, the privilege against self-incrimination would not apply to the fact of the existence of the documents (but immunity would apply to their contents).

Recommendation 9: That the application of client legal privilege be clarified. (para. 4.92)

The Government agrees with this recommendation. Subsection 30(3) of the National Crime Authority Act, which preserves legal professional privilege in relation to questions or requests for documents made to a legal practitioner at a hearing, requires clarification in accordance with the law on legal professional privilege. It is unnecessary to establish expressly all the circumstances in which legal professional privilege applies. The provisions need only state that the provisions of the Act do not affect the law relating to legal professional privilege.

It is also proposed to seek repeal of paragraph 29B(2)(e)(i) of the National Crime Authority Act, which provides an exception to the prohibition on disclosure under section 29B for a legal practitioner. This exception is in addition to a legal professional privilege exception and an exception for the purpose of obtaining legal representation. Its scope is uncertain and it is anomalous to provide such an exception only to legal practitioners. A duty arising from a professional relationship such as a contractual or fiduciary obligation of good faith may arise in any professional relationship but no exemption is provided in relation to other professions.

Recommendation 10: That the National Crime Authority should be empowered to issue search warrants in narrowly defined circumstances. Any decision made by the Authority in relation to an application for a search warrant should be notified to the Inspector-General of the National Crime Authority as soon as practicable. (para. 4.106)

The view of the Government is that to allow the National Crime Authority to issue its own search warrants is not appropriate or necessary. It does however, support consideration of a broader approach to the issuing of search warrants (such as the issuing of warrants by magistrates). Any extension of the power of the National Crime Authority in relation to search warrants that extends beyond the powers of police under the Crimes Act 1914 is not supported.

The Government will also seek to amend the National Crime Authority Act 1984 so that search warrants (and arrest warrants under section 31) include an express stipulation of ‘reasonable force’. The Senate Standing Committee on Regulations and Ordinances has expressed concern about the absence of this stipulation in arrest warrants.

Recommendation 11: That the penalties for the offence of money laundering be increased. (para. 4.119)

The Government understands the concern of the Parliamentary Joint Committee that the Courts are issuing some manifestly inadequate penalties for the offence of money laundering but it believes that the determination of appropriate penalty is a matter for the Courts. The Commonwealth money laundering offence in the Proceeds of Crime Act 1987 provides for a penalty of $200,000 or imprisonment not exceeding 20 years or both, for a person who engages in money laundering of greater amounts than $200,000. The Government believes such penalties are sufficient.

Recommendation 12: That the penalties for non-compliance with the National Crime Authority Act 1984 be increased. (para. 4.123)

It is proposed to seek amendments to the Act so that: failure to attend when required to do so; failure to attend from day to day; refusing or failing to take an oath or affirmation; refusing to answer a question; refusing or failing to produce a document or thing; and contempt will have the same penalty as lying under oath. The Act currently provides a fine of up to $22,000 or 5 years imprisonment for making false or misleading statements or, if heard summarily, $2,200 or imprisonment for one year. Any failure to comply with the requirements of the Act delays the hearing process but, in the absence of greater penalties, there is no incentive to comply.

In addition to increasing the penalties for the offences listed, the Government also proposes seeking amendments to the Act to give the National Crime Authority a contempt regime. This regime, which would be broadly based on the New South Wales Independent Commission Against Corruption Act 1988, would enable the National Crime Authority to apply to a Court to have the Court deal with the contempt as if it were contempt of Court. This amendment will further support the effective and efficient operations of the National Crime Authority.

Recommendation 13: That, pending the passage of the Commonwealth Criminal Code and
as a matter of general guidance of what is considered acceptable, the meaning of ‘reasonable excuse’ under sections 30(1) and 30(2) of the National Crime Authority Act 1984 should be defined in the Act. (para. 4.125)

The Government will seek to amend the Act so that Chapter 2 of the Criminal Code, which deals with criminal responsibility and contains comprehensive general defences, applies to offences under the Act. The Government will also seek to remove the ‘reasonable excuse’ defence from the offences in the Act, as the Code will require the proof of any mental element for offences as well as providing appropriate defences.

Recommendation 14: That, given the substantial amendment of the National Crime Authority Act 1984 required to implement the Parliamentary Joint Committee’s recommendations in this report, the Government should rewrite the Act to ensure that Parliament’s intentions are expressed in clear and unambiguous terms. (para. 4.143)

The Parliamentary Joint Committee’s recommendations do not affect the greater part of the National Crime Authority Act. However, in accordance with the Government’s policy on statute repair, the Act will be examined during the drafting process of the proposed amendments to ensure that its contents are expressed in clear and unambiguous terms.

Recommendation 15: That, without restricting the manner in which the Authority may regulate the conduct of proceedings at a hearing under section 25 of the National Crime Authority Act 1984, where the presiding member has permitted a person to attend a hearing who is not a member of the National Crime Authority’s staff, witnesses should be so advised and be able to comment. (para. 4.154)

The Government will seek to have this provision amended as recommended, but not so as to give the witness grounds to refuse the presence of the individual.

Recommendation 16: That the Chairperson of the National Crime Authority should not also be chair of the Commonwealth Law Enforcement Board. (para. 5.46)

The Government intends to initiate a re-examination of this arrangement in the context of the broader issue of Commonwealth law enforcement coordination.

Recommendation 17: That the Standing Committee on Organised Crime and Criminal Intelligence be recognised in the statute as an advisory body to the National Crime Authority. (para. 5.52)

Government is considering, in consultation with the States and Territories, the role and functions of the Standing Committee on Organised Crime and Criminal Intelligence (SCOCCI). It is not appropriate that a body such as SCOCCI, which advises a ministerial committee, be recognised in the National Crime Authority Act.

Recommendation 18: That sections 51 and 55 of the National Crime Authority Act 1984 be amended to clarify that the Parliamentary Joint Committee on the National Crime Authority has access to all information held by the Authority which is not of a sensitive nature. (Para. 5.103)

The Government does not agree with this recommendation. It feels that if an appropriate complaints mechanism is created, there is arguably less reason to give the Parliamentary Joint Committee wider access to information. However, the Government does agree that the Parliamentary Joint Committee could be provided with a greater degree of information provided operational sensitivities are protected. Amendments will therefore be proposed to allow the Parliamentary Joint Committee access to information on completed operations and to Ombudsman reports referred to it by the Minister.

Recommendation 19: That an Office of Inspector-General of the National Crime Authority be created, subject to the direction and oversight of the Parliamentary Joint Committee on the National Crime Authority, to investigate any aspect of the Authority’s operations as may be required. (para. 5.103)

The Government does not agree with the concept of creating an Inspector General of the National Crime Authority to be subjected to the direction and oversight of the Parliamentary Joint Committee. The National Crime Authority is already under the direction and oversight of the Minister and the Inter Governmental Committee. The notion that a Parliamentary Joint Committee supervises a statutory office would be inappropriate in our system of government. No other Parliamentary Committee has such a role.

Furthermore, the Ombudsman has the role of auditing the interception activities of the AFP and the National Crime Authority under the Telecommunications (Interception) Act 1979. The audit and complaints investigation functions would complement each other, as they do with the AFP.

The Ombudsman would not be subject to the direction or oversight of the PJC in relation to the investigation of specific complaints, but the PJC
would have access to such Ombudsman reports as referred to it by the Minister.

Recommendation 20: That the Minister be required to table the annual report of the National Crime Authority within 15 sitting days of its receipt. (para. 5.108)

Currently the Minister must table the annual report within 15 sitting days of its receipt. The inter-governmental nature of the National Crime Authority requires that the report be circulated to members of the Inter-governmental Committee for comment before it is provided to the Minister. This process naturally takes some time but it is essential given the nature of the National Crime Authority.

Recommendation 21: That the Inspector-General of Intelligence and Security be designated as the Inspector-General of the National Crime Authority and be given responsibility for overseeing the operations of the National Crime Authority in respect of complaints made against the actions of all its officers, including seconded police. (para. 6.57)

The Government does not agree with the concept of an Inspector General of the National Crime Authority. However, the Government does agree that what has existed to date is an unsatisfactory system, with complaints to Ministers, the Parliamentary Joint Committee and police complaint bodies, none of which deals with the totality of the issue. The Government supports the establishment of specific procedures for the investigation of complaints against the National Crime Authority but considers that the Ombudsman should undertake this function.

That office already has jurisdiction in relation to the Australian Federal Police seconded to the Authority. It is also consistent with the systems of complaints against police in the States and Territories and will facilitate consistent processes for dealing with officers the subject of complaints. Some concern has been expressed that the statutory role of the police commissioners responsible for officers seconded to the Authority may not be adequately recognised. It is proposed that in respect of those officers, the Ombudsman be given jurisdiction to examine complaints against the National Crime Authority, with home jurisdictions to determine appropriate disciplinary action.

Recommendation 22: That the proposed Inspector-General of the National Crime Authority present details on the outcome of the examination of complaints in relation to the National Crime Authority in an annual report to Parliament. (para. 6.57)

As outlined in Recommendation 21, the Government intends setting up a complaint mechanism utilising the office of the Ombudsman. The ordinary requirements in relation to reporting by the Ombudsman should apply.

Recommendation 23: That the Chairperson of the National Crime Authority be a judge. (para. 7.26)

The Government notes that under the National Crime Authority Act, a judge may be appointed as Chairperson. None of the powers of Members or the Chair are judicial. The National Crime Authority is an investigatory body, not an adjudicatory body. The Parliamentary Joint Committee recommendation arises from its view that the powers of the Chairperson of the National Crime Authority should be expanded, but the Government does not agree that there should be a significant increase in those powers. A requirement that a judge chair the National Crime Authority would significantly reduce the number of possible candidates with other qualifications necessary to the position including demonstrated management skills. No change should be made to the current qualifications for the Chairperson.

Recommendation 24: That the provisions of the National Crime Authority Act 1984 in relation to the qualifications of Authority Members be retained. (para. 7.26)

The Government agrees with the recommendation. This provides more flexibility for the appointment of persons with necessary skills.

Recommendation 25: That the term of membership of the National Crime Authority be four years, with the option for renewal for a maximum of another four years, subject to satisfactory performance. (para. 7.47)

The Government proposes to seek amendments to extend the potential maximum term(s) to a total period of 6 years. This will provide some greater flexibility balanced against the safeguard of terms being capped.

Recommendation 26: That subject to demonstrating appropriate aptitudes and qualities, a Member should be capable of appointment as Chairperson of the National Crime Authority for four years, subject to the aggregate term not exceeding eight years. (para. 7.47)

Under the National Crime Authority Act, there is currently no barrier to a member being appointed as Chairperson, provided that the member is qualified. The Government agrees that it should be possible for a member to be appointed as Chairperson. The aggregate term should be for no more than six years (see recommendation 25).
Legislative amendments to achieve this will be proposed.

Recommendation 27: That the Government present a submission to the Remuneration Tribunal for a review of the remuneration of the Chairperson and Members of the National Crime Authority in recognition of the substantial changes in their responsibilities arising from the implementation of the recommendations contained in this report. (para. 7.47)

The Government does not believe the changes it proposes are sufficient to warrant a submission to the Remuneration Tribunal at this time.

Recommendation 28: That the statute be amended to provide for the appointment of a number of part-time members, who would each serve a term not exceeding eight years. (para. 7.50)

The Government agrees with the need to increase the number of persons who are able to exercise powers under the Act. However, the Government does not agree that there is a need for part-time members who would differ from the full-time members only in relation to the nature of their appointment. To enable the National Crime Authority to operate effectively and efficiently, there should be a number of persons who are specifically empowered to conduct hearings on behalf of the National Crime Authority. It is, therefore, proposed to seek amendments to the Act to allow for the appointment of an unlimited number of hearing officers whose only function would be to conduct hearings for the National Crime Authority. Such hearing officers would have all the powers, privileges and immunities of the full-time members of the National Crime Authority when they conduct a hearing, but no other function or role. Hearing officers would increase the investigative capacity of the National Crime Authority and open appointments to qualified persons who could not otherwise accept a full-time appointment.

The Governor-General on the recommendation of the Inter-Governmental Committee would appoint the hearing officers for a maximum period of six years. A number of minor administrative amendments governing leave and conflict of interest will be required.

Recommendation 29: That attention should be paid to the geographical distribution of National Crime Authority members, with particular reference to Western Australia. (para. 7.51)

It is current practice in considering appointments to take account of geographical distribution. The appointment of part-time members should allow for their strategic allocation to ensure that the National Crime Authority maintains an effective national presence.

Recommendation 30: That the National Crime Authority should employ a small core of staff investigators to complement the existing system of seconded police officers, the emphasis and priorities of this core being a matter for discussion with SCOCCI having regard to the Authority’s needs for investigative personnel and the availability of seconded officers. (para. 7.91)

This is a management issue to be considered in the context of managing and allocating resources to effectively achieve the National Crime Authority’s outcomes. There are complex issues involved in this recommendation, especially those regarding the possibility for corruption, which the Parliamentary Joint Committee in its report acknowledges.

DEPARTMENT OF THE SENATE
Register of Senior Executive Officers’ Interests

The DEPUTY PRESIDENT—On behalf of the President, I present notifications of alterations to the Register of Senior Executive Officers’ Interests, lodged between 23 June and 4 December 2000.

COMMITTEES
Reports: Government Responses

The DEPUTY PRESIDENT—On behalf of the President, and in accordance with the usual practice, I table a report of parliamentary committee reports to which the government has not responded within the prescribed period. The report has been circulated to honourable senators. With the concurrence of the Senate, the report will be incorporated in Hansard.

Leave granted.

The document read as follows—

PRESIDENT’S REPORT TO THE SENATE ON GOVERNMENT RESPONSES OUTSTANDING TO PARLIAMENTARY COMMITTEE REPORTS

AS AT 7 DECEMBER 2000

PREFACE

This document continues the practice of presenting to the Senate twice each year a list of government responses to Senate and joint committee reports as well as responses which remain outstanding.
The practice of presenting this list to the Senate is in accordance with the resolution of the Senate of 14 March 1973 and the undertaking by successive governments to respond to parliamentary committee reports in timely fashion. On 26 May 1978 the then Minister for Administrative Services (Senator Withers) informed the Senate that within six months of the tabling of a committee report, the responsible minister would make a statement in the Parliament outlining the action the government proposed to take in relation to the report. The period for responses was reduced from six months to three months in 1983 by the then incoming government. The then Leader of the Government in the Senate announced this change on 24 August 1983. The method of response continued to be by way of statement. Subsequently, on 16 October 1991 the former government advised that responses to committee reports would be made by letter to a committee chairman, with the letter being tabled in the Senate at the earliest opportunity. The current government in June 1996 affirmed its commitment to respond to relevant parliamentary committee reports within three months of their presentation.

This list does not usually include reports of the Parliamentary Standing Committee on Public Works or the following Senate Standing Committees: Appropriations and Staffing, Selection of Bills, Privileges, Procedure, Publications, Regulations and Ordinances, Senator’s Interests and Scrutiny of Bills. However, such reports will be included if they require a response. Government responses to reports of the Public Works Committee are normally reflected in motions for the approval of works after the relevant report has been presented and considered.

Reports of the Joint Committee of Public Accounts and Audit (JCPAA) primarily make administrative recommendations but may make policy recommendations. A government response is required in respect of such policy recommendations made by the committee. However, responses to administrative recommendations are made in the form of an Executive Minute [until recently a Finance Minute] provided to, and subsequently tabled by, the committee. Agencies responding to administrative recommendations are required to provide an Executive Minute within 6 months of tabling of a report. The committee monitors the provision of such responses.

The entry on this list for a report of the JCPAA containing only administrative recommendations is annotated to indicate that the response is to be provided in the form of an Executive Minute. Consequently, any other government response is not required. However, any reports containing policy recommendations are included in this report as requiring a government response.

Legislation and other committees report on bills and on the provisions of bills. Only those reports in this category that make recommendations which cannot readily be implemented through the bill, and therefore require a response, are listed. The list also does not include reports by legislation committees on estimates or scrutiny of annual reports.

A guide to the legend used in the ‘Date response presented/made to the Senate’ column

* See document tabled in the Senate on 6 December 2000, entitled Government Responses to Parliamentary Committee Reports--Response to the schedule tabled by the President on 29 June 2000, for Government interim/final response.

** Report contains administrative recommendations only – response is to be provided direct to the committee in the form of an Executive minute.
### Australian Security Intelligence Organisation (Joint)

| (Joint) | The nature, scope and appropriateness of ASIO’s public reporting activities | 4.9.00 | - | No |

### Community Affairs References

| Access to medical records | Report on proposals for changes to the welfare system | 26.6.97 | 30.11.00 | *(interim) | No |
| Rocking the cradle – A report into childbirth procedures | 8.12.99 | 31.8.00 | No |
| Inquiry into public hospital funding – First Report: Public hospital funding and options for reform | 14.8.00 | - | Not required |

### Corporations and Securities (Joint Statutory)

| Report on the mandatory bid rule | 21.6.00 | 9.11.00 | No |
| Report on the draft Financial Services Reform Bill | 14.8.00 | - | No |
| Shadow ledgers and the provision of bank statements to customers | 3.10.00 | - | Time not expired |

### Economics References

| Report on the operation of the Australian Taxation Office | 9.3.00 | *(interim) | No |
| Report on the provisions of the Fair Prices and Better Access for All (Petroleum) Bill 1999 and the practice of multi-site franchising by oil companies (interim report) | 29.6.00 | - | Not required |

### Electoral Matters (Joint Standing)

| The 1998 federal election – Report of the inquiry into the conduct of the 1998 federal election and matters related thereto | 26.6.00 | *(interim) | No |

### Employment, Workplace Relations, Small Business and Education References

| Jobs for the regions: A report on regional employment and unemployment | 30.9.99 | *(interim) | No |
| Katu Kalpa – Report on the inquiry into the effectiveness of education and training programs for indigenous Australians | 16.3.00 | *(interim) | No |
| Aspiring to excellence – Report into the quality of vocational education and training in Australia | 9.11.00 | - | Time not expired |

### Environment, Communications, Information Technology and the Arts Legislation

<p>| Report on the Postal Services Legislation Amendment Bill 2000 | 5.6.00 | *(interim) | No |</p>
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<tr>
<td>Treaties tabled on 18 March and 13 May 1997 (8th report)</td>
<td>23.6.97</td>
<td>*(interim)</td>
<td>No</td>
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<td>Agreement with Kasakstan, Treaties tabled on 30 September 1997 and 21 October 1997 (11th report)</td>
<td>24.11.97</td>
<td>*(interim)</td>
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<td>Australia-Indonesia maritime delimitation treaty (12th report)</td>
<td>1.12.97</td>
<td>*(final)</td>
<td>No</td>
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<td>UN convention on the rights of the child (17th report)</td>
<td>10.11.98</td>
<td>*(interim)</td>
<td>No</td>
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<tr>
<td>Singapore’s use of Shoalwater Bay, development cooperation with PNG and protection of new varieties of plants (29th report)</td>
<td>15.2.00</td>
<td>5.10.00</td>
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<tr>
<td>Treaties tabled on 8 and 9 December 1999 and 15 February 2000 (30th report)</td>
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<td>5.12.00</td>
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<td>10.4.00</td>
<td>*(interim)</td>
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<td>Six treaties tabled on 7 March 2000 (32nd report)</td>
<td>16.5.00</td>
<td>*(interim)</td>
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<td>Social Security Agreement with Italy and New Zealand committee exchange (33rd report)</td>
<td>5.6.00</td>
<td>*(final)</td>
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<td>Two treaties tabled on 6 June 2000 (34th report)</td>
<td>23.8.00</td>
<td>-</td>
<td>Time not expired</td>
</tr>
<tr>
<td>Agreement for cooperation in the peaceful uses of nuclear energy (35th report)</td>
<td>9.10.00</td>
<td>-</td>
<td>Not required</td>
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<td>An extradition agreement with Latvia and an agreement with the United States of America on space vehicle tracking and communication (36th report)</td>
<td>12.10.00</td>
<td>-</td>
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<tr>
<td>Six treaties tabled on 10 October 2000</td>
<td>4.12.00</td>
<td>-</td>
<td>Not required</td>
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PARLIAMENTARIANS’ TRAVEL ALLOWANCE PAYMENTS

The DEPUTY PRESIDENT—I table a document providing details of travel allowance payments made by the Department of the Senate for senators and members during the period January to June 2000.

REVIEW OF PARLIAMENTARIANS’ ENTITLEMENTS

Return to Order

The DEPUTY PRESIDENT—I present a response from the Auditor-General, Mr Barrett, to a resolution of the Senate of 2 November 2000 requesting a review of parliamentarians’ entitlements.

OLYMPIC GAMES: SYDNEY 2000

Return to Order

The DEPUTY PRESIDENT—I present a response from the President of the Australian Olympic Committee, Mr Coates, to a resolution of the Senate of 3 October 2000 concerning the Olympics Games.

GREENFLEET

Return to Order

The DEPUTY PRESIDENT—I present a response from the Minister for Finance and Administration, Mr Fahey, to a resolution of the Senate of 4 October 2000 concerning the formation of Greenfleet.

PARLIAMENTARIANS’ TRAVEL COSTS

Senator ELLISON (Western Australia—Special Minister of State) (3.46 p.m.)—I table a document providing details of parliamentarians’ travel paid by the Department of Finance and Administration during the period January to June 2000.

COMMITTEES

Foreign Affairs, Defence and Trade References Committee

Report

Senator HOGG (Queensland) (1.46 p.m.)—I present the report of the Foreign Affairs, Defence and Trade References Committee on East Timor, together with the Hansard record of the committee’s proceedings and documents received by the committee.

Ordered that the report be printed.

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

Leave granted.

Senator HOGG—I move:

That the Senate take note of the report.

In doing so, I intend to speak only very briefly because my colleague Senator Hutchins, given the amount of time available this afternoon, will want to speak to this report as well. Briefly, I want to thank the secretary of the committee, Mr Paul Barsdell, and Robert King who worked tirelessly in compiling the report and assisting the committee in its deliberations upon a very difficult issue indeed. I do have a tabling statement, and I gave a copy of this tabling statement to the government whip prior to the tabling of the report. I seek leave to have that statement incorporated in Hansard.

Leave granted.

The document read as follows—

EAST TIMOR INQUIRY

I present the final report of the Senate Foreign Affairs, Defence and Trade References Committee on East Timor.

On 30 September 1999, the Committee had presented an interim report to the Senate following the massive violence and destruction that took place in East Timor in early September 1999 and the subsequent deployment of the Australian-led Interfet force under a United Nations mandate.

Although the pro-integrationist militias are still creating some security problems for the United Nations transitional authority (UNTAET) in East Timor, and there is still no final resolution to the refugee problem in West Timor, considerable progress has been made towards rebuilding East Timorese society and government. It has been, of course, a slow process and there is still much to do.

There is much more to building a new state than just replacing the buildings and infrastructure destroyed during the militia rampage after the popular consultation on 30 August 1999.

Four hundred years of Portuguese colonialism and 25 years of repressive Indonesian military rule left East Timor with a largely uneducated population, an impoverished economy, considerable health problems and with no experience of a system of government based on the rule of law.
East Timor is going to need foreign help in many areas, both financial and expertise, for a long time until the East Timorese can be trained to take over all the functions of running a modern state. The Committee believes that it is in Australia’s interest for East Timor to become a viable nation; one that does not remain a mendicant state and one that can play a constructive role in regional affairs.

Timor Gap Treaty
An important source of income for East Timor will be the royalties arising from the commercial production of oil and gas in the Timor Gap Zone of Co-operation. The Timor Gap Treaty, which was negotiated between Australia and Indonesia, provides for a 50:50 split between Australia and East Timor (which replaces Indonesia) in Zone A. The East Timorese are seeking a greater share of the royalties under the Treaty. Australia and UNTAET, which is acting for East Timor under its United Nations mandate, are currently negotiating royalties under the Treaty.

The Committee believes that Australia should act generously towards East Timor to provide it with the means by which it can develop a society and economy in keeping with the region. The revenues from oil and gas royalties would inevitably become the cornerstone of its future economic and social development.

The Committee has recommended that, in its negotiations with UNTAET on the future of the Timor Gap Treaty, the Australian Government should take into account current international law in relation to seabed boundaries, the history of our relations with the East Timorese people, the need to develop good bilateral relations with East Timor and the need for East Timor to have sources of income that might reduce dependency on foreign aid.

Human Rights Abuses in East Timor
The East Timorese people have suffered gross human rights abuse at the hands of the Indonesian military and militias throughout the period of Indonesian rule. The massive violence and destruction of property that occurred after the 30 August 1999 ballot drew international support for the establishment of an international tribunal to try the perpetrators of the violence. Indonesia objected to international interference into what it regarded as its sovereign responsibility and has been carrying out investigations of its own.

The Committee believes that justice should prevail, whether it is carried out by Indonesia, East Timor or by an international tribunal. Given the difficulties of getting hold of Indonesian suspects residing in Indonesia, it is preferable to let justice take its course through the Indonesian justice system. If, on completion of that process, the international community remained dissatisfied with the outcome, it should press for the establishment of an international tribunal to instigate its own proceedings against alleged perpetrators of the violence.

Australian policy towards East Timor
As required by its terms of reference, the Committee examined Australian policy towards East Timor, mainly from about 1974 onwards. However, as made clear at the beginning of the inquiry, the Committee did not examine the matter of the deaths of five Australian and British journalists at Balibo in October 1975.

It is easy to understand why many people thought that incorporation into Indonesia was the best solution for Portuguese Timor in 1975. The Portuguese had not prepared the Timorese for independence, the economy very small and most Timorese outside Dili and the larger towns were subsistence farmers. Timor would have been very dependent on foreign aid for a long time. Moreover, Apodeti members preferred some association with Indonesia while the two main parties, Fretilin and UDT fought a bloody civil war. The left-leaning Fretilin was of great security concern to Indonesia, which was very anti-communist, in case Fretilin attracted external communist involvement and support. Internationally, there was support of incorporation of Portuguese Timor into Indonesia.

It is always difficult, even in hindsight, to establish whether a different policy approach would have achieved a significantly different outcome. It is clear that Ministers and public servants generally agreed that Portuguese Timor should have been incorporated into Indonesia.

Mr Whitlam appeared, particularly in 1974, to take the view that the outcome was more important than the process. His comment to officers that ‘I am in favour of incorporation but obeisance is to be made to self-determination’ supports that view. This approach was watered down to some extent in early 1975. Others, such as Senator Don Willesee, consistently gave greater emphasis to the process of self-determination than the outcome.

Through the whole period from April 1974 to the fall of the Whitlam government in November 1975, not once was the future of Portuguese Timor referred to Cabinet for consideration.

At the time of the Yogyakarta meeting in September 1974, it appears that President Soeharto was still diffident about incorporating Portuguese Timor in Indonesia.
A strong Australian position in favour of self-determination might have bolstered the non-interventionist element in the Soeharto administration as opposed to military elements that supported Indonesian action to effect incorporation. Even if that happened, there was no guarantee that the non-interventionist position could have withstood the events of 1975 in Portuguese Timor, that is, Fretilin and UDT calling for independence and the civil war between the two, as well as allegations of communist sympathies on the part of Fretilin.

When, on 17 August 1975, the Australian Ambassador to Jakarta, Mr Woolcott, sent his oft-quoted cable to Canberra arguing in favour of pragmatism rather than principle, it was probably too late for Australia to have changed the course of events.

East Timor has been a thorn in the side of Australia’s relationship with Indonesia since incorporation.

Ever since the mid-1970s, there has been a thread running through East Timor policies of Australian Governments of all political persuasions: that greater emphasis should be placed on relations with Indonesia at the expense of East Timor. Until the latter part of 1999, all governments have publicly played down reports of human rights abuses in the territory. They were prepared to accept Indonesian Government assurances and explanations at face value, and support them, even in the face of contradictory evidence.

The East Timorese people, having been colonised by the Portuguese, had a different heritage to the rest of the Indonesian people. Having had a taste of freedom in 1975, they were not prepared to accept Indonesian rule and, hence, their prolonged resistance. The brutal military regime that controlled East Timor over the next 25 years only served to reinforce their desire to throw off the Indonesian yoke.

Once almost 80 per cent of East Timorese cast their votes for independence, despite severe intimidation by pro-Indonesian militias, aided and abetted by the Indonesian military, the TNI, that act of self-determination rendered continued Indonesian control of East Timor unsustainable.

The subsequent horrendous violence and destruction wreaked on East Timor by the militias and the TNI made international military intervention an inevitable and pressing requirement.

The denial of self-determination to the East Timorese people in 1975 has now been rectified, albeit at a huge cost for both the East Timorese people and Indonesia.

Ironically, when, ultimately, Australia was forced by circumstances to change its policy towards East Timor, it was blamed by Indonesia for its loss of East Timor, resulting in a downgrading of the bilateral relationship, which Australia’s earlier disingenuous policy towards the territory had been aimed at propping up.

Defence Co-operation with Indonesia

On 10 September 1999, the Government announced a review of the defence relationship with Indonesia because of the events in Indonesia, as a result of which there was a significant scaling back across a wide range of activity. However, some staff college level exchanges and educational activities continued.

As it was the Indonesian military that sponsored the violence that occurred in September 1999, and had earlier been responsible for the many human rights abuses perpetrated over 25 years of Indonesian rule of East Timor, the question of defence co-operation became a sensitive issue in the inquiry.

The Committee believes that Australia has the capacity to assist the TNI become a professional force but until there is a clear indication that the TNI is prepared to move in that direction, Australia should not countenance renewing the defence co-operation program.

The Committee believes that before any additional defence co-operation measures are undertaken there must be a resolution of the refugee problem in West Timor and the neutralisation of the East Timorese militias, including prevention of their incursions into East Timor.

There must also be clear evidence that the TNI is dismantling the territorial command structure throughout Indonesia and that it is becoming a professional defence force rather than mainly an internal security force.

It has been the territorial command structure that has given the TNI the power to meddle in domestic matters both nationally and right down to village levels, and given rise to gross human rights abuses perpetrated in East Timor and elsewhere in Indonesia.

As Indonesia now has a democratic system, albeit in a fragile state, it would be anathema for Australia to support the TNI or any other element in Indonesia not working to strengthen democracy.

Relations with Indonesia

Undoubtedly, Australia’s role in East Timor’s independence has had a deleterious effect on relations between Australia and Indonesia. Some Indonesians still blame Australia for the loss of
East Timor. Relations with Indonesia have remained strained.

As close neighbours, the Committee believes, and re-affirms, that it is in the long-term interests of both Australia and Indonesia to develop a strong and enduring relationship. However, there is little point in being precipitate in trying to form a new relationship until there is a readiness on both sides to embrace one. Given Indonesia’s loss of East Timor and the enormity of the political changes that have occurred since the downfall of President Soeharto, it is not surprising that there are many uncertainties in Indonesia at the moment. These domestic tensions have not been conducive to rebuilding relations with Australia. However, in time, the mutuality of interests should bring about a rapprochement in relations.

As the Department of Foreign Affairs and Trade pointed out during the inquiry, not all levels of the relationship have suffered the significant downturn experienced at the political level. The Department should continue to shore up support at these working levels as a basis for improving political relations in due course. It should also try to maintain trade and people-to-people contacts between the two countries.

The Australian Government and Parliament need to keep in touch with public opinion across the spectrum of Indonesian society. In the Committee’s Interim Report of 30 September 1999, the Committee recommended a visit to Indonesia by an Australian parliamentary delegation to discuss issues of importance to both sides with Indonesian parliamentarians. Such a visit has not yet taken place. The Committee reiterates its call for such a visit and recommends that overtures be made to the Indonesian Parliament to seek their agreement to it.

I commend the report to the Senate.

Senator HUTCHINS (New South Wales)

(3.48 p.m.)—I joined the committee late in relation to this inquiry into East Timor. I want to refer particularly to chapter 6 of the report, which essentially deals with the period of the Whitlam government and the Whitlam government’s dealings on East Timor with Indonesia and our other allies. In some circles in Australia, former Prime Minister Whitlam has been often accused unfairly of being a willing and compliant collaborator with the Indonesian government when East Timor was invaded in December 1975. As you and I know, Madam Deputy President, Mr Whitlam has denied strenuously in print and in person before the committee that he gave a green light for the Indonesians to proceed. Mr Whitlam maintained, and provided evidence of the fact, that he had publicly and privately communicated to the Indonesian government that he was, as his government was, in favour of self-determination for the people of then Portuguese Timor.

I might say, for the purposes of historical perspective, that it was a very worrying time throughout the world, particularly for people of a social democratic point of view. During the period Mr Whitlam was in power, we saw in a number of areas in the world an increase in the victories of people from the extreme left. It was with a great deal of concern that people observed the goings on in other parts of the world. In Portugal itself, which had been for some decades under a fascist dictatorship, a combination of socialists and communists came to power via certain young army officers. At that same time as the Spinola government was deposed, the situation was inevitably starting to deteriorate in East Timor. I might add that Mr Whitlam made a speech to the United Nations in September 1974 in which he declared his desire to see the end of Portuguese colonialism. It was not long after that that the new Portuguese foreign minister met with Mr Suharto in Jakarta and expressed—and this is a socialist foreign minister—to the Indonesians at that meeting that in fact East Timor should be incorporated into the Republic of Indonesia. It was at the same time that the North Vietnamese politburo decided to breach its peace accord and invade South Vietnam.

Whilst this situation was occurring in our region, our government, Mr Whitlam in particular, was trying to ensure that the ALP’s policy of self-determination was directly, publicly and privately, communicated to the Indonesian government. As we know from history, in January 1975 the independence parties of UDT and Fretilin formed a coalition, which deteriorated later in the year. It broke down and a full-scale civil war began in August of that year. The Fretilin movement was aided by the fact that, when the Portuguese authorities left Dili and went to a ship offshore, they left behind thousands of
guns and other bits of ammunition so that the movement would be able to have some advantage over the other parties in at least the prosecution of this civil war.

I recall at the time being concerned, as were many Australians, that, with the developments that were occurring in the world, we might have been witnessing on our own shores another Cuba. It was with that concern that former Prime Minister Whitlam conducted our foreign policy, seeking to make sure that our allies were up to date on the expression of our views. I was not then and am not now a fan of Fretilin. I am very suspicious of them, and I will continue to be suspicious of them until such time as I think their motives can be, at least historically, flushed out.

I do not want to say too much more on the report. It was a comprehensive report that the officers of the committee put themselves tirelessly to the task of preparing. All I will say in conclusion is that there was at the time a great deal of chaos and instability, not only in our region but also in Lisbon, which led to the December 1975 invasion by Indonesia. There was a lot of political instability in our own country, as we recall. I believe—and Mr Whitlam still testifies to this—that Mr Whitlam conducted himself with great honour and great diligence as our Prime Minister, and I believe that he is wrongly vilified by certain sections of the community for what they see as his attitude to that terrible period for Australian foreign policy. I seek leave to continue my remarks.

Leave granted; debate adjourned.

DELEGATION REPORTS

Parliamentary Delegation to Brazil and Argentina

Senator TIERNEY (New South Wales) (3.55 p.m.)—by leave—I table and present the report of the Australian parliamentary delegation to Brazil and Argentina, which took place from 15 to 29 October 2000. I seek leave to move a motion in relation to the report.

Leave granted.

Senator TIERNEY—I move:
That the Senate take note of the document.

I seek leave to incorporate a tabling statement in Hansard.

Leave granted.

The document read as follows—

The Delegation’s visit to Brazil and Argentina could best be summed up as one of opportunity: The potential for trade, investment and tourism with these countries is enormous.

Overview comments

The visit followed a report by the Trade Subcommittee of the Joint Committee on Foreign Affairs, Defence and Trade on building Australia’s trade and investment relationship with South America tabled in September. The Subcommittee had also visited Brazil and Argentina as part of visit to South America earlier in the year. Their report provided a focus for the Delegation who was able to progress issues by reinforcing findings and emphasising recommendations during its meetings.

The Delegation found that an important issue in the relationship between Australia and Brazil and Argentina is simply a need for greater awareness of the respective regions and their potential. Brazil and Argentina have not previously been an area of great focus—Both our regions have looked more to Europe and North America, and in Australia’s case recently to Asia. We must now also look across the Pacific.

Australia’s profile benefited greatly by the success of the Olympic Games. Complimentary comments relating to the Olympics were constantly made to the Delegation in both countries. The Delegation believes that the value of the Olympics in raising awareness of Australia can not be under-estimated and provides a window of opportunity that must not be missed for realising trade and investment potential and maximising tourism potential.

The Delegation was able to gain an insight into the economic and political situation in both countries. Economic recovery is occurring after the recession of the late 1990’s, with Brazil particularly surging ahead. Significant economic restructuring has been occurring during the 1990s and governments in both countries have introduced strong fiscal measures.

Politically, constitutional democracy is now well entrenched in both countries. Argentina voted for a change of government in 1999 and while it currently is undergoing some political disputation, events are easily being controlled within the democratic system. In early October, Brazil held nationwide local government elections with a massive turnout of voters.
Meetings with key governmental figures

The Delegation had the honour of meeting with Vice-President Maciel in Brazil and Acting President Losada in Argentina, with Ministers and many Senators and Deputies from each Congress. The enthusiasm with which the Delegation was received and the constructive dialogue at these meetings has contributed significantly in developing and strengthening the links between our respective Parliaments and the bilateral relationship with each country.

Many issues were discussed at the various meetings with these key governmental figures and these are outlined in detail in the Delegation’s report. They included benefits of exchanges – particularly in parliamentary, educational, scientific and business areas; trade and investment; foreign relations and multilateral issues; agriculture and mining.

In Argentina, the Delegation also had the opportunity of raising a number of finance and taxation issues with Ministers and Committees of Congress that were causing concern for a number of Australian companies. The companies had discussed these concerns with the Delegation at earlier meetings.

Trade and Investment opportunity

Trade and investment opportunities in Brazil and Argentina abound. At virtually every meeting and inspection the Delegation was able to discuss an area of opportunity and the mutual benefits that could accrue. Areas of immediate potential arising from the Delegation’s meetings and discussions include:

- mining exploration and development,
- oil and gas especially from significant recent privatisation,
- agribusiness in many fields is receptive to new and innovative technologies,
- information technology and telecommunications,
- education services especially in tertiary, postgraduate and distance education, and
- aquaculture and viticulture.

These, together with other areas of opportunity, are also discussed in detail in the report.

Tourism offers huge potential, especially with Qantas commencing direct return flights to Buenos Aires in 1998. Tourism is very much a two-way thing with numbers coming from Brazil increasing significantly in recent years. The Delegation attended a joint Australian and New Zealand tourism promotion that showcased the potential on this side of the Pacific.

Particular highlights of the visit

The Delegation’s program for the visit was both interesting and diverse, allowing it to gain a broad insight into a wide range of activities, including:

- Seeing and understanding the electronic voting system operative in Brazil. The system had been successfully used for Brazil’s recent nationwide local government elections.

Visiting an ethanol plant and synchrotron light technology laboratory in Sao Paulo State,

Seeing the successful introduction of Australian polymer technology being used for Brazilian banknotes,

Meeting and discussing with representatives from Australian companies about their experiences in successfully establishing and investing in Brazil and Argentina. Companies the Delegation met with included BHP, MIM/North, P&O, Village Cinemas, Qantas.

Observing a cattle auction at the Liniers cattle market and gaining an understanding of the size and scope of the beef industry in Argentina,

Learning of the breadth of agricultural research undertaken in Brazil and Argentina and of the many close links and collaborations with Australian researchers.

The Delegation visited INVAP at Bariloche. INVAP is the company that was awarded the contract for the design and construction of the replacement research reactor at Lucas Heights. It is also involved in a range of business activities in other fields including, the development and construction of scientific satellites, the design and production of high-technology medical equipment, and industrial and other projects including high speed data transmission by satellite.

The Delegation was pleased to be able to inspect the facilities of INVAP’s space laboratory and observed work being undertaken on construction of their next satellite due for launching later this year and its payload of a multispectral camera. We also visited the RA-6 research reactor.

Acknowledgments

Many people contribute to make a Delegation’s visit a success. The report lists and thanks a range of people who contributed to the overwhelming success of our visit to Brazil and Argentina. However, a number of people are worthy of particular acknowledgment.

Ambassadors Garry Conroy in Brasil and Sharyn Minahan in Argentina, and Trade Commissioner Gerard Seeber in Sao Paulo assisted the Delegation with comprehensive briefings and invaluable support and assistance. In addition, the staff of the
Embassies in Brasilia and Buenos Aires, and at the Austrade office in Sao Paulo, also provided great assistance especially Edward Sellars, Sarah Roberts and Radek Divis.

The professionalism and commitment of the Ambassadors and their staff was particularly evident to the Delegation. Australia can be very proud that it has representatives of this calibre who will be involved in realising the opportunities and potential that exists between Australia and Brazil and Argentina.

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

Leave granted; debate adjourned.

COMMITTEES

Legal and Constitutional Legislation Committee

Membership

The DEPUTY PRESIDENT—Order! The President has received a letter from a party leader seeking a variation to the membership of a committee.

Motion (by Senator Ian Macdonald)—by leave—agreed to:

That Senator Murray be appointed a participating member of the Legal and Constitutional Legislation Committee for the committee’s inquiry on the Freedom of Information Amendment (Open Government) Bill 2000.

BILLS RETURNED FROM THE HOUSE OF REPRESENTATIVES

Messages received from the House of Representatives agreeing to the amendments made by the Senate to the following bills:

Education Services for Overseas Students Bill 2000

Migration Legislation Amendment (Overseas Students) Bill 2000.

ROADS TO RECOVERY BILL 2000

In Committee

Senator MACKAY (Tasmania) (3.57 p.m.)—The government asserts that the Roads to Recovery Bill 2000 before us now was a major recommendation arising from the Regional Australia Summit. I would like to give the committee some idea of the terms of reference of the research that we have been referring to recently as it underpins the Regional Australia Summit and therefore resulted in the Roads to Recovery legislation that is before us. I will read into the Hansard the terms of reference of Quantum Market Research:

Undertake research and market testing of branding elements to be used for the Regional Australia Summit response package in regional Australia. The consultant was also required to concept test proposed text, graphics, logos and taglines and provide an indication of the effectiveness of these elements in achieving communication objectives. This research fed into the overall regional Australia campaign and helped define the communication approach, particularly promotional tools, mechanisms and target audiences.

We heard about that today. It continues:

It also enabled the Department to improve its understanding of regional perception and attitudes and to communicate the government’s programs and services appropriately. Staff with relevant expertise were not available in the Department.

And thus Quantum Market Research were given the tender. The minister came in earlier and cited a letter he had received from Quantum saying that they had not undertaken any research in relation to the research on page 13 of the report, which goes into very detailed information, or on page 6, which talks specifically about Queensland. In the introduction on page 1, Quantum have said that the findings are drawn from a number of sources—inter alia, Australia Scan. If you turn to the table which was referred to in question time today, it is headed ‘Federal election voting intentions: Australia Scan’. If you go to the appendix to this suppressed report, it makes it quite clear that Quantum used Australia Scan to conduct the research that we have referred to:

Australia Scan is a research service which Quantum Research has used to keep their finger on the pulse of what is going on in the hearts and minds of Australians.

Clearly, in relation to the minister’s previous contribution, I hope that he does have the intestinal fortitude, in his contribution to this bill, to correct the record in terms of what seemed to be an inadvertent—maybe he had not read the appendices or the full report; certainly Minister Anderson does not seem to have been given a copy—misleading of the Senate. I hope he is now in a position to change that.
Going directly to the bill, I want to ask the minister a number of questions and also put a number of issues on the record in relation to a somewhat misleading second reading contribution from the minister. First of all, I go to the issue of interstate distribution, which is totally critical to exactly where the potential for pork-barrelling is in this bill. There is a clear difference between how the government has used the funds and how they were previously distributed under the Labor formula of 1991—I think the minister said 1994, but it was in fact 1991. In terms of the interstate distribution, the funding is provided over the period 2000-01 to 2004-05 and was determined in a two-stage process. The minister has discretion over the timing of payments to local government authorities over the four years.

The first stage was the interstate allocation of the $1.2 billion. The government has applied a new formula to these allocations. Despite repeated attempts to seek answers from Minister Macdonald, the only information available on the new formula is the assertion that it is based on road length and population and has been adjusted using unspecified factors—an issue which I traversed extensively in my contribution in the second reading debate. The existing allocation formula—that is, the 1991 formula—used for the identified roads components of financial assistance grants to local government has applied since that period; that is, the financial year 1990-91. The new Roads to Recovery Program allocation formula will apply only for the purpose of this bill.

I have a table which shows the impact of the Roads to Recovery Program formula relative to the existing Labor 1991 identified roads component of FAGs. For example, under the old 1991 Labor formula, the Northern Territory would have achieved 3.2 per cent. Under this new formula—and ‘new’ is not my word; it is the word of Minister Macdonald—the Northern Territory has 1.6 per cent of the available money. In the minister’s home state, we have another major disparity. Under the old Labor Party formula of 1991, Queensland would have got 18.7 per cent of the total funding available. Under this formula, they have 20.9 per cent. So here we have clear differences in relation to the two formulas.

In answer to my direct question ‘Is it a new formula?’, Minister Macdonald, somewhat uncharacteristically in relation to estimates, gave us the answer yes. I would appreciate more answers like that from Senator Ian Macdonald. I repeat that the question was: is it a new formula? Minister Macdonald said yes. As I said before, you cannot get any more emphatic than that. I also asked him about how this new formula worked—and this is the real extent of the government’s fiddling with the formula. He said that the interstate distribution of funds was based on a formula involving 50 per cent road length and 50 per cent population. So far so good; but he then admitted that the formula was—and I quote from the estimates—‘adjusted to get a fair and equitable result’. When further questioned on the basis for these adjustments, the minister would say only that they were undertaken by the government and were solely a government decision.

As late as yesterday, we had the Prime Minister asserting in a radio interview on 6PR that the formula was Labor’s formula, but this is just not correct, as provided by Minister Anderson and admitted by Minister Macdonald. Today, we have a Bills Digest circulated from the Parliamentary Library confirming what is already obvious. Perhaps the minister will sit up and pay attention as the Bills Digest makes a comment on the minister’s method of adjustment to this new formula. It states:

When questioned about the adjustment, the Senator—that is, Senator Ian Macdonald—replied it was based on ‘the judgements people make’.

You can almost see the raised eyebrows in the Parliamentary Library at that pearl of wisdom. The digest confirms the variations to the historic state allocation percentages that I have outlined previously. The digest also makes a number of other observations:

Clause 7 requires the Minister to make conditions relating to the payment of funds under the Bill. It is not clear whether the text of these conditions must be published in the Gazette. ... Presumably they are to be published ... but as a matter of
drafting this could be spelt out clearly, as for example is the requirement for publishing a funding list under clause 5.

This is an excellent example, identified by the Parliamentary Library, of our assertion that this is a rushed and sloppy preparation in relation to this bill. The digest’s concluding question is:

Does the Bill allow the Commonwealth to influence the choice of roadworks to be funded?

It notes that the opposition already has evidence of members on the other side ringing local councils, attempting to lobby them and so on, and it notes that:

... although it is not required by the Bill, the Commonwealth has said that:

Local government bodies must ... provide the Minister with a proposal for the expenditure of their grant.

That is from the second reading speech of the minister. The Bills Digest concludes:

... it is clear that there is no limitation on his or her—

that is, the minister’s—

discretion as to timing and amount of individual instalments, provided that all funds are paid by 1 July 2005.

It goes on to say:

There is no impediment to the Minister taking a position, for example ... he or she will not release any funds until 2005.

Exactly. The drafting of this bill does not secure adherence to the spirit of its intention. Further, again from the Bills Digest:

The fact that under clause 7 the Minister is similarly unrestricted in his or her power to make funding conditions, could also in theory give the Minister some influence but since these would presumably apply to all local governments, they would be of general application and not capable of targeting particular projects or proposals.

So what we have is a general catch-all phrase by which the minister can exercise considerable discretion. The Bills Digest also makes the point that this is a move away from financial assistance grants—that is, untied agreements—to specific purpose payments—that is, tied payments. I would like some response from the minister before I go on to the next issue that I would like to raise, so at this point I will conclude my remarks and seek some response from the minister in relation to those issues and some clarification in relation to the provisions that have been raised.

Senator IAN MACDONALD (Queensland—Minister for Regional Services, Territories and Local Government) (4.08 p.m.)—I will ignore all of the vicious personal attacks that Senator Mackay has again made on me in the guise of asking questions. I will not respond by ‘playing the man’. I will respond to those issues that relate to the bill and I will ignore, yet again, the personal attacks that, unfortunately, Senator Mackay is unable to avoid when she is involved in a debate with me. I will also not refer to the issue raised by the Labor Party in question time and again spoken of by Senator Mackay; it has been irrefutably put to bed by me in the advice I read out to this chamber and the Prime Minister has just raised it in the other chamber. It shows that Senator Faulkner, Senator Mackay and Senator Ray deliberately misled the Senate, both in question time and subsequently.

Senator Mackay—I raise a point of order, Mr Temporary Chairman. That is, in fact, unparliamentary. I ask the minister to withdraw.

The TEMPORARY CHAIRMAN (Senator Watson)—Senator, I am advised that you cannot say ‘deliberately misled’.

Senator IAN MACDONALD—I withdraw that. Whatever the English expression is for getting up and making an assertion which is then clearly shown to be wrong and incorrect—clearly shown, I am still embarrassed that experienced senators like Senator Ray and Senator Faulkner would embark on, and engage in, that sort of conduct. But I am not going to refer to that, in spite of the provocation that has been shown to me.

Senator Mackay asked me some questions about the funding formula and she then read all of the answers I gave at Senate estimates. Senator, this is the last day of sitting for this millennium. We have a lot of work to do. You may want to stand here repeating the questions that you have asked in estimates, but I am not going to stand here and keep repeating the answers I gave in estimates. Not only did I give those answers, but you
have read them all out now. You have actually answered the questions you have asked in the way I answered them in the estimates committee, and I cannot add any more to them. I can only say that you have answered your own questions by quoting my answers in the estimates committee. If I said anything more here, I would simply be repeating what I said in the estimates committee.

Senator MACKAY (Tasmania) (4.11 p.m.)—The point of that previous contribution was to highlight that, in fact, the minister has admitted that it is a new formula, which would appear to be directly in conflict with statements by both the Prime Minister and the Deputy Prime Minister, Minister Anderson.

Let me move on to another issue, which was not answered at the estimates process, and that is the issue of the intrastate division amongst local government authorities. The formula used for this allocation is based on the current state grants commission formula used for the distribution of the identified road component of FAGs. The state grants commissions did not do the allocation. The government simply applied the retrospective formula. The government relied on the relativities determined from the most recent state grants commission process.

During the estimates, I attempted to clarify the issue of the metro and rural divide that was highlighted in Minister Anderson’s own press release, which was the result of simply applying the existing state grants commission formulas. Didn’t Minister Macdonald make a song and dance about that question! Here is a sample of some of the things he said at estimates in relation to what I thought was a fairly basic question. With regard to the section in Minister Anderson’s press release which talked about the disparity of the greater metro versus the rural and regional divide in terms of funding, he said this:

That is not mentioned in the act.

He went on to say:

It is certainly not relevant to the act and certainly not relevant to estimates.

When he was asked why, then, Minister Anderson put it in his press release of 27 November, he said:

I have no idea what is in his mind.

We now have evidence, of course, that this is not an unusual occurrence. In response to questions about statements in Minister Anderson’s press release, he said:

I am not going to answer.

The committee was then forced to have a private meeting to decide the relevance of questions in Minister Anderson’s press release, and the chair was forced to change his ruling, saying:

The fact is that if there is a press release relating to government expenditure, that can be examined in these estimates.

So a fairly simple question was refused by Minister Macdonald. I think we might have to refer him to the Procedure Committee, yet again. The following exchange then took place. I said:

I do not believe I have an answer to that.

Minister Macdonald:

You believe what you like.

Me:

Will you perhaps ask Minister Anderson?

Minister Macdonald:

No.

Me:

You will not ask Minister Anderson?

This is in relation to the minister’s own press release, by the way. Minister Macdonald:

No.

Me:

Will you take the question on notice?

Which would have given him a chance to have a chat to Minister Anderson in relation to it, but Minister Macdonald said no. I went on to say:

I will just clarify my point of order. The minister has refused to ask Minister Anderson and has also refused to take the question on notice. I think that is a contravention of the standing orders.

The acting chair at that stage was poor old Senator McGauran. He said:
Your question is not out of order. I can only urge the minister to refer the question to John Anderson ...

And he did not. Given that fairly puerile response from the minister in relation to a question that was specific to a statement in Minister Anderson’s press release, I wonder if the minister can now apprise the chamber of what underpinned the issue in terms of the quantum between metro councils and rural and regional councils.

Senator IAN MACDONALD (Queensland—Minister for Regional Services, Territories and Local Government) (4.15 p.m.)—Again, Senator Mackay, if anyone is interested in what happened at the estimates committee, I am sure they will read the estimates committee Hansard. They do not really need you to read it again into the Hansard here. The only question relative to the bill that I heard in the last six minutes of Senator Mackay’s speech was about the intrastate formula.

Senator Mackay—Metro versus rural and regional.

Senator IAN MACDONALD—The ‘metro and regional’ is not mentioned in the bill.

Senator Mackay—It is in the minister’s press release.

Senator IAN MACDONALD—The minister’s press release is not in the bill, either. You asked about the intrastate formula. You said that I did not answer your question on that in the estimates committee. If I did not, I do not know why you did not ask me. It is very clear what the intrastate formula is. It is the states grants commission’s formula for distributing the untied road identified grants of the financial assistance grants act. That act was introduced by the previous Labor government, supported by the then opposition, and has been actioned by each state government—most of which, regrettably, are Labor state governments. They appoint states grants commissions which then determine a fair and equitable formula for the distribution of moneys to each and every council within a state. That formula, which has been used for almost 10 years now, is the formula used for distribution of moneys intrastate under this bill.

Senator MACKAY (Tasmania) (4.17 p.m.)—I notice, yet again, that the minister refuses to answer questions relating to the Deputy Prime Minister’s press release on this bill. I do not think he will answer, so we will leave it at that and go to another issue. The bill requires the minister to gazette conditions that apply to the payment of the grants. These conditions are of three types. I will just run through this so the minister can be up to speed in relation to it. Section 7(2) sets out the conditions that must be included. It requires the money to be used for roads and be properly accounted for, that councils maintain their levels of other road expenditure and that signs be displayed in relation to projects funded under the act. Section 7(3) sets out conditions that may be included: conditions requiring councils to repay amounts to the Commonwealth in the event of a breach of the conditions and conditions requiring the council to comply with the guidelines issued under the act. Section 7(4) provides that sections 7(2) and (3) do not limit matters that may be dealt with in the conditions. Section 7(5) gives the minister the power to vary or revoke any of the conditions by notice in the Gazette. This section appears contrary to the description in the explanatory memorandum that states:

In varying any conditions, the Minister will have to ensure that the compulsory conditions in sub-clause (2) are maintained.

Minister, clarification of this section is required. In its current form, it gives the minister unfettered power to change all conditions for the allocation of funds. We believe—and I would like your comments in relation to this and, obviously, the Parliamentary Library would as well—that this bill provides for, in effect, the introduction of tied grants of specific purpose payments. We believe this is a retrograde step and will provide capacity for Minister Anderson to potentially interfere with local road funding priorities.

But I come back to the section in the bill that I would like a response to; that is, section 7(5), which is at variance with the other sections—sections 7(2), 7(3) and 7(4). What
precisely is meant by this section? Our contention is that it gives the minister the power to vary or revoke any of the conditions by notice in the Gazette. In fact, it is very clear in the legislation that that is what is meant by that section. Minister, I would appreciate it if you could provide a response to that matter.

Senator IAN MACDONALD (Queensland—Minister for Regional Services, Territories and Local Government) (6.20 p.m.)—Senator, I did not understand the part of your question that dealt with specific purpose payments or tied grants. If you want to pursue that, please ask your question again when I finish answering this. The minister may, by notice in the Gazette, revoke or vary any of the conditions. That is in subsection (5) of section 7. That, of course, means what it says: that the minister is able to revoke or vary any of the conditions that are referred to. I would assume the legal interpretation—and I will get some advice on this; my legal knowledge is now 10 years rusty—would be that there must remain conditions that require the money to be used for roads expenditure. But I assume the precise wording of those conditions can be revoked or varied by the minister and would then have to be replaced by other conditions that require that the money be used for roads expenditure and, similarly, conditions that require that the expenditure be properly accounted for. I assume that subsection (5) means that, initially, the minister may say, ‘You have to account by getting in the state auditor-general to account for it.’ He may then at a later stage say, ‘That hasn’t been practical, so I’ll vary that by deleting reference to the state auditor-general and require, for example, the Commonwealth Auditor-General to account for the expenditure.’ That is how I would interpret subsection (5).

Senator MACKAY (Tasmania) (4.22 p.m.)—Thank you for that, Minister. I would repeat that my final question was in relation to the fact that section 75 seems to give the minister the power to vary or revoke any of the conditions by notice in the Gazette, and I look forward to clarification on that. I think you have essentially confirmed that, however. I will move on to some other questions on which we would like a response and which are based on representations made to us by a number of councils. I know that Senator Hutchins and Senator O’Brien made similar comments in relation to representations they have received, and I have certainly received the same representations. Minister, will local government be able to draw on funds for the preparation of strategic plans for their local government roads projects? It has been put to me by a number of councils that the reporting mechanisms will represent a significant imposition, particularly in relation to small councils. It is worth noting—and I notice that Senator Hutchins raised this yesterday—that the government seems quite content for funds to be spent on signage that highlights the government’s involvement, but councils have put to us that they are concerned about the real administrative costs in relation to it.

While you are thinking about that, Minister, will you also answer the question of whether local government will be able to draw on RTR funds for the additional financial imposition of funding applications and annual reporting? It has been put to us that this is also a significant impost on small regional councils. Minister, how much flexibility is local government going to have to request a staggered payment or lump sum payment of funds? For example, if a particular council wants to undertake a planning study of local roads needs in their area over a 12-month period, will they be able to roll over year one funding into subsequent years? I will leave it at that and come back to other questions later.

Senator IAN MACDONALD (Queensland—Minister for Regional Services, Territories and Local Government) (4.24 p.m.)—We respect and understand local governments. The whole purpose of this bill and this initiative from the Howard government is to get money to councils for use in upgrading and maintaining local roads. We have made a massive commitment of $1.2 billion, and we want to see it happen. We think local governments are the best people to get this work done efficiently and expeditiously, and everything we do follows that intention. Why would we do otherwise? We have committed the money and we have dis-
tributed it in the most fair and open way possible, one that has been universally applauded by local government—and I stress ‘universally applauded’—because local government understand the formulas, they understand how fair they are, they know they have been working on those for years and they are amused that some people involved in this debate yesterday simply did not seem to understand how things currently work. But that is fair enough; I will leave that.

The only real condition we have on this whole thing is that the funds must be spent on roads. Under the current act, I will call it the Labor act, the 1994 act, the moneys the Commonwealth gives to local authorities are identified as roads grants. They are calculated on a formula that the state grants commission relates to roads. But, having received the money, the councils can then spend it on anything. They can spend it on a publicity unit or a social worker or whatever, and that is the way that act is set out; we are not trying to change that. But with the Roads to Recovery Program, we are insisting that the funds be spent on roads. To do that, we are asking councils very reasonably to explain to us what they are going to do. These conditions have not been put together yet; we will be saying to councils, ‘We want to know what you were going to do before this money came along, and we want to know what new or different things you are going to do or what things you are going to bring forward,’ just so that we can be assured that they are not cost shifting and transferring some money that they were going to spend on local roads to another program and then using this money to do what they intended to do anyhow. So the conditions will relate to that.

Senator Mackay asked about the timing of the payments. The act provides that the amount be payable in one or more instalments and that the amounts and timing of the instalments are to be determined by the minister. We have indicated publicly that we want to get out the first instalment in February if it is at all possible. We have indicated that it will probably be a quarter of an annual payment that will go out in February. We have also indicated—and I think the bill says—that, where there are only small amounts involved, we can pay the total amount in full, up-front. But we want to help local government, and we will work with local government, to get that money out in the very best way possible. We will continue the excellent working relationship we have with both the Australian local government executive, its president and vice presidents, and the state local government associations with whom we work very cooperatively and well. We will be working with them to make sure we get this money out in the best possible way.

Senator MACKAY (Tasmania) (4.28 p.m.)—Thank you for that, Minister. You have answered some of the questions but not all of them. However, we have a considerably heavy legislative program so I hope that you will be able to provide us with the answers to the specific question when you have had the opportunity to peruse the Hansard. The bill contains a condition outlining the needs for signage acknowledging the government’s financial support. What criteria and guidelines have been issued for the signs required to be displayed at works funded from the new program? Will funding be withdrawn if these signs are not displayed? How much will each sign cost and how much has been allocated in the program to cover signage?

I had a very interesting meeting with a Victorian council, the Macedon Ranges Council. On Tuesday, 5 December, I met with the mayor, Councillor Noel Harvey, and the CEO, Lydia Wilson, to discuss roads, petrol and other related issues. They provided a number of interesting points in relation to the situation facing Macedon council. These points inter alia have been raised with us by a number of councils, but it does provide a good snapshot of some of the difficulties. The information that they provided us was that Macedon council has seen the cost of sealing and asphalt tenders rise by around 40 per cent. Of this 40 per cent, companies are attributing a 30 per cent rise to increased fuel costs based on the petroleum levels in the bitumen products used. The council advised me that the average bitumen reseal rate has increased from $1.75 per square metre to
$2.35 per square metre. Due to the increased sealing costs, Macedon will be forced to reduce the percentage of resealed roads from five per cent to 3.7 per cent. This is in the context of the council’s targeted reseal percentage of 18 per cent. Their contention is that there will be a budget shortfall of approximately $130,000 in 2000-01 for Macedon shire council. As a result, council’s annual RTR allocation of approximately $1 million will be reduced by about $130,000 due to the increased petrol costs and the consequential increase in the cost of bitumen, leaving a revised yearly total of $870,000 before even considering new projects.

The question that they were keen to pursue is whether the government would allow the council to wait until such time as petrol prices reduce, thus allowing them time to get a better deal, particularly on bitumen. They also said that the cost of running the council’s car fleet has risen by $30,000, obviously excluding costs associated with heavy plant.

Finally, the council raised some quite legitimate concerns about competition in any tendering process for roads, based on the limited number of contractors with the ability to provide the service. A senator made the point yesterday about rural and regional Australia. This council in particular has two contractors they can use. This is a major rollout of infrastructure, and they are concerned to ensure that fairness is entrenched in the contracting process because, with such an amount of money being available, there is a possibility that costs will go up over a short period. This certainly happened pre-GST with the building industry, where we saw a consequential fall.

We suggest—and I will be interested in your response, Minister—that this is an issue that the government could refer to the ACCC for some kind of watching brief. Obviously across all states a small number of contractors, particularly in rural Australia, will stand to benefit from the injection of funds through the RTR program. The opposition believe it is something for which the ACCC could be given a watching brief. This is obviously within the bailiwick of the Treasurer, so I ask the minister whether he would be prepared to take this up with Mr Costello and give the ACCC some kind of watching brief in relation to the issue of contractors.

Senator IAN MACDONALD (Queensland—Minister for Regional Services, Territories and Local Government) (4.33 p.m.)—I suggest to Senator Mackay that if she wants answers to specific questions, which obviously she does, she should ask them one at a time. It would be a quicker way than having about 10 questions each time and trying to remember them. But I will have a go.

Senator Mackay asked whether councils can delay their works to take advantage of the situation when petrol prices fall. I must say in passing that I am pleased to note that Senator Mackay recognises that petrol prices will fall, because at some stage the world crude oil price will fall—I do not know when that will be, and perhaps it is a brave thing to say—and the exchange rate will vary. Senator Mackay knows as well as I do that the price of fuel is directly related to those, and that is what it is all about. I agree with Senator Mackay; I think they will fall. On the issue of whether councils can delay, this is really a program that councils will run. All we want them to do is to spend money on much needed road works. Their programs are already in place, and they have this additional money. They have plenty of work to do. We know that, and they know that. Within reason, it is a matter for them if they choose to delay it a bit and hope to pick the world crude oil price. It is really up to them as to how they get the best value for their money. I think you will find that there is such a desperate need for road works around Australia that they will take their chances and do it as quickly as they can. But the choice, within reason, is theirs.

I think you made the point that, because world crude oil prices are high and the exchange rate bad, their current budgets for road funds are some way over the budgeted amount and they will have a shortfall in their current budget expenditure. If you were asking whether they can use this money to fill in their budget, the answer is quite clearly no. This is for new road works, so it is quite clearly no. If this program were not here, they would have to manage it some other way. Two weeks ago, this program was not
here. This is new money for new works—additional works that we know all councils desperately want.

You raised the question about signposts. The conditions on signposting will be interpreted very flexibly as it is likely in many cases the works will be distributed over a number of geographical areas. The councils will be asked to give assurances, and the CEO will be required to certify that this condition has been complied with. The cost of the signs will be funded by the councils, which can use the Roads to Recovery program funds for this purpose if they wish to do it that way. It is normal practice for all authorities, including local governments, to signpost capital works in this way. Senator Mackay will be aware that all of the works done by state governments—certainly in works that are done under the Roads of National Importance program, the Black Spots program, the national highways program and the state arterial roads programs that all of the state governments run—are signposted. This will be no different from those. In fact, my experience as I move around the country—and I know from my own council’s experience—is that they are all signposted in any case. These will be signposted in the same way.

Senator MACKAY (Tasmania) (4.37 p.m.)—Thank you, Minister. We will—as I hope you will—pass these responses on to local government. I would have appreciated the opportunity to ask these questions seriously but time, unfortunately, given the government’s heavy legislative program, does not permit that. I offer you the opportunity to provide answers to questions that have not been answered in this committee stage directly so that we can satisfy the representations that we have had from councils. As I said, in the available time it is difficult to do that. I appreciate that we are under the hammer in this. I would seek your reaction to the proposition that—one you have perused the Hansard—you provide, not simply to me, obviously, but to all senators and committee members, answers to questions that, due to time constraints, you have been unable to provide answers to.

Senator IAN MACDONALD (Queensland—Minister for Regional Services, Territories and Local Government) (4.38 p.m.)—As the bill says, these conditions will be promulgated by the minister and published in the Gazette. They will very clearly explain exactly what is required of every council and will be made available to every council in Australia and to you. The department will be working on these conditions. Do not hold me to this, but the expectation is that it will be mid- to late January before the conditions are gazetted and made available to all councils. At that time can I offer you, and anyone you choose to bring, a briefing from the department on exactly what the conditions are so that any questions you may have could be answered by departmental people. I think that is probably the best thing I can do and perhaps, in the end, the most useful thing for you in appreciating the conditions and how they will proceed.

Senator MACKAY (Tasmania) (4.40 p.m.)—Thank you for that, Minister. We will take you up on that offer. On that basis, I would like to indicate that that concludes the questions and issues we have in relation to this legislation.

Bill agreed to.

Bill reported without amendment; report adopted.

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

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

Second Reading
Debate resumed.

Senator GIBBS (Queensland) (4.42 p.m.)—I was going to speak on the National Health Amendment (Improved Monitoring of Entitlements to Pharmaceutical Benefits) Bill 2000 but, in the interests of the Senate and to expedite the passage of legislation, I seek leave to incorporate my speech.

Leave granted.

The speech read as follows—
The National Health Amendment legislation would establish a new system to oversee the eligibility for people to obtain pharmaceuticals under the Medicare system. It works, in essence, by establishing an arrangement where doctors and other prescribers must write the patient’s Medicare number on each prescription.

The Government has also attached to this bill a range of amendments seeking to change the composition and terms of office of the Pharmaceutical Benefits Advisory Committee (the PBAC). I’ll discuss those measures later because I’d like to spend most of my time considering the principal part of this legislation.

The main measures of this bill are designed to tighten eligibility for the Pharmaceutical Benefits Scheme. The Scheme costs the Government $3 billion a year and is one of its most successful programs. Through its operation, the Government pays about 82 per cent of the cost of listed drugs.

More than 500 different medicines are covered by the scheme. About 129 million prescriptions are issued through the pharmaceutical benefits scheme each year.

Both claims and payments under the scheme are administered by the Health Insurance Commission, which is also the body responsible for administering claims and payments of Medicare benefits.

It is difficult to overestimate the importance of the scheme to our health system. The Pharmaceutical Benefits Scheme is one of the most crucial elements of our health system. We must be extremely careful about any changes we make to the current system, even if those changes are only at the very edges.

Considering the cost, size and importance of the scheme it is essential that we ensure only eligible people receive benefits. Eligibility is confined to residents of Australia and to visitors from the UK, Ireland, New Zealand, Malta, Italy, Sweden, the Netherlands and Finland, where we have reciprocal health agreements.

The measures in this bill would make it more difficult for ineligible people such as overseas visitors and people who have non-resident status to obtain drugs at a subsidised rate.

When fully implemented, the Government will not pay pharmacists unless they have checked the person’s Medicare number and expiry date before dispensing a prescription. Furthermore, if the number is not correct when compared to Health Insurance Commission data, pharmacists will be responsible for tracking down the customer in order to correct or verify the actual Medicare number.

The Bill allows doctors and pharmacists to retain Medicare numbers for future use with the same patients. It does also require them to maintain privacy and obtain the consent of patients regarding the retention of the numbers.

The legislation establishes various penalties for misusing or disclosing Medicare numbers. There are provisions allowing the correction of numbers during the phase-in but after that, the rules become quite a bit stricter.

The complexity of Medicare eligibility has made the proposal quite detailed. It includes a range of measures to provide for exceptions, the details of which will be spelt out fully in regulations.

There are a number of groups of people who do not have Medicare cards but who are eligible for pharmaceutical benefits – including people with disabilities in the care of others, visitors from countries with which Australia has a bilateral agreement and people without a card in an emergency.

There has been general support from all parties for the objective of ensuring people don’t get pharmaceuticals they aren’t eligible for. There is some concern however, particularly from pharmacists and consumers about several aspects of the scheme.

The major concern regards the mandatory requirement for Medicare numbers to be put on prescriptions. Some people are particularly concerned that the Government has put the cart before the horse by effectively using the Medicare number as a “unique patient identifier” without putting an adequate privacy regime in place first.

The Bill allows doctors and pharmacists to keep Medicare numbers and prohibits their misuse. We support this as a means to protect privacy but we will have to look closely in the future to ensure that any further expansion of the powers do not raise more privacy concerns.

The Bill also does not clarify to what purpose the data collected by the Health Insurance Commission can be used. There are currently specific Privacy Commissioner Guidelines about using pharmaceutical data and matching it with Medicare numbers. There is a case for the guidelines to be reviewed but any review needs to occur in the context of a national approach to health privacy.

This legislation forms part of the Government’s overall plan for health medication. The Government has foreshadowed further legislation to implement other aspects of its overall plan and says that further privacy measures will be dealt with at that stage. We welcome the commitment
to ensuring the privacy of patient’s medical records.

We do have some concerns about some practical aspects of this scheme and whether it will achieve its intended objective. It will not be necessary to have your Medicare card to get a prescription filled. It will only be necessary to quote your family’s Medicare number and the expiry date of the card. Agents can still collect your prescription if they also know your Medicare card or at least can quote the same number on the top of the prescription.

There is the distinct possibility that this will leave open most of the currently used methods for ineligible people to obtain a prescription and have it filled. Those methods include borrowing a card, using a stolen card or impersonating another person. Given concerns recently about the various numbers on particular cards being used inappropriately, one wonders how safe this measure would be.

The problem of “doctor shopping”, that is obtaining multiple scripts for the same complaint, will not be solved by this measure.

The Health Insurance Commission estimates that in 1998-99 more than 8000 people were engaged in doctor shopping, costing an average of $21.68 for each prescription filled. The measures in this bill however, will do little to stop doctor shopping. People will not need their Medicare card to get medication. They will only have to quote the number and the expiry date.

People who are ineligible will be able to access pharmaceuticals in exactly the same way they did before this legislation was suggested—they could impersonate someone they knew or borrow or steal a card.

The central issue of this bill revolves around privacy and fraud prevention. How is the Government planning to use the Medicare numbers it collects under the new system? Will they use that data to curb doctor shopping? If they do that, how will they then deal with the various privacy concerns?

Unfortunately the Government seems to be willing to use Medicare numbers as unique patient identifiers without first establishing the all-important privacy regime.

Several practical difficulties also arise because currently a number of family members can share the same Medicare card number. The records held by the HIC will show the total use by all the people on the card and this could possibly lead to incorrect conclusions being drawn about the appropriateness of any pattern of use.

Labor’s alternative would be to use a unique patient identifier system based on the Medicare card, which would avoid several of the difficulties inherent in the Government’s approach. Patients would each have a separate number instead of one per family and there would be a separation between the number used for claims and the patient identifier used to connect health records.

Many pharmacists also have major concerns that they will carry the penalty for any incorrect information being supplied to the HIC about prescriptions issued.

There is a lot of concern about the timing of these measures. Pharmacy and doctor groups do not believe that this time frame is realistic and would like to see it moved back at least six months. These are legitimate concerns, especially when you look at the small amount of publicity the Government has undertaken with regard to this measure.

Currently it is proposed to implement the policy in three stages, with full mandatory observance, being required by July next year.

Stage 1 establishes the privacy regime and gives explicit permission for Medicare numbers to be collected, placed on prescriptions and stored. This stage comes into effect as soon as the legislation is given assent.

Stage 2 of the bill requires that Medicare numbers be collected and put on prescription by pharmacists and other suppliers for the purpose of identifying entitlements to pharmaceutical benefits. Currently the Government plans to have that stage apply from January 1 next year, less than 16 working days away.

The third and final stage applies from July 1. It actually prevents payments to pharmacists or other suppliers in relation to dispensing prescriptions for pharmaceutical benefits if there has been a failure to comply with stage 2 of the process or where the number endorsed on a prescription does not match the number registered at the Health Insurance Commission.

That is an extraordinarily short time frame, especially when you consider the extra amendments included. I’d like to know a few things about the education campaign the Government is implementing to warn people about the possible introductions of these measures.

I’d like to know what consultation and feedback the Government has had from pharmacists, who will shoulder the job of implementing most of these measures.

What is the Government telling the public about the changes? What information is the Gov-
ernment disseminating in the lead-up to this change?

I’m sure it is reasonable for the Government to wait until the legislation actually passes before initiating a full publicity campaign. But they are running pretty close to the wind.

We’re less than a month away from the startup. And, given the understandable lethargy of these sorts of things over Christmas, I don’t imagine much will be happening between when we pass the legislation and January 1.

The reality is that if we pass this legislation as it stands, from January 1 the public will have to provide pharmacists with their Medicare number as well as their prescription in order to verify that they are eligible to receive their full PBS benefit.

If the patient cannot do that, they will be forced to either pay the full cost of the medicine or go back home and get their number and go back to the pharmacist and present their prescription for a second time.

I imagine there will be a lot of confused and annoyed people out there when this measure is put in place.

I also want to discuss briefly the proposed changes to the composition and terms of members of the PBAC that the Government is presenting. The PBAC is responsible for assessing the cost-effectiveness of pharmaceuticals and deciding whether a particular pharmaceutical should be listed on the Pharmaceutical Benefits Scheme.

Under the changes a health economist would be added to the current Committee membership of up to three general practitioners, one community pharmacist, one consumer representative and one clinical pharmacologist.

The changes also propose that each member of the PBAC for a term of not more four years and for a continuous period of up to eight years. No member would be reappointed if it resulted in them serving for a total of more than 12 years.

In addition the chair of the Committee may not be appointed for more than eight years. The final proposal is that any period a person who is a member of the current Committee, should be treated as a period during which the person was a member of the new committee.

It is this proposal that has caused serious concern for senior members of the current committee, as well as various academics and some clinicians. It is perceived that this measure is a way of dropping certain members of the committee, thus weakening its independence.

We would like to have more time to consider these changes. They are quite major changes and should not be hurried through. We would like more time to negotiate a balanced approach to these changes. In our opinion, this process has been rushed.

In conclusion let me reiterate our support of the general thrust of this Bill. It is a reasonable approach to a problem that does need addressing. That support we have shown however, does not come without any concerns.

The Pharmaceutical Benefits Scheme is one of the pillars of our public health system. We need to take measures to ensure its integrity. But while doing that we need to make it clear to everyone that uses it that any information that we collect from it will be used properly.

The Labor Party wants to see a Pharmaceutical Benefits Scheme that reduces fraud and works effectively. In doing that however, we must ensure that it does not come at the expense of privacy.

Senator LEES (South Australia—Leader of the Australian Democrats) (4.42 p.m.)—Before I comment on the National Health Amendment (Improved Monitoring of Entitlements to Pharmaceutical Benefits) Bill 2000, I want to discuss a related issue—a general health issue—and to remind the Senate that this morning the Council for Aboriginal Reconciliation handed over the document Declaration towards reconciliation to the government and that the council will now hand over its role to Reconciliation Australia. One of the issues raised this morning was practical reconciliation. What more practical reconciliation can we have than adequate funding of the health system so that at the federal level Aboriginal Australians can enjoy the same level of funding as non-Aboriginal Australians. Again, I want to put on the record findings from research by the Australian Institute of Health and Welfare. I think the findings speak for themselves, because it is from Commonwealth funds that primary health care dollars come. The states put in what I guess could be described as the ‘acute end’ by the time you end up in one of their hospitals. For every Medicare dollar spent on non-indigenous Australians, the records and information show us that only 27c is spent on an Aboriginal Australian. For every Pharmaceutical Benefits Scheme dollar accessed by non-indigenous Australians, indigenous Australians access 22c, and for specialist treatment
it is 12 cents in the dollar for Aboriginal and Torres Strait Islanders. I acknowledge there are a number of other Commonwealth programs, including the Aboriginal community health care programs; but, if you add it all up, the Commonwealth puts in 67 cents in the dollar for every non-indigenous Australian—in other words, we get a dollar; they get 67c when, in fact, looking at their health needs, it should be about $1.20.

I wanted to make those points and support the comments made by Senator Crossin this morning relating to the education bill that went through this place earlier today. There again we see the way in which this government sorts out its priorities—tens of millions of dollars spent on the very wealthy end of the private school system when Aboriginal children do not get an opportunity to even go to secondary school. We are not talking about highly remote communities with small populations; we are talking about primary schools with 200, 250, 300 or 500 kids with no secondary school for them to go on to.

Coming back to the bill in front of us, we support the thrust of this legislation and are pleased to see that the government has removed the more contentious points in it and now hopefully will have a rapid passage through this place. We support the inclusion of Medicare numbers on prescriptions for pharmaceuticals under the PBS. The PBS is a scheme that stands us in good stead with any scheme anywhere in the world. We have one of the best schemes for Australians as far as access to medications is concerned. If you look at the health systems in other countries, you will see that medicines are so expensive in places like the USA that treatable illnesses often get to the point where people die from them due to not being able to afford the drugs that they need. So we do need to protect the PBS, and it is a protective measure to include the Medicare numbers on prescriptions. There is evidence that people doctor shop for a range of reasons—some simply because they have an addiction to a particular form of medication but others because they want access to cheap drugs in order to onsell them. So being able to track in this way will hopefully reduce any misuse of the PBS and see us further able to protect the health of Australians.

I also wish to note that the government’s amendments which make minor changes to the composition of the Pharmaceutical Benefits Advisory Committee are also supported, and this is where the controversial measures disappear from and, as I said, we are pleased to see that. We support some of the amendments at least. I wait with interest to hear the debate on the opposition’s amendments. But broadening the base from which recommendations can be taken, I think, is a good idea. Currently, only the AMA is able to make recommendations to the minister for vacancies. I think it is quite appropriate that we broaden this to include the Royal Australian College of General Practitioners and others. We will deal with this as we get to the amendments.

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (4.47 p.m.)—I thank honourable senators for the contributions they have made to this important debate and indicate that the National Health Amendment (Improved Monitoring of Entitlements to Pharmaceutical Benefits) Bill 2000 is in two parts. The first part was distributed some time ago with regard to the monitoring of entitlements to pharmaceutical benefits, and I flag also that I have distributed a number of amendments with regard to other aspects to do with the Pharmaceutical Benefits Advisory Council. I will be moving those amendments and they will be dealt with in the course of the committee stage.

Amendment not agreed to.

Original question resolved in the affirmative.

Bill read a second time.

In Committee

The bill.

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (4.48 p.m.)—I table a supplementary explanatory memorandum relating to the government’s amendments to be moved to this bill. The memoranda was circulated on 30 November and 6 December 2000. I seek leave to move
government amendments (1) to (4) on sheet FC259 together.

Leave granted.

Senator TAMBLING—I move:

(1) Clause 2, page 1 (line 19), omit “This”, substitute “Subject to this section, this”.

(2) Clause 2, page 1 (after line 20), at the end of the clause, add:

(2) Schedule 2 commences on 1 January 2001.

(3) Clause 3, page 2 (line 2), omit “Each”, substitute “Subject to section 2, each”.

(4) Page 25 (after line 28), at the end of the Bill, add:

Schedule 2—Further amendment of the National Health Act 1953

1 After section 100

Insert:

100A Establishment and membership of the Pharmaceutical Benefits Advisory Committee

(1) There is to be a Committee called the Pharmaceutical Benefits Advisory Committee.

(2) The Committee is to consist of the Chairperson and 11 other members.

(3) The Committee is to include the following members:

(a) one person to represent consumers;
(b) one health economist;
(c) at least one practising community pharmacist;
(d) at least 2 general practitioners;
(e) at least one clinical pharmacologist.

(4) The remaining members of the Committee are to be persons whom the Minister is satisfied have qualifications or experience:

(a) in a field relevant to the functions of the Committee; and
(b) that would enable them to contribute meaningfully to the deliberations of the Committee.

(5) The Chairperson is a member of the Committee.

(6) The members of the Committee hold office on a part-time basis.

100B Appointment etc. of members of the Pharmaceutical Benefits Advisory Committee

(1) The members of the Pharmaceutical Benefits Advisory Committee are to be appointed by the Minister by written instrument.

(2) A member of the Committee is eligible for reappointment.

(3) The exercise or performance of the functions and powers of the Committee is not affected only because there is a vacancy in the office of a member of the Committee.

(4) The names and qualifications of the members of the Committee must be published in the Gazette.

100C Termination of appointment

A member of the Pharmaceutical Benefits Advisory Committee holds office during the Minister’s pleasure.

100D Remuneration

(1) A member of the Pharmaceutical Benefits Advisory Committee is to be paid the remuneration that is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is in operation, the member is to be paid the remuneration that is prescribed.

(2) A member is to be paid the allowances that are prescribed.

(3) This section has effect subject to the Remuneration Tribunal Act 1973.

2 Subsections 101(1), (2), (2AAA), (2AA), (2A), (2B) and (2C)

Repeal the subsections.

Note: The heading to section 101 is altered by inserting “Functions of” before “Pharmaceutical”.

3 Subsection 101(3)

Before “Committee” insert “Pharmaceutical Benefits Advisory”.

Senator CHRIS EVANS (Western Australia) (4.49 p.m.)—I think there were amendments to be moved on behalf of the opposition and the Democrats to government amendment No. 4. Could we deal with that separately? I do not think there is any opposition to government amendments (1) to (3).
The TEMPORARY CHAIRMAN (Senator Watson)—The question is that amendments (1) to (3) be agreed to.

Question resolved in the affirmative.

Senator CHRIS EVANS (Western Australia) (4.51 p.m.)—by leave—I move opposition amendments (1) and (2):

(1) Subsection 100A(3), omit the subsection, substitute:

(3) The Committee is to include 9 members representing the following:

(a) consumers;
(b) health economists;
(c) practising community pharmacists;
(d) general practitioners;
(e) clinical pharmacologists;

with at least one member representing each of the interests or professions mentioned in paragraphs (a) to (e).

(2) After subsection 100B(1), insert:

(1A) A person appointed under subsection 100A(3) must be appointed from nominations made by the following bodies:

(a) in respect of paragraph 100A(3)(a)—consumer organisations;
(b) in respect of paragraph 100(3)(b)—professional associations of health economists;
(c) in respect of paragraph 100(3)(c)—professional associations of pharmacists;
(d) in respect of paragraph 100A(3)(d)—professional associations of medical practitioners;
(e) in respect of paragraph 100A(3)(e)—professional associations of clinical pharmacologists;

prescribed by the regulations for the purposes of this subsection.

(1B) The regulations may prescribe matters relating to nominations, including (but not limited to) the number of nominations to be considered by the Minister before making an appointment.

I seek some advice before speaking to them. I think there has been some negotiation with the government about accepting those. Before going into a lengthy explanation of the intent of the amendments, perhaps Senator Tambling is in a better position than I am to explain where we are at in terms of the government’s position. That might truncate the debate. The ALP amendments effectively seek to be a bit more prescriptive than the government’s to retain the link between the nominations to the committee and the recognised professional bodies.

Under the government’s amendments, we were concerned that the link between the professional bodies and the nomination process has been removed. We think that has been one of the strengths of the system and I think that was noted in the report of Senator Tambling’s review of the PBS. We think, therefore, that that is worth retaining. The government’s original position seems to provide too much flexibility for the minister. Given the intense political pressures that are applied in terms of this committee, we think that is unwise. As I say, we think that the link between the professional bodies nominating for the committee is a good one and that the minister’s discretionary power ought to be limited to three of the 12 positions rather than the larger number that it would be under the government’s amendments. In general, we looked to be a bit more prescriptive—to retain the prescriptive practices contained in the original act—and that is why our amendments are directed towards that end. I do not want to delay the committee stage. If the government are in a position to indicate they are supporting some or all of that, then we may not need to have a lengthy debate about that.

Senator HILL (South Australia—Minister for the Environment and Heritage) (4.43 p.m.)—I am instructed that we will support the Labor Party amendments with some changes that have been put to the Labor Party and on which they are about to advise us. With those small changes, we will be able to support the Labor Party amendment.

Senator CHRIS EVANS (Western Australia) (4.54 p.m.)—In the spirit of goodwill, I have just thought of an amendment to my amendment, that Senator Hill reminded me of! I seek leave to amend opposition amendment No. 1.

Leave granted.
Senator CHRIS EVANS—The amendment would now read:

1) Subsection 100A(3), omit the subsection, substitute:

(3) The Committee is to include 8 members selected from the following:

(a) consumers;
(b) health economists;
(c) practising community pharmacists;
(d) general practitioners;
(e) clinical pharmacologists;
(f) specialists;

with at least one member selected from each of the groups in paragraphs (a) to (f).

Senator LEES (South Australia—Leader of the Australian Democrats) (4.55 p.m.)—Having had a look at the government amendments, can I ask: is it not the case that the government has already picked up the thrust of these amendments in its most recent copy, sheet FC259, revised, with the difference being that the government amendment is still with a 12-person committee. The government amendment reads that the committee is to consist the chairperson and 12 other members. Senator Evans’s amendment as printed on sheet 2087 reads ‘9 members’. Is this sheet 2087 the latest one that the opposition has circulated?

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (4.57 p.m.)—I appreciate that there has been a little bit of argy-bargy here, and I apologise to Senator Lees in that regard. I am advised that the net effect of this is that the committee will still be 12. There is the chairperson plus 11 others. Then specifically in this subsection 100A(3), there is to be the nomination, picked up under the Labor Party amendment, of the nominated groups. There were going to be nine; it has now been changed to eight. But the total committee will still be 12—that is, a chairman and 11 others—and, within that, eight will be drawn from the nominations of Senator Evans’s nominated groups (a) to (f), which includes specialists.

Senator LEES (South Australia—Leader of the Australian Democrats) (4.57 p.m.)—If that is the case, and we are still sticking with 12, we will also be supporting what the Labor Party is doing.

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (4.57 p.m.)—It has just been pointed out to me that there would need to be a subsequent formal amendment in the second part of Senator Evans’s amendment. Under subsection 100B(1), which lists the groups (a) to (e), there would also need to be a repeat of the subclause (f) as well, to make it consistent between the two.

Senator CHRIS EVANS (Western Australia) (4.57 p.m.)—Yes, that is right, and therefore I seek leave to further amend my amendment.

Leave granted.

Senator CHRIS EVANS—Amendment No. 2 would now read:

2) After subsection 100B(1), insert:

(1A) A person appointed under subsection 100A(3) must be appointed from nominations made by the following bodies:

(a) in respect of paragraph 100A(3)(a)—consumer organisations;
(b) in respect of paragraph 100A(3)(b)—professional associations of health economists;
(c) in respect of paragraph 100A(3)(c)—professional associations of pharmacists;
(d) in respect of paragraph 100A(3)(d)—professional associations of medical practitioners;

in respect of paragraph 100A(3)(e)—professional associations of clinical pharmacologists;
(f) in respect of paragraph 100A(3)(f)—professional associations of specialists;

prescribed by the regulations for the purposes of this subsection.

The TEMPORARY CHAIRMAN (Senator Watson)—The question is that the amended amendment, as further amended by Senator Evans, be agreed to.

Question resolved in the affirmative.
The TEMPORARY CHAIRMAN—The question now is that the government amendment No. 4, as amended, be agreed to. Question resolved in the affirmative. Bill, as amended, agreed to. Bill reported with amendments; report adopted.

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

TAXATION LAWS AMENDMENT BILL (No. 8) 2000

Second Reading
Debate resumed from 8 November, on motion by Senator Ian Campbell:

That this bill be now read a second time.

Senator SHERRY (Tasmania) (5.00 p.m.)—The Senate is considering Taxation Laws Amendment Bill (No. 8) 2000. I am pleased to welcome this into the chamber. This is the government’s latest GST roll-back legislation. Labor intends to support this bill but with one amendment in regard to retrospectivity to remedy some absurd situations and administrative burdens that fall particularly on small business and that should never have been allowed to occur in the first place. In terms of roll-back, the total number of amendments to this so-called simple new tax system, the GST, now stands in excess of 1,650 and here we are, on the last day of sitting, considering further amendments to GST legislation. There have been 1,650 amendments to the GST in the last six months.

Many of the amendments we are considering involve roll-back but the government, of course, stubbornly refuses to recognise this and it stubbornly refuses to roll back on the one issue that is hitting the wallets of ordinary Australians hardest: petrol. I am glad that Senator Boswell and Senator McGauran are in this chamber today, because I have a few more comments to make about petrol.

Senator SHERRY interjecting—

Senator SHERRY—The Liberal-National Party government has increased the tax on fuel in this country, Senator Boswell, even though the Prime Minister promised that he would not. Labor has argued, and the Prime Minister has conceded, that this government has received a windfall tax gain because of the tax changes made in respect of fuel in this country.

Senator McGauran—What about roads?

Senator Boswell—Tell us about roads.

Senator SHERRY—What about fuel prices? That is what the people in your electorates are asking you.

Senator Boswell—What about communications?

Senator SHERRY—The government should do one of two things, Senator Boswell—and the National Party in particular should take note—they need to honour their promise to drop the excise by the same amount that the GST goes up or they have to eliminate the GST inflation spike from the February indexation adjustment. I remind the chamber that, by the time we return next year in the second week in February, there will have been a further increase in fuel prices as a result of the GST. Either way, the result of the tax application to fuel will be a reduction of 2c a litre in the price of petrol next year if the inflationary spike is removed. Instead, motorists are facing a further breaking of the Prime Minister’s word that the GST would not affect the price of fuel in this country. There will be a further breaking of the Prime Minister’s word in February next year before the parliament resumes. I will be moving a second reading amendment to enable senators to vote on this important issue.

The federal parliamentary Labor Party’s caucus committee, the petrol price inquiry, has travelled to 23 different locations throughout Australia to hear evidence from community organisations, transport operators, service station operators and local councils—amongst many others—about the unfairness of the impact of the new tax system on fuel costs. These are the same Australians who pay more in petrol tax because their petrol prices are higher. These people have not been fooled by the government’s attempt to return only some of its windfall gain on local roads. Of course, Australian motorists deserve more than road funding from this government: it cut road funding in...
1996 by hundreds of millions of dollars. Page 3-156 of Budget Paper No. 1 of the 1996-97 budget shows just one decision—
‘reduction in national highway system funding’—with over $620 million of funding cut out in that year and in the three subsequent years. So the government is not really increasing road funding; it is just putting back some of the funding that it cut out some years ago, but it is taking a massive petrol tax windfall off motorists.

These motorists have been speaking to Labor’s fuel price inquiry. They are telling us that what they want is lower petrol prices, because the Liberal and National parties, particularly the Prime Minister, refuse to listen to them, have refused an inquiry into the issue and refuse to honour the broken promise, the absolute commitment that the Prime Minister made, that fuel prices would not rise. They are aware, as the government appears not to be, that this broken petrol promise is making life all that harder. We have heard from a number of peak motoring organisations at our hearings. It is also important to note, as we approach the Christmas-New Year break, that this is a peak travel time for motorists. I have lost count of the number of times that members of the Liberal and National parties are lions in their electorates complaining about fuel prices—

Senator Ludwig—Hundreds of times.

Senator Sherry—Yes. They complain about fuel prices in their electorates and yet when they come to Canberra they roll over. They are like little lambs: they are tickled by the Prime Minister and the Treasurer and assured that everything will be okay. They do absolutely nothing about the high price of fuel in this country when they come to Canberra. They attempt to make names for themselves back in their electorates but they do not do anything about the issue. We will be moving a second reading amendment this afternoon. It says:

“... 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”.

This will be the Senate’s last opportunity to express its concern on this issue, which is the priority issue of policy concern amongst Australians at the present time.

I move to the issue of the GST in some further detail. We have heard many times from the government that it would simplify the tax system. The Treasurer in his press release of 13 August 1998 stated:

The introduction of the Australian Business Number, coupled with the simpler and more flexible payment arrangements, will substantially reduce the number of dealings business has with the Australian Tax Office.

The overwhelming majority of Australians, and certainly small business, know that that is simply not true. It is just fantasy. If you talk to anyone in small business at the present time, battling their way through the business activity statement and gritting their teeth, they will tell you it is very far from simple and is very costly to administer. Prior to the introduction of the GST, we heard a lot about simplification. But with this legislation comes at least an acknowledgment from the government that its GST and associated tax changes have instead made the tax system much more complex for small business. Some of the more significant changes in this bill allow the tax commissioner in certain circumstances to cancel an entity’s GST registration, it allows the tax commissioner in certain circumstances to change an entity’s tax period from monthly to quarterly and it gives the commissioner the ability to pay out a refund from a business activity statement rather than to take it off current or future tax liabilities such as company tax. These changes should not really be counted as benefits for business but rather are removing what is, frankly, the absolute idiocy of the earlier arrangements.

There are some 48 other changes, plus numerous minor technical corrections. This is a lot of simplification, it is a lot of roll-back, but Labor support this simplification because of the numerous complaints we have had from small businesses who have been unwittingly caught up in the web of administrative problems created by the new tax system. For example, this bill will finally provide an escape clause to those who are not only tearing their hair out over the business activity statement because they were
erroneously registered for the GST but who must pay GST even though their prices have not increased. According to the president of the National Tax and Accountants Association, Ray Regan, the GST is effectively coming directly from the pockets of many small businesses and it will likely bankrupt them because of the significant impact on cash flow.

The Tax Ombudsman has received complaints about this issue. In fact, she has had about 80 complaints about the ABN and the GST registration process. She has reported:

Many complaints relate to timeliness, while others come from people who have experienced difficulty getting the ATO to remedy processing errors. For example, some entities were registered for GST when they had not asked to be. However, this bill does not provide for retrospective cancellation of GST registration.

This is puzzling to the Labor opposition, and we would certainly like an explanation from the minister when he comes to the chamber on why it is not retrospective. Ray Regan is concerned that, as many businesses have decided to play it safe by registering for the GST and erring on the side of caution, they are now unnecessarily plagued by the business activity statement and its attendant complexities. I might say that many registered in order to play it safe because we had not had the complete package of legislation relating to the GST in the parliament prior to the 1 July start-up. As I said in my opening remarks, with the amendments we are dealing with in respect of the GST in this legislation, the total now comes to 1,650 amendments, six months after the introduction of the GST. These businesses should not be punished for attempting to do the right thing. That is why the amendment to the legislation in respect of registration should be made retrospective.

This bill also proposes to amend the law to enable the commissioner to ensure that a business activity statement refund is not automatically offset against a current or future tax debt. Currently this situation is causing considerable problems for business. Acting on the current law, the tax office has reduced GST refunds for businesses by deducting company tax bills even when they have not fallen due. This should not occur. It creates cash flow problems for small businesses and the potential for prolonged interaction with the tax office to find out what has happened to the GST refund. One case I have been made aware of concerns a small business which submitted a business activity statement on 21 August and was entitled to a GST refund in the order of $92,000. The subsequent advice from the tax office was that the refund was put into the owner’s account. However, on checking with his bank he discovered that the refund was reduced by $12,000, and he was left to find this out for himself. On checking with the tax office, he discovered that the tax office had taken his company tax out of his anticipated refund. Unfortunately, he had already separately paid his company tax bill. It has now been paid twice. This is a ridiculous situation. It should not have been allowed to occur, and with the passage of this bill it should not occur again.

There is also an administrative change with regard to the monthly BAS. This involves increasing flexibility to cancel monthly remittances of the GST. As things stand, people cannot change from monthly to quarterly until they have completed 12 months as monthly remitters. Again, this is a ridiculous situation, and the bill will fix that. However, the quarterly system itself is still not a simple one. In fact, its complexity led to the deadline being extended. The National Tax and Accountants Association conducted a comprehensive survey of accountants and tax agents and over 2,000 accountants responded. It showed that an estimated 400,000 BAS returns will fail to meet the extended deadline. Hundreds of thousands of small businesses cannot cope with the BAS, and in the wake of this survey the tax office has extended the deadline further. Of course, they did not even recognise the problem raised by Mr Regan and have just quietly extended the deadline by around three weeks. People still miss the deadline; indeed, there will be many who have still not lodged.

The first quarterly payment was such a disaster that the second payment, which had already been granted a two-week extension until early February, has now had that dead-
line extended until the end of the month of February. So the so-called smooth implementation of the GST is just a bad joke and a very bad taste in the mouths of many small businesses and their accountants. Although this legislation addresses some GST related problems, there continue to be many more. Obviously Labor are happy to support removing some of the GST problems. This is roll-back. This is roll-back by the Liberal and National parties, and in particular Treasurer Costello. And we support this roll-back. It is a logical thing to do and it is consistent with Labor’s pledge to make the GST simply and fairer.

I notice that National Party Senators Boswell and McGauran scuttled out of the chamber when I referred to their appalling record on fuel prices in this country. The National Party have been trampled on by the Liberal Party in respect of this issue. I just want to give a couple of examples to the chamber before I move the second reading amendment. We did a survey of coalition senators. I am disappointed that Senator McGauran is not here. The survey was conducted of unleaded petrol and LPG prices, and this is from the Shell web site as of today. Senator McGauran has recently, after a prolonged period of 10 years, moved his office from Collins Street in Melbourne to the country—he does represent rural Victoria—to Benalla. In Benalla today unleaded petrol was 99.9c with a GST component of 9.08c. That is compared to Melbourne, where unleaded petrol is 91c and the GST is 8.27c. In Benalla, where Senator McGauran has suddenly decided to relocate, liquefied petroleum gas is 59.9c and the GST is 5.45c. That illustrates the enormous impact and the differential in respect of petrol prices in rural and regional areas and the city.

In New South Wales, which Senator Sandy Macdonald represents, in Tamworth West LPG is 56c and the GST component is 5.09c. In Sydney today the price of LPG varies, but it is around the low fifties. In Townsville, which Senator Ian Macdonald represents, unleaded petrol is 93.9 cents and the GST is 8.54c. In Rockhampton unleaded petrol is 92.2c and the GST is 8.38c. In Brisbane unleaded petrol is 81.2c and the GST is 7.38c. So that illustrates again the significant disadvantage that people in rural and regional Australia are suffering. They are suffering as a result of the GST. A percentage tax on a higher base rate leads to a widening of the differential and is a significant disadvantage to people in rural and regional Australia. In my home state of Tasmania, which Senator Newman also represents, in Launceston unleaded petrol is 101.5c today and the GST component is 9.23c. Senator Watson is also in Launceston. In Hobart unleaded petrol is 97.4 cents. That just again illustrates the major city and rural and regional divide. The National Party, of course, have done nothing for rural and regional Australia in respect of petrol.

I have to make a comment about the Australian Democrats’ position on this legislation. Of course, they are responsible for the GST, along with the Liberal-National Party. I did read your minority report, Senator Murray, on the taxation laws amendment bill. Senator Murray describes the situation that has resulted and the problems that have emerged in respect of the GST as ‘mischief’. He says:

The mischief that the amendment seeks to remedy is the situation where a parent entity claims an input tax...

I must say, Senator Murray, that for you and the Australian Democrats to describe the problems of the GST as mere mischief just underestimates the horrors that small business are experiencing in respect of the GST.

Senator Ludwig—It’s a mischievous comment.

Senator SHERRY—It is a mischievous comment, that is right. It is an extremely misleading adjective to use and I think it is used in the context of the Australian Democrats’ extreme embarrassment at having to front up here in the Senate chamber at this time of the year, six months after the GST, to roll back the GST in so many areas. Finally, the clock ticks over to 1,650 amendments.

Senator Ludwig—What does it weigh?

Senator SHERRY—I do not know what it weighs. I do know that the tax legislation in this country as a result of the GST is now about nine inches high. So much for a sim-
pler tax system. I am told that the weight is five kilos. We are now up to five kilos of GST tax legislation. I will conclude my remarks there and move Labor's second reading amendment in respect of petrol prices. I move:

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".

Senator MURRAY (Western Australia) (5.02 p.m.)—I would describe the end of Senator Sherry's speech as reeking of Christmas spirit—impish, mischievous and, as he well knows, misrepresenting our position and our minority report. We were referring to one amendment in there and one amendment only. Let me move from that to the bill in substance. The Taxation Laws Amendment Bill (No. 8) 2000 includes amendments to 14 different acts which cover a wide range of activities. The vast bulk of the provisions in this bill are non-controversial. I do note that the Labor Party will be supporting the bill, as they do support the GST and as they will support the GST when they go to the election, because they are certainly not going to repeal it.

One of the more significant amendments in the bill is the ability of the Commissioner of Taxation to cancel an entity's GST registration where it has applied to the commissioner for cancellation before it has been registered for 12 months. My understanding is that that is a much desired amendment by small business and not-for-profits which have registered for GST purposes only to realise that they would have been better off staying out of the system and being input taxed.

This bill was referred to the Senate Economics Legislation Committee at the behest of the Democrats, and I would like to briefly discuss a couple of the issues raised in the submissions and during the hearings. We decided to refer the bill to the committee after receiving representations from the Association of Heads of Australian University Colleges and Halls. That organisation was concerned about the impact of a very innocuous looking amendment in schedule 6 of the bill. That amendment has the effect of applying an associate's test to the non-profit subentity provisions of the GST act.

The concept of a non-profit subentity was established to allow non-profit organisations—churches, schools, sporting clubs—to identify separate parts of their businesses as separate entities for GST purposes, even if those parts of the businesses were not separately incorporated. The purpose of deeming the entity as separate for GST purposes was to allow it to avoid the compliance burden of being a part of the registered entity. It was thought that the non-profit subentity would then be input taxed just like any other unregistered small business. The problem which has arisen is a scenario in which the parent entity—that is, the main club or school—purchases goods or services, pays GST to the supplier, claims the input tax credit based on the supply but gives those goods and services to the subentity which then takes them out of the GST system. The ability of the parent entity to claim the input tax credit means that no GST has effectively been paid, but the subentity can on-sell the goods without charging GST. The amendments in this bill would require parent entities to value all gifts to non-profit subentities and to remit GST based on those values.

An example of the problem that the bill is trying to remedy would be as follows. The local school purchases uniforms and pays GST. It claims the input tax credits and gives the uniforms to the school shop. The school shop is a non-profit subentity, and the shop sells the uniforms to students effectively GST free. Item 18 of schedule 6 to this bill will apply an associates test to the parent entity—the school; and the subentity—the shop. Division 72 of the GST act deals with associates and provides rules which ensure that supplies without consideration to an entity's associates attract the GST and that supplies to an entity's associates for inadequate consideration are properly valued for GST purposes. The provision of new section 72-92 will result in supplies between non-profit subentities, or between a non-profit subentity and its parent entity or association with the
parent entity, for a nil consideration or a consideration substantially below market value, therefore attracting GST. Therefore, parent entities will be required to put a value on every supply provided for less than its full market value or for nil consideration to and between its non-profit subentities and to account for the GST.

There are two issues here. The first is the actual GST that would need to be remitted. That is not the major concern because, by and large, the revenue involved is relatively small. The sorts of examples that were given were things like allowing the use of meeting rooms and providing free use of photocopying and computer facilities. I do not envisage that the amount of GST on those sorts of transactions would be substantial, and the tax office could not confirm in our committee hearing that at that level they would be substantial. The second issue is, of course, compliance and the fact that this amendment will mandate the recording of all these often quite minor transactions with bodies that are often not commercial in nature. We are concerned about that compliance problem. One of the suggested partial solutions to the compliance problem was to alter the amendment to only catch the direct resale to the public of goods and services that are being gifted by or transferred at undervalue by the parent to the non-profit subentity. The problem with that solution is that it does not deal with the scenario where the parent entity purchases goods or services, claims input tax credits and gives those goods or services to the subentity, which then uses the goods or services to produce other goods. That would leave a reasonable gap in the law which we believe could be exploited.

The amendment that I will be moving when we reach the committee stage will have the effect of allowing a parent entity to make gifts to non-profit subentities to a limit of $5,000 per subentity each year. It is our hope that the threshold provided by the amendment would allow the ordinary run-of-the-mill operations of not-for-profit organisations to continue without there being a necessity to record and account for things like the use of meeting rooms. The amount of $5,000 was roughly derived by us to allow for about 20 meetings each year in meeting venues in central city locations—I know that it is an arbitrary figure, but that is how we arrived at it. I am thinking specifically of church synod offices, and I am advised that that would cover large numbers of these subentities and would serve to remove these activities from the parent’s business activity statement preparation.

I regret that the government will not, I understand, be supporting this amendment, and I regret that the opposition will probably not be supporting the amendment either. The amendment would have the effect of alleviating some of the burden of compliance that item 18 of schedule 6 will unnecessarily generate. It is a great pity that the amendment will probably be lost, despite the fact that it is one with low revenue consequences but very high compliance cost benefits through reductions in compliance costs. On this issue, the government is adopting an unnecessarily harsh and inflexible approach encouraged by the tax office. The Democrats and the not-for-profit sector represented at the hearing acknowledge the problem that the government is trying to remedy and that the tax office is concerned about, but we think we have found a reasonably simple way of alleviating the compliance burden which avoids creating a gaping hole through which tax revenue could escape.

The other issue raised before the Senate economics committee was the application of the goods and services tax to food supplied to boarding school students. Although it was raised at the hearing, it is not really part of the bill, but I draw attention to it because it was raised at the hearing. While it is not an issue raised directly by the bill, a couple of submitters to the inquiry raised the issue of GST applying to food supplied to children at boarding schools. At present, unless those supplies of food are subsumed in accommodation—which is GST free in schools—those supplies are ordinary taxable supplies and attract GST in the same way as restaurant or takeaway prepared food. The simple question is: should food supplied to students in primary or secondary boarding schools be GST free or not?
There are a number of arguments for and against making food supplied in boarding schools GST free. In brief, the arguments for GST-free treatment are as follows. Food is GST free in hospitals, community and aged care centres and child-care centres—in other words, in institutions; education is GST free in philosophical and principle terms; and basic food is GST free. Therefore, food supplied as an integral part of providing education should be GST free. If the children did not board at school, the parents would be able to provide them with food purchased GST free and then prepared at home. The revenue forgone is low—it is only approximately $1.5 million per annum. The only significant argument in favour of applying the GST to such supplies is that the food provided is prepared food by definition—that is the GST versus no GST distinction—and it therefore follows that it should be consistently applied to boarding schools.

The issue has apparently arisen because of a change to draft guidelines issued by the ATO. The original guidelines stated that food and accommodation are one supply. The guidelines were withdrawn, and food and accommodation must now be treated separately. I understand that the separate treatment must occur from 1 January 2001. I would strongly recommend that the government extend that deadline until 1 July 2001 and that they consult further with the sector. Since the amount of revenue involved is low, I see no reason why the ATO should not make that recommendation to the government and that the government should not respond to that recommendation.

As I mentioned, the issue is not directly dealt with by this bill. Partially for that reason, and partially because of the fact that I am confident we would not have the agreement of either the government or Labor to change the treatment of those supplies, we will not be pursuing an amendment at this time. However, Minister, it is within your ability to extend the concession until 1 July and consult further. Our spokesperson on schools, Senator Allison, is currently reviewing a number of issues relating to schools in this area, several of which have arisen out of ATO rulings. The taxation of food provided in boarding schools will be considered by her in that context.

In terms of the remainder of the bill, the Democrats are supportive. I have always dismissed the idea that major tax legislation should not be amended and that it is a mess because it is amended. Every Labor tax initiative I have ever seen was amended, and it is just nonsense to pretend otherwise. I know why you make the argument. You enjoy making it, and I suppose we enjoy refuting it. I am glad that the government do amend legislation if it is found to be weak or poor in any effect. We are rapidly running out of time to deal with legislation this year, so this bill is urgent. Before I sit down I should deal with Senator Cook’s second reading amendment as moved by Senator Sherry. This really is not a serious amendment. It has been brought on three times. It has been rejected twice. The first line of the amendment reads:

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

I return to the remarks I made the first time it was dealt with. 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 negative impact. Every taxation system has a serious impact, so this vague statement is meaningless. Does Senator Cook refer to price increases as a result of the imposition of the goods and services tax? If he does, he should say so. Or is it a reference to GST generally or just on petrol; or is it a reference to the income tax regime; or to bracket creep, which was instituted by his government; or is it a reference to the fact that taxation takes a slice of everybody’s pay packet? The taxation regime covers every aspect of taxation in our tax regime, so that line of the amendment should have been corrected. However, we have still got it. What part of the total tax system, much of which the Labor government had a hand in, does Senator Cook refer to? That first line of the amendment is simply too vague and too meaningless for us to understand. The second part of the suggested second reading amendment does deserve serious attention. It reads:
... and calls on the Government to remove that effect of the GST from the fuel excise indexation adjustment in February 2001.

The indexation affects not just petrol but all fuels. It also affects cigarettes, beer and spirits. We have indexation, courtesy of the Labor Party. It is a continuing policy supported by the government, so it is a bipartisan policy. There is no suggestion from Senator Cook or the Labor Party that indexation should not be continued. He is suggesting that one part—the fuel excise indexation adjustment—should be dealt with: only that portion of it occasioned by the GST spike and not by other forms of inflation. If you are going to make that recommendation, you should tell us what the costs would be. The other day I told you what the cost would be. The overall cost, as regards fuels, would be approximately $350 million, which is about 0.8 cents a litre. However, if it is applied to the entire GST indexation spike on excise, you end up with a cost of $600 million, of which about $50 million would be for beer, about $30 million for spirits and about $170 million for tobacco.

I tell the Labor Party: I think it is a legitimate policy proposal that the GST indexation spike on excise could be considered for removal, but it has to be considered across all excise and it can be considered only when the government tell us whether there is going to be enough revenue to do it. Until such time as we know what the consequences of the GST returns are, we are not going to know whether the surplus exceeds government estimates by such that they could afford it. It is only when we know we can afford it that we can consider the serious policy, and then when we consider the serious policy it is up to the government to recommend it. However, I acknowledge it is a serious policy proposal and it would kill two promises with one hit. It would go some way to meeting the government’s promise on fuel, which we and others believe they underperformed on to the people of Australia. I recognise that it is not going to do that much for fuel. If you asked the motorists whether they would accept any cut, they would take a small cut.

**Senator Sherry**—Particularly at this time of the year.

**Senator MURRAY**—Particularly at this time of the year. The fact that it is 0.8 cents a litre is still worth something—in fact it is worth $300 million. It would fulfil one of the beer promises as well, because it would come off that. We all recognise that, if you adopt that policy, it will be giving a free kick to spirits and tobacco. We have to work out whether that is justifiable. As I said the other day, my own belief is that the pricing of cigarettes has reached the stage where any further price increase, in revenue generation terms, would be negative because the price effects are affecting consumption in the way they are.

The net summary of my evaluation of the opposition’s second reading amendment is that the first line is vague and nonsensical; the second two lines are of interest but they do not refer to the entire GST indexation spike effect on the range of all excises, not just petrol; and, of course, they do not refer to how it should be funded. If you have excess GST revenue and the government show that—which of course they have not because they put out their reports so early that we do not know that, although the Democrats think they will have enough money—it might be a rather nice present to give people in the new year. I offer the view that the Democrats would consider that seriously. My party room has not come to a view on that but, certainly, we would be interested if the Labor Party and the government were interested. With those remarks, I look forward to the committee stage.

**Senator BROWN** (Tasmania) (5.38 p.m.)—The amendment that I will be moving in the committee stage is to remove the current threat to the Regional Forest Agreement Private Forest Reserve Program in Tasmania, where $60 million from the regional forest agreement and the Natural Heritage Trust Fund has been set aside, including $10 million from the Tasmanian government, to pay landowners to protect land of high conservation value rather than to have it wood-chipped. Landowners moving to do that, who are of course acting in the community interest—because these woodlands or forests have rare and endangered species or ecosystems—have discovered that, on the one
hand, they are being given money to protect those woodlands or forests for the next 20 years and, on the other hand, they face a capital gains tax. Close to half of the money will be taken back by the federal government, which established the scheme and which is the primary funder. That was never made public at the time the scheme was put forward as part of the RFA package. The Prime Minister never made it clear that this was subject to capital gains tax when he announced the program in Perth, in Tasmania, in 1998. I know this scheme has the real potential to fail in its intention to protect woodlands and forests of high conservation value on private land in Tasmania.

The amendment I have simply says that ‘this program will not be subject to capital gains tax’ and that it ought to be passed to remove doubt over this scheme, which is being implemented but is behind schedule at the moment. It also should be passed to remove doubt from those landowners who are considering whether or not to log their block instead of keeping it. The longer that this is delayed, the more the damage that will occur. It is, therefore, not just an amendment but it is quite an urgent amendment, which I hope the Senate will support.

Senator KEMP (Victoria—Assistant Treasurer) (5.41 p.m.)—I will say a few brief words to sum up, but there will be an extensive debate on most of the matters that have been raised in the second reading debate. I think it would be appropriate to address those issues during the committee stage. The government has successfully implemented probably the largest structural change to the Australian economy since the Second World War. Our economy is no longer being held back by an outdated, inefficient and uncompetitive tax system.

Senator Sherry—It was not being held back.

Senator KEMP—I think it is a great thing in this chamber that we almost have a bipartisan position on tax reform now. I think that is very important. It rather surprises many of us in the chamber, as did the debate that led up to 1 July. Despite what my colleague Senator Sherry has said, I think Senator Murray made a very useful contribution when he reminded us that, on 1 July, the Labor Party accepted the GST as part of their overall package. I think that is a very important point. Some people listening to this debate may not be aware of that and it is probably worthwhile recording that.

Senator Sherry—You are being mischievous.

Senator KEMP—Senator Sherry and I have had this debate on many occasions during question time—

Senator Sherry—We will continue to have it.

Senator KEMP—I have no doubt that this debate will continue. Just for the record, the significance of the tax reform that we have carried out—in fact, the tax reform now—is, it seems to me, supported by virtually all people in this chamber, possibly with the sole exception of you, Senator Bartlett, and I know your strong views on this, and there may have been one of your other colleagues. Essentially, that is now the position. I think that, as many people would have recognised, the bill before us is good for business, and if it is good for business it is good for jobs. It contains finetuning measures which will increase administrative simplicity and compliance, while ensuring protection of the revenue.

Senator Sherry—It’s a rollback, Rod—be honest, don’t be mischievous.

Senator KEMP—I am a bit surprised that Senator Sherry has used the ‘r’ word as my understanding is that that word was to be banned by the Labor Party. I refuse to be provoked. The bill demonstrates the government’s commitment to monitor the implementation of the new tax system and listen to concerns raised by the community, tax practitioners, industry representatives, the ATO and the states and territories. The bill makes minor and technical changes in order to improve the operation of the new tax system. They are minor and technical changes, Senator Sherry—not a rollback; not the ‘r’ word. While the bill contains no substantive policy issues, its measures will be welcomed by business. The main measures in this bill provide for increased flexibility to cancel GST registrations, changes to the way that
debts are offset against business activity statement refunds, increased flexibility to revoke monthly tax period elections, finetuning of the treatment of financial services, changes to the GST treatment of representatives of incapacitated entities, finetuning of the treatment of reimportations and temporary importations, and a better interaction of the fringe benefits tax and GST.

We will, of course, not be supporting the second reading amendment, for reasons which have been tirelessly stated in debates in this chamber. I will not take up the time of the chamber by re-running those debates. This government meets its commitments, except where the Senate has stopped us keeping our promises. As I have often said, this Senate has forced the government on a couple of occasions not to meets its election commitments it made to the people. But, again, that is a debate for another day. We will not be supporting the second reading amendment. I commend this very important bill to the Senate.

Question put:
That the amendment (Senator Sherry’s) be agrees to.

The Senate divided. [5.50 a.m.]
(The Acting Deputy President—Senator A.J.J Bartlett)

Ayes…………… 23
Noes…………… 34
Majority……… 11

AYES
Bishop, T.M. Bolkus, N.
Buckland, G. Carr, K.J.
Collins, J.M.A. Conroy, S.M.
Crossin, P.M. Crowley, R.A.
Denman, K.J. Evans, C.V.
Faulkner, J.P. Forshaw, M.G.
Ludwig, J.W. * Lundy, K.A.
Mackay, S.M. McKiernan, J.P.
McLuscas, J.E. Murphy, S.M.
Schacht, C.C. Sherry, N.J.
West, S.M.

NOES
Abetz, E. Allison, L.F.
Boswell, R.L.D. Bourne, V.W.
Calvert, P.H. Chapman, H.G.P.
Coonan, H.L. * Crane, A.W.
Eggleston, A. Ellison, C.M.
Ferris, J.M. Gibson, B.F.

Greig, B. Herron, B.
Hill, R.M. Kemp, C.R.
Knowles, S.C. Lees, M.H.
Lightfoot, P.R. Macdonald, I.
Macdonald, I.A.L. Mason, B.I.
McGauran, J.J. Murray, A.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.
Watson, J.O.W. Woodley, J.

PAIRS
Campbell, G. Minchin, N.H.
Cook, P.F.S. Brandis, G.H.
Cooney, B.C. Ferguson, A.B.
Gibbs, B. Campbell, I.G.
Hogg, J.J. Reid, M.E.
Hutchins, S.P. Alston, R.K.R.

* denotes teller

Question so resolved in the negative.

In Committee

The bill.

The CHAIRMAN—The committee is considering the Taxation Laws Amendment Bill (No. 8) 2000. Before we proceed, I would like to read a statement about this particular issue. The committee will note that two of the government amendments to this bill have been circulated as requests and that one of them should be a request but one should not, under the practices of the Senate. Given the fact that there are likely to be other amendments to the bill, as there are other government amendments, we cannot avoid the bill making an extra journey between the houses, so the amendments should be treated in accordance with the Senate’s practice.

Senator KEMP (Victoria—Assistant Treasurer) (5.54 p.m.)—I table a supplementary explanatory memorandum relating to the government amendments and the request to be moved to this bill. The memorandum was circulated on 5 December 2000. I propose, with the agreement of the committee, to move the government’s first amendment and then proceed to move the remaining government amendments as a block. I hope that will meet with the approval of the committee. I move government amendment (1):

(1) Schedule 1, item 7, page 5 (after line 9), at the end of section 38-450, add:

(2) A supply consisting of the surrender, to the Commonwealth, a State or Terri-
...tory of a lease over land is *GST-free* if:

(a) the supplier acquired the land under a supply that:

(i) was *GST-free* under subsection (1); or

(ii) if the supply was made before 1 July 2000—would have been *GST-free* under subsection (1) if it had been made on or after that day; and

(b) solely or partly in return for the surrender of the lease, the Commonwealth, State or Territory makes a supply of the land to the supplier that is *GST-free* under section 38-445.

This amendment relates to leases over unimproved crown land. The government has already made a supply of unimproved crown land *GST free*. After consultation with the states and territories and analysis by the ATO, we have decided to make minor technical changes to ensure that this treatment applies to leases granted to the developers prior to the development of such land.

**Senator SHERRY** (Tasmania) (5.55 p.m.)—I wish to clarify that the amendment that Senator Kemp is moving is the request.

**Senator Kemp**—Yes.

**Senator SHERRY**—The Labor Party is not opposing that. But I would just point out to the committee the incompetence of the government in mixing up requests and amendments, which means that we have to have an additional journey back and forward to the House of Representatives. This is government incompetence. Important tax legislation, more GST roll-back, 1,650 amendments in respect of the GST and, at this time of the year, critical legislation—the extra journey may result in the bill not passing. This is monumental incompetence by the government and the minister. It should not be happening. We will be supporting the request. We believe it is a reasonable request and amendment. I do not intend to say any more than that because of the time pressures, but I just point out this problem to the chamber. We are cooperating with the government’s program. We are working hard and saying to our people, ‘Don’t speak too long.’; then we get government incompetence, with messages flicking backwards and forwards more than is necessary.

**The TEMPORARY CHAIRMAN** (Senator Bartlett)—The question is that the request for an amendment be agreed to.

Question resolved in the affirmative.

**Senator KEMP** (Victoria—Assistant Treasurer) (5.56 p.m.)—by leave—I move government amendments Nos 2 to 6:

(2) Schedule 3, page 18 (after line 12), after item 9, insert:

<table>
<thead>
<tr>
<th>9A  Subsection 69-5(4)</th>
</tr>
</thead>
<tbody>
<tr>
<td>After “subsection (3)”’, insert “or (3A)”.</td>
</tr>
</tbody>
</table>

(3) Schedule 5, item 18, page 40 (after line 16), after subitem (1), insert:

| 1A The amendment made by item 4 of this Schedule applies, and is taken to have applied, to a requirement that would otherwise arise, or have arisen, under section 8AAZL of the Taxation Administration Act 1953 on or after 1 July 2000. |

(4) Schedule 6, item 21, page 46 (line 19) to page 47 (line 6), omit subsection (2), substitute:

| 2 The amount of the increasing adjustment is 1/11 of the amount that represents the extent to which the payment of excess relates to * creditable acquisitions and * creditable importations made by the insurer directly for the purpose of settling the claim. |

(5) Schedule 6, page 48 (after line 2), after item 25, insert:

| 25A At the end of Subdivision 78-A |
| Add: |

| 78-42 Adjustment events relating to increasing adjustments under section 78-18 |
| Division 19 applies in relation to an increasing adjustment that an insurer has under section 78-18 as if: |

(a) payments of excess under an insurance policy to which the adjustment relates were *consideration for a *taxable supply that the insurer made; and

(b) the adjustment were the GST payable on the taxable supply; and

(c) any refund of that payment of excess made by the insurer were a re-
duction in the consideration for the supply.

(6) Schedule 6, item 49, page 53 (line 4), after “", 21", insert "", 25A".

The government is also amending the bill to ensure that input tax credits that are providing a fringe benefit are not overclaimed. The current law allows the GST registered provider of a fringe benefit to claim input tax credits on acquisitions related to providing that fringe benefit. However, if the cost of providing the fringe benefit is not fully deductible under income tax law the amount of input tax credits available is reduced accordingly. Therefore, as an example, if in the provision of a fringe benefit only 60 per cent is deductible for income tax purposes, the provider of the fringe benefit will be entitled to only 60 per cent of the input tax credits that would otherwise have been available.

The bill contains a measure that will ensure that this reduction in input tax credits also applies to the provision of all meal, entertainment and entertainment facility fringe benefits. While this provision is intended to apply to all entities, some tax practitioners have questioned whether the amendment will apply to an entity that is exempt from income tax. To put this beyond doubt, the government is amending the bill to make it clear that the reduction in input tax credits applies to the provision of all meal, entertainment and entertainment facility fringe benefits regardless of whether the provider is exempt from income tax.

The next amendment corrects a drafting error in the bill. The bill contains a concessional measure that gives the Commissioner of Taxation the discretion to refund a net business activity statement credit rather than apply it to a tax debt applies from 1 July 2000.

The bill contains provisions that will prevent insurers from rearranging the payment of excesses so that they can claim input tax credits for payments they have not made. These provisions provide for an increasing adjustment in such circumstances. An increasing adjustment increases the net amount owing to the Australian Taxation Office and therefore claws back the tax benefit the insurer obtained. In further consultation with the insurance industry, it has expressed concerns about being able to calculate the increasing adjustment under the new provisions. Therefore, the government is amending the bill to provide a different way in which to determine the amount of the increasing adjustment. The method was proposed by the insurance industry as being a workable alternative that will still achieve the intended policy result. The industry also pointed out that it is reasonably common for insurers to refund insurance excesses in certain circumstances. If an insurer has had an increasing adjustment on an excess which is then refunded, the increasing adjustment should be reversed. The government is therefore amending the bill to provide for a decreasing adjustment in such circumstances. A decreasing adjustment decreases the net amount of GST owing to the tax office. Full details of the amendments to the bill are contained in the supplementary explanatory memorandum. I commend the amendments to the Senate.

Senator SHERRY (Tasmania) (6.00 p.m.)—The Labor opposition is supporting these amendments and will be supporting the previous request. I have to confess that I did mislead the chamber. We counted 1,650 amendments, but I did not include the amendments to the GST that we are considering in the chamber. The count is 1,654 amendments to the GST package since its introduction on 1 July.

Senator Herron—Almost as bad as native title.

Senator SHERRY—This is supposedly a simple bill—a simple new tax system. Don’t provoke me, Senator Herron; we are trying to be cooperative. I point out also that we are
dealing with amendments that we are happy to support, but these are amendments to amendments that were moved in the House of Representatives. The government, since passing this legislation in the House of Representatives, has discovered another four mistakes, which brings us to 1,654. We have amendment on amendment six months after the introduction of the GST. I also have spoken to Senator Kemp. Attached to the amendments was the Parliamentary Counsel’s advice on the issues relating to one of these amendments having to be a request. I have not shown it to Senator Harradine or Senator Murray, and I apologise for that. I seek leave to incorporate the Parliamentary Counsel’s advice in the Hansard.

The TEMPORARY CHAIRMAN (Senator Chapman)—Senator Sherry, would you clarify which documents are to be incorporated?

Senator SHERRY—The Parliamentary Counsel’s attachment to the amendments and that of the Clerk of the Senate. Let me pay a compliment to the clerical assistance we receive. A significant problem would have occurred with respect to this legislation’s legality if not for the Clerk of the Senate.

Leave granted.

The documents read as follows—
PARLIAMENTARY COUNSEL
Taxation Laws Amendment Bill (No. 8) 2000
Statement of reasons: why certain amendments should be moved as requests
1 Section 53 of the Constitution is as follows:
Powers of the Houses in respect of legislation
53. Proposed laws appropriating revenue or moneys, or imposing taxation, shall not originate in the Senate. But a proposed law shall not be taken to appropriate revenue or moneys, or to impose taxation, by reason only of its containing provisions for the imposition or appropriation of fines or other pecuniary penalties, or for the demand or payment or appropriation of fees for licences, or fees for services under the proposed law.

The Senate may not amend proposed laws imposing taxation, or proposed laws appropriating revenue or moneys for the ordinary annual services of the Government.

The Senate may not amend any proposed law so as to increase any proposed charge or burden on the people.

The Senate may at any stage return to the House of Representatives any proposed law which the Senate may not amend, requesting, by message, the omission or amendment of any items or provisions therein. And the House of Representatives may, if it thinks fit, make any of such omissions or amendments, with or without modifications. Except as provided in this section, the Senate shall have equal power with the House of Representatives in respect of all proposed laws.

Amendment (1)
2 The effect of amendment (1) is to make GST-free some supplies constituted by the surrender by lessees of short-term Crown leases in return for the grant of freehold or long-term leases. It is covered by section 53 because it will increase a “proposed charge or burden on the people” by increasing the amount payable under a standing appropriation in section 16 of the Taxation Administration Act 1953, for the reasons set out below.

3 In the GST system, all entities registered for GST are required to lodge regular Business Activity Statements identifying GST payable and input tax credits claimable for the relevant period. They will then be required to make a payment, or entitled to receive a payment, in respect of that period, depending on whether there is an excess of GST payable or credits claimable. Some entities who have little or no GST liability will receive payments from the ATO (paid for out of the CRF under a standing appropriation). These payments will be related to the amount of tax paid (by suppliers) on taxable supplies made to those entities; however, they are in no sense a refund of overpayments, but rather payments reflecting a separate entitlement to tax credits.

4 Any addition to the circumstances in which supplies are GST-free will increase the amount of these payments, or (in some cases) create entitlements to these payments where there would otherwise be GST liabilities.

5 Because the Commissioner of Taxation has, under section 63 of the Taxation Administration Act 1953, the general administration of the GST Act, the GST Act is a “taxation law” for the purposes of the Taxation Administration Act 1953 (see subsection 3(1)). These payments are payable under section 35-5 the GST Act, and are therefore payable under a provision of a taxation law. This in turn brings them within the terms of section 16 of the Taxation Administration Act 1953.

Amendment (2)
6 The effect of amendment (2) is to widen the scope of section 69-5 of the A New Tax System
(Goods and Services Tax) Act 1999 (the “GST Act”). This section limits, in certain cases, the entitlements of entities to input tax credits under the GST Act. Reducing an entity’s entitlements to input tax credits will increase the payment that it will be required to make, or (in some cases) create a liability to make a payment where there would otherwise be an entitlement to receive a payment.

7 Amendment (2) is covered by section 53 because it will increase the amount of GST payable by entities.

Statement by the Clerk of the Senate pursuant to the order of the Senate of 26 June 2000

Amendment (1)

If it is correct, as stated by the Office of Parliamentary Counsel, that this amendment will result in increased expenditure out of a standing appropriation, it is in accordance with the precedents of the Senate that the amendment be moved as a request.

Amendment (2)

The Senate has not regarded amendments to bills which do not impose taxation as requiring a request on the basis that the amendments may result in taxpayers paying more tax. The constitutional provision referring to an amendment which increases a proposed charge or burden on the people has not been regarded as having any application to tax-related legislation, because if a tax-related bill contains a proposed charge or burden on the people it must be a bill imposing taxation which the Senate cannot amend in any case. The moving of this amendment as a request would therefore not be in accordance with the precedents of the Senate.

Amendments agreed to.

Senator MURRAY (Western Australia) (6.00 p.m.)—On behalf of Senator Lees, I move:

(1) Schedule 1, page 7 (after line 9), after item 15, insert:

15A Section 195-1 (at the end of subparagraph (a)(i) of the definition of first aid or life saving course)

Add “including personal aquatic survival skills”.

The Democrats have a longstanding commitment to reduce the rate of drowning deaths in Australia. Australians are renowned not only for Olympic prowess but also for their love of swimming and the beach. Every summer Australians flock to the beach or the pool with families and friends. Regrettably, it is during those summer holidays that the majority of drownings occur.

Although the rate of drowning has decreased in recent years, it is still a major cause of accidental death in Australia, and there have been a number of initiatives to try to reduce it. In the 12 months to 30 June this year, 296 Australians lost their lives through drowning. There is no doubt that some of these people could have been saved if they and those around them had had better water safety skills and lifesaving skills. That is why the Democrats have such a strong commitment to water safety education and training. In particular, the Democrats believe that water safety skills should be targeted at those most at risk of drowning. Those risk groups include young children and young adults between 16 and 34 years of age. To reduce the rate of drowning, a comprehensive education program is needed that will teach children from a very young age the basics of water safety and will continue to reinforce the basics and will teach advanced skills such as resuscitation through to adulthood.

It is only through a sustained approach to education and training across all age groups that a reduction in water sport accidents and drowning deaths will occur. This is why the Democrats argued so strongly for water safety programs to be exempted from the GST during our negotiations with the government on the new tax system. As part of that negotiation process, the Democrats obtained agreement from the government to exempt lifesaving and first-aid courses from the GST. At the time of the negotiations, we understood that the exemption would cover the broad spectrum of water safety and lifesaving skills training provided by organisations such as the Royal Life Saving Society. Lifesaving and water safety education encompass a broad range of skills. These include basic water safety education, which should be provided at a young age, before specific lifesaving skills can be taught. The Royal Life Saving Society has developed and coordinated a seven-step program which
introduces lifesaving and water safety knowledge in a staged program.

This comprehensive curriculum provides an appropriate and effective lifesaving and water safety program that can provide all Australians with the skills they need to keep themselves and others safe around water. The early stages of this program are designed to be taught to younger children when they are learning basic swimming skills. For young children, the focus is on water safety rather than on lifesaving and first aid training, which hopefully they will move on to. However, these water safety and personal survival skills courses form an essential, indeed compulsory, part of lifesaving training. No-one should attempt to rescue another person from the water unless they themselves are competent swimmers. Therefore, it was the intention of the Democrats at the time of the negotiations that all water safety courses would be exempted from the GST. However, the Australian Taxation Office has interpreted the wording of the exemption very narrowly and restricted it to those courses that have an explicit lifesaving or first-aid component. The Democrats did not intend the exemption to be interpreted this narrowly, and at the time of the tax reform negotiations were working on the basis of advice that the amendment would cover the spectrum of water safety and aquatic personal survival courses. It makes no sense to impose a GST on courses that teach young children how to keep themselves safe around water while exempting more advanced courses that build on and extend those essential skills. The Democrats would certainly not have agreed to the wording of the exemption if we had been advised at the time that this was how the ATO would interpret it. Therefore, to clarify our original intention we have moved this amendment, which makes clear that all courses teaching aquatic personal survival skills are exempt from the GST. I hope that all of the Senate will support this amendment in the interests of making our beaches, pools and waterways safer places for Australians to enjoy.

Senator SHERRY (Tasmania) (6.07 p.m.)—To clarify, is the government supporting this amendment from the Australian Democrats?

Senator KEMP (Victoria—Assistant Treasurer) (6.07 p.m.)—Perhaps it might help if I made my own comments clearer. The government will not be supporting the Democrats’ proposed amendment to the bill. The law makes first aid and lifesaving courses GST free. These courses are those principally involving first aid, resuscitation or other similar lifesaving skills, surf lifesaving and aeromedical rescue. The Democrats have proposed that GST-free treatment should be extended from courses that principally involve lifesaving to courses that involve personal aquatic survival skills. These skills are integrated into a multistage course that might include a future lifesaving component. The government acknowledges that, in order to save a life in the water, it is essential that a lifesaver have swimming skills. However, it does not logically follow that all water safety instruction leading up to lifesaver level training should, therefore, be GST free. In this regard, a course of study principally involving aeromedical rescue is GST free. But it does not follow that all pilot training that might lead up to future aeromedical rescue training should also be GST free.

I must differ from my colleague Senator Murray on this issue. To extend the coverage of courses in this way would go beyond the spirit of what we believe was the government’s agreement with the Democrats to make lifesaving and first aid courses GST free. In addition, the proposal would create an uncertain boundary line between standard swimming lessons and those designed specifically to provide individuals with lifesaving skills. We will not be supporting this amendment. It creates an uncertain boundary line. For example, the great tragedy that we have over Christmas is the number of deaths on our roads. Does it follow from that that driving courses should be GST free? I think Senator Murray would say no. The design of the tax package was to have as broad a base as possible but provide very extensive compensation in the way of large tax cuts and real rises in pensions and benefits and allowances. This creates an uncertain boundary
line and will certainly lead to further pressures from other groups to extend that.

Senator SHERRY (Tasmania) (6.10 p.m.)—I am somewhat concerned that, on the one hand, we had a story from Senator Murray that the Democrats were advised by the government—whichever that was—that this area in which they are seeking a rollback to the GST was covered in the agreement and, on the other hand, we are advised by Senator Kemp that the amendment moved goes beyond the spirit of the government’s agreement with the Democrats. There seems to be some conflict here. Senator Murray, as with so many issues in respect of the GST, you have been misled. That is a concern to us. Frankly, when it comes to legitimate issues of concern with respect to the GST and the difficulties that it causes, the Labor opposition gets a little sick and tired of hearing from Senator Kemp that the line that there have been large tax cuts and increases in benefits. That is true, but what use is that to a person drowning in the sea? What use is a tax cut or an increase in an allowance if you cannot access an aquatic personal survival course? Someone is drowning at sea and Senator Kemp is on the beach—

Senator Carr—You are offering them tax cuts. That will solve all their problems!

Senator SHERRY—Saying, ‘You will be right! We have got a tax cut on the way to save you!’ If Senator Kemp’s approach were not so serious, it would be very funny. It is a serious issue. The Labor Party believe that there are some 650,000 children who participate in courses associated with aquatic personal survival. Why should they pay a GST? It is outrageous, Senator Kemp. It is outrageous that the Democrats let this through when you carried your deal with them in respect of the GST. It is absolutely outrageous. I have a letter here from the Royal Lifesaving Society of Australia to Senator Lees—it has fallen off the back of a truck—which says:

I mentioned in my letter of the 10th November that the ATO has ruled that the Royal Lifesaving Society of Australia’s Swim and Survival Lifesaving Program is not eligible for GST-free treatment under section 1951 of the GST act.

There are 650,000 children in this country—and we are coming into the Christmas-New Year holiday period—who are not eligible for GST treatment in respect of their aquatic personal survival. This shows not only a mixture of incompetence in the government’s treatment in this area but also an extreme callousness. Here we are coming up to this important part of the holiday period when our young people, in particular, are participating in swimming, and the government is seeking to knee-cap the aquatic personal survival courses. I just cannot believe, Senator Kemp, that you would take this approach. It is just astounding.

It is not as though you are not aware of this, Senator Kemp, because the letter from the Royal Lifesaving Society of Australia goes on to say that the Prime Minister’s chief of staff is aware of this issue, as is the Treasurer’s tax adviser. It does not say whether you are aware, Senator Kemp. But certainly the Treasurer and the Prime Minister’s chief of staff are aware of this problem, and you are not prepared to support this amendment. The Labor Party are going to support this amendment. We are not going to have a GST applying to aquatic personal survival. I cannot think of a better example of the roll-back momentum we want to develop in respect of the GST than removing the GST from aquatic personal survival. It is with pleasure, particularly at this time of year, that the Labor Party are supporting this amendment moved by the Democrats, and obviously it will be carried because of our support.

Senator BROWN (Tasmania) (6.15 p.m.)—Not quite. It needs another senator, and I will provide that vote to see that it is carried.

Senator KEMP (Victoria—Assistant Treasurer) (6.15 p.m.)—Senator Sherry deliberately misinterpreted what I said. I indicated that the government had provided income tax cuts and real rises in pensions and benefits and this would enable people to afford any price rises as a result of the GST. That was the point I was making, and it was quite misleading and childish for you to interpret that in any other way. You knew exactly what I was saying.

Amendment agreed to.
Senator SHERRY (Tasmania) (6.16 p.m.)—I move opposition amendment No. 1 on sheet 2968:

(1) Schedule 5, item 18, page 40 (lines 13 to 16), omit subitem (1), substitute:

(1) The amendment made by item 2 of this Schedule authorises the Commissioner to decide, as a date on which the cancellation of a registration under section 25-57 takes effect, any day occurring on or after 1 July 2000.

One aspect of this legislation is to deal with the issue of those innocent parties who registered for the GST because they either were wrongly advised or wanted to safeguard themselves by registering when it was not necessary for them to be registered. I am going to be complimentary to Senator Kemp.

Senator Carr—Make this a very short speech then.

Senator SHERRY—No, I am going to compliment Senator Kemp. The minister has recognised that there are thousands of businesses that should not be registered for the GST, in part, because they did not have the complete set of GST law, but there were legitimate reasons why they registered and they should not have. The government has recognised this. We have one critical concern: these people need to be deregistered from the system. We believe that should be made retrospective to 1 July. If we are not supposed to be in the system, why are we going to keep them in the system until this legislation is passed? I am puzzled, Senator Kemp, about why you have not taken that approach. It seems to us to be logical. We have had numerous representations from particularly small business and accountants who have pointed out this flaw in the government’s own amendment.

Senator KEMP (Victoria—Assistant Treasurer) (6.18 p.m.)—The government will not be supporting the amendment moved by the opposition. To cancel businesses’ registration retrospectively would require the unwinding of transactions between the businesses and other parties. It would place a huge compliance burden on the businesses and other parties, and we will not be supporting it.

Senator MURRAY (Western Australia) (6.18 p.m.)—I think this is a very important amendment and we should not skip past it too lightly. I know we are in a hurry, but I think the minister misreads this. It does not say that the commission is required to unwind; it says that he should have the discretion to unwind. That is the way we read it. As I mentioned in my speech on the second reading, this bill will allow the Commissioner of Taxation in certain circumstances to cancel an entity’s GST registration where it has applied to the commissioner for cancellation before it has been registered for 12 months. We all welcome that. In its current form, the provision will operate prospectively. This amendment by the Labor Party will give the commissioner the discretion—I repeat: discretion—to retrospectively deregister an entity.

We can see problems with retrospective deregistration, particularly for businesses that have charged GST and collected input tax credits since 1 July 2000. But the commissioner would never agree to that. So where a business has operated in that way we do not expect that retrospective deregistration would be granted. We have to give the commissioner some credit for having a few brains. We can envisage that there could be a small number of instances in which it would be appropriate to regard an entity as not having been in the GST system from 1 July 2000, even though they may have been registered. We accept the wisdom and the ability of the commissioner and his staff to determine appropriate circumstances in which to grant retrospective deregistration and when to decline it. As Democrats, we do believe in giving regulators discretion to independently assess particular circumstances. This is one of those instances where flexibility is desirable. It does not alter the government’s intention; it just makes sure the commissioner has the discretion. We will support the amendment.

Senator SHERRY (Tasmania) (6.20 p.m.)—I thank the Democrats for the support they are giving Labor on this. I am pleased that Senator Murray has emphasised that word ‘discretion’ to the tax commissioner. It is appropriate that the tax commissioner
should exercise discretion on these sorts of matters. He is a sensible man. We may have concerns from time to time about some activities in the tax office, but it is a sensible approach, it is a commonsense approach and it is of benefit to some of those small businesses that have been hurt by the draconian requirements and are struggling with the paperwork and the bureaucracy of the GST.

Amendment agreed to.

Senator MURRAY (Western Australia) (6.21 p.m.)—I move Democrat amendment (1) on sheet 2083:

(1) Schedule 6, item 18, page 45 (after line 24), at the end of section 72-92, add:

(2) However, if:

(a) a *non-profit sub-entity of an entity receives a supply from:

(i) that entity; or

(ii) another non-profit sub-entity of that entity; or

(iii) an associate of that entity; and

(b) the supply is:

(i) without *consideration; or

(ii) for consideration that is less than the *GST inclusive market value of the supply; and

(c) it is reasonable for the sub-entity to expect that the aggregate value of all such supplies to that sub-entity, for the income year in which they are made, will not exceed $5,000;

this Division does not apply to the supply.

I discussed this amendment at length in my speech on the second reading, so I will be very brief in remotivating it. Item 18 of schedule 6 of this bill will apply an associates test to the not-for-profit subentity provisions of the GST act. That will mean that many quite minor transactions involving schools, churches, sporting clubs and not-for-profit entities generally will now need to be recorded and accounted for through BAS reporting. The sorts of transactions to which I am referring are things like providing the use of a meeting room to a school’s sports club. As I have mentioned, we can see what the government is trying to do. We have therefore set a threshold so that in the minor area people simply do not need to comply.

This amendment will allow a parent entity to make gifts of up to $5,000 per year to each of its subentities—remember, we are talking about the not-for-profit sector—without those gifts needing to be recorded. We think it would alleviate a substantial amount of the burden, particularly on the smaller not-for-profit entities, while at the same time protecting the revenue. We do not think the amendment amounts to any significant revenue loss to the government, nor will it result in a distortion of the playing field on the rare occasion when not-for-profit sector subentities are competing with for-profit providers. I hope the Senate will support the amendment.

Senator KEMP (Victoria—Assistant Treasurer) (6.23 p.m.)—The government will not be supporting the amendment. The advice I have received is that the amendment, in the way it is drafted, does not achieve the objective that it sets out to achieve. The amendment, regrettably, has been poorly drafted: whereas we understand your aim, the amendment does not achieve that. That is the advice that I have received from the many experts that we have advising the government on this matter. Let me make a couple of observations. The nonprofit subentities provisions were introduced to allow certain nonprofit organisations the choice of treating some of their activities as effectively input taxed. This has been achieved by allowing certain nonprofit organisations the choice of treating separately identifiable units in their organisation as though they were separate entities for GST purposes. As a result of being treated as an entity, a nonprofit subentity is not required to register for GST where its annual turnover is below the registration turnover threshold. The ‘associate’ provision of the GST act is to ensure that supplies from entities’ associates for nil or an inadequate consideration are properly valued for GST purposes. However, the term ‘associate’ for GST purposes does not take into account the existence of nonprofit subentities. This means that certain transactions to or from nonprofit subentities for nil or inadequate consideration escape GST consequences. There are a number of other technical matters I could raise. The government has looked closely at this, as we always do with
anything Senator Murray puts up, but we will not be supporting it.

Senator MURRAY (Western Australia) (6.24 p.m.)—I could not let that escape without making a remark. Minister, it is an expression, so please do not take it personally, but that was almost the reply where they talk about ‘the last refuge of a scoundrel’. I do not think you are a scoundrel, but what I mean by that is: you do know that the Democrats did say to the government that we would like you to examine our draft amendment and take a technical view on it and advise us accordingly. The Treasury through the Treasurer and the Assistant Treasurer declined to do so. Frankly, it is therefore not appropriate for you to say that the amendment was designed badly if you won’t even participate in the designing, even if you might disagree with the policy intent. I do think that is a very poor answer to a reasonable amendment.

Senator SHERRY (Tasmania) (6.25 p.m.)—I am just a little puzzled. I understood that the government provides drafting assistance to the Australian Democrats in respect to amendments.

Senator Murray—We asked for it and they refused, and now they are saying it is poorly drafted.

Senator SHERRY—I am sympathetic to what you are trying to achieve, Senator Murray, but we have looked at this ourselves and we have an excellent tax adviser. He is very well known for his incredible intellect and knowledge and detail. He has advised us that there are problems with the drafting in this, so we will not be supporting the amendment. We would have been happy to supply our adviser to you in respect of the GST, because it would have been a very simple instruction: no GST. We cannot support it because I am advised by my adviser that, with the flaws in it, it would cause some considerable confusion and damage. It may be something that can be considered by us next year when we are confronted with the inevitable further GST roll-back amendments. I do not think this will be the end of them—1,654—so we can reconsider this next year, Senator Murray, if you wish to re-present it. It is just too difficult to support at this time for those reasons.

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

The committee divided. [6.31 p.m.]

(The Chairman—Senator S.M. West)

Ayes…………. 10
Noes…………. 36
Majority………. 46

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

NOES
Buckland, G. Calvert, P.H.
Carr, K.J. Chapman, H.G.P.
Crane, A.W. Crossin, P.M.
Crowley, R.A. Dennan, K.J.
Egleston, A. Evans, C.V.
Ferris, J.M. Gibbs, B.
Gibson, B.F. Heffernan, W.
Herron, J.J. Hill, R.M.
Kemp, C.R. Knowles, S.C.
Lightfoot, P.R. MacDonald, J.A.L.
McGauran, J.J. McLucas, J.E.
Newman, J.M. O’Brien, K.W.K *
Patterson, K.C. Payne, M.A.
Ray, R.F. Schacht, C.C.
Sherrv, N.J. Tienrey, J.W.
Tchen, T. Tierney, J.W.
Troeth, J.M. Vanstone, A.E.
Watson, J.O.W. West, S.M.

* denotes teller

Question so resolved in the negative.

Sitting suspended from 6.31 p.m. to 7.30 p.m.

The TEMPORARY CHAIRMAN (Senator Murphy)—The committee is considering the Taxation Laws Amendment Bill (No. 8) 2000. The question is that the bill, as amended, subject to a request, be agreed to.

Senator BROWN (Tasmania) (7.31 p.m.)—by leave—I move Greens’ amendments Nos 1 and 2:

(1) Schedule 6, page 52 (after line 26), after item 48, insert:

48A Section 116-25 (cell at table item D1, fourth column)

Omit “None”, substitute “See section 116-82”.

Schedule 6, page 52 (after line 26), after item 48, insert:
After section 116-80

Insert:

116-82 Special rule for amounts received under RFA Private Forest Reserve Program

If you, as a landowner, receive an amount under the Regional Forest Agreements Private Forest Reserve Program as consideration for placing a restrictive covenant on your land title, the amount is not *capital proceeds for the purposes of this Part.*

(2) Schedule 6, item 48, page 53 (line 7), omit “and 48”, substitute “, 48, 48A and 48B”.

I commend my amendments to the Senate. As I said earlier, these are to ensure that the Regional Forest Agreements Private Forest Reserve Program, worth $60 million in Tasmania, is not subject to capital gains tax. Mr Temporary Chairman Murphy, I am disappointed that you are in the chair at the moment, because I know that the regional forest agreement in Tasmania is a matter of very great significance and interest to you.

Senator Sherry—And to me.

Senator BROWN—Senator Sherry says so too, so I will be looking forward to his support on these important amendments.

Senator KEMP (Victoria—Assistant Treasurer) (7.31 p.m.)—Let me quickly respond. This is an issue that Senator Brown and I have had some discussions on in the past; in fact, I think Senator Brown asked me a question on this matter. There are two issues and I just wish to say that I think, just looking at the actual drafting of the amendments, there are some technical problems with the amendments you have moved. Regrettably, they do not achieve entirely the objective that you have set out. In fact, I think that on one interpretation they can provide for a double payment effect. But that is not a substantive matter.

Senator Brown, you would be aware that the Premier of Tasmania has written to the Prime Minister requesting that the capital gains tax consequences of covenants issued under the Regional Forest Agreements Private Forest Reserve Program in Tasmania be amended. The existing capital gains tax treatment is claimed to be limiting the effectiveness of the private forest reserve program. Let me just say this to you, Senator Brown, and I think that this will be of interest to you: the government is carefully considering the issue of the CGT consequences for land owners of adopting covenants under the regional forest agreement and the private forest reserve program. The issue is the subject of consultation between relevant Commonwealth agencies and therefore it would be, in our view, premature at this point to proceed with any proposals. I think I can preempt the question you are going to ask me—‘How quickly, Senator Kemp, can this be finalised?’—by saying that there are a number of parties to it and, of course, there are consultations but naturally it would be the Commonwealth’s view that we would seek to finalise these matters as soon as possible.

Senator SHERRY (Tasmania) (7.33 p.m.)—I should indicate to the chamber that, while I am certainly interested in the intent of Senator Brown’s amendments, I am aware of the potential and particular problems, without necessarily accepting the extent of some of the claims and claimed difficulties. I am sure Senator Brown knows—and I am sure Senator Murphy knows—that I have been interested in forestry matters for some time and regularly discuss these matters with my friend and colleague the Premier of Tasmania. I am aware of the discussions that are taking place, and we would like those discussions to conclude—hopefully, satisfactorily—with the federal government.

Also, I raise a relatively minor point, but it is still an important issue. We are dealing with changes to GST rollback legislation, and we don’t think this is an appropriate context in which to deal with this matter. I think we should deal with this once we have the finalised agreement, but when we are making amendments to either forestry and/or general taxation legislation would be a more appropriate time.

Senator HARRADINE (Tasmania) (7.35 p.m.)—I listened to what Senator Kemp said. My worry about the statement that he made—made though in complete genuineness, I am sure, but we have all been around the place for a while—is that it is a bit of a Kathleen Mavourneen. It does sound like it. Can’t you give a more accurate assessment
of when you will be in a position to respond to the representations that have been made to you about this important matter? As far as I am concerned, I think Senator Brown has made the case out before the chamber, and I will be supporting the amendments. Can’t you give us a date?

Senator BROWN (Tasmania) (7.36 p.m.)—I thank Senator Harradine for pursuing the matter, because it is important and that is why I asked the minister about it before the dinner break. I am disappointed that the Labor Party is letting this matter float. It is a good thing that, following my raising this matter, the matter has now been taken up by the Premier of Tasmania.

I would remind the other Tasmanian senators in the chamber that there is something in the order of $20 million to $25 million resting on this. If the situation continues under the current tax office ruling, it means that a $60 million program to protect the environment in Tasmania is going to have $20 million or $25 million siphoned off by the tax office. This is not a capital gain as far as landowners are concerned; for many of them it is a concession to the public interest. They know what the price for woodchips is. They would just as well get the 100 per cent tax write-off by flattening the trees in their back paddock or on their hilltop and having them taken off to the woodchip mill. But there are very important environmental matters involved. Part of the regional forest agreements the Prime Minister signed and has advocated since 1998 was that there was a balance there, and this is the important balance as far as private land-holdings are concerned. I can tell the government and the Labor Party that this scheme is going to be effectively undermined by the capital gains tax. I have had one landowner say to me that he wants to proceed because he wants to protect the block, but he is not going to pay the tax and will take it to the High Court if necessary, although he recognises that that will break him.

It is a terrible situation to have arisen. It should have been fixed. I might say to Senator Sherry that this is the place to fix it. This is a tax amendment bill. The Labor Party should be fixing it right here and now. As the Labor Party knows, all sorts of bills are amended to bring up a particular matter which does not warrant a specific piece of legislation, because of the urgency of the matter. I am extraordinarily disappointed with the Labor Party, and particularly with the Tasmanian Labor senators, who should have taken this matter up seriously and seen that tonight we were getting action and were not left to an unspecified timetable of talks between government officials and letters between MPs. On the ground, this whole scheme is failing for want of assurance on this matter. I thank Senator Harradine for having studied it.

I finally want to say that the minister’s submission that this amendment is not satisfactory is not correct. The amendment is satisfactory. It does the job and, if there are technicalities which mean that it is short of the mark, let him say what they are. He will not, because the amendment is satisfactory. It is just a way of saying, ‘We don’t want to deal with this at the moment. We want to go on to something else.’ I have said my bit, and I will be continuing to raise this matter back home in Tasmania until justice is done.

For the record, this amendment will provide that any consideration received by a person in exchange for placing a restrictive covenant on the person’s land under the regional forest agreements Private Forest Reserve Program will not be regarded as capital proceeds. The consequence is that capital gains tax will not be payable in respect of those proceeds. The Democrats are happy to support such a concession as a method of further encouraging the use of restrictive covenants.

Amendments not agreed to.

Bill, as amended, agreed to, subject to a request.

Bill reported with amendments and a request; report adopted.
STATES GRANTS (PRIMARY AND SECONDARY EDUCATION ASSISTANCE) BILL 2000

Consideration of House of Representatives Message

Message received from the House of Representatives acquainting the Senate that the House has disagreed to the amendments made by the Senate and requesting the reconsideration of the amendments disagreed to.

Ordered that the message be considered in committee of the whole immediately.

Motion (by Senator Kemp) proposed:

That the committee does not insist on the amendments disagreed to by the House of Representatives.

Senator CARR (Victoria) (7.43 p.m.—

The position of the Labor Party on these matters has been spelt out very clearly in the House of Representatives this afternoon and by me here in the Senate. In fact, the opposition has today tabled a private member’s bill in the other house which would implement in legislative form Labor’s policies in regard to future policy directions that might be followed in terms of trying to redress some of the most serious flaws in this legislation. The opposition was successful, with the Democrats, in having the Senate pass some 23 amendments to this bill, which covered issues such as the objects of the bill, the question of the enrolment benchmark adjustment, the strengthening of educational accountability, measures in regard to the Commonwealth assistance for capital projects, various listings for non-government schools and eligibility guidelines for assistance, and various other accountability measures in regard to information about grants, financial questionnaires and the like. These measures together would have made this bill a lot fairer than it currently is.

The enrolment benchmark adjustment was clearly the most serious issue, and the government here has remained intransigent. The EBA is a policy which all sectors of the education community are arguing ought to be abolished. The minister is quite alone on this question. The effect of this policy has seen the removal of moneys from the public education system. It has seen the operation of Dr Kemp’s ideology, if you like, in terms of his discriminatory attitude towards public education in this country. What the minister has done is to effectively make a rod for his own back. I think that in due course this will come to be seen by even the government itself.

I have explained in detail to the Senate my concerns about the unfairness, the injustice and the divisiveness of this bill, so I will not go to those issues in any length, but I do believe that this government will be obliged to change its position, just as it was obliged to change its position on the issue of Greenwich University. It did, Minister, on the question of Greenwich University because when I raised the issue of Greenwich University you, Senator Tierney and Senator Abetz said that the concerns that I had were not justified—all of you. You, Minister, made it perfectly clear that the government’s view in regard to that outfit out there at Norfolk Island, this interloper, was justified. I ask you, Minister: can you now confirm for me that the Gallagher committee of inquiry report into this dubious entity has discovered that this government effectively has now dumped Greenwich University, that the opposition’s concerns in that regard have been completely vindicated and that the government has effectively given a thumbs down to this university? I am sure, just as it has done in the case of the university out at Norfolk Island, this interloper, was justified. I ask you, Minister: can you now confirm for me that the Gallagher committee of inquiry report into this dubious entity has discovered that this government effectively has now dumped Greenwich University, that the opposition’s concerns in that regard have been completely vindicated and that the government has effectively given a thumbs down to this university? I am sure, just as it has done in the case of the university out at Norfolk Island, this interloper, was justified. 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raised initially in the parliament and through the Senate estimates committee. These, as I said, were dismissed by the government as trifling and misguided. In fact, Minister, it was the actions of the government that saw this matter raised through the Senate Privileges Committee. I was asked to retract my statements in respect of questions about the quality of teaching, scholarship and research at Greenwich. It is now clear why I did not retract those statements and why I firmly believe that the government’s attitude in terms of quality in education has been so badly misguided. This government, in the schools area, will I am sure equally have to face up to the responsibility it has for the damage done through its cavalier and callous attitude towards the education of our young.

The other issue I would like to briefly touch upon is the question of the Blue Gum School, which I raised on previous occasions. It was said by officers to you, Minister, at the previous hearing that the reason Blue Gum had not been allowed to receive Commonwealth assistance was that they had not applied. There were previous discussions here that they had not applied.

**Senator Ellison**—No, they were not registered; I did not say they had not applied.

**Senator CARR**—That was the first question. At the Senate estimates you said that they had not applied and in here you said they had not applied. Then you said that they were not registered. What we have been able to discover since then is that there is a somewhat inconsistent attitude on this issue in terms of the statements made by the minister’s office and by DETYA officers to Blue Gum regarding applications for federal government assistance. The registry of guidelines indicated, according to the correspondence I have from the school concerned, that state registration was not an issue that became apparent to them until it was raised here. For instance, when I asked the question on 30 November concerning the school, Minister, you stated that the Commonwealth assistance was contingent on a school being recognised and registered by a state and territory. I believe the statement you made was: ‘Blue Gum cannot meet the provisions for that Commonwealth assistance.’

This statement, according to Blue Gum, is false. In accordance with the requirements of ACT school registration, Blue Gum School notified the Australian Capital Territory education minister in 1999 that it intended to open as a registered school in 2001, after operating highly successful preschool and kindergarten classes throughout 1998. The Blue Gum School lodged comprehensive documentation detailing its philosophy, educational program and so on with the education department, as required, in early August 2000. As was the usual practice, the ACT education department planned to finalise their school registration just prior to the official school opening next year. As I understand it, the statements that have been made resulted from conflicting advice which had actually emanated from DETYA or Dr Kemp’s office to this particular school. The statement I have from the school says that they received different advice from different sections of the government on this matter. On the one hand they were told that they must get registration and on the other hand that they did not require registration. I am concerned about that matter, Minister. I am concerned that the department may not have got all the information in relation to this particular school.

I received a statement today from this school which says that the human rights office is investigating a religious discrimination claim by the Blue Gum School arising from the federal government’s new SES schools funding model. It says that, under the new SES funding model, new Catholic schools in the Australian Capital Territory will receive $2,964 per student while comparable non-Catholic schools, such as Blue Gum, will attract only $1,947 per student—$1,000 less. It is claiming that it is blatant discrimination. It says that it is not fair, that it is not equitable, that it is not simple and that it is not transparent. It is arguing that this is a cynical exercise in vote buying. It is quite an interesting statement, Minister; I trust you have seen it or that your attention has been drawn to it. As I said, this school is taking its concerns up with the human rights office.

The fundamental position on these issues is that the government is seeking to black-
mail 3.2 million Australian children. It is insisting upon this legislation going through without amendment irrespective of the demonstrable case, the overwhelming case, that has been made for why it is so unfair and so unjust. This government is holding 10,000 schools to ransom and, in doing so, it is bringing no credit to itself whatsoever. The Labor Party in government will address this. We will campaign on this issue in the run-up to the election, and we have made perfectly clear, by way of a private member’s bill, the nature of our commitments, if those who are interested in this issue have not already understood the concerns that we have raised about this bill and the reason why we think it is so unfair, so unjust and so divisive.

Senator BROWN (Tasmania) (7.54 p.m.)—I believe we should insist on the amendments.

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

The committee divided. [7.59 p.m.]

(The Chairman—Senator S.M. West)

Ayes............ 47
Noes............ 9
Majority........ 38

AYES
Abetz, E. 
Bolkus, N. 
Calvert, P.H. 
Carr, K.J. 
Collins, J.M.A. 
Cooman, H.L. * 
Crossin, P.M. 
Denman, K.J. 
Ellison, C.M. 
Faulkner, J.P. 
Gibbs, B. 
Harradine, B. 
Hogg, J.J. 
Lightfoot, P.R. 
Macdonald, J.A.L. 
Mason, B.J. 
McKernan, J.P. 
Murphy, S.M. 
O’Brien, K.W.K. 
Payne, M.A. 
Schacht, C.C. 
Tchen, T. 
Troeth, J.M. 
West, S.M. 

NOES
Allison, L.F. 
Bourke, V.W * 
Greig, B. 
Lees, M.H. 
Stott Despoja, N.*

* denotes teller

Question so resolved in the affirmative.
Resolution reported; report adopted.

AUSTRALIAN RESEARCH COUNCIL BILL 2000

AUSTRALIAN RESEARCH COUNCIL
(CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) BILL 2000

Consideration of House of Representatives Message

Message received from the House of Representatives acquainting the Senate that the House has disagreed to the amendments made by the Senate in each bill, and requesting the reconsideration of those amendments.

Senator HILL (South Australia—Leader of the Government in the Senate) (8.05 p.m.)—I propose to move that consideration of the message in committee of the whole be made an order of the day for a later hour of the day. That is not quite what I was expecting.

Senator Carr—Move what you really mean.

Senator HILL—No, I will move what I have here. I think we can resolve it otherwise during the course of the evening.

Senator CARR (Victoria) (8.05 p.m.)—Madam President, we need to be clear about this. If the government’s intention is to bring this matter back on at some point in the proceedings today, then they ought to say so. That is clearly not what they have told us. As I understand it from the discussions we have had, the intention of the government is that this matter will be reported and adjourned to another day of sitting. That is different entirely from the motion that has been proposed. I ask for clarification.

Senator HILL (South Australia—Minister for the Environment and Heritage) (8.06
p.m.)—I have received some new instructions, Madam President.

Senator Faulkner—You are a legless rabble over there!

Senator Hill—I think we are doing okay, actually.

Senator Faulkner—No-one else does.

Senator Hill—I am not sure that that this right either. There are many hours tonight during which to make those judgments. I invite you to remain calm for the earlier part of the evening at least.

The President—Senator Hill, you should be addressing the chair.

Senator Hill—The minister responsible for the message has informed me that he is happy that it be an order of the day for the next day of sitting. Therefore, I move:

That consideration of the message in committee of the whole be made an order of the day for the next day of sitting.

Senator Harradine (Tasmania) (8.07 p.m.)—It is difficult for me to know whether or not to vote for this. I am not sure when the next day of sitting will be. I assume if we go through the night tonight that we will not be calling tomorrow the next day of sitting.

The President—It would mean the first day of sitting in 2001. If we were to proceed to sit tomorrow, as I understand it it would be a suspended session from today.

Senator Allison (Victoria) (8.07 p.m.)—Madam President, would you mind explaining which message we are talking about?

The President—The message on which I just reported was the Australian Research Council Bill 2000 and the Australian Research Council (Consequential and Transitional Provisions) Bill 2000 and the proposal before the chamber is that further consideration be on the next day of sitting, which would be 6 February 2001.

Question resolved in the affirmative.

BILLS RETURNED FROM THE HOUSE OF REPRESENTATIVES

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

Interactive Gambling (Moratorium) Bill 2000.

RENEWABLE ENERGY (ELECTRICITY) BILL 2000

Consideration of House of Representatives Message

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

That the committee does not insist on its amendments Nos 1, 2, 5 to 7, 17 to 20 and 22 to 24 to which the House of Representatives has disagreed and agrees to the amendment made by the House in place of amendment No. 24.

Senator Hill (South Australia—Minister for the Environment and Heritage) (8.09 p.m.)—Chairman, I table the supplementary explanatory memorandum relating to the government amendments and new clauses to be moved to this bill. The memorandum was circulated on 7 December 2000.

Chairman—Could I just clarify whether senators are happy to have all these amendments grouped together or whether people are planning to vote in different ways in relation to different amendments.

Senator Hill (South Australia—Minister for the Environment and Heritage) (8.10 p.m.)—I might be able to assist in that regard. There are varying positions, but there are some that I am not going to argue against in this committee stage. So, if I am not going to argue against them, presumably they could be dealt with quickly. They are Nos 1, 5, 6, 17, 18, 19 and 20. We plan to argue against the other amendments or there will be suggestions for variations to them.

Senator Bolkus (South Australia) (8.11 p.m.)—Can I suggest—subject to other parties, of course—that we handle Nos 1, 5, 6, 17, 18, 19 and 20 together. I indicate that we will be pursuing No. 23, which is the clause that relates to the draft regulations being available for public comment for a period of the not less than 30 days before the regs are made. In relation to the others, No. 2 goes to the definition of ‘ecological sustainability’. We are in a bit of a bind right now, because we have asked the Senate staff to prepare an amendment to replace the existing one with the definition of ‘ecological sustainability’ which appears in the EPBC legislation. It is a bit more comprehensive, and I understand
that the government may be in a position to accept that. I flag that as one that needs to be treated separately. No. 24 goes to the opposition amendment which was passed after amendment by the Australian Greens. It goes to the review of the operation of the act. We will be moving that amendment in amended form. There are, essentially, one or two words that need to be added.

CHAIRMAN—The House of Representatives has already made an amendment to No. 24. Are you going to amend that further?

Senator BOLKUS—Yes, we are proposing a further amendment to that and, once again, the government may be amenable to that. Basically, it strengthens the amendment to—

CHAIRMAN—Have these amendments been circulated?

Senator BOLKUS—Well, one of the reasons why I am actually giving a full explanation now is that we need another 10 minutes or so for the staff of the Senate to circulate them. So I thought it would be opportune to at least give other parties an idea of where we are going whilst this is proceeding. So No. 24 will be circulated but strengthened to include a review of the adequacy of the penalties, together with a review as to whether CPI indexation should be adopted. The review is to make an assessment of CPI indexation, and we will come to the words when it comes to us. The other amendment which is also a live one is amendment No. 7. That is the amendment which, at this stage, lists the eligible renewable energy sources. I understand the government may be seeking to amend that to include—as well as everything else that is there—hot rocks, wave and ocean, co-firing and fuel cell.

The amendment that we do have a problem with is amendment No. 22. That amendment embraces the concept of indexation in this legislation. Indexation has always been our major concern. We have had a concern that the charges set may not be adequate enough to drive the renewable energy that the government claims it would. We have been pursuing indexation. We have been advised that, because of constitutional problems, the indexation provision is best suited in the charge bill, which is the supplementary piece of legislation currently before us, and that this amendment should not be moved to this particular legislation. So we will be considering that in respect of the charge bill.

The other major concern that we have had is the degree to which this legislation would force reliance on native forests. Our approach in that respect has been to move amendments to ensure disclosure of quite a number of things—for example, the eligible renewable power sources from which the power is intended to be generated, which is an Australian Greens amendment which we support; and the estimated average annual output of each source listed under the previous subparagraph of that amendment. We have also adopted the Greens amendment that the regulator must enter details of the application on the register of applicants for accredited power stations. Another provision is to ensure that there must be publication on the Internet within 30 days after the regulator registers a certificate. Basically, there is a whole regime to ensure disclosure of the renewable energy source and the level of dependence on such source. We felt that that level of transparency is extremely important in ensuring, before the event, that this legislation is not abused to access more than the available waste from forests. I have to say at this stage of the debate that that is still a continuing concern on our part.

We are also concerned that, in many ways, this legislation has become the victim of an industry power play. We share the aspirations, I think of everyone in this place, to generate a renewable energy industry, and we saw this legislation as a vehicle to achieve that. Our concerns as to whether it will do that have been ever increasing. One of the reasons they have been ever increasing is that we find that, over the last couple of months, different energies have locked in behind a different aspect or another of the legislation to the extent that they may have led to a total ossification of the political process. We are keen to achieve some sort of circuit-breaker to that and to do so in a way that does protect against some of the concerns we have.
I have taken this opportunity to explain the course that we will be pursuing in this part of the debate, in part to ensure senators are aware of what we are doing but also to give the Senate staff some time to prepare the actual final words to the amendments. But, as I indicated, the changes to those amendments are major only with respect to amendment No. 24. It is a major addition in terms of scrutiny and review. We are moving the other amendments in an amended form. With respect to amendment No. 2, ‘ecological sustainabilities’, we believe we are strengthening that amendment by picking up the EPBC amendment. With respect to amendment No. 7, we look forward to the government’s amendments to that.

The CHAIRMAN—Senator Brown, before you proceed, I was thinking that, if the chamber was agreeable, we could put the amendments individually, starting at No. 1 and working through, so that we could actually get some out of the way, and then put the amendments that are to be amended. Do you follow what I am saying?

Senator BROWN (Tasmania) (8.20 p.m.)—I do, but I think it is an unacceptable situation. We are being asked to consider amendments we have not yet seen to a piece of legislation which is very important to us. We were ready to debate the Gene Technology Bill 2000 at 7.30 p.m. The agreement was that that was going to be given the rest of the evening. Suddenly we are now confronted with not only a new arrangement between the government and the Labor Party as to how they carve up the amendments which the government has not agreed to in the House of Representatives but also some entirely new amendments which we have not yet seen. I think under those circumstances we should report progress and come back to this after the gene technology bill.

The CHAIRMAN—Are you moving that way, Senator Brown?

Senator BROWN—I will move that way and see if the government and the opposition will agree to that. I will move that progress be reported because I want to expedite matters, not obstruct them. But we do have to consider those amendments, and I think it would be better if we came back after the amendments have been fixed up and all parties have had at least some time to consider them.

Senator HARRADINE (Tasmania) (8.22 p.m.)—I support this move. We were to have moved on to the gene technology bill at 7.30 p.m. There are very major issues to be considered in that bill, and each of us is trying to limit our remarks on this legislation. I personally have tried to truncate what I need to say in respect of the matter that is currently before the committee when that bill comes before the chamber. Again, there are a large number of people who believed that at 7.30 p.m. we would come back to the gene technology bill. I have a feeling that we will be unjustifiably accused of speaking to exhaustion on that bill when there was no such intent on my part or, I believe, on the part of other persons intimately involved in the discussions on that legislation. The sooner we get to the gene technology bill the better. There are a lot of technical matters, and we need to be pretty wide awake. Other than that, let us adjourn at 10 o’clock and come back tomorrow.

Senator HILL (South Australia—Minister for the Environment and Heritage) (8.23 p.m.)—While I understand what Senator Brown is saying, none of these issues is unfamiliar to him. There have been two long debates on this bill already. Changes such as substituting the definition of ESD from the EPBC Act are something that is not unfa-
miliar to Senator Brown at all. There are no real surprises here, and I think that, with cooperation, we could make significant progress in a relatively short time. If we have not got cooperation, then, as we all know, at this stage of the last night, things do take a long time. But I do not think it should be necessary in this instance.

Senator ALLISON (Victoria) (8.24 p.m.)—The point that Senator Brown raised is that it is very difficult to promise cooperation when we have not even seen the amendments. We are now presented with a whole range of amendments from the government. Labor has some, and I have just received the first of those to be circulated. It is at best confusing, and I am not sure that I can guarantee any cooperation in getting this dealt with quickly. I think we need more time.

Senator BOLKUS (South Australia) (8.25 p.m.)—I think we should defer consideration of this particular part of the proceedings until 11 o’clock tonight and move to the gene technology bill in the meantime. By that stage, people will have had a chance to read the amendments that are circulating and we can come back to this.

Progress reported.

GENE TECHNOLOGY BILL 2000
GENE TECHNOLOGY (CONSEQUENTIAL AMENDMENTS) BILL 2000
GENE TECHNOLOGY (LICENCE CHARGES) BILL 2000
In Committee

Consideration resumed from 5 December.

The CHAIRMAN—The committee is considering the Gene Technology Bill 2000 as amended. The next item on the running sheet was the Australian Greens amendments Nos 67, 70 and 71, but I think one of yours comes before then, Senator Harradine, on sheet 2093. Do you wish to move that amendment?

Senator HARRADINE (Tasmania) (8.27 p.m.)—I actually have two amendments to be moved. One was not moved last night.

The CHAIRMAN—Was that your amendment No. 1 on sheet 2029?

Senator HARRADINE (Tasmania) (8.28 p.m.)—That is correct, Madam Chairman, you are right up to scratch.

The CHAIRMAN—Are you seeking leave to move those together?

Senator HARRADINE (Tasmania) (8.28 p.m.)—No. I move my amendment No. 1 on sheet 2093:

(1) New clause 192B, page 127 (after line 23), definition of ‘cloning of a whole human being’, omit “genetically identical to the original”, substitute “so genetically similar to the original as to be substantially identical”.

You will recall that last night there was a gag motion and, really, my amendment at that stage was given scant consideration. It is an important amendment that shows that the definition of cloning in the bill in terms of producing duplicates or descendants who are genetically identical is scientifically wanting. I want to say something about the advice given by the government, by the NHMRC and by the department of health officials.

By the way, I have not gone to the estimates hearings of the department of late, but some of the things that have been said here influenced me to make a visit to the estimates committee and to ask a few questions. The definition of ‘cloning’ does not include the somatic cell nuclear transfer process, which is the Dolly process. An embryo formed by that process will not be completely genetically identical. The egg used is enucleated—by the way, I like to use the word ‘denucleated’ rather than enucleated, but enucleated is apparently the more correct word—but still contains the extra nucleate material, including the mitochondria. The mitochondria contains up to one per cent of the DNA and RNA, hence an individual formed by somatic cell nuclear transfer will not be 100 per cent genetically identical. Furthermore, a scientist wanting to avoid such a prohibition could introduce a minor genetic change. Those matters, I thought, would have been or should have been obvious to the NHMRC and to the department of health. Clearly the government was misadvised in that respect.
I also indicate in passing that last night quite incorrect comments were made by the parliamentary secretary about my amendments which would prevent work being done in respect of either somatic cell nuclear transfers—and the cloning of a human being through that—or the obtaining of stem cells from an embryo. There was some suggestion by the parliamentary secretary that there was a great need for organs and other material for an ill person. The situation is that the earliest that organs can be obtained is when the human being reaches the foetal stage. That is the earliest they can be obtained; they can be obtained then right throughout life. In effect, the advice that was given to the parliamentary secretary—and I know it was not the parliamentary secretary’s intention and it certainly wasn’t the government’s intention—was such that it almost approved of the abortion of the foetus and the transfer of organs from the foetus. That raises enormous ethical problems. But that is an aside.

Another point that I should raise concerns the advice that has been given in respect of what the states will do. I have seen the whips and Senator Brown. Senator Harris, I will give one to you. I seek leave to table a document from the NHMRC to all heads of state and territory departments of health.

Senator Tambling—The normal courtesy of seeing the document has not been extended to me. I am not standing in the way of it, but normally it is a courtesy to have such documents shown before seeking leave to incorporate or table. I have not had that opportunity.

The CHAIRMAN—It has gone to your whip, I understand.

Senator HARRADINE—Parliamentary Secretary, I apologise but I took it to the whips. I thought that was the place to take these matters for tabling. It is only a letter from the NHMRC to the state heads.

Leave granted.

Senator HARRADINE—When I received that letter, I expressed considerable concern because, as I understood it, the minister for health had stated that he would ensure that legislation came forward in both the federal parliament and the state parliaments in respect of cloning, probably as part of ART legislation. Clearly at least three of the states have attempted that anyhow. What concerns me about that is the type of advice that may be being given to the states by the officials of the NHMRC and others.

In a letter that I sent to the Minister for Health and Aged Care, the Hon. Michael Wooldridge, I said:

I would like to raise an extremely serious matter concerning the briefing of Heads of All State and Territory Departments of Health in relation to a national ban on human cloning.

In a briefing note dated 1st November 2000, Dr Clive Morris of the Centre for Health Advice, Policy and Ethics, Office of the NH&MRC, included background information to the decision by Health Ministers to ban the cloning of whole human beings.

That document from Dr Morris has been tabled. To continue:

The background information includes a report about the Australian Health Ethics Committee (1998) advice to the Minister for Health on Human Cloning. Dr. Morris’s report states that AHEC identified a distinction between cloning of whole human beings and therapeutic cloning.

Therapeutic cloning is widely understood, since the publication of the Australian Academy of Sciences Position Paper on Human Cloning—there is a misprint there; that should read ‘February 1999’—to include the cloning of human embryos for experimentation or therapy but not their development beyond eight weeks when they become foetuses.

That is the Academy of Sciences position. To continue:

The reality is that the AHEC—in their report in December 1998 to the minister—did not identify a distinction between reproductive and therapeutic cloning in that report to the Minister. Rather than endorse cloning human embryos for experimentation or therapy but not their development beyond eight weeks when they become foetuses.

That is the Academy of Sciences position. To continue:

The reality is that the AHEC—in their report in December 1998 to the minister—did not identify a distinction between reproductive and therapeutic cloning in that report to the Minister. Rather than endorse cloning human embryos for experimentation to develop therapies, AHEC recommended—

in recommendation 2—

that there be legislation to regulate human embryo research according to sections 6 and 11 of the NH&MRC Guidelines for Assisted Reproductive Technology and a ban on cloning of human beings. Section 11.1 of the Guidelines de-
clares that producing human embryos for purposes other than for use in an approved ART treatment program—

assisted reproductive technology treatment program—

that is a program that attempts to circumvent infertility by achieving pregnancy, should be prohibited ...

In other words, cloning is out for human embryos. The letter continues:

In effect the NHMRC Guidelines would limit embryo experimentation to spare embryos on IVF & embryo transfer programs.

It should be noted that those Guidelines were issued by AHEC. Under the NHMRC Act 1992, the NHMRC is obliged to adopt guidelines for research issued by AHEC. By reporting AHEC support for producing human embryo for purposes other than ART in this way, the Office of the NHMRC is not only misrepresenting the AHEC recommendations to the Minister, it is in grave danger of being in breach of its own statute.

It is a serious matter that the Health Ministers would appear to have been misled concerning the position of AHEC in relation to cloning. It also prompts a question about the origin of the phrase “whole human being” in the Government’s amendment to the Gene Technology Bill 2000 and the fact that the position that appears to have been adopted by the Health Ministers was based on misrepresentation of the position adopted by AHEC. If the Ministers meant to adopt AHEC’s advice, then I submit that they have been badly misled as to the nature of that advice.

Yours sincerely,

Senator Brian Harradine

The purpose of my amendment now is to give effect to the government amendment adopted last night. Unless there is a proper definition of cloning which will cover the cloning techniques that I referred to, then the whole thing is inoperative. I believe it is clumsy anyhow, because it relies on criminal sanctions for enforcement and I do not think that is the most effective way to go about preventing cloning of human beings in Australia. Nobody wants to see the state police charging through laboratories and getting evidence and all the rest of it. Whereas, if you had a licensing procedure—as in the amendment I put forward that was unfortunately defeated—you would simply look up the file when a scientist publishes the results of his work and ask, ‘Did he have a licence to do this or didn’t he?’ If he did not, then he or she or the institution would be liable. That is an aside.

I ask the parliamentary secretary—I know we had trouble getting answers the last time we met—whether the government believe that their definition of cloning is effective? Do the government believe that it is scientifically accurate that, if the identically cornerstone is built upon, it might crumble and the whole structure fall to the ground? If the government feel that it is effective, I am not going to proceed with it. It is on their head.

That is the trouble with this debate. I am afraid certain things will happen in this area in the next few years of which we will all be ashamed. If the government say that their definition, which includes the identicality cornerstone, is satisfactory technically and scientifically, I will leave it to them.

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (8.45 p.m.)—I appreciate that this is an important issue, and I thank Senator Harradine for getting in before me with regard to getting the running sheet first because it forces us to deal with what is obviously a pressing and very important issue. If we can deal with the issues that have been raised, then I feel it will free the debate to a certain extent to enable us to make good progress throughout the rest of the evening. But I do appreciate the seriousness of the issues that Senator Harradine has been pursuing with me last week in the second reading debate and in the various committee stages, which at times have taxed us both, I am sure. As I said to him over dinner tonight, at times he posed a certain question to me about the definition of ‘whole human being’. I recounted the story to him that I have had a heart valve replaced and I have been circumcised, so does that make me less than a whole human being or perhaps genetically modified? I think I am no less a human being, Senator Harradine, for my operations that I have had to face. However, let me get serious with regard to the legislation and address the issues that Senator Harradine has raised relating to the necessity for comprehensive and proper legislation in this regard.
The measures in the Gene Technology Bill 2000 are interim until each state and territory has implemented appropriate legislation. As has been referred to in this debate, some states—South Australia, Victoria and Western Australia—have already enacted state specific legislation with the object of prohibiting human cloning, while others are in the process of developing legislation. It is important that the work done to date by those jurisdictions is built on to ensure that Australia has a national, comprehensive and effective prohibition on human cloning. I also appreciate the points that Senator Harradine has made with regard to the need for urgency in that area.

The Commonwealth, through the National Health and Medical Research Council, will work with states and territories to develop a nationally consistent scheme which will comprehensively address human cloning. The NHMRC has already initiated a process of consultation with state and territory jurisdictions, and the development of the national system, which will ensure comprehensive coverage in this important area, will be undertaken carefully and inclusively. The government is aware that there is a great deal of public interest in the issue of human cloning. The inquiry currently being undertaken by the House of Representatives Standing Committee on Legal and Constitutional Affairs, referred to as the Andrews committee, has undertaken a wide public consultation process seeking views on human cloning, including therapeutic cloning. Both the Andrews committee and the NHMRC are expected to report on their findings in March 2001. With the comprehensive stakeholder consultation of the Andrews committee, coupled with the NHMRC’s consultation with states and territories, the Commonwealth will then be in a strong and informed position to determine the need for further regulation in this area. Senator Harradine’s comments are certainly very helpful in that regard, particularly with regard to the matter of priorities.

Senator Harradine is of the view that the office of the NHMRC has misrepresented the views of the Australian Health Ethics Committee on the subject of cloning of human beings. In particular, Senator Harradine believes that the Australian Health Ethics Committee did not identify a distinction between cloning of whole human beings and therapeutic cloning, whereas the NHMRC has relied on such a distinction in briefing state and territory health ministers on cloning issues. I am advised that this is not the case. The report that both Senator Harradine and the office of the NHMRC were quoting was a December 1998 report from the Australian Health Ethics Committee to the Minister for Health and Aged Care entitled *Scientific, ethical and regulatory considerations relevant to cloning of human beings*. In this report, the Australian Health Ethics Committee did make a distinction between cloning of whole human beings and therapeutic cloning. In fact, this was written into the terms of reference provided to AHEC by the minister. Reference No. 1 reads:

distinguish between the cloning of human beings and human tissue and identify the considerations for each technique.

In its report, AHEC outlined and discussed considerations relevant to both the cloning of human beings and what is commonly referred to as therapeutic cloning. At the end of ‘Chapter 3—ethical issues’ on page 31, the report states:

A distinction has been drawn between the cloning of human ‘wholes’ and the cloning of the component ‘parts’ of a human being.

The Office of the NHMRC has not misled, either intentionally or unintentionally, state and territory health ministers or state and territory departments of health on this matter. The guidelines were never intended to have a broader application than in the regulation of ART, for example, through the inclusion in the Gene Technology Bill. In terms of Senator Harradine’s query about definitions, the government believes that its language is consistent with World Health Organisation resolutions on this matter.

**Senator BROWN** (Tasmania) (8.52 p.m.)—I support Senator Harradine on this and I have not clearly heard from the government any reason as to why his amendment should not be adopted.

**Senator HARRIS** (Queensland) (8.53 p.m.)—I also rise to speak to Senator Har-
radine’s new amendment. I notice that he has changed the positioning of the definition. Senator Harradine’s definition was originally intended for the front of the bill. The government put up an argument last time that it is more appropriate in the back of the bill in the miscellaneous section, so Senator Harradine has accommodated the government in that sense with his amendment. He has also moved closer towards what I believe the government should accept, because he has moved an amendment now only relating to the last section of the government’s own amendment—that is, the reference to ‘genetically identical to the original’. Senator Harradine is asking this committee to accept the closing paragraph to read:

so genetically similar to the original as to be substantially identical.

In identifying the problem that he had with the government’s amendment and now proposing this change to the latter part only of the government’s amendment, I believe Senator Harradine is also addressing an issue that I raised in relation to this same definition of the cloning of a whole human being, in that the process of transferring any gene or any string of DNA across would require a marker. It could be legally argued that the fact of that string of DNA coming across with the marker made it substantially different. I believe in moving in both of those directions: to place the definition in the area where the government believes it should be, and also accepting substantially the government’s amendment and only amending that last section. I believe Senator Harradine has come up with an acceptable amendment and I commend it to the chamber.

Senator STOTT DESPOJA (South Australia—Deputy Leader of the Australian Democrats) (8.55 p.m.)—I state again for the record the fact that the Australian Democrats have for many years argued the need for government action on the issue of banning human reproductive cloning. So I acknowledge that there is a role for the parliament in determining in legislation that human reproductive cloning is banned. I am glad that the government and others in the chamber recognise the difference between human therapeutic cloning, and its potential and dazzling benefits, and human reproductive cloning. This is a debate I look forward to having. I tried many years ago, in fact on a couple of occasions, to have a Senate select committee inquiry into some of these issues, and I thank Senator Harradine for his support on those occasions. Labor and Liberal both voted against that proposal on at least two occasions. But this is not the time to come up with a definition of human reproductive cloning and it is not the bill in which to ban it. I look forward to a government commitment to introduce separate legislation to do just that. I find it odd that the government would argue against Senator Harradine’s amendments earlier this week not only on the grounds of difficulties with the definition but...
on the grounds of relevance and then respond to that with an amendment that I would consider equally hastily drafted.

We know from the legislation that does exist in three of the states that human reproductive cloning is in essence banned and that the definitions that have been developed in a hasty fashion have caused problems—because of the nature of this technology, because of the fact that the science is happening so quickly. I am going to assume the bona fides of the government on this one. I am going to assume that Senator Tambling on behalf of the government is committed to banning human reproductive cloning in law. Certainly he has provided us much too much information about his own personal health experiences tonight—very interesting. Minister. I thought a knee reconstruction was good; but, no—you have certainly impressed us all. I am going to assume that the government is committed to this course of action. I do not think the government should have introduced ‘counter amendments’, if you like, because I am not satisfied with the government amendments in their current form. Therefore, I do not see a need currently for Senator Harradine to amend those amendments put forward by government.

I actually think we should take some time out, we should wait for the report of the Andrews committee. I have already put on record some of my concerns with that committee process, and I have already cited some excerpts from the Academy of Science submission to that committee.

Senator Harradine interjecting—

Senator STOTT DESPOJA—Through you, Chair, to Senator Harradine: I know that there are vested interests too. I think there are also vested interests provided by those witnesses who appeared before the committee and who are not scientists. But I am one of the first people to acknowledge that we should take science out of the realm of simply the experts, that the community has to be involved in any legislative debate on science policy and science matters. That is why we should return to the substance of the Gene Technology Bill 2000 debate and we should be urging the government to adopt the amendments put forward by Senators Harris and Brown and me, on behalf of the Democrats, which actually give the public some reason to have faith in the national regulatory framework that we are trying to develop for GMOs. That is not to say I am against banning human reproductive cloning, because for a long time I have been in favour of such legislative action. But this is not the bill in which to do it; this is not the time frame in which to do it—certainly not 9 o’clock on the last night of the Senate session for this year.

I want us to include the community and I want it to be a much more well thought out process than what we have here, not because I doubt the commitment of those who are in the chamber, but I do doubt the commitment of the two old parties on this issue. That is why we find ourselves tonight debating this legislation when everyone else has either taken pairs to go home or has wanted to get their legislation, which they saw as more important or faster, over and done with. Chair, I have already put on the record that I am appalled—as is my party—by the way that this bill has been pushed aside, that the crossbench amendments have been dealt with in a peripheral fashion in an attempt to just speed this process up and rubber-stamp the Labor-Liberal deal. I think the public are much more concerned about the regulation of genetically modified organisms and GM foods. I think they are much more concerned than that. I am sure that anyone in this chamber who has looked at their emails over the past couple of days would know that.

So I would like to move on from the human reproductive-cloning debate, as much as I think it is important and as much as I have tried, since my first days in this place back in 1995, to debate these issues. So in some respects it breaks my heart that we cannot have a substantial debate about it at the moment. But I do recognise that we are dealing with legislation that is related but that it is not necessarily the best place in which to have this debate. So I put on record congratulations for Senator Harradine for raising the issues and for those people who support his amendments, but I find it a little odd that the government feels that it has had to offer a counter-argument, as opposed to giving a
commitment to develop legislation that would deal with this issue in a much more comprehensive and publicly inclusive fashion.

Senator FORSHAW (New South Wales) (9.03 p.m.)—I will get back to the amendment that is before the chamber. I put the position of the opposition last week and again earlier this week. Our position is one that I think originally was the position of the government and certainly has been also put by Senator Stott Despoja on behalf of the Democrats. That is, that we did not think at the outset that it was appropriate that we seek to include in this legislation provisions along the lines suggested by Senator Harradine to deal with that complex issue of human cloning. We dealt with the issue the other night when we debated the government’s amendment and rejected the first amendment put by Senator Harradine.

I have to say I find myself somewhat in agreement with some of the comments made by Senator Stott Despoja about the position that was adopted by the government to try to clarify it, as it were, and, I think, to try to respond to reach some level of agreement with Senator Harradine. We were happy to support that because of the reasons that were specifically outlined, that the definition came from the NHMRC and was grounded in the area of that authority and it was a recognised definition from the World Health Organisation.

I understand that Senator Harradine believes that is inappropriate or insufficient, but that is a debate that needs to be had at another time in other legislation. I think we fall into the danger here of trying to draft legislation on the run. Rather, the various issues that have been raised in this bill and in all of the other amendments are ones, whether you agree or disagree with the various amendments being put forward by the various parties in the Senate, that have been out there in the public arena and before senators in one way or another for some time through the committee process and through the actual presentation of the legislation itself to the chamber. These are issues—as important as they may be, and as much as I respect Senator Harradine for the views that he holds on this issue, which I think are shared by all of us in respect of prohibiting human cloning—that have essentially been introduced into this debate on this legislation at the 11th hour. There is another time and another place, and we hope it will not be too long before we can have that debate properly and pass appropriate legislation, just as we are endeavouring to do in respect of this bill.

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (9.06 p.m.)—The government appreciate the point that was made by Senator Harris and others about ‘identical’. A human clone will have an identical genome to the original, and therefore the government believe that the definition we have adopted is a practical way of instituting a ban on cloning. I state again that this definition is consistent with those in use elsewhere—and I hope this also satisfies Senator Brown in his quest for a reason for our actions in this regard.

I agree with Senator Stott Despoja that there are complex issues which are currently being addressed by processes under way in other places, and I restate the commitment and statement that I gave to Senator Harradine earlier this evening that we are mindful of the need for progressing the debate in a fast-track manner and with a certain degree of urgency. I hope he can accept our assurances that we will bring to bear pressures on the various bodies undertaking work in this area and also in collaboration with the states on this matter.

Senator HARRADINE (Tasmania) (9.08 p.m.)—First of all, I should make it perfectly clear that, over the many years I have been in this place, the National Health and Medical Research Council and some of the officers I have been in touch with or who have been in touch with me over the years, including at estimates committees, have been professional to the nth degree. But, frankly, I do disagree entirely with the impression that has been given to the states and the statement also that was made by the officer in the tabled document on the need to draw a basic distinction between cloning of whole human beings and therapeutic cloning. I think this is where the misunderstanding takes place.
Therapeutic cloning is used by the Academy of Science as including the cloning of human embryos for experimentation or therapy but not the development beyond eight weeks, when they become foetuses. Quite frankly, that is certainly not what AHEC was saying. The parliamentary secretary referred to the distinction that was made between the cloning of human beings and human tissue—that is what the Australian Health Ethics Committee was about—and human tissue is not a human embryo. So I think there is a complete misunderstanding; obviously in the mind of Dr Morrison there is a misunderstanding. My worry is that that misunderstanding is going to go to the state people that will be involved. Furthermore, that is made perfectly clear later on in that document where it talks about a distinction being drawn between the cloning of human wholes and the cloning of component parts of a human being. That did not mean cloning human embryos; they were cloning human parts. As a scientist friend of mine who today sent me a very interesting document about that said:

As “whole” and “part” are antonyms, there is no scope for having entities which are in between, or neither whole nor part. It will be ridiculous, both semantically and biologically to classify an embryo, irrespective of whether it is a single cell zygote or late blastocyst of hundreds of cells, as a part.

I will leave it at that.

I think it is necessary, however, to reiterate what the Australian Health Ethics Committee in its report of December 1998 recommended in its advice to the minister for health, that advice being on human cloning, that there be legislation in accordance with the NHMRC 1996 guidelines for assisted reproductive technology. Now, 11.1 of these guidelines prohibits developing a human embryo other than for an approved ART treatment. Of course, that is a problem, but it cannot involve this piece of legislation because this is GMO legislation. The developing of a human embryo there does not involve cloning in an ART program. Thus, producing embryos is limited to producing them for transfer to a woman in order that she might become pregnant. Hence deliberately producing human embryos for research or other non-ART procedures such as for harvesting stem cells and culturing tissue for transplantation is to be prohibited. The NHMRC thus recommends limiting experimentation on embryos to spare embryos. Again, that is a problem, but it cannot be dealt with in this legislation.

AHEC also recommends banning cloning in the terms of the UNESCO 1997 Declaration on the Human Genome and Human Rights, which at least means not cloning embryos for use in an ART treatment procedure. UNESCO did not make the therapeutic reproductive cloning distinction but called for a ban on reproductive cloning without specifying the meaning. In fact, AHEC does not make that distinction either. Do I hear from the parliamentary secretary that the scientific experts are satisfied—obviously the NHMRC and health department are satisfied—that the definition of cloning you have adopted, which I am trying to amend, is scientifically accurate? If that is the case, I will withdraw the amendment I am putting forward. There is no point in carrying on about it and we ought to be able to get back to the other areas in this legislation, after one more thing which should not take more than about seven minutes or so.

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (9.15 p.m.)—I thank Senator Harradine for his comments in that regard and also the question that he has raised. I assure him we do believe that, on the advice we have, the definitions we have included are, as he says, scientifically based and meet the concerns in that regard. I have certainly attempted to cover Senator Harradine’s concerns in this regard on this matter. In addition, I understand that the minister will be responding separately to Senator Harradine directly in writing on the issues he has canvassed both in here and in correspondence with the minister. Coupling that with the intent to look at the legislation separately and comprehensively, I would welcome his offer with regard to withdrawing the amendment.

Senator HARRADINE (Tasmania) (9.16 p.m.)—by leave—I withdraw amendment No. 1 on sheet 2093.
Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (9.16 p.m.)—Whilst we are in the spirit of withdrawing, that would probably mean that it would be appropriate for the government also to not proceed with amendment No. 1 on sheet ED229 ‘after clause 192’, on the top of page 6 of the running sheet.

The TEMPORARY CHAIRMAN (Senator Watson)—Is it the wish of the committee to return to Senator Harradine’s postponed amendment No. 1 on sheet 2029? It was moved and postponed on 1 December.

Senator HARRADINE (Tasmania) (9.16 p.m.)—by leave—Obviously there is no point in proceeding with that, so I withdraw amendment No. 1 on sheet 2029. I still have amendment No. 1 on sheet 2073 to move. It is an amendment that was adopted at the end of the sitting on Tuesday morning. It was to qualify the use of the words ‘whole human being’. I think I am satisfied with what people are referring to as a whole human being. I will go back to my scientific colleague again and read into the Hansard what he said about the Hansard of Monday, 4 December 2000 in respect of a whole human being:

Reference is made to several points in the Senate Hansard of Monday, 4 December 2000 to a “whole human being”. It appears that the intent of the Bill before the chamber is to use this term in an exclusion sense, namely that the procedure under discussion (cloning) shall not be undertaken to produce a “whole human being” but may be undertaken to produce other entities that cannot be so described.

In the absence of any definition of what is intended by a “whole human being” the reasonable, and I believe the only semantically logical construction, that can be placed on the phrase is that permissibility may extend to parts (of a human being) but that production of the whole is proscribed. This interpretation would be consistent with the terminology adopted in the AHEC report of 16 December, 1998. The distinction was drawn in the opening paragraph (1.1) of that report as follows: “There is an international consensus that a distinction should be drawn between two categories of cloning: cloning of a human being and copying (cloning) of human component parts (italics in original) such as DNA and cells” ...

When the issue before the chamber is presented as a definition of what may be permissible rather than that of what is prohibited, the answer must be procedures undertaken on parts, the semantic distinction intended by AHEC. As “whole” and “part” are antonyms, there is no scope for having entities which are in between, or neither whole nor part. It will be ridiculous, both semantically and biologically to classify an embryo, irrespective of whether it is a single cell zygote or late blastocyst of hundreds of cells, as a part.

If clarity is sought in the drafting of this legislation, it is necessary to acknowledge that the meaning of “whole human being” is in accord with the international consensus referred to by AHEC rather than having some idiosyncratic meaning peculiar to this legislation.

I think that is it.

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (9.22 p.m.)—I am pleased to note the comments of Senator Harradine in this regard, and I know that they require serious and further study. As part of the process, I will be pleased to refer them back to the NHMRC and the Andrews committee, and I will certainly draw them to the attention of the state health ministers. I think that would contribute to the ongoing debate that Senator Harradine sees as so necessary in this area, as do we.

Senator HARRADINE (Tasmania) (9.23 p.m.)—I refer to Senator Herron’s response at question time to my question as to what is meant by the term ‘whole human being’. Senator Herron stated, after talking about Juvenal’s satires:

I understand that Senator Harradine is speaking in the context of the present debate, so I will give it a try. As I understand it, a human being commences at the time of fertilisation of a human ovum by a human sperm and it continues until the death of that being.

I will not be moving amendment No. 1 on sheet 2073.

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (9.24 p.m.)—On a procedural matter, can I suggest that we return to the top of the running sheet and proceed in the order now set out in the running sheet.
The TEMPORARY CHAIRMAN
(Senator Watson)—Is that the wish of the committee?

Senator Brown—What is meant by ‘the top of the running sheet’?

The TEMPORARY CHAIRMAN—There are a number of amendments on the first page that have not been moved.

Senator Brown—I suggest, as I have been waiting for some time, that we move the Australian Greens amendments which are coming next, and then I will be happy to return to the sheet.

The TEMPORARY CHAIRMAN—It being the wish of the committee, you may proceed.

Senator BROWN (Tasmania) (9.25 p.m.)—by leave—I thank the committee. I move Australian Greens amendments (67) and (70):

(67) Clause 61, page 42 (line 5), omit paragraph (a), substitute:
(a) the conditions set out in sections 63, 64, 65, 66, 66A or 66B;

(70) Page 45 (after line 4), after clause 66, insert:
66A Condition about confinement of licensed dealings to specified geographic area
It is a condition of a licence that the licence holder and any person covered by the licence:
(a) carry out the licensed dealings only in the geographic area or areas specified in the licence; and
(b) use his or her best endeavours to confine the GMO or its genetic material to the geographic area or areas specified in the licence.

Following this, I will move amendment (71). Amendment (67) is consequential on amendment (70). It says that it is a condition of giving a licence to somebody who is planting genetically engineered crops that the licence holder carry out those plantings only in the geographic area specified and that they, using their best endeavours, confine the genetically modified organism to that area—in other words, they cannot let it escape.

Senator STOTT DESPOJA (South Australia—Deputy Leader of the Australian Democrats) (9.26 p.m.)—I am glad that Senator Brown separated amendment (71) from the other amendments because I think the insurance condition should be separate from the location issues. The Democrats will certainly support that very straightforward, very sensible first set of amendments, which make it clear that it is the responsibility of a person who holds a licence to make sure that the GM does not spread. These are some of the issues we discussed earlier on in the debate, certainly in response to Senator Harris’s amendments. We were talking about transportation issues and the consequences of an open truck carrying canola, or whatever it might be, and potentially contaminating other crops unknowingly.

I cannot see how the government would have a problem with these amendments, especially when it says that the licence holder must ‘use his or her best endeavours to confine the GMO or its genetic material to the geographic area or areas specified by the licence’. The licence already specifies the areas where the person is entitled to grow that crop or have that genetic material. The amendments are not really that prescriptive either: ‘use his or her best endeavours’. I think they are quite generous amendments in that respect. As for clause (a) of amendment No. 70, that it is carried out in the geographic area or areas specified in the licence, I think that should be a mandatory condition of any licence in relation to this approval process.

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (9.28 p.m.)—The government opposes these amendments. The amendments propose the inclusion of an additional statutory condition of licence that requires that all dealings with GMOs only be carried out in specified geographic areas. The government does not support this. The amendments propose the inclusion of an additional statutory condition of licence that requires that all dealings with GMOs only be carried out in specified geographic areas. The government does not support this. The amendments assume that one size fits all and that the same conditions should be applied to all licences. This is simply not workable. For example, in regard to Ingard, genetically modified cotton, it would be impossible to say that all dealings with GM cotton would occur in specified locations. This is because the dealings would include transport of the cotton crop, milling of cotton, storing of cotton and all the things that may be done...
with cotton through growing, harvesting, transporting, packaging, selling and domestic use. It is clearly ridiculous to suggest that the licence should prescribe precisely where all of these activities take place. The regulator must have discretion to impose appropriate conditions on a case by case basis, and the government therefore opposes the amendments.

Senator HARRIS (Queensland) (9.29 p.m.)—I would like to explore some of the extremely important issues that Senator Tambling has just raised in relation to cotton. I draw the honourable senator’s attention to a bill which the government has recently passed through this chamber relating to the tobacco industry. What does the government require there? The government requires a person who is dealing with tobacco not only to have a licence to plant and grow it but also to have a licence to drive down the road to pick up the seed. Then, if they want to plant that seed on a property different from the one nominated on the licence, they need a licence to transport it to that property and a licence to grow it on the second property. When they are harvesting it, they then need a licence to move it as well.

What Senator Tambling is claiming is unworkable in this bill is apparently extremely workable in the tobacco industry. To my knowledge tobacco is not genetically modified. So we have the situation where one industry is required to have licences to drive down the road with a product that is not genetically modified; yet Senator Tambling is saying that it is impossible to control or to issue licences to people who are going to have the authority to release into the environment a genetically modified product. The two situations are opposites. If ever there is an industry that should be licensed for everywhere they plant and everywhere they cart, it should be a product that is genetically modified. You only have to drive around Central Queensland when the cotton is being harvested to find the product strewn along the road. This makes Senator Brown’s amendment vital. People who wish to produce genetically modified cotton should be required to contain that product within the vehicles as they travel down the road, and should be licensed to do so.

Senator BROWN (Tasmania) (9.32 p.m.)—The whole point is that, if this industry is going to be properly regulated without causing damage to the organic farming industry and to agriculture which is not genetically engineered, then it needs tracing. There is a responsibility on those who plant GE crops to see that they are traced all the way through to the Kelloggs cornflakes box. If they are not, then the damage penalties can run into hundreds of millions of dollars, as was recently seen in the United States. If this industry is going to be properly regulated, it has to be responsible for where the genetically engineered material ends up because the world and consumer markets say, ‘We want GE free produce. We want GE free food.’ The only way you can guarantee that is by keeping the GE contaminated product separate. Who does the responsibility go to? It goes to those who want to grow and deal in GE products.

This amendment says ‘Let us have a start to that process. For those people who get licences to put crops in certain geographical areas, this is where they have to keep them. If they are going to move their crops, then they have to have a licence for that as well.’ This amendment is very important. It is clear the government is not going to support it. I expect the Labor Party might be able to follow the logic a bit better than the government.

Senator STOTT DESPOJA (South Australia—Deputy Leader of the Australian Democrats) (9.34 p.m.)—Briefly in response to what the Parliamentary Secretary to the Minister for Health and Aged Care said—that is, basically that licence holders have to be determined on a case by case basis—this amendment does not stop that case by case process. What it says, simply, is that, once you have determined the geographic area in which someone is growing a genetic material, then they have to carry out what they have applied for in the licence in that specific geographic area. It is just holding them predictably and presumably to the information they were already providing when they
applied for the licence. I do not see why this is such a problem for the government.

I suggest that Senator Tambling getting frustrated by the fact that Senator Harris may pop up to speak on this amendment—when we are deliberately trying to get through the 40-odd amendments quickly—is not going to endear him to the crossbenches. I say that because we have accommodated this debate in that it has been put on not at 7.30 p.m., as originally scheduled a couple of days ago, but at 8.30 p.m. on the last sitting night of the year. It has been designed—we are not on broadcast, for a start—in a way that gets rid of the so-called peripheral amendments of the crossbenchers, amendments which, in most cases—certainly some of those put forward by Senator Harris—reflect the recommendations outlined in the majority report of the committee that investigated this bill. Those amendments are quickly being abandoned in most cases by the Labor Party, which actually signed off on them.

Senator Tambling can express his frustration but it is nothing compared to the frustration that some of us on the crossbenches are feeling in relation to the way this debate has been run and it is nothing compared to the frustration that the people of Australia are feeling, especially those who have tried to monitor this debate, given that they have strong feelings about GMOs. This is still one of the most fundamental pieces of legislation that this parliament will address. Yet a simple amendment that would ensure lesser conditions than those that apply to the tobacco industry, as Senator Harris has pointed out, is not acceptable to government. I have already expressed my concern about the way this debate is running. I think that coming back tomorrow may be not such a bad idea if it means that we do not have to fast-track a piece of legislation that is going to give us insufficient standards for the regulation and approval of GMOs.

In relation to the last comment of Senator Stott Despoja, it is probably going to be a long night, as we all anticipated. I hope it is not longer than it needs to be. I just make this point: when this debate is finished and when the analysis is done about the amendments that we have successfully moved and have been able to successfully negotiate and convince the government to adopt—despite their initial position—you will find that an overwhelmingly substantial proportion of the issues raised in the Senate committee report have indeed been implemented.

Senator Harris (Queensland) (9.39 p.m.)—I would like to ask Senator Tambling whether it is the government’s intention to ensure, either by legislation or by regulation, that all genetically modified crops that are either intended for stock food or are ultimately for human consumption will be separated and stored separately.

Senator Brown (Tasmania) (9.40 p.m.)—Let us have an answer to that, please. That is absolutely fundamental. That simple question has huge economic ramifications for the farmlands of Australia.

Senator Tambling (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (9.40 p.m.)—I am advised that this is getting into areas of farming, which is a separate issue. The segregation issue is what needs to be addressed. I think, as the ALP have already indicated,
there are other amendments that will pick up these areas.

Senator HARRIS (Queensland) (9.41 p.m.)—I am not asking Senator Tambling to alter this piece of legislation. What I am requesting is clarification from the government that we are going to be assured, when this bill does proceed and broadacre crops are planted, that one of the requirements—either by legislation or regulation—will be that those crops will be stored separately. If the government is not prepared to make that commitment now, we have serious concerns because of what has happened overseas. You only have to look at the issues that we reiterated the other evening regarding StarLink corn in America where, at this present moment, the industry is trying to recall nine million bushels of corn, because they cannot guarantee that they have not been mixed. I believe that it is perfectly acceptable, when we are passing or considering passing the legislation that will enable this industry to proceed, that we should have from the government an assurance that, when this industry is operating, the public will have confidence that genetically modified and non-modified food products will be separated and stored. If we cannot have that type of assurance from the government at this point in time, what assurance have we got in relation to any conditions in this bill about what would be carried out when these industries are in full production? This is the correct time for the government to make that condition or to make that indication that it will be a requirement. Yesterday, we had discussions in this chamber regarding the Internet gambling bill under which the government indicated to that industry, in a press release, that there was going to be a moratorium. That moratorium was supposedly indicated in December of last year. So the government can, and does, indicate to industries that there will be requirements. I believe it is absolutely essential that the government indicates to anybody who is going to enter into this industry that one of the requirements that they will have will be to guarantee separate storage. That is what we are asking, and I believe that is totally acceptable at this point in the debate of this bill.

Senator STOTT DESPOJA (South Australia—Deputy Leader of the Australian Democrats) (9.45 p.m.)—When Senator Tambling answers that question for Senator Harris, I would like him to also answer a question for me. He mentioned that there are other aspects of this legislation that take up some of these pressing issues. I am wondering if the parliamentary secretary could explain where in the legislation there is the specification of buffer zones or refuge zones.

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (9.45 p.m.)—In answer to Senator Harris’s question—which I hope he is not just getting by points off his laptop—about where it is necessary to manage risks, conditions will be imposed to address risks and, if necessary, the need for separation of crops. In answer to the questions posed by Senator Stott Despoja I indicate that the issues that she raised are in the areas of GM zones and the ability to set any licence conditions, including buffer zones and refuge zones. I would draw her attention to clause 62 of the bill. Under the section ‘conditions that may be prescribed or imposed’, there are quite a number of conditions, going down to 2(o), in particular:

... limiting the dissemination or persistence of the GMO or its genetic material in the environment;

Senator HARRIS (Queensland) (9.46 p.m.)—I will not delay the debate on this amendment too much longer. Suffice to say to Senator Tambling: yes, the information that I am quoting from is from the laptop and it is sent from concerned Australian people. There are about 500 of them on the laptop. If I find that the issues they have asked me to raise are relevant to the amendments to the bill, I will raise them.

Amendments not agreed to.

Senator BROWN (Tasmania) (9.47 p.m.)—I move Australian Greens amendment No. 71 on sheet 1970:

(71) Page 45 (after line 4), after clause 66A, insert:

66B Condition about insurance

It is a condition of a licence that the licence holder be insured for all loss or damage to human health, property or
the environment that may be caused by the licensed dealing with the GMO or GM product.

This amendment is the one to test out the government and the opposition about whether they are dinkum in believing that this bill is going to protect organic farmers around the country, genetically engineered free farmlands around the country as well as consumers. The amendment says:

It is a condition of a licence that the licence holder—

that is, the person who is licensed to deal with genetically engineered materials—

be insured for all loss or damage to human health, property or the environment that may be caused by the licensed dealing with the GMO or GM product.

This is a fundamental test of good faith. If people are growing crops that are genetically engineered, and we are assured, through the handling of their licensing by the regulator, that the safeguards under this legislation are going to guarantee the health, the environment and, indeed, the economic wellbeing of neighbours and consumers, there should be no concern about insurance premiums. In fact, the insurance premiums would be very low indeed. This is simply a fair measure which says that the alarm and concern in the community about the failure to properly regulate GMOs can be assuaged insofar as at least people will know that, if their wellbeing is threatened, there is a liability on the person from whom that threat comes that can be backed up and is backed up by insurance. I would like to hear an argument against that. This amendment is compelling and is essential if people are going to have faith in this bill.

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (9.50 p.m.)—This amendment proposes that it be a condition of licence that all licence holders be insured. While we support the capacity for the regulator to require the licence holder to hold insurance if this is necessary, we do not support the requirement for all licence holders to hold insurance. Again, there needs to be a case by case assessment of risks, and the regulator needs to be able to apply appropriate conditions to manage risk. We will, therefore, be supporting the ALP amendment, which will be debated shortly, which enables the regulator to impose a condition of licence requiring insurance, if this is necessary, on a case by case assessment.

Senator FORSHAW (New South Wales) (9.50 p.m.)—As the parliamentary secretary has just indicated, the opposition will be moving an amendment to clause 62 which deals with the issue of insurance coverage. Our amendment is consistent with the recommendation of the Senate committee, which stated:

The Committee RECOMMENDS that the Bill be amended to require that in prescribing or imposing conditions of licences, the Regulator may satisfy him or herself that applicants have made provision for suitable insurance coverage to cover the risks associated with the dealings.

Our amendment picks up that recommendation entirely. The recommendation places the requirement on the regulator to make that assessment. The regulator, of course, needs to have the discretion, given that the regulator will be dealing with such a wide variety of applications, to make provision, if necessary, for suitable insurance cover to be provided.

Senator HARRIS (Queensland) (9.52 p.m.)—I rise to support the Greens amendment and indicate that it is substantially similar to the amendment of Pauline Hanson’s One Nation. I would also take this time to comment on the amendment that the Labor Party has indicated it will move, the wording of which is similar to both the Greens amendment and the Pauline Hanson’s One Nation amendment. Where they differ substantially in their intent and effect is that the Labor Party amendment allows the Gene Technology Regulator the ability to decide whether insurance should be required as a part of the licence. I will just read the first line in the foreshadowed Labor amendment, which says in part:

Licence conditions may also include conditions requiring the licence holder to be adequately insured...

However, the clear intent of the amendments of both the Greens and Pauline Hanson’s
One Nation is as stated in the Greens amendment, which is:

It is a condition of a licence that the licence holder be insured for all loss or damage to human health, property or the environment that may be caused by the licensed dealing with the GMO or GM product.

So we have two totally different positions that we are coming from. The government have indicated that they will accept the Labor Party’s amendment. I believe that part of the reason for that is that the insurance industry itself has clearly indicated that it has concerns relating to its exposure, should it accept insurance for genetic modification or the production of genetically modified organisms. The insurance industry is a very good measure when you are looking at whether a certain industry should or should not proceed. If the assessment of the insurance industry is such that the risk is too great for them to be exposed to, that is a clear indication that there are concerns about that operation.

So rather than have the situation where there is an independent assessment of a risk, by supporting the Labor Party’s amendment the government will have the situation where these high-risk dealings with genetically modified organisms may be able to proceed without insurance—whereas it is very clear from the Greens amendment and the One Nation amendment that, if the insurance were not available, that action would not be able to be carried out. I believe that is the correct process. I would like to quote a couple of sections from an article that appeared in Switzerland on 6 September 1998. It is headed ‘Insurance companies fear because of genetic engineering’. It says:

The Swiss reinsurance company Rueck rings alarm in a study ...

This study is by one of the leading people in Europe. The article, which is a translation, goes on to say:

Zurich - Never before it was expressed so clearly as by the Swiss reinsurance company Rueck: The risks of genetic engineering cannot be insured anymore with traditional means. The article goes on to quote author Thomas Epprecht in the Sonntagszeitung:

The tone: The potential risks of genetic engineering can not be covered with classical liability insurance models: “No, whatsoever high insurance coverage is capable to reduce the potential risk of genetic engineering.

The focal point of the rigorous analysis are the pharmaceutical, agricultural, and food companies, which are applying unproportionally genetic technologies without in most cases being insured themselves against likely Genetic-damages. Therefore the Swiss Rueck not only on a global level intends to alert the primary level of the insured, but also the second level, industry and society.

So the insurance industry—not only at the primary level that would carry the initial insurance but also at the secondary level, the large reinsurance companies—is expressing concern. If the insurance companies are saying they are not willing to insure these large broadacre productions of genetically modified organisms because the risk is too high, it is clearly an indication to the government and to the opposition that, if they go forward with this intention to support Labor’s amendment that the Gene Technology Regulator only may require insurance, they are allowing the exposure to the environment of risks that the insurance industry themselves clearly show are unacceptable.

Question put:

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

The committee divided. [10.04 p.m.]

(The Chairman—Senator S.M. West)

Ayes........... 10

Noes............ 46

Majority....... 36

AYES

Allison, L.F.    Bartlett, A.J.J.
Bourne, V.W. *  Brown, B.J.
Greig, B.       Harradine, B.
Harris, L.      Lees, M.H.
Murray, A.J.M.  Stott Despoja, N.

NOES

Abetz, E.       Bishop, T.M.
Buckland, G.    Calvert, P.H.
Campbell, G.    Carr, K.J.
Collins, J.M.A. Conroy, S.M.
Question so resolved in the negative.

The CHAIRMAN—Senator Harradine, I understand you are not intending to move any more of your amendments tonight. Is that correct?

Senator HARRADINE (Tasmania) (10.08 p.m.)—Yes, I thought I would notify that—unless I am provoked!

The CHAIRMAN—The chair will try to do her best. Opposition amendment No. 10 on sheet 2026 is next.

Senator FORSHAW (New South Wales) (10.08 p.m.)—There was discussion earlier about whether we would be returning to the top of page 1, but I think it would be appropriate for me to move opposition amendment No. 10:

(10) Clause 62, page 43 (after line 9), at the end of the clause, add:

(3) Licence conditions may also include conditions requiring the licence holder to be adequately insured against any loss, damage, or injury that may be caused to human health, property or the environment by the licensed dealing.

This amendment is to insert in clause 62 the provision that licensed conditions may also include conditions requiring a licence holder to be adequately insured against any loss, damage or injury that may be caused to human health, property or the environment by the licensed dealing. We have just had the debate about whether insurance should be specified in the act as compulsory in all situations. Our proposal is consistent with the recommendation of the Senate committee. We were criticised earlier by other parties for supposedly not following the recommendations of the committee’s report. I would expect that on this occasion we would actually be congratulated for being successful in convincing the government—I believe they will support this amendment as they said earlier—to agree, and I hope all others to agree, to insert the recommendation on insurance from the committee’s report into the legislation.

Senator BROWN (Tasmania) (10.10 p.m.)—A question to either the government or the opposition: which GE dealings should not be insured?

Senator FORSHAW (New South Wales) (10.10 p.m.)—I am happy to answer that, Senator Brown. I think that is a matter for the regulator to decide, ultimately, as the amendment so prescribes.

Senator BROWN (Tasmania) (10.11 p.m.)—I thought so. I thought that would be the answer we got. This is duckshoving. This is the incapability of the government or the opposition to know what they are talking about, to understand the ramifications of what they are talking about and to leave it to some other appointed official. That is not the function of the Senate, it is not the function of the government and it should not be the function of the opposition. You should be able to answer a question like that. The fact that you cannot is why you should have supported the previous amendment.

Leave it to somebody else’—you tell that to the Australian public. That is why you are a failure as an opposition.

Senator HARRIS (Queensland) (10.11 p.m.)—I rise to indicate that Pauline Hanson’s One Nation will support Labor’s amendment No. 10, but indicate, as I have earlier, that it would be our preference that all dealings with GMOs as a condition of licence were insured. Part of the reason that we believe they should all be insured is that scientific evidence is showing us that there are side effects that we do not totally understand at the moment. Professor Arpad Pusztai at the Rowett Research Institute in Scot-
land found in experiments that the development of the brain, pancreas, spleen, kidneys and immune system were impaired in baby rats fed on genetically modified potatoes. At Cornell University, they discovered that monarch butterflies had a 50 per cent increase in mortality after eating leaves that had GE pollen on them. They were not the GE altered crops; they were just neighbouring crops that had GE pollen on them. I am using those two instances to raise the issue of what is actually unknown in relation to genetically engineered organisms. I indicate that I will support Labor's amendment. I commend them for having negotiated this amendment with the government, but I put on record that it would have been far more appropriate if insurance had been a condition of the licence and not an assessment of the Gene Technology Regulator.

Amendment agreed to.

The TEMPORARY CHAIRMAN (Senator George Campbell)—We will proceed with Pauline Hanson's One Nation's amendment (36) on sheet 2030.

Senator HARRIS (Queensland) (10.14 p.m.)—I withdraw amendment (36).

The TEMPORARY CHAIRMAN—We will go back to page 1 of the running sheet and deal with opposition amendments (1) and (2) on sheet 2026.

Senator FORSHA (New South Wales) (10.16 p.m.)—by leave—I move opposition amendments (1) and (2) on sheet 2026:

(1) Clause 2, page 2 (line 1), omit “subsection (3)”, substitute “subsections (2A) and (3)”.

(2) Clause 2, page 2 (after line 2), after subclause (2), insert:

(2A) Division 3 of Part 9 commences immediately after the Gene Technology (Licence Charges) Act 2000 commences.

These amendments deal with the issue of cost recovery. Our amendments are drafted to take cognisance of the fact that the biggest barrier that industry, research institutions and scientists in this country see to the appropriate development of gene technology is the government's policy of 100 per cent cost recovery. That strong view emerged very clearly in submissions to the Senate inquiry, in the evidence given at the public meetings and in various other consultations and discussions that we have had with representa-
some progress on this matter, although the Democrats have placed on record a number of times our concerns, and certainly a number of groups put on the record in their submissions to the Senate inquiry their concerns, that the regulator could be seen as a ‘captive of industry’. I think these are good amendments—a good start. But I place on record that we will monitor the feedback from KPMG and the Productivity Commission et cetera reports, and we think there is a very strong role for this body to be independent and perceived to be an independent regulator. We have already put on the record in the committee stage of the debate and also in the committee inquiry the concerns we have currently about the lack of perceived independent and rigorous scientific testing of applications that come from those people who might be applying for a licence. So I look forward to seeing the government provide funding for this body, and I think that is one way of instilling some of that public confidence to which I earlier referred—that is, if people are going to feel that this framework is working for them and that it is not held captive to the interests of industry and some of those huge multinational companies that have been mentioned in this debate already.

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (10.22 p.m.)—I appreciate the views and the concerns that have been expressed in the debate by both the Labor Party and the Australian Democrats. There has been a number of these issues raised with the government in recent times and we have taken seriously the comments that have been put to us. Can I indicate very clearly that the government will agree to delay the introduction of cost recovery for the operation of the Office of the Gene Technology Regulator for the first two years of operation of the OGTR. I can guarantee on behalf of the government that the issue of cost recovery will be subjected to extensive consultation over the next two years. Furthermore, the fees and charges will be set in regulations which will come before the Senate as a disallowable instrument. I expect that they will also be subject to full scrutiny at that time. In light of those undertakings and commitments, I invite the opposition to withdraw this particular amendment.

Senator FORSHA W (New South Wales) (10.22 p.m.)—Yes, the opposition will be prepared to withdraw our amendments on the basis of the undertakings that have just been given by the parliamentary secretary. The position that has been outlined by the government will actually result in cost recovery being deferred for two years, which is beyond the period I referred to in relation to the amendments—that is, until the report of the Productivity Commission which is scheduled for August 2001. We note that any future cost recovery measures will need to be introduced by way of regulation as disallowable instruments, which means that they come back to this chamber and are debated and determined by the Senate. On that basis, we appreciate the undertaking given by the government and are happy to withdraw our amendments (1) and (2). I look forward with anticipation to reading Senator Brown’s media release tomorrow morning and his web site where he will be congratulating the opposition for a significant achievement in actually being able to convince the government to pick up the spirit of our amendment, and even take it a bit further and give the guarantees they have given! I seek leave to withdraw our amendments (1) and (2).

Leave granted.

Senator STOTT DESPOJA (South Australia—Deputy Leader of the Australian Democrats) (10.25 p.m.)—by leave—I move Democrat amendments (1) and (2):

(1) Clause 3, page 2 (lines 6 to 10), omit the clause, substitute:

3 Objects of Act

The objects of this Act are:

(a) to protect the health and safety of people; and

(b) to promote ecological sustainability; and

(c) to protect the environment;

by identifying risks posed by or as a result of gene technology, and by managing those risks through regulating certain dealings with GMOs.
(2) Clause 4, page 2 (after line 13), before paragraph (a), insert:

(a) provides that where there are threats of serious or irreversible harm to human health or environmental damage, a lack of full scientific certainty should not be used as a reason for postponing measures to prevent harm to human health or environmental degradation; and

I noticed earlier, when I think Senator Tambling said it would be good to return to the beginning of the running sheet, that my colleague Senator Bartlett interjected and said that it is actually hard to return to something that you have not already debated or dealt with. So I welcome, finally, belatedly, a discussion of some of the key issues that we should be debating: that is, the objects of the act. There have been a number of amendments moved by honourable senators that relate to the objects of the act. The amendment that I am moving on behalf of the Democrats firstly proposes that the objects of the act read:

(a) to protect the health and safety of people; and
(b) to promote ecological sustainability; and
(c) to protect the environment;

by identifying risks posed by or as a result of gene technology, and by managing those risks through regulating certain dealings with GMOs.

The second amendment standing in my name on behalf of the Democrats firstly proposes that the objects of the act read:

(a) to protect the health and safety of people; and
(b) to promote ecological sustainability; and

The second amendment standing in my name on behalf of the Democrats deals with the precautionary principle, following the recommendation as outlined in the Senate committee’s majority report on this bill: that is, the legislation be amended to adopt the precautionary principle outlined in the EPBC Act.

I understand that Senator Hill is here to debate another piece of legislation. Perhaps it would be better to wait and discuss these amendments in the context of some of the other amendments that have been moved in relation to precautionary principles and the objects of the act. I am happy to adjourn my comments and allow the minister to proceed, much as I am sure that he would have a lot to say on the definition of the precautionary principle as contained in the EPBC Act. Perhaps he might join us later when we pursue these amendments in more detail.

Progress reported.

RENEWABLE ENERGY (ELECTRICITY) BILL 2000

Consideration of House of Representatives Message

Consideration resumed.

The CHAIRMAN—The committee is considering message No. 562 from the House of Representatives. The question is that the committee does not insist on amendments Nos 1, 2, 5 to 7, 17 to 20 and 22 to 24 not made by the House and agrees to the amendment made by the House in place of amendment No. 24. When we were discussing this last time, we had some indication that the committee was not going to insist on amendments Nos 1, 5, 6—

Senator Bolkus—I suggest, Madam Chair, that, given more recent developments, we just take them one at a time.

The CHAIRMAN—That would be a wonderful idea, thank you; I was trying to do that earlier in the evening. As it is the wish of the committee that the amendments be taken seriatim, I will do so. The first question is that the committee does not insist on amendment No. 1 not made by the House.

Senator BROWN (Tasmania) (10.30 p.m.)—Amendment (1) made by the Senate came from the Greens and simply says that:

The objects of this Act are:

(a) to encourage the additional generation of electricity from renewable sources; and
(b) to reduce emissions of greenhouse gases; and
(c) to ensure that renewable energy sources are ecologically sustainable.

If the Senate is going to drop that provision—

Senator Bolkus—We are not, Bob.

Senator BROWN—So is it a case of insisting on this provision?

Senator Bolkus—Yes.

Senator Hill—If the Senate wishes to insist on its position, I will not be objecting to it.
The CHAIRMAN—Fine, thank you. The question is that the committee does not insist on amendment No. 1.

Question resolved in the negative.

The CHAIRMAN—The question is that the committee does not insist on amendment No. 2 not made by the House, to which we have an opposition amendment. Senator Bolkus, what do you wish to do?

Senator BOLKUS (South Australia) (10.32 p.m.)—Madam Chair, I suggest that, in place of the amendment that the Senate passed last time, we adopt the form of words that I have circulated. In essence, they come from the government’s EPBC legislation, which at a previous stage was passed by the Senate with the support of the Democrats. I think it is a stronger definition of ecological sustainability and I would reckon that, given the origin of it, it would be very hard for the government to oppose this amendment. It ties in with amendment No. 1, which Senator Brown said, quite rightly, was one of his amendments. The objects would sit together with the definition, and I think this definition would probably strengthen the earlier inter-relationship between the objects and the definition clause. I move:

(1) Clause 5, page 3 (after line 22), after the definition of document, insert:

ecologically sustainable means that an action is consistent with the following principles of ecologically sustainable development:

(a) decision-making processes should effectively integrate both long-term and short-term economic, environmental, social and equitable considerations;
(b) if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation;
(c) the principle of inter-generational equity, which is that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations;
(d) the conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making;
(e) improved valuation, pricing and incentive mechanisms should be promoted.

The CHAIRMAN—The question is that this committee does not insist on amendment No. 2 not made by the House but agrees to the amendment moved by Senator Bolkus in place of the original No. 2.

Senator Brown—I am wondering what the government’s position is on that.

Senator HILL (South Australia—Minister for the Environment and Heritage) (10.34 p.m.)—As Senator Bolkus said, it would be very difficult for me to object to a definition that the government included within the Environment Protection and Biodiversity Conservation Act. So I will not be objecting to that.

Senator BROWN (Tasmania) (10.34 p.m.)—I cannot let the opportunity pass without asking: if this is to be the definition, how on earth can Senator Hill say that the burning of forests to produce electricity could come within this definition of ‘ecologically sustainable’?

Senator HILL (South Australia—Minister for the Environment and Heritage) (10.35 p.m.)—It would, provided that the forest waste, or the wood waste, is resultant from a sustainable forest management practice and therefore we would look to practices that are endorsed, for example, under a regional forest agreement by the Commonwealth. Then we would certainly say that such forestry operation is an ecologically sustainable forestry operation.

Senator BROWN (Tasmania) (10.35 p.m.)—I ask the minister about a specific case. Is the logging of the planet’s tallest hardwood forests in the Styx Valley, proceeding at the moment under the regional forest agreement, ecologically sustainable? Remember that involves the cutting down of the forests, the firebombing of the forests and then the 1080 poisoning of wildlife straying into that area as a consequence.
Senator HILL (South Australia—Minister for the Environment and Heritage) (10.36 p.m.)—Under the regional forest agreement with Tasmania, the Commonwealth has endorsed the forestry management practices of the Tasmanian government.

Senator BROWN (Tasmania) (10.36 p.m.)—Yes, it does. But as to the process I just outlined, Chair, I want to know from Senator Hill if that would fit within this definition of ‘ecologically sustainable’.

Senator HILL (South Australia—Minister for the Environment and Heritage) (10.36 p.m.)—I cannot respond to a specific operation in the terms that Senator Brown has put. All I can say is that, in relation to Tasmania, the Commonwealth has endorsed the Tasmanian forest management practices as ecologically sustainable. If the forestry operation to which Senator Brown is referring is an operation that is being conducted according to those management plans, which I presume it is, then it would by definition be ecologically sustainable.

Senator BROWN (Tasmania) (10.37 p.m.)—I will not go around in circles, but I will just tell you what I think of that. Here we have the destruction of the world’s tallest hardwood forests, the wildlife in them, eagle nesting sites, the habitat of rare and endangered species, all the understorey and the rainforest underneath—the whole living ecosystem which has been evolving and persisting there over thousands of years—by a process of woodchipping, firebombing and poisoning, and this government calls that ecologically sustainable. That is dishonest. That is shameful. That is deceitful. That is a cheat. And it shows what we are going to get further out of this legislation.

This government is saying under this legislation that the destruction of forests in Australia—and it will extend right through to woodlands in Queensland and forests in south-west Western Australia—is going to be permitted in order to produce electricity which is then going to be called ecologically sustainable and sold to the public as green energy. I do not know how Senator Hill as minister for the environment can look the Senate in the face on that one. No wonder the world is starting to see Australia as an environmental maverick. No wonder, Senator Hill, that at the recent World Conservation Union conference in Jordan, despite your best efforts to put somebody unknown to the public onto the global council of the world’s most prestigious conservation body, the world elected Christine Milne from Tasmania, who is a defender of these forests, and voted your candidate last. I am talking about government voters as well as conservation voters.

But that is not going to help the forests, because the Howard government has got an unfeeling, insensitive, incapable response to what is happening to the monumental forests and woodlands of this country and the wildlife that goes with them. It is an indictment of this government that it does that. The only reason that this government gets away with it is because this opposition supports it; that is why. Where you find the two big parties lining up together, the issue tends to go out of the news pages. Although 80 per cent of Australians do not want this happening, the majority of politicians in this place are gung-ho about it, because behind this is the corruption of the big logging companies, with their donations to the political parties and their power of lobbying in the halls of this place. But it is wicked that that is happening. It makes my blood boil. Nothing counts in this place but dollars. And this is a country which holds other values as important.

So the Valley of the Giants, the Styx River Valley in Tasmania, is earmarked to be logged from end to end under the Howard government’s regional forest agreement with the Tasmanian Labor Party, which is gung-ho about it as well. And we have got this legislation saying that they can build a furnace over the ridge in Judbury and put 300,000 tonnes of woodchips out of these wild forests into that each year and sell the power through Basslink up the line to unsuspecting Melburnians as green energy. The Tasmanian Labor Party, hand in hand with Mr Howard’s government, says that if you stand up against that you are unTasmanian. There will be a protest in Hobart on Sunday from people in the areas to the south of Hobart which will show a truly Tasmanian point of view against this corrupt process which has the minister
for the environment in this country saying that the destruction of the Valley of the Giants, the forests of the Picton, the Huon and the Weld, in the way that I have just described is ecologically sustainable.

I have canvassed the heart of why this legislation is so rotten and why the deal that Labor is going into with the government to get this legislation through is so rotten. It should have been so good. The motivation is to give a fillip to truly ecologically sustainable energy, solar power and wind power, in this country. But the government has determined, under the suasion of the woodchip industry, to put forests through furnaces and to put the electricity production from that into the list of things that is allowable under this ecologically sustainable process. Well, there it is. But it is going to be an election issue next year, I can tell you.

The CHAIRMAN—The question is that the committee does not insist on amendment No. 2 but agrees to the amendment moved by the opposition, No. 1 on sheet 2095.

Question resolved in the affirmative.

The CHAIRMAN—We now move to amendments Nos 5 and 6 and the Democrat amendment to both of those.

Senator BOLKUS (South Australia) (10.44 p.m.)—The opposition will be insisting on those two amendments.

The CHAIRMAN—Senator Allison, you have two amendments in place of this one.

Senator HILL (South Australia—Minister for the Environment and Heritage) (10.44 p.m.)—Whilst it is reflected upon, can I help by saying that in this instance also, if the Senate is minded to continue to press these two amendments, the government will not be objecting.

The CHAIRMAN—The question is that the committee does not insist on amendment No. 7 not made by the House. There have been some foreshadowed amendments by Senator Bolkus.

Senator BOLKUS (South Australia) (10.45 p.m.)—In respect of Senate amendment No. 7, I indicate that the opposition will be insisting on the amendment that we carried last time but with the addition of four further eligible renewable energy sources: hot dry rocks, fuel cells, wave and wind. They were the four that were added to the pre-existing definition in this area. In essence, we will not be insisting on our amendment technically but will be moving an amended form of it, which is amendment No. 1 on sheet 2098.

Senator HILL (South Australia—Minister for the Environment and Heritage) (10.46 p.m.)—The government is prepared to accept that.

Senator ALLISON (Victoria) (10.46 p.m.)—I would like to raise some questions about the new insertions. It seems to me that ocean and wave are renewable but fuel cells and co-firing may well not be renewable; that is, co-firing could involve fossil fuels in the co-firing process. Certainly gas and coal and other petroleum products could be included. Likewise, whilst fuel cells largely use hydrogen, hydrogen is produced in many cases from natural gas, sometimes with the addition of solar energy to produce it. I would have some concern about including those last two items, (s) and (t), because they are not necessarily renewable.

Senator MURPHY (Tasmania) (10.47 p.m.)—I am seeking some clarification here as to what we are specifically dealing with. There is an amendment that has been circulated by the Democrats on sheet 2091, which is to be moved by Senator Allison for the Democrats in place of Senate amendment No. 7. Are we dealing with that?

The CHAIRMAN—No, at the moment the question before the chamber is that the committee does not insist on amendment No. 7 not made by the House. There have been some foreshadowed amendments by Senator Bolkus.

Senator MURPHY—I understand. I have a question, then, with regard to what has been accepted by the House. It goes to what is an eligible renewable energy source. In (f) it is listed as ‘wood waste’. I would ask the minister to define what wood waste is.
Senator HILL (South Australia—Minister for the Environment and Heritage) (10.49 p.m.)—I think that wood waste would be any wood or timber product that has resulted from an activity for which the primary purpose was other than creating that particular product. In other words, it might flow from a native forest operation, for example, where the primary purpose is sawlogs. Further detail, as Senator Murphy will find, can be prescribed by regulation, which we would expect to do in due course. Such regulations, he will also see from the amendments before us if this is the view of the Senate, are going to not only have the disallowance process with which we are all very familiar but also require a period of public consultation in advance of being made.

Senator MURPHY (Tasmania) (10.50 p.m.)—I have a further question with regard to that. Given that that is your definition at this point in time, subject to further regulation, wood waste in respect of this amendment to the bill is very open ended because it leaves it open to waste from both native forest harvesting and plantation harvesting. I notice the Democrats have an amendment—I am not sure when we are going to deal with that—on sheet 2091, which goes to the question of non-plantation native forest wood products and wood wastes. I find that intriguing to say the least, given that the amendment here moved by the Democrats has already been accepted. Where I have a concern with this is that the definition listed as (f) is very broad and could well lead to significant problems, with misuse of a whole range of forest products that are derived from either native or plantation forests. I think that this bill would be much better served not necessarily through regulation but, in the first instance, by having a definition that went very specifically to what forest residue is and what wood waste is.

In most states that have hardwood forest operations, definitions are gazetted at a state level that would cover this sort of issue. I put it to the government that not only is it essential that we have very clear definitions in this bill but it is also very important that we have a mechanism for policing those definitions. This is one of the issues that I have come across in respect of regional forest agreements. I had a ‘good’ experience from the government minister of the day, Mr Wilson Tuckey, in respect of RFAs. The department puts out a regional forest agreement newsletter, which states that there is a Regional Forest Agreement Monitoring Unit that is supposed to monitor the application of the regional forest agreement. The newsletter lists contact phone numbers and the people you can speak to. I rang the monitoring unit to raise with them some issues of concern that I had. I asked them if they had ever been to Tasmania to inspect the forests to see whether or not the criteria set out in the regional forest agreement, particularly as it goes to ecologically sustainable management, had been adhered to—and they said no. So I invited them to come down to Tasmania to inspect the forests to see whether or not the criteria set out in the regional forest agreement, particularly as it goes to ecologically sustainable management, had been adhered to—and they said no. So I invited them to come down to Tasmania as I would invite them to Victoria, to New South Wales and to any other state that currently has a regional forest agreement. I do not want to misrepresent them, but I think they told me that they had never conducted an in-field inspection. That really worries me, because practices are going on that are clearly not within the criteria—poor as they are—that are contained within a regional forest agreement.

After I invited the Regional Forest Agreement Monitoring Unit to come and do an inspection in-field, they said, ‘We’ll have to get back to you. We’ll have to speak to our superior.’ They did not say the minister, I do not think, but then I received a letter from the minister, Mr Wilson Tuckey, who accused me of harassing his officers. Bear in mind that this big, glossy newsletter promotes to the Australian public a process of consultation, a process of input. That is, if the Australian public in any state have some reason to think that the criteria of the regional forest agreement is not being met, there is a process through which they can have input and through which they can object and raise concerns, which will be dealt with. But this is not so. As I said, the minister wrote a letter to me which, coming from a member of this federal parliament, was absolutely ridiculous. I probably should have brought the letter down here to the chamber to read out to people. I say to Senator Hill as minister for the environment that this is un-
acceptable. With regard to federal guidelines, federal law or a federal-state agreement—as is the case with a regional forest agreement—if you are going to set criteria which you expect the state to adhere to and if it is not being adhered to, or if it is alleged that it is not being adhered to, then you must have a process for checking this, for checking the veracity of the circumstances—and likewise with this bill.

What does wood waste mean? Let me tell you. In the last five years in this country, there has been a huge growth in plantation forestry, with no real strategic plan as to what will happen to a lot of that wood in five, 10, 15 or 20 years time. I have the view that we ought to be developing our industry in terms of value adding, import replacement, et cetera. But, if we allow the opportunity to exist whereby an industry can have wood available to it at a reasonable price because of the global demand for a particular wood product, then we will have a real problem. The problem will be that that wood will be funnelled into biomass energy plants, either in a dual sense or in a singular sense. That is a real problem.

With regard to the definition of wood waste, I cannot accept that we adopt the position that the Democrats have of using ‘non-plantation native forests, wood products and wood waste’. If we are to use wood or forest residue as a biomass energy source, then we ought to define it very clearly in the interests of the timber industry in this country. I am not sure that having regulations that are disallowable will do that. We have got to go one step further. We really have to monitor this industry very carefully, but we have to have a monitoring process that has some teeth in it. Once these power plants are built and are linked to some form of employment, I doubt that any government will want to say, ‘Sorry, the resource that you have been using as a source of biomass is now no longer acceptable.’ It will not work. That is a real problem and it is a problem that we ought to address now and not some five or 10 years down the track when it is too late. That is the issue that this bill has to confront. It is not confronting it at the moment.

I know that the Democrats and Senator Brown have a very significant position in that they do not want to see native forest residue or native forest wood waste used at all. To me, that is a totally unacceptable position. We need to define what can be used and what cannot be used. We should do that in this bill, if we are to deliver good outcomes from what is a very important piece of legislation.

Senator HILL (South Australia—Minister for the Environment and Heritage) (11.00 p.m.)—I do appreciate where Senator Murphy is coming from in this debate. I recognise him as a supporter of the forestry industry and as someone who has also demanded not only that forest management plans be ecologically sustainable but that they should be implemented in a way that is consistent with those goals. Many of the concerns which Senator Murphy expresses today and which I have heard him express before are concerns that show, in implementation of the plans, that there is insufficient monitoring and supervision and the like to ensure that the spirit of the law is reflected in the letter of the law. I do not quarrel with him on that. It is important that sustainable plans are implemented in that way. In many ways, it gets back to responsibilities of states, but Senator Murphy also says that, if the Commonwealth enters into an RFA, perhaps the Commonwealth should take greater responsibility as well. The Commonwealth does have powers under the RFA if the states are breaching their obligations in relation to implementing sustainable forestry practices.

However, it was the government’s intention not to even include categories such as this in the bill itself but rather to do the whole of the categorisation and the detail in regulations. This is a provision which was passed previously by the Senate. It sets out a category of wood waste and it will be capable of being further defined in the regulations. Certainly, on this side of the chamber we are happy to talk to Senator Murphy in the development of those regulations in an effort to see that they might meet his objectives. Even so, there is an issue beyond the letter of the law here—that is, the issue of proper management and enforcement. But I
would respectfully suggest to Senator Murphy that that goes beyond the scope of this particular bill. I acknowledge the problem, but I am suggesting that this is not the place to solve it. In relation to Senator Allison’s point, by virtue of the exclusions that appear in this clause—that is, sources that are not eligible which are fossil fuels or product derived from fossil fuels—it is obvious that, in the case of co-firing, it is only the renewable element that attracts the benefit.

Senator BROWN (Tasmania) (11.03 p.m.)—I would like to ask the minister: did the Business Council say that it did not want woodchips in this bill? What part has the New South Wales Forest Products Association had in seeking the government’s assurance that the reverse would happen and that woodchips would stay in the bill? Also, the government advised that it thought that the woodchips would take up a maximum of three per cent of the renewable energy growth that we are looking at, but my office has done a quick assessment of proposals that have surfaced in recent times. In Tasmania, the Southwood project at Judbury of 30 megawatts would consume 300,000 cubic metres or tonnes of woodchips. In Victoria at Morwell there is the 35 megawatt project for up to 350,000 cubic metres; in New South Wales at Moruya, 300,000 tonnes; at Grafton, 300,000 tonnes; at Raymond Terrace, 300,000 tonnes or cubic metres; in Queensland at Maryborough it is the same, 300,000 tonnes. This does not include the prospect of two other similar generating stations in the north-west and north-east of Tasmania. That comes to 185 megawatts or 1.85 million cubic metres of woodchips, which is equivalent to 15 per cent of the 9,500 gigawatt hour target that this bill incorporates. Under the amendments that are being dealt with here tonight, if the bill goes through as amended, what will be the limit that is going to be placed on the burning of so-called forest waste, remembering that wherever that is certified under this legislation, it is solar power or wind power that is going to lose out?

Senator HILL (South Australia—Minister for the Environment and Heritage) (11.05 p.m.)—There is not a cap as such in this legislation. It is true that in a previous debate on this bill I indicated that the government had received independent advice from expert consultants if they did not expect more than about three per cent—I think it was a fraction over three per cent—of the total energy to be derived from native forest products and native forest waste. I do not know the Business Council’s position in relation to woodchips or whether they have a position. In relation to forest industry bodies generally—Senator Brown referred to a New South Wales body—it is true that the forest industry bodies do not wish to have wood wastes excluded from this legislation. They want the opportunity to be able to utilise some wood waste as circumstances permit to add to the value of their total forest operation through the provisions of this legislation.

Senator ALLISON (Victoria) (11.07 p.m.)—I want to respond to the confusion that Senator Murphy suggested there was in terms of the earlier Democrats’ amendment and his bemusement that it did not include native forest waste and that we have a subsequent amendment which would. Our original amendment did, indeed, have a specific exclusion of native forest timber products, but that was removed by an amendment to our amendment.

I want to pursue a bit more the two inclusions, (s) fuel cells and (t) co-firing. I hear what the minister says about only those renewable elements attracting the eligibility, but if we already have solar, bagasse, crop waste and so on—which you would expect to contribute to those two methods of generating electricity rather than being sources—it seems to me to be unnecessary and confusing to put them in. Firstly, I cannot see any purpose; secondly, it seems to me to be possibly confusing and gives the wrong kind of signal about what we are talking about here in terms of sources, not methods of generating electricity. I am not persuaded that those the last two points—(s) fuel cells and (t) co-firing—ought to be there.

Senator BROWN (Tasmania) (11.09 p.m.)—I would just ask Senator Hill if he has had any further information from his experts that would put the lie to the 15 per cent figure that I put forward and if his experts are
aware of the various wood burning projects that have been flagged. Finally, he said that, in his view, wood waste would have to come from a project which was primarily aimed at some other object such as sawmilling. I ask Senator Hill: does that mean that a 60 per cent woodchip operation could send 40 per cent wood waste to a furnace for the production of renewable energy and qualify under this legislation?

Senator HILL (South Australia—Minister for the Environment and Heritage) (11.10 p.m.)—I understand that the consultants have had a further think about this matter and believe that their original figures are still in the ballpark in relation to native forest waste. I may have missed the second question that was asked, which, I think, was, ‘If 60 per cent was going to woodchips and 40 per cent was being used for energy production, would the 40 per cent qualify as wood waste?’ If that was the question, then I cannot see why it wouldn’t.

The CHAIRMAN—We have two amendments here. On the running sheet the first one to be moved is the Democrats’ amendments (1) and (2) on sheet 2091. Senator Allison, what is your wish?

Senator ALLISON (Victoria) (11.11 p.m.)—Thank you, Chairman, I actually need to amend that amendment, since the clause being amended already includes part of the amendment that I am proposing. We do not need amendment No. 1, so I just withdraw that amendment. But if we could remove in amendment No. 2 everything after ‘add’ up to ‘(c) non-plantation and native forest wood products and wood waste’ and have (c) remain as the amendment. Is that clear? Should I mark up an amendment here and pass it down?

CHAIRMAN—So you are withdrawing amendment No. 1 and you are amending amendment No. 2 to read ‘Clause 17, page 11 (after line 25), at the end of the clause, add: (c) non-plantation native forest wood products and wood wastes’?

Senator ALLISON—That is correct. Judging by the debate so far and back in October when we dealt with this bill, I do not expect support from the two major parties for this amendment. I nonetheless put it up because, for the Democrats, this is perhaps one of the most important aspects of the bill representing the greatest problems as far as we are concerned. I do not want to canvas all of the arguments again, but in the period of time between 10 August, when we last debated this bill, and today there has been an opportunity for us to spend more time talking with, particularly, forest groups about what is going on in their areas, and I remain seriously concerned about the likelihood that this legislation will give further impetus to logging which is, I am convinced, unsustainable in so many forests. We know that in New South Wales, in Western Australia, in Tasmania and in parts of Victoria there is so much forest material taken out of those forests which is supposedly waste but in some cases we know it to be already 70 per cent to 90 per cent of the—

The CHAIRMAN—Senator Allison, before you continue with your amendment, I think the best course of action would be for us to pass the motion that the committee does not insist on amendment No 7. We then get Senator Bolkus to move his amendment, and yours can then become an amendment to his amendment, because it is actually adding a clause to the end of Senator Bolkus’s clause (2). Is it the wish of the committee that you defer your amendments so that we can actually get something to attach yours to?

Senator ALLISON—Chair, have we dealt with the question of whether Senator Bolkus’s amendment should replace the one which was our amendment No. 2?

The CHAIRMAN—No.

Senator ALLISON—Could we deal with that first because I have already expressed some concerns about the amendments to our amendment, which added fuel cells, cofiring, hot dry rock, ocean, wave and tidal. I have already expressed some concerns about that, and I think we would like to vote on whether that should be the replacement of the previous amendment.

The CHAIRMAN—Yes. So the question will be, first of all, that the committee does not insist on amendment No. 7 not made by
the House of Representatives. I would expect that the opposition and government will vote in favour of that. I do not know what you are going to do, Senator Allison. That is your decision. I put the question that the committee does not insist on amendment No. 7 not made by the House of Representatives.

Question resolved in the affirmative.

Amendment (by Senator Bolkus) proposed:
(1) Clause 17, page 11 (lines 21 to 25), omit the clause, substitute:

17  What is an eligible renewable energy source?

(1) The following energy sources are eligible renewable energy sources:

(a) hydro;
(b) wind;
(c) solar;
(d) bagasse co-generation;
(e) black liquor;
(f) wood waste;
(g) energy crops;
(h) crop waste;
(i) food and agricultural wet waste;
(j) landfill gas;
(k) municipal solid waste combustion;
(l) sewage gas;
(m) geothermal-aquifer;
(n) tidal;
(o) photovoltaic and photovoltaic Renewable Stand Alone Power Supply systems;
(p) wind and wind hybrid Renewable Stand Alone Power Supply systems;
(q) micro hydro Renewable Stand Alone Power Supply systems;
(r) solar hot water;
(s) co-firing;
(t) wave;
(u) ocean;
(v) fuel cells;
(w) hot dry rocks.

(2) The following energy sources are not eligible renewable energy sources:

(a) fossil fuels;
(b) waste products derived from fossil fuels.

(3) The regulations may prescribe any matter necessary or convenient to give effect to this section.

Senator ALLISON (Victoria) (11.16 p.m.)—I move Democrats amendment No. 2, as amended:

Clause 17, page 11 (after line 25), at the end of the clause, add:

(c) non-plantation native forest wood products and wood wastes.

This amendment would exclude non-plantation native forest wood products and wood wastes from the list of eligible renewable sources.

Senator MURPHY (Tasmania) (11.16 p.m.)—This amendment would exclude non-plantation native forest wood products and wood wastes. So one has to assume that it is acceptable if it comes from plantation forests. With the greatest of respect, I have to say to the Democrats that this about saying to one section of the industry that the residue or the wood products, including logs and the whole box and dice, can come from a plantation forest and be funnelled down a biomass energy plant.

Senator Allison—You can now; there’s nothing stopping you.

Senator MURPHY—Insofar as this country’s trade deficit in wood products is concerned, that would be an unacceptable position from my point of view. When I look at my own state insofar as native forests are concerned—and they are commercial harvesting operations, which are happening and will continue to happen for a reasonable period of time at least—in my state alone there is burned each year on the forest floor at least six million tonnes of residue. It just goes up in smoke. I question very seriously any proposal that says that is acceptable. If I went to Senator Allison’s state of Victoria, it would not be much different. If I went to New South Wales, it would not be much different. Yet we have a proposal from the Democrats that says that you can put it into what is a cleaner burning process. I am not saying that is the best thing, but when I watch some six million tonnes of residue being burned on the forest floor in my state, whether it be from land clearing—because it does include some land clearing exercises by
the rural sector in my state—or is attributed
to forest activity in native forests, I find that
unacceptable. I just cannot understand the
logic of that.

Senator Bolkus interjecting—

Senator MURPHY—I will ignore that
comment. But I have to say that it is a pity
that a few more people in this chamber do
not have a really good understanding of what
exactly is happening out there in the forest
industry. It would be very useful if a few
people did have some understanding of that.
They might then proceed to put up some
amendments that would be relevant to en-
suring that this country is better off both in
terms of biomass energy and in terms of its
forest industry—and that is more the pity for
this parliament.

Senator Allison—You put them up.
Senator MURPHY—I would like to.
Senator Allison—Come on.

Senator MURPHY—I would like to, but
I would not put up this amendment that
Senator Allison has put up because it does
not solve the problem one iota. This is a
philosophical amendment that says, ‘We are
against native forest harvesting by the forest
industry of this country.’ That is what this is
about, and some people ought to come to
grips with that—on all sides of politics.
Frankly, if this amendment gets up, you will
deny my state, in particular, which has a very
significant native forest harvesting industry,
the opportunity to deal with its residue in a
better way than it currently does. I will op-
pose this amendment. Frankly, I do not care
what the position of any party is, I will op-
pose it. This is an important bill, and it could
be made a much better bill. This amendment
does not make it a better bill. I hope that the
government will not accept the amendment.

As I said to the minister before, I still do
not necessarily accept that regulation will
deal with the problem of definition. I think
we have to go further than regulation. It is
unfortunate that this bill happened to be
brought on at this point in time. I had hoped
that it would be dealt with in the new year,
because it is a very important bill in terms of
renewable energy. I would like to see us ac-
tually strive to get an appropriate renewable
energy industry in this country, and I would
like to see my state play a very important
role in that. That is why I express some seri-
ous concern about some aspects of the bill. I
have to say that, frankly, I do not care what
the position of any party is about this par-
ticular amendment; I will vote against it.

Senator BROWN (Tasmania) (11.23
p.m.)—You are safe there, Senator Murphy,
because your party is going to vote against it,
but not for the reasons that you have put
forward. One thing I will say about Senator
Murphy is that he does have a very deep un-
derstanding of the problems within the Tas-
manian forest industry. I do not come to the
same conclusions as him but I respect his
understanding, and he is dead right: it is a
pity that people on both sides of the chamber
do not share that knowledge and are not
savvy with the mismanagement that is ram-
pant in the forest industries around the coun-
try, not least in Tasmania. This year in Tas-
mania five million tonnes of woodchips will
be exported overseas, coming from 150,000
trucks drawing them out of the great forests
of Tasmania, which are being decimated at
the greatest rate in history, for the lowest
price in history, for the fewest jobs in history.
That is what Mr Howard and Premier Bacon
got together and signed the prescription for
in 1998.

Now Senator Hill, the minister for the en-
vironment, is telling us that we will be able
to have these forests divided up, with 60 per
cent off to the woodchip mill and 40 per cent
off to the furnace to create electricity, and
that will be called ecologically sustainable. I
agree with Senator Allison on the matter, not
with Senator Murphy. That is different from
not respecting Senator Murphy’s knowledge
of the mismanagement and corruption that
occurs in the Tasmanian forest industry,
which ought to be subject of a royal commis-
sion. That having been said, this is an im-
portant amendment. It is very similar to an
amendment I moved when the bill was origi-

ally before the Senate. It would protect na-
tive forests from being slaughtered, fed into
furnaces—and, through Basslink, as far as
Tasmania is concerned into the Melbourne
market—and as I read out earlier, to suffer
the same fate as all the other forest estates, and the woodlands of Queensland as well.

One thing Senator Murphy will know is that, when the woodchip industry set up in New South Wales and Western Australia and then Tasmania in 1969 and 1970, it promised to take the waste up to the sawmilling. But it very quickly became the core taker of the whole forest, and the sawmill industry was left on the periphery. You have to learn from that. Now we are faced with a potentially voracious furnacing of forests to create electricity, a new market that may very well leave pulpwood on the periphery. Senator Murphy says that six million tonnes of residue is burned on the ground in Tasmania each year and that is not going to change very much. That is not what this industry is after. It wants logs. It wants to put them into furnaces and it wants to burn them to make power. It is an economically run industry; it is not an environmentally run industry. One of the reasons for that is that we do not have an environment minister who will stand up for the forests.

The minister has brought on this legislation tonight. I agree with Senator Murphy: it should have been brought on in the new year. It has the whole parliament waiting. But he has brought it on knowing how important this matter is to the environmentally minded parties, the Greens and the Democrats, in particular. It is a core issue for us. It is fundamental. One of the great tragedies of modern Australia is this destruction of forests and woodlands, and here we are being asked to put our imprimatur on a new, potent, destructive agent of the natural realm of Australia. I will not stand for it. I am not going to support that. I will support this amendment.

Senator ALLISON (Victoria) (11.27 p.m.)—I do not want to prolong this debate. We have had it many times over and over. But I do object to Senator Murphy suggesting that he is the only one in this place who knows anything about forests. That is clearly nonsense. We have all been out into forests and we all know what happens. To suggest that this measure, if it includes native forest residual material, will solve the problem of burning residue on the forest floor is wrong; it will not. The only way we will stop that problem is to stop clear-fell logging so that we do not end up with treetops and every growing matter in the forests being knocked down and left on the forest floor. That is why it is burned. It is not put on trucks and taken somewhere to be woodchipped. That is the great myth put about by the forest industry: that woodchippers were simply taking the residue. We know they do not do just that; they like nice, big, strong, straight logs like the sawmillers do—the fewer the better, the fewer the branches, the less rotting material and the less bark, the more the woodchippers like them. So this measure is not going to see trucks trundling down the road in forest areas taking with them the residue off the forest floor. It will still be burned in the same way it is now.

In the same way, this amendment would not stop the use of native forest timbers for burning, for sawmilling, for woodchipping or for anything else. It simply does not give them the advantage that we think renewable energy ought to have—that is, that ought to be primarily wind and solar. What this is doing is likely providing far greater opportunities for what is already a lucrative business, because we charge so little for our native forest timbers. Again, I think Senator Murphy underestimates the degree of interest in this subject by those at this end of the chamber. I have spent a great deal of time in forests, I have seen the operations, I know what happens and I know why the timber is burned on the forest floor; this measure certainly will not stop that.

The CHAIRMAN—The question is that the amendment moved by Senator Allison to Senator Bolkus’s amendment in lieu of original amendment No. 7 be agreed to.

Question put:

The committee divided. [11.34 p.m.]

(The Chairman—Senator S.M. West)

Ayes…………… 8
Noes…………… 42
Majority……… 34

AYES

Allison, L.F. Bartlett, A.J.J.
Bourne, V.W. * Brown, B.J.
Question so resolved in the negative.

The CHAIRMAN—The question now is that the amendment moved by Senator Bolkus, in lieu of amendment No. 7, be agreed to.

Amendment agreed to.

The CHAIRMAN—We now move to amendment No. 17.

Senator HILL (South Australia—Minister for the Environment and Heritage) (11.37 p.m.)—Can I suggest that you do amendments Nos 17, 18, 19 and 20 together. They were amendments that we previously passed that we are not going to object to.

The CHAIRMAN—The question is that the committee does not insist on amendments Nos 17, 18, 19 and 20 not made by the House.

Question resolved in the negative.

The CHAIRMAN—We now move to amendment No. 22.

Senator HILL (South Australia—Minister for the Environment and Heritage) (11.38 p.m.)—That is an amendment that we will be insisting on because we now accept constitutional advice that it is invalid. We will be insisting on the message.

Senator BOLKUS (South Australia) (11.38 p.m.)—In regard to that amendment, we are also of the view that the initial position we took was in the wrong bill. We believe the indexed charge should go in the Renewable Energy (Electricity) (Charge) Amendment Bill 2000. Instead of insisting on this amendment to this bill, we will move it by way of the supplementary legislation—the Renewable Energy (Electricity) (Charge) Bill 2000. So we will not be insisting on our amendment at this particular stage.

The CHAIRMAN—Senator Brown, you have an amendment. Do you wish to pursue that in lieu of what you just heard?

Senator BROWN (Tasmania) (11.39 p.m.)—Are you referring to amendment (1) on sheet 2096, Chair?

The CHAIRMAN—That is correct.

Senator BROWN—Yes, I wish to move that amendment because I am concerned that, with the CPI indexation of penalties in this bill being moved into another bill, we may lose control of the matter as far as this Senate’s sitting is concerned. I want to ensure that this bill is not passed unless the Renewable Energy (Electricity) (Charge) Bill 2000 comes into force at the same time. This is a simple measure for ensuring that the government does the right thing and that this amendment is included in the package. I move:

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

2 Commencement

This Act commences at the same time as the Renewable Energy (Electricity) (Charge) Amendment Act 2000.

Senator BOLKUS (South Australia) (11.39 p.m.)—That was something I considered myself at an earlier time, but I think our position is protected if we are successful in pursuing, and insisting on, the amendment to the charge legislation. I do not think it is necessary to support Senator Brown’s amendment at this stage.

Senator Brown—Madam Chair, I rise on a point of order. I could not hear what Senator Bolkus said.

The CHAIRMAN—Before Senator Bolkus continues his remarks, perhaps there
could be less conversation in the chamber. Some groups of people on the left are having conversations which are causing Senator Bolkus and Senator Brown difficulty in hearing what is being said.

Senator BOLKUS—I had also considered this sort of amendment but, in essence, unless we are successful in pursing the actual rate indexation in the charge bill, then this sort of amendment is in a sense superfluous. I know what Senator Brown is trying to do, but I think it already hinges on whether we can successfully pursue the CPI rate in respect of the charge bill. I do not think it really adds all that much to it, Senator Brown.

The CHAIRMAN—Senator Brown, did you manage to hear that with the conversations behind you?

Senator BROWN (Tasmania) (11.41 p.m.)—I did. There has been some attenuation of the noise. Senator Bolkus has argued against himself, Chair. The fact is that, if we pass this and it is superfluous because we do not pass the next amendment, then it is not going to matter. But if we do not pass this and the next amendment does pass, it does matter. So we should pass it.

Senator HILL (South Australia—Minister for the Environment and Heritage) (11.42 p.m.)—I was saying that the government’s amendments also provide the same starting date for both. So, one way or another, I think Senator Brown’s concerns—whilst they are valid concerns—will be put to rest.

The CHAIRMAN—The start date is in government amendments Nos 25, 4, 5 and 12 on sheet EL244, which will be done after we have worked our way through the amendments to No. 24.

Senator Brown interjecting—

The CHAIRMAN—Yes, Senator Brown, at this hour of the night. Senator Brown, are you not going to proceed with your amendment?

Senator BROWN (Tasmania) (11.43 p.m.)—I am supporting it.

The CHAIRMAN—The question is that Senator Brown’s amendment be agreed to.

Question resolved in the negative.

The CHAIRMAN—The question now is that the committee does not insist on amendment No. 22 not made by the House. Senator Hill, do you want to insist on this?

Senator Hill—Yes.

The CHAIRMAN—You misled us a bit earlier, Senator Hill. You want to insist on amendment No. 22. You led me to believe that you wanted to agree with the—

Senator Hill—I am on the side of the House of Representatives.

The CHAIRMAN—So it is yes. The question is that the committee does not insist on amendment No. 22 not made by the House. Those of that opinion say aye; to the contrary, no. I think the noes—

Senator Bolkus—The chair called that the committee does not insist. If we vote yes to not insisting, it means that we do not insist on the amendment that the House asked us not to insist on. So the chair called it right.

Senator Hill—I accept what you are saying.

Senator Bolkus—So basically we have just taken a decision not to insist on our amendment. I suggest we move on to amendment (24).

The CHAIRMAN—I will put it again so we are clear.

Senator Bolkus—You might get it wrong this time.

The CHAIRMAN—No, I do not think so. The question is that the committee does not insist on amendment (22) not made by the House. I know it is a double negative.

Question resolved in the negative.

The CHAIRMAN—We now proceed to amendment (23). The question is that the committee does not insist on amendment (23) not made by the House.

Senator Hill—I think the committee does want to insist on this.

Senator BOLKUS (South Australia) (11.46 p.m.)—This is the 30 days provision of public consultation. This is a provision that ensures that before the regulations are actually set in concrete and foisted on us, addressing such important issues as we canvassed earlier, there is a public consultation in respect of them. I would like to insist on that amendment.
Senator HILL (South Australia—Minister for the Environment and Heritage) (11.46 p.m.)—We understand that and we will not be arguing to the contrary.

Question resolved in the negative.

The CHAIRMAN—We now proceed to amendment (24).

Senator BOLKUS (South Australia) (11.47 p.m.)—I move:

Omit “agrees to the amendment made by the House in place of that amendment”, substitute “, does not agree to the amendment made by the House in place of that amendment, but agrees to the following amendment in place of the amendment agreed to by the House:

Page 94 (after line 23), at the end of the bill, add:

162 Review of operation of Act

(1) The Minister must cause an independent review of the operation of this Act, including consideration of:

(a) the extent to which the Act has:

(i) contributed to reducing greenhouse gas emissions; and

(ii) encouraged additional generation of electricity from renewable energy sources; and

(b) the extent to which the policy objectives of this Act have been achieved and the need for any alternative approach; and

(c) the mix of technologies that has resulted from the implementation of the provisions of this Act; and

(d) the level of penalties provided under this Act; and

(e) the need for indexation of the renewable energy shortfall charge to the Consumer Price Index to maintain the real value of the charge and the associated penalty charge; and

(f) other environmental impacts that have resulted from the implementation of the provisions of this Act, including the extent to which non-plantation forestry waste has been utilised; and

(g) the possible introduction of a portfolio approach, a cap on the contribution of any one source and measures to recognise the relative greenhouse intensities of various technologies; and

(h) the level of the overall target and interim targets; to be undertaken as soon as practicable after the second anniversary of the commencement of this Act.

(2) A person who undertakes such a review must give the Minister a written report of the review.

(3) The Minister must cause a copy of the report of the review to be tabled in each House of the Parliament within 12 months after the second anniversary of the commencement of this Act.

(4) In this section:

independent review means a review undertaken by persons who:

(a) in the Minister’s opinion possess appropriate qualifications to undertake the review; and

(b) include one or more persons who are not employed by the Commonwealth or a Commonwealth authority and have not, since the commencement of the Act, provided services to the Commonwealth or a Commonwealth authority under or in connection with a contract.”

This is an important amendment. It is one that has been driven by a need for transparency and scrutiny of this legislation, given that there are such great concerns about it. What we are doing with this amendment is ensuring that there is a review of the legislation not after three years, as was initially agreed to by the Senate, but within 12 months after the second anniversary of the commencement of the act. We are talking about some fairly specific provisions that have to be addressed by the reviewer. The independent review is what we are anticipating embodying in this clause. The independence of the review is defined in subclause (4) of proposed section 162. We are talking about, for instance, at least one or more people involved in the review who are not employed by the Commonwealth or in connection with a contract of the Commonwealth. So we are talking about an independent review. The review document has to be written and tabled in parliament after the review is completed. So we have that
mechanism to ensure scrutiny and independence of the review.

We also specify in this particular provision that the review has to extend to a certain number of issues such as the extent to which the act has contributed to reducing greenhouse gas emissions and encouraged additional generation of electricity from renewable energy sources and the extent to which the policy objectives of the act have been achieved. Importantly, the review has to report on the mix of technologies that have resulted from the provisions of the act. Importantly, also in the context of this debate, the review must report on the level of penalties and the need for indexation. In paragraph (f) we are talking about the review addressing other environmental impacts and particularly important of those and specified in the paragraph is the impact on the non-plantation forestry waste to the extent that that has been utilised.

What I would like to insist on here is a fairly strong independent review capacity earlier in the piece as opposed to what we had in the previous amendment and one that I think will impose an enormous degree of scrutiny. Together with the other clauses, we will be in a position to know the source of the renewable energy and the degree to which such source has been accessed. This review, within two years, will give the parliament a fairly immediate snapshot of how the legislation is working. I think it is critical that we adopt that. Unless we do know that within two to three years, then there is a real possibility that unforeseen consequences that people, in a sense, are signalling now as being quite possible may in fact eventuate and we may do environmental damage that this legislation should not be doing and this parliament should not be sanctioning.

I indicate that we want to insist on the pre-existing clause 24 but in an amended form that will ensure that the need for indexation is taken into account by the review and that the review will take place after two years, not after three.

Senator Allison—I do not seem to have that ALP amendment.

The CHAIRMAN—It is on sheet 2094. The easiest way to deal with this is if we knock out the original request back from the House of Representatives and then vote on Senator Bolkus’s amendment. The question is that the committee not insist on amendment (24) not made by the House.

Question resolved in the affirmative.

The CHAIRMAN—The question is that the amendment moved in its place by Senator Bolkus be agreed to.

Question resolved in the affirmative.

The CHAIRMAN—We now need to go back to amendment (22) because there has been some confusion in the shop. Is leave granted for the committee to deal again with amendment (22)?

Senator BROWN (Tasmania) (11.52 p.m.)—In considering that matter, why?

Senator Bolkus—It has been botched.

Senator BROWN—I hear that it has been botched, but I want to know just how it was botched.

The CHAIRMAN—It was because the advice I gave got us all confused and we have now sorted it out. It should have been called ‘to not insist on the amendment’. There is a constitutionality issue.

Senator BROWN—This is my great opportunity, Chair, as you know. This would hold the whole thing over until next year.

The CHAIRMAN—Please, Senator Brown. I will go down on bended knee at this hour of the night.

Senator BROWN—but me being the totally reasonable contributor here, as Senator Hill and Senator Bolkus will know, I am certainly not going to get in the way of a right procedure.

The CHAIRMAN—Thank you. The Clerk and the Chair thank you immensely. Leave granted.

The CHAIRMAN—I put the question again that the committee does not insist on amendment No. 22.

Question resolved in the affirmative.

Senator HILL (South Australia—Minister for the Environment and Heritage) (11.53
In the new government amendments there are some technical amendments. There is the change to the start date to take it back to 1 April, because this bill has taken a while in the Senate. There is the capacity for the authority to recover its costs—to make a charge. I seek leave to move the six blocks of amendments together.

Leave granted.

Senator HILL—I move:

Clause 3, page 2 (line 13), omit “certificate”, substitute “shortfall”.
Clause 5, page 5 (line 21), omit “certificate”, substitute “shortfall”.
Clause 8, page 8 (line 8), omit “certificate”, substitute “shortfall”.
Clause 21, page 13 (line 9), omit “January”, substitute “April”.
Subclause 23A(1), omit “January”, substitute “April”.
Clause 26, page 15 (after line 30), after subclause (3), insert:

(3A) A certificate is not eligible for registration unless the Regulator has been paid the fee (if any) prescribed by the regulations for the registration of the certificate.

Clause 28, page 17 (after line 9), after subclause (2), insert:

(2A) The notification must be accompanied by the fee (if any) prescribed by the regulations for the purposes of this subsection.

Heading to Part 4, page 22 (line 2), omit “certificate”, substitute “shortfall”.
Clause 36, page 22 (line 10), omit “certificate charge”, substitute “shortfall charge”.
Clause 36, page 22 (line 12), omit “certificate”, substitute “shortfall”.
Clause 36, page 22 (line 17), omit “certificate”, substitute “shortfall”.
Clause 37, page 22 (line 25), omit “for the year”.
Clause 40, page 25 (table item dealing with 2001), omit “400”, substitute “300”.
Clause 44, page 28 (after line 29), at the end of the clause, add:

(5) The annual energy acquisition statement must also be accompanied by the fee (if any) prescribed by the regulations for the surrender of the renewable energy certificates that are being surrendered for the year.

Clause 45, page 29 (line 6), omit “person”, substitute “entity”.
Clause 46, page 29 (line 22), omit “certificate”, substitute “shortfall”.
Clause 47, page 30 (line 14), omit “certificate”, substitute “shortfall”.
Clause 47, page 30 (line 21), omit “certificate”, substitute “shortfall”.
Clause 48, page 31 (line 2), omit “certificate”, substitute “shortfall”.
Clause 48, page 31 (line 6), omit “certificate”, substitute “shortfall”.
Clause 48, page 31 (line 13), omit “certificate”, substitute “shortfall”.
Clause 48, page 31 (line 17), omit “certificate”, substitute “shortfall”.
Clause 48, page 31 (line 22), omit “certificate”, substitute “shortfall”.
Clause 98, page 58 (lines 8 to 10), omit subclause (2).
Page 94 (after line 23), at the end of the bill, add:

Part 17—Application of Act to 2001

163 Object of Part

The object of this Part is:

(a) not to apply this Act to the period of 3 months commencing on 1 January 2001; but

(b) to apply this Act to the period of 9 months commencing on 1 April 2001 as if that period were the whole of the year commencing on 1 January 2001.

This means that the Act does not apply to electricity generated before 1 April 2001.

164 Modification of references to a year

This Act applies in relation to the year commencing on 1 January 2001 as if all references to a year, to the extent that they are references to the year commencing on 1 January 2001 (including specific references to the year commencing on 1 January 2001), were references to the period of 9 months commencing on 1 April 2001.

165 Modification of other references

This Act applies in relation to the year commencing on 1 January 2001 as if the reference in section 39 to
“31 March in the year” were a reference to “30 June in the year”.

Senator BROWN (Tasmania) (11.54 p.m.)—Does 1 April have to be the date? It has not been delayed by the Senate; it has been delayed by the government. It could have been on here a long time ago. The industry is out there saying, ‘We want to start up on this.’ I am just not acceding to the Senate being the delaying factor here. The government did not give this the priority it should have.

Senator Hill—I’ll take the blame.

Senator BROWN—It is not a matter of taking the blame. Why don’t we stick with 1 January, or why not 1 February? It is important to the industry.

Amendments agreed to.

Resolution reported.

Senator HILL (South Australia—Minister for the Environment and Heritage) (11.57 p.m.)—I move:

That the report of the committee be adopted.

Senator BROWN (Tasmania) (11.57 p.m.)—I make a final comment on this. This bill is an absolutely tragic piece of legislation, and the opposition should be ashamed of itself for having let the government get away with this. It is an environmental monstrosity. The opposition has failed to give the people of Australia a choice, again. This is going to lead to hundreds of thousands, if not millions, of tonnes of Australia’s wild forests being fed into furnaces and turned out as so-called green energy. It is an absolutely shameful piece of legislation. I am not surprised at it coming from the Howard government, because it has a shameful record, but I would have thought this far into opposition there could have been some distance put between the government and itself by the opposition. But the Labor Party walks hand in hand with Prime Minister Howard on the matter of forests and the environment generally. It is time they put some distance in there. They are not going to make it into government if they don’t.

Senator BOLKUS (South Australia) (11.58 p.m.)—Senator Brown, you are the first person who has ever accused me of walking hand in hand with the Prime Minister. That is something that is totally anathema to me and probably to him as well. I know it is late at night, but it is something I do not really think I should accept. Secondly, Senator Brown, I think in your previous contribution you acknowledged that this is not easy, and there is a renewable energy industry that actually wants an outcome here tonight. Just a few minutes ago you were advocating that the government start the legislation earlier than April. So there is a bit of inconsistency in you saying now that this is just an obnoxious piece of legislation when three minutes ago you actually wanted it started earlier than is anticipated by the legislation. I understand what your concerns are. I share a lot of those concerns, but I think at the same time there is enormous pressure on the parliament to get this structure of legislation in place.

Senator Brown—That is by the wind and solar industry, not the woodchip industry.

Senator BOLKUS—That’s right. The renewable energy industry is an important industry to kick off.

Question resolved in the affirmative.

Report adopted.

Friday, 8 December 2000

RENEWABLE ENERGY (ELECTRICITY) (CHARGE) AMENDMENT BILL 2000

First Reading

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

That the following bill be introduced: A Bill for an Act to amend the Renewable Energy (Electricity) (Charge) Act 2000, and for related purposes

Motion (by Senator Hill) agreed to:

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

Bill read a first time.

Senator HILL (South Australia—Minister for the Environment and Heritage) (12.01 a.m.)—I seek leave to move a motion to exempt this bill from the provisions of standing order 111.
Thursday, 7 December 2000

The DEPUTY PRESIDENT—Is leave granted?

Senator Brown—I ask why we should. Can the minister give an explanation? Here is a very late amendment to a piece of totally unsatisfactory legislation. The government has been considering this for months and suddenly it finds it has to make a total change.

The DEPUTY PRESIDENT—Senator Brown, are you seeking leave to ask a question or make a statement on this?

Senator Brown—I have finished my statement. The government can respond to that if it has the wherewithal.

The DEPUTY PRESIDENT—Is leave granted for Senator Hill to move a motion?

Leave granted.

Senator HILL—I thought a moment ago Senator Brown was pressing the point that these bills must move in tandem. What we are seeking, through this amendment, is to link the starting dates of the charge bill with the bill that we have just passed. Senator Bolkus is going to take the opportunity then to move an amendment to add the indexation provision, which Senator Brown supports, to this bill, because it was unconstitutional under the previous bill. I move:

That the provisions of paragraphs (5) to (7) of standing order 111 not apply to the Renewable Energy (Electricity) (Charge) Amendment Bill 2000, allowing it to be considered during this period of sittings.

Question resolved in the affirmative.

Second Reading

Senator HILL (South Australia—Minister for the Environment and Heritage) (12.02 a.m.)—I table an explanatory memorandum relating to the bill and move:

That the bill be now read a second time.
I seek leave to have the second reading speech incorporated in Hansard.

Leave granted.

The speech read as follows—

This Bill amends the application of the provisions of the Renewable Energy (Electricity) (Charge) Act 2000 to coincide with amendments to the Renewable Energy (Electricity) Bill 2000 which delay the commencement of the mandatory renewable energy target.

The Renewable Energy (Electricity) (Charge) Act 2000 imposes the rate of penalty for non-compliance with the mandatory renewable energy target, to be implemented through the Renewable Energy (Electricity) Bill 2000, which is currently being considered by Parliament.

The delay in finalising the Renewable Energy (Electricity) Bill 2000 has meant that the commencement of the scheme must be delayed by several months and the Government has moved amendments to achieve this outcome.

However, the Renewable Energy (Electricity) (Charge) Act 2000, as it currently stands, will impose the penalty of $40 per megawatt hour for the year commencing 1 January 2001. As the renewable energy target will not now commence on this date, the Renewable Energy (Electricity) (Charge) Act 2000 is being amended so that the obligations imposed under the mandatory renewable energy target and the penalty for non-compliance with those obligations commence at the same time.

I commend this bill to the Senate.

Question resolved in the affirmative.

Bill read a second time.

In Committee

The bill.

Senator BROWN (Tasmania) (12.02 a.m.)—Very many months after Senator Hill brought in the legislation for the woodchip burning bill, he finds that the penalty provisions that are in there are unconstitutional. What a hopeless performance!

Senator BOLKUS (South Australia) (12.03 a.m.)—I move:

Schedule 1, item 1, page 3 (lines 5 to 7), omit the item, substitute:

1 Section 6
Repeal the section, substitute:
6 Rates of charge
(1) The rate of charge in relation to the year commencing on 1 April 2001 is $40 per MWh.
(2) For any later year, commencing on or after 1 April 2002, the rate of charge is calculated by multiplying the rate of charge for the year before the later year by the following indexation factor:
(3) The indexation factor is to be calculated to 3 decimal places, but increased...
by .001 if the fourth decimal place is more than 4.

(4) Calculations under subsection (3):
(a) are to be made using only the index numbers published in terms of the most recently published reference base for the Consumer Price Index; and
(b) are to disregard indexation numbers that are published in substitution for previously published index numbers (except where the substituted numbers are published to take account of changes in the reference base).

(5) If the indexation factor worked out under subsection (3) would be less than 1, the indexation factor is to be increased to 1. This subsection has effect despite subsection (3).

(6) In this section:
CPI quarter means a period of 3 months ending on 31 March, 30 June, 30 September or 31 December.
index number means the All Groups Consumer Price Index number (being the weighted average of the 8 capital cities) published by the Australian Statistician.

My amendment goes to the rate of the charge and the proposal of the opposition to actually index the charge. We have expressed our concern that the review, when it takes place, should consider the charge’s adequacy. We have also expressed a concern that, in order to at least protect the level of the charge against erosion because of the CPI, the charge should in fact be CPI indexed.

We acknowledge, in proposing these amendments, that the government has accepted amendments moved by the opposition to remove tax deductibility from the charge. Tax deductibility would have eroded the real value of the charge enormously, and we acknowledge that we have been successful in removing that aspect of it.

But we do think CPI indexation is important. We urge the government to accept this. In a sense, this is not a big price for the government to pay. If you are talking about the next two years leading up to the review, you are talking about $3.50 as the overall amount that would be levied—so it is just over $3—and I am sure industry can accept—and, in order to maintain the real value of the charge, the government should accept—that sort of amount. So we urge the government to be flexible about this. We understand that there are pressures on it, but the real pressure here is for the government to consider ensuring that the real value of their charge is maintained. As I say, in the lead-up to the review, which takes place after two full years, all we are really talking about is an increase or about $3 to $3½.

Senator HILL (South Australia—Minister for the Environment and Heritage) (12.05 a.m.)—The government is opposing the amendment. The bill that we have passed tonight contains provisions for a review. In that review, if it is found that the charge is inadequate for the objectives of the bill, then the government of the day would obviously cause the charge to be reviewed and if necessary legislative amendment to be made. There is no natural relationship between indexation and what is an adequate penalty for the purposes of this bill and therefore we believe this particular technique is not appropriate in these circumstances.

Senator BROWN (Tasmania) (12.06 a.m.)—Given the minister’s assertion, would he direct us to where the same start-up date applies here as in the other piece of legislation? I do not have the bill in front of me at the moment.

Senator Bolkus—It provides that the act commences at the same time as section 1 of the Renewable Energy Electricity Act. That is the nexus, Senator Brown.

The CHAIRMAN—Commencement, as at item 2 on page 1 of the bill, is that:
This Act commences, or is taken to have commenced, immediately after the commencement of the Renewable Energy (Electricity) (Charge) Act 2000.

Senator HILL (South Australia—Minister for the Environment and Heritage) (12.06 a.m.)—As to what occurs, the previous bill referred to the year commencing 1 January 2001 and that is omitted because the bill’s operation is not going to commence until 1 April 2001.

Senator BROWN (Tasmania) (12.07 a.m.)—Yes, but was the previous bill called
the Renewable Energy (Electricity) (Charge) Bill?

The CHAIRMAN—Yes, it was. It went through and received royal assent, I am advised. We are dealing with the opposition amendment No. 1 on sheet 2075, which relates to CPI indexation.

Senator BROWN—Chair, I am asking the questions of the minister. I want to ask the minister if the previous bill we dealt with just a moment ago, the amendments to which we reported just a moment ago, was called the Renewable Energy (Electricity) (Charge) Bill.

Senator HILL (South Australia—Minister for the Environment and Heritage) (12.08 a.m.)—The bill we have passed is the Renewable Energy (Electricity) Bill. We are now dealing with the Renewable Energy (Electricity) (Charge) Bill, which is the one that attaches the charge. One bill cannot work without the other.

Senator BROWN (Tasmania) (12.08 a.m.)—In this Renewable Energy (Electricity) (Charge) Bill it says, ‘This Act commences or is taken to have commenced immediately after the commencement of the Renewable Energy (Electricity) (Charge) Act.’ How can an act begin after the implementation of an act which is the same?

Senator HILL (South Australia—Minister for the Environment and Heritage) (12.10 a.m.)—I am having trouble understanding Senator Brown’s question. I am sure that that is my inadequacy. I am not going to suggest that there is a problem on Senator Brown’s side. When the charge bill was previously passed, it went through and received the royal assent, so it actually applied although obviously it could not be effective without the principal bill being carried. We have passed tonight the principal bill and we are seeking to update the charge bill so that it will relate to the bill that we have passed earlier this evening. I do not think there is a problem in that regard. All my advisers tell me there is not a problem in that regard.

Senator BROWN (Tasmania) (12.12 a.m.)—It appears that the minister does not understand the point I am putting. That is why I had the amendments here, though. However, as I said to you earlier, Chair, we are left to simply trust. I think the opposition does understand the point I am making, and it is a matter of trusting that this penalty clause will be there when the renewable energy bill comes into law.

Senator BOLKUS (South Australia) (12.13 a.m.)—I wonder if I can help here. I do not think it is just a matter of trust; if we do not actually set a charge then the principal
legislation does not have any real value or effect. The principal legislation is the electricity bill. What we are doing by this amendment bill tonight is in subclause 2, which says:

This Act commences or is taken to commence immediately after the commencement of the Renewable Energy (Electricity) (Charge) Act 2000. So this takes effect immediately after the act that it is amending. That act provides in subclause 2, commencement, that that act commences at the same time as section 1 of the Renewable Energy (Electricity) Act. So, when the electricity act commences, the amendment act—the act already passed—commences at the same time, and this bill will pass at the same time as the preceding two. That is the legal sequence. In terms of any effect, if you do not have a charge then you do not have any real legislation. Unless we get some satisfactory outcome on the charge, the government’s principal piece of legislation has got some problems.

The CHAIRMAN—The question is that the motion moved by Senator Bolkus be agreed to.

Question resolved in the affirmative.

The CHAIRMAN—Senator Brown, do you wish to proceed with yours, having heard Senator Bolkus?

Senator BROWN (Tasmania) (12.14 a.m.)—I will withdraw that amendment.

Bill, as amended, agreed to.

Bill reported with amendments; report adopted.

Third Reading

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

Senator HILL (South Australia—Minister for the Environment and Heritage) (12.17 a.m.)—by leave—The message on the Taxation Laws Amendment Bill (No. 8) 2000 has just arrived. The other place would like us to deal with it expeditiously because it has to go back there. I think that we should accede to that request and deal with that message before we proceed with the Gene Technology Bill 2000. I ask for the cooperation of the Senate in this endeavour.

TAXATION LAWS AMENDMENT BILL
(No. 8) 2000

Consideration of House of Representatives Message

Message received from the House of Representatives returning the Taxation Laws Amendment Bill (No. 8) 2000 acquainting the Senate that the House has made the amendment requested by the Senate.

Senator HILL (South Australia—Minister for the Environment and Heritage) (12.18 a.m.)—I move:

That the bill be now read a third time.

Senator SHERRY (Tasmania) (12.18 a.m.)—The Labor opposition will continue to support the two amendments moved to the legislation: one that we moved to the legislation earlier in the day and the other we supported from the Australian Democrats. Firstly, with regard to the amendment moved by the Australian Democrats, which effectively removes the GST from swim survival courses, the Labor opposition sees no good reason for the GST to apply to these very important community organisations that offer this form of service. So we will not be backing down from our support of that amendment.

The second amendment relates to those businesses that inadvertently registered for the GST. Of course, this includes many thousands of small businesses which were registered for the GST by their accounting firms or themselves registered and in fact did not have to go ahead with that registration. The government has proposed that those businesses can be deregistered, but they cannot be deregistered retrospectively. We think it is a matter of commonsense for the tax commissioner to be given the discretion to register those businesses, particularly small businesses, that have been inadvertently caught in the GST registration net. The tax commissioner should have that discretion and we will be insisting on our amendment to the legislation.
Senator MURRAY (Western Australia) (12.20 a.m.)—Just to confirm, it is the Democrats’ view that the Labor amendment was a helpful one.

The ACTING DEPUTY PRESIDENT (Senator Murphy)—Senator Murray, as I understand it the amendments have not actually come back, so we will deal with the motion before the chair and we will bat it back across the way and then it will be batted back. Then you can address that question if it happens to arise.

Question resolved in the affirmative.

Bill read a third time.

GENE TECHNOLOGY BILL 2000
GENE TECHNOLOGY (CONSEQUENTIAL AMENDMENTS) BILL 2000
GENE TECHNOLOGY (LICENCE CHARGES) BILL 2000
In Committee
GENE TECHNOLOGY BILL 2000
Consideration resumed.

The CHAIRMAN—The question is that Democrat amendments Nos 1 and 2 on sheet 2049 be agreed to.

Senator STOTT DESPOJA (South Australia—Deputy Leader of the Australian Democrats) (12.22 a.m.)—I explained the Democrat amendments briefly before we adjourned for the Renewable Energy (Electricity) Bill 2000. On behalf of the Democrats, I seek to include a different set of objectives of the act in relation to the protection of the health and safety of people, the promotion of ecological sustainability—that is a reference that I do not think is made in any of the other amendments before us—and the protection of the environment. Apart from that, I seek to insert the precautionary principle as recommended by the committee that inquired into this bill. It is the precautionary principle that provides that, where there are threats of serious or irreversible harm to human health or environmental damage, a lack of full scientific certainty should not be used as a reason for postponing measures to prevent harm to human health or environmental degradation. I think you will find that that is the best definition of the precautionary principle that has been used in this debate. It is echoed by others on the crossbenches who are moving amendments. I am concerned about the Labor Party amendment that deals with a similar issue but seeks to insert the precautionary principle without reference to health. Perhaps that is a debate that we can have in this context so that we do not have to delay the debate too much longer. I commend the amendments to the Senate. The committee report made it very clear that the majority recommendation of the committee was to include:

The committee recommends that the objects of the bill contain the same words that appear in the Environment Protection and Biodiversity Conservation Act 1999 in relation to the precautionary principle.

There is no shortage of information in that committee report to explain why the precautionary principle is not only relevant but fundamental to the bill. That is why some of us in this debate have put on record that we are concerned and disappointed that we have not debated the objects a little earlier.

I think there are many more pressing reasons for the precautionary principle to be included. Obviously, we need to save time because we are all quite tired. It is disappointing that this debate has been rejigged in such a way that senators are too tired and the public was necessarily excluded—and I make that particular point in relation to the broadcast. It was very interesting hearing the House of Representatives members thank the relevant members of their political party etc, but I actually think members of the public might have been more interested to tune in to the legislative debates that were taking place in the Senate tonight. Nonetheless, I congratulate the government on making sure this bill was dealt with in a way that minimised public involvement. I am sorry we are not debating these issues which should have been the third amendments that we dealt with—that we did not debate them in a more comprehensive fashion and earlier. I commend the amendments to the Senate, and I hope the Labor Party is not pursuing its amendment, which is clearly a deficient definition of the precautionary principle.
Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (12.26 a.m.)—
We are addressing the issue of objects and precautionary principle. I indicate that the government will oppose the amendments proposed by the Democrats. The government would prefer to deal with this matter in the context of the ALP amendment (3) to clause 4 of the bill. The government is prepared to entertain further enhancement of the bill in terms of a precautionary approach but will do so in the context of that forthcoming amendment. With respect to the Democrats amendment to clause 4 on the precautionary principle, the government does not support the Democrats’ referencing of the precautionary principle in clause 4 for two key reasons. Firstly, the terminology used references to human health. This varies from the Rio 15 statement of the precautionary principle, which is limited to taking measures to prevent environmental degradation. Consideration still needs to be given in the international arena as to how the precautionary principle should be applied in the context of public health. The government is reticent to commit Australia to a path that may have difficulties and be inconsistent with international best practice.

Secondly, the amendment does not incorporate the words ‘cost-effective’ as they appear in Rio 15. The government is, however, prepared to include words taken from Rio 15 in relation to the precautionary principle and will follow this intention through in the context of the ALP amendment to clause 4. The Democrats are proposing a separate definition of ‘ecological sustainability’ in addition to the existing definition in the bill of ‘environment’. Ecological sustainability refers to the need to use, conserve and enhance the community’s resources so that ecological processes on which life depends are maintained and the total quality of life now and in the future can be increased. We do not consider a separate definition is required, because ecological sustainability is not separate and distinct from the environment.

Senator BROWN (Tasmania) (12.28 a.m.)—We know what ‘ecologically sustainable’ means to this government, because we just debated it in the previous session. It means ‘anything goes’. It is pretty disgusting that it can be part of this international ‘greenwash’, which says you put up terms like that but you don’t live up to them. Certainly, if somebody comes along and wants to define them in a way which gives honesty to those terms, then you oppose it. That is what is happening here. I am going to support the Democrat amendments. I think the Green amendment coming after, as far as the object of the act is concerned, is stronger in that it does include that the object of the act should protect the right for non-GMO production systems, including organic systems, to exist. There is a very clear statement not only about the right of the natural environment to exist without being contaminated by genetically engineered organisms but about the right of the organic farming industry to do so. There is the gilt-edged value added frontrunner for growth as far as Australian food production is concerned; and yet it is not explicitly written into the objects we have before us.

The objects as put forward by the Greens would also give local government the ability to determine what happens in its area. We have had that debate before, but the Greens stand by that. We also have a provision for the provisions of the act to be conducted in a transparent way which encourages public participation in decisions concerning the ‘development, use and release of GMO and GM products’. Of course, doing that at the local level is fundamental.

Senator FORSHAW (New South Wales) (12.30 a.m.)—I indicate on behalf of the opposition that we will not be supporting these amendments of the Democrats. As Senator Stott Despoja correctly identified and as the government referred to, the opposition will be moving an amendment which will insert reference to the precautionary principle in the legislation in clause 4. I do not think I need to speak at length about the importance of having this reference to the precautionary principle in the legislation; it was one of the major issues raised during the Senate inquiry and public hearings. However, I do wish to take up the allegation that has been made by the Democrats that our wording is deficient.
because it does not refer to human health. I just point out that the wording that we have adopted is essentially the same as that which was picked up in the EPBC Act—neither in that act nor in the Rio declaration is there any reference to human health—and our proposal is consistent with the approach adopted in both that legislation and in the Rio declaration.

The other point I make is that this was another issue which, initially, the government were not prepared to entertain; they did not include in the original legislation or the bill that is before the chamber any reference to the precautionary principle. We believe it is a significant improvement to have that now recognised by the government and indeed all the parties in the Senate. Therefore I should take the opportunity to refute the proposition put forward by the Greens on their website on 1 December when Senator Bob Brown condemned the ALP—and I quote from the release on the site—by stating the ‘precautionary principle has been gutted’. If that is the case, Senator Brown must obviously think that the precautionary principle as adopted in the Rio declaration and as included in the EPBC Act has been gutted. That might be his view but, firstly, that is indeed what I understand the Democrats signed up to in terms of that legislation, and, secondly, has been adopted and supported by environmental groups throughout the world in respect of the Rio environmental declaration. Our position is consistent with the approach in both those cases.

Senator STOTT DESPOJA (South Australia—Deputy Leader of the Australian Democrats) (12.34 a.m.)—Just briefly in response to Senator Forshaw’s contribution, I understand from the government’s explanation tonight that cost-effectiveness is going to be discussed or included in the amendment that will be supported by the government tonight. I do not see that in the EPBC legislation, and I point out that one of the objects of the EPBC act—

Senator Forshaw—It’s in Rio.

Senator STOTT DESPOJA—Yes, I acknowledge that. One of the objects of the EPBC Act is to protect the environment. This bill is supposedly giving equal weight to not only the protection of the environment but also health and safety issues. So there is particular relevance in that this precautionary principle would refer to the issue of health. While I take on board Senator Forshaw’s reference to the EPBC Act definition—and I acknowledge that it is the committee’s recommendation that it be included in the bill—we have to acknowledge that the object of this legislation is to protect health and the environment, and therefore they deserve equal weighting and reference to in the precautionary principle as well as in the objects of the act.

Senator HARRIS (Queensland) (12.36 a.m.)—I indicate to the chamber that I will not be moving Pauline Hanson’s One Nation amendment (1) on sheet 2030 because its aim is encompassed within the Democrats amendments. I would like to very briefly speak to the Democrats amendments, particularly amendment (1), which relates to the objects of the act. The objects of the act are the actual heart of the act because, by going to the objects of the act, substantial argument can be raised in relation to whether a person is in compliance with the act. Rather than being merely an expression of the direction of the act, they have an extremely important role to play; therefore, they must express explicitly the direction of the act and indicate clarity to any judicial person who is ruling on them. That is exactly what Democrats amendment (1) does. Amendment (1) goes to clause 3, ‘Objects of the act’, and reads:

The objects of this Act are:
(a) to protect the health and safety of people; and
(b) to promote ecological sustainability; and
(c) to protect the environment;
by identifying risks posed by or as a result of gene technology, and by managing those risks through regulating certain dealings with GMOs.

The Democrats second amendment is identical to the amendment that Pauline Hanson’s One Nation proposed, which is:

(a) provides that where there are threats of serious or irreversible harm to human health or environmental damage, a lack of full scientific certainty should not be used as a reason for postponing measures to prevent harm to human health or environmental degradation ...
With the combination of both of those amendments proposed by the Australian Democrats, there would be clarity in the act and there would be certainty. That is equally important: there would be certainty for the people who are going to operate under that act. To highlight the necessity for certainty, I would like to quote from a paper that was presented on 31 October 2000. The title is ‘The Precautionary Principle is Coherent’.

The paper says:

We want to emphasise that the precautionary principle is not an algorithm for making decisions. It does not make decisions for us, but it is a principle on which to base decisions. It is a principle for assigning the burden of proof, in much the same way that the defendant in a criminal court is assumed innocent until proven guilty ‘beyond reasonable doubt’. ... This important rule reflects society’s view that convicting the innocent is far worse than acquitting the guilty. It has a profound effect on the outcome of many trials, but it still leaves the jury with a lot to do. They still have to weigh up the evidence, and they have to decide for themselves what constitutes ‘reasonable doubt’.

In the same way, the precautionary principle requires us to assign the burden of proof to those who want to introduce a new technology, particularly in cases where there is little or no established need or benefit and where the hazards are serious and irreversible. It is up to the perpetrators to prove that the technology is safe ‘beyond reasonable doubt’. We cannot expect the precautionary principle by itself to tell us what to do about GM crops or any other new technology. Like a jury, we have to weigh up the evidence, and like a jury we have to come to a decision. ...

So, what is the evidence on GM crops? There is practically no evidence that they are safe, of the kind that could stand up in a court of law. There is less than a handful of papers on the subject of safety assessment published in peer-reviewed scientific journals. The vast majority consists of unpublished reports submitted to regulatory bodies for product approval, and these, far from supporting claims of safety, actually provide evidence to the contrary. ... The published papers from the industry are no better. For example, Monsanto’s study on Roundup Ready soya was seriously flawed. The two papers (Hammond et al, 1996, Journal of Nutrition 126, 717-26; and Padgette et al, 1996, Journal of Nutrition 126, 702-16) showed, among other things, significant increases in milk fat in cows and lower weight gains in male rats fed GM soya. There was also a 26.7% increase in a major allergen and growth inhibitor, antitrypsin, in the GM soya. Monsanto had failed to submit even more damning data indicating that another allergen, a soya lectin, was increased by 100% in retoasted soya beans.

So in promoting the necessity for the precautionary principle, it is very clear that there is a necessity and a requirement for that in this bill. There is clearly scientific evidence which shows that there are dangers relating to genetic manipulation. I would like to return briefly to the issue I raised before about the necessity for the objects of the act to be concise. I would like to refer to some correspondence I received which says:

My understanding is that the regulator, because of the objects of the act, can only consider and address risk that is in keeping with the objects of the act to protect public health and safety and the environment. Can the regulator address the risk of contamination that is trade related only not public health and safety or environment risk? If so, under what section of the bill? If the regulator can impose conditions to reduce risk of trade related contamination, could the regulator impose buffer zones and segregation of supply chain systems? If the regulator was to impose such conditions that were trade related only, then could the GMO licence applicant take an objection to the Administrative Appeals Tribunal for review on the grounds that the regulator had imposed a condition on a licence that was outside the objects of the act?

That is what goes to the heart of the necessity to get the objects of the act correct, because if we do not do that then the decisions of the Gene Technology Regulator will be challengeable by appeal. It is on that basis that Pauline Hanson’s One Nation supports the objects of the act as set out by the Australian Democrats both in clause 1 and especially in clause 2, which brings in the principle that a lack of scientific evidence should not be used as a means for going ahead and granting a licence with reference to a genetically modified object. I commend the Democrats amendments to the chamber and indicate to the chair that I will not be moving Pauline Hanson’s One Nation amendment (1) on sheet 2030.

Question put:
That the Democrats’ amendments Nos 1 and 2 on sheet 2049 be agreed to.
The Senate divided. [12.51 a.m.]

(The Chairman)

Ayes............ 9
Noes............ 36
Majority........ 27

AYES
Allison, L.F. Bartlett, A.J.J.
Bourne, V.W * Brown, B.J.
Greig, B. Harris, L.
Lees, M.H. Murray, A.J.M.
Stott Despoja, N.

NOES
Bishop, T.M. Bolkus, N.
Campbell, G. Carr, K.J.
Chapman, H.G.P. Crane, A.W.
Crossin, P.M. Crowley, R.A.
Eggleston, A. Evans, C.V.
Ferris, J.M. Forshaw, M.G.
Gibbs, B. Gibson, B.F.
Hill, R.M. Hogg, J.J.
Kemp, C.R. Knowles, S.C.
Ludwig, J.W * Macdonald, J.A.L.
Mason, B.J. McGauran, J.J.J.
McKernan, J.P. McLucas, J.E.
Murphy, S.M. O’Brien, K.W.K.
Patterson, K.C. Payne, M.A.
Reid, M.E. Sherry, N.J.
Tambling, G.E. Tchen, T.
Tierney, J.W. Troeth, J.M.
Watson, J.O.W. West, S.M.

* denotes teller

Question so resolved in the negative.

The CHAIRMAN—Senator Brown, your next amendment is on R1 sheet 2065.

Senator BROWN (Tasmania) (12.55 a.m.)—by leave—I move Greens amendments on R1 sheet 2065 and (12) on sheet 1970:

(R1) Clause 3, page 2 (lines 6 to 10), omit the clause, substitute:

3 Object of the Act

(1) The object of this Act is to ensure that the development and application of gene technology is conducted in a manner that:

(a) protects:

(i) the health and safety of people; and
(ii) the environment; and

(b) is consistent with the exercise of the precautionary principle; and

(c) provides each State and each local government body, through an appointed Authority, with the right to prevent the release of GMOs and GM products within each respective State and local government area; and

(d) is transparent and encourages public participation in decisions concerning the development, use and release of GMOs and GM products.

(12) Clause 10, page 9 (after line 16), after the definition of person covered by a GMO licence, insert:

precautionary principle means that where there is a threat of serious or irreversible environmental damage, or a serious or irreversible threat to human health, lack of full scientific certainty can not be used as a reason for postponing measures to prevent harm to human health or the environment.

This is an even stronger set of objectives and precautionary principles. I just want to say that, as far as the precautionary principle as we would see it is concerned, the word ‘gutted’ used on my web site stands true. I am reminded of a cartoon at the time of the Rio gathering in which President Bush wheels into Rio declaring, ‘I am the environmental President,’ There were three other world leaders sitting there, and one said, ‘Yes, I am Goldilocks,’ and the other said, ‘Yes, I am the Tooth Fairy,’ and the third said, ‘Yes, I am Alice in Wonderland.’ We also have to recognise that the amendment we are going to end up with here brings in commercial considerations but leaves out health. This is about concerns the consumers in the community have about their health. So it should be in there. It is not going to be because the ALP with the government has got the numbers.

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (12.56 a.m.)—
The government is opposed to Senator Brown’s proposed amendment to the object of the act. It does two things: it proposes to reference the precautionary principle as defined in clause 10 and, as I have mentioned in relation to the Democrats amendment, the government proposes to accept the opposition’s amendment to clause 4 of the bill to reference the precautionary principle subject to one minor change. This brings the reference to the precautionary principle into accord with the referencing of the precautionary principle in Rio 15.

Senator STOTT DESPOJA (South Australia—Deputy Leader of the Australian Democrats) (12.56 a.m.)—The Democrats will be supporting the Greens amendments.

Senator HARRIS (Queensland) (12.57 a.m.)—I will speak briefly to Senator Brown’s amendment.

Senator McGauran—Promise?

Senator HARRIS—Promise. His amendment (12) is substantially the same as One Nation’s. I will briefly speak to the merits of his R1 on sheet 2065. Senator Brown is seeking to bring into the objects of the act a provision for states and each local government through a local authority to have the right to prevent the release of GMO and GM products within each respective state and local government area. I believe that is the correct section in the act in which to have that with clarity. The amendment goes on further to say:

(e) is transparent and encourages public participation in decisions concerning the development, use and release of GMOs and GM products.

These amendments go to the rights of state and local governments. The Greens amendment contains one other area that I believe is very important; that is, it places a requirement in the objects of the act to comply with the act. Greens amendment (2) states:

(2) A person on whom a function is imposed or a power is conferred under this Act must perform that function or exercise that power in a manner that is consistent with the object of this Act.

In regard to my point earlier, if the regulator had this type of description in the objects of the act then his decisions would be far less challengeable in the courts.

Senator Stott Despoja—Or hers.

Senator HARRIS—I accept Senator Stott Despoja’s interjection—his or her powers would be far less challengeable in the court. I commend the Greens amendments to the chamber.

Amendments not agreed to.

Senator FORSHAW (New South Wales) (12.59 a.m.)—I move opposition amendment No. 3:

(3) Clause 4, page 2 (after line 13), before paragraph (a), insert:

(a) provides that where there are threats of serious or irreversible environmental damage, a lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation; and

I do not think I need to say anything further about our amendment. It is, as I said when we were dealing with the earlier amendments, to insert the precautionary principle into clause 4 of the bill. That is the appropriate place to put it, we believe, and I will ask the Senate to support our amendment. I understand the government is going to indicate that it is prepared to accept our amendment, with some additional words incorporated into it which reflect the terms of the Rio declaration. I indicate that the opposition will be prepared to accept that.

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (12.59 a.m.)—I appreciate the importance of this amendment. Before I actually address this, there was an issue I was asked to attend to that related to an earlier matter and I should just make this clear. In relation to the policy guidelines issued by the ministerial council, which were dealt with in an earlier debate on this bill, I would like to make a further remark. The government agreed to make the guidelines publicly available, and I would like to add that the guidelines will also be provided to the committees for comment after they have been issued. I appreciate that
that is a separate issue to the point on discussion, but I have been asked to clarify it.

With regard to the opposition amendment that is currently before us, I indicate that the government had some reservations about the amendment proposed by the ALP. However, we would be able to accept a change to clause 4 of the bill to reference the precautionary principle if the wording to be used in clause 4 reflects the wording of the precautionary principle appearing in Rio 15. In other words, we would accept the following words in clause 4:

... provides that where there are threats of serious or irreversible damage, a lack of full scientific certainty should not be used as a reason for postponing cost-effective measures to prevent environmental degradation ...

The change is important so that the legislation references the precautionary principle as it appears in Rio 15, a declaration that the Australian government has endorsed. I would ask the opposition to consider inserting those particular words.

Senator Brown (Tasmania) (1.02 a.m.)—I would ask the opposition not to do that because putting in the term ‘cost-effective’ is a weasel word to simply give the Monsantos of the world an avenue for coping out of the precautionary principle. We all know that. Senator Tambling knows that. The Labor Party knows that. We certainly know that on the crossbench. It should not be done. If Labor accedes to that it will accede to anything.

Senator Harris (Queensland) (1.05 a.m.)—Because I have not seen a circulated proposed amendment by the government on that, could I just ask for confirmation from Senator Tambling that it is the government’s intention to remove the word ‘environmental’ in saying ‘provides that where there are threats of serious or irreversible damage’? Could I see some clarification from Senator Tambling as to whether the government intends to remove the word ‘environmental’ that is at present in Labor’s amendment?

Senator Tambling (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (1.04 a.m.)—I would indicate in answer to Senator Harris that we are not proposing to drop the word ‘environmental’ in that clause. We are suggesting to the Labor Party that they add ‘cost-effective’ in the last line of the proposed clause, between the words ‘postponing’ and ‘measures’.

Senator FORSHAW (New South Wales) (1.05 a.m.)—Senator Harris heard the same as I did—that when the parliamentary secretary read the words out, he inadvertently left out the word ‘environmental’, which I have to say, even at this late hour—or early hour—did grab my attention. The opposition is prepared to accept the proposed additional words from the government. I understand that the procedure would be that the government would seek to move that as an amendment to our amendment.

The Temporary Chairman (Senator Chapman)—You can seek leave to do that yourself, Senator Forshaw.

Senator FORSHAW—I seek leave to amend my amendment.

Leave granted.

Senator FORSHAW—I move that clause 4 be amended to add the words:

After “postponing”, add “cost-effective”.

Senator Brown (Tasmania) (1.06 a.m.)—Once again, I am not going to refuse leave, although I should. Here is the Labor Party doing what the Howard government is asking it to do in this regard. I will not even ask Senator Forshaw to explain how he could adopt such a pathetic injection of terminology into the precautionary principle. He earlier on criticised me for having said that the precautionary principle was being gutted, and here he is, doing it in front of everybody. It is just pathetic.

Senator FORSHAW (New South Wales) (1.06 a.m.)—Senator Brown said it is pathetic. I remind Senator Brown that the words do reflect the words from the Rio declaration. Senator Brown, you have come into this place on a number of occasions and talked about the Rio declaration. We have adopted, and convinced the government to accept, the wording from the Rio declaration. I think that is a major improvement to this
legislation, but it appears that nothing will satisfy you.

Senator BARTLETT (Queensland) (1.07 a.m.)—I suppose anything is better than nothing. To that extent, one should acknowledge the extensive work of Senator Forshaw and the opposition in relation to this. But we are talking about an area that is of great significance to the Australian community, particularly in terms of environmental areas. Not only that; it is what the Rio convention was particularly about. I suppose to the credit of the government—and I really do not want to get into an argument about the EPBC Act now—we do have stronger words in relation to that, as we should. When we are talking about public confidence in this whole area of gene technology, this amendment proposes something that is weaker than what exists in that act. Not unsurprisingly, that is something that generates great concern not just to the Democrats but to many people in the community. If the government are genuine about trying to ensure community confidence in what we are doing, I think they need to reconsider what sort of words they use in relation to this crucial area of the precautionary principle.

Senator HARRIS (Queensland) (1.09 a.m.)—by leave—I move:

(37) Clause 64, page 43 (line 27) to page 44 (line 3), omit subclause (1), substitute:

(1) It is a condition of a licence that a person authorised by the licence to deal with a GMO must allow the Regulator, or a person authorised by the Regulator, to enter premises where the dealing is being undertaken, for the purposes of auditing or monitoring the dealing.

[NB: To be moved in alternate form by replacing “Regulator” (wherever occurring) with “Authority”, if amendments relating to the Gene Technology Regulatory Authority are agreed to]

(116) Page 125 (after line 32), after clause 190, insert:

190A Audit of transitional dealings

(1) As soon as practicable after the commencement of this Part, the Regulator or a person authorised by the Regulator, must cause an audit to be undertaken of any dealing with a GMO in respect of which an advice to proceed was in force at the time this Part commenced.

(2) The Regulator must publish the results of an audit undertaken for the purposes of subsection (1) on the Regulator’s Internet web site.

[NB: To be moved in alternate form by replacing “Regulator” with “Authority” (wherever occurring) and “Regulator’s” with “Authority’s”, if amendments relating to the Gene Technology Regulatory Authority are agreed to]

The purpose of these amendments again is to bring about clarity in the bill. Section 64 deals with a condition about monitoring and audits. In the bill as it stands, under subsection 1 it says:

It is the condition of the licence that if—and “if” is the operative word—

(a) a person is authorised by the licence to deal with the GMO; and
(b) a particular condition—
and that again is a very operative phrase—
of a licence applies to the dealing by the person ...
The bill goes on to say that the person must
allow the regulator or person authorised by
the regulator to enter the premises where the
dealing is being undertaken for the purpose
of auditing or monitoring the dealing. The
effect of the Pauline Hanson’s One Nation
amendments would make it a condition of
the licence, irrespective of whether a person
is authorised by the licence or a particular
condition applied to that licence. For clarity,
the bill would read:

It is a condition of a licence that a person
authorised by the licence to deal with the GMO
must allow the Regulator, or a person authorised
by the Regulator, to enter premises where the
dealing is being undertaken, for the purposes
of auditing or monitoring the dealing.

What it clearly does is give the government’s
proposed bill far more clarity and, from the
point of the Gene Technology Regulator—and I will keep hammering this all of the way
through—gives the regulator far more secu-
rity against challenges to the regulator’s de-
cisions if the bill has the clarity that I pro-
spose it should have in relation to monitoring
and auditing. If we need an example of why
these amendments should be adopted by the
government and the Labor Party, we only
have to look at the Mount Gambier situation
to see the appalling way in which the interim
gene technology regulator—I stress that it is
the interim gene technology regulator—failed to ensure that the conditions of the
licence were met. These amendments would
make it mandatory, irrespective of the
conditions of the licence, that the regulator
could enter premises for the purpose of
monitoring and auditing.

Senator TAMBLING (Northern Terri-
tory—Parliamentary Secretary to the Minis-
ter for Health and Aged Care) (1.14 a.m.)—The government is opposed to these amend-
ments. In relation to the amendment involv-
ing entry of premises, the amendment cannot
be supported. Senator Harris’s amendments
would infringe civil liberties by requiring
that any person covered by a licence, re-
gardless of whether they are required to
comply with certain conditions, must allow
the GTR to enter their premises. The way the
bill is currently drafted, if conditions are im-
posed on farmers about how crops should be
grown or on the producers of seed about how
the seed should be labelled, the GTR will be
able to enter their premises to conduct
monitoring and auditing.

The government cannot agree with the
amendment relating to audits either. The
Gene Technology Bill 2000 as currently
drafted ensures that the GTR has the power
to conduct audits of all GMOs covered by a
licence, including all transitional dealings.
The bill also provides the most extensive
repertoire of monitoring, enforcement and
surveillance powers possible. In addition, the
transitional arrangements are only in place
for a maximum of two years. If the applicant
wishes to continue the dealings with the
GMOs beyond two years, the applicant must
reapply for a new licence fully reviewed by
the GTR. The amendments are opposed.

Amendments not agreed to.

Senator BROWN (Tasmania) (1.16
a.m.)—by leave—I move Australian Greens
amendments (68) and (69) on sheet 1970:

(68) Heading to clause 66, page 44 (line 27),
omit “may”, substitute “must”.

(69) Clause 66, page 44 (line 28), omit “may”,
substitute “must”.

These amendments would require that a per-
son who is aware of additional information
about risks to the health and safety of people
through the licensing of GMOs must, rather
than may, inform the regulator. I commend
these amendments.

Amendments not agreed to.

Senator BROWN (Tasmania) (1.17
a.m.)—I move Australian Greens amendment
(72) on sheet 1970:

(72) Clause 67, page 45 (after line 9), at the end
of the clause, add:

(2) A person does not incur any civil li-
ability in respect of loss, damage or
injury of any kind suffered by another
person because the first person gave in-
formation to the Regulator in good
faith otherwise than under section 65 or
66.

This amendment refers to clause 67 of the bill,
which reads:
A person ... does not incur any civil liability in respect of loss, damage or injury of any kind suffered by another person because the first person gave information to the Regulator.

The clause is protecting that person. I am adding to that: ‘in good faith otherwise than under section 65 or 66’. It is just giving protection to a person who in good faith is acting in the public interest.

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (1.17 a.m.)—The government is opposed to this amendment. The bill already provides in clause 67 that people do not incur any civil liability if they give information to the regulator and if another person suffers loss or damage as a result. It appears that Senator Brown is including an additional subclause that mirrors the existing clause but is subject to the additional requirement that the information be given in good faith. We do not believe the amendment substantively adds to the existing provisions, and we do not support it.

Amendment not agreed to.

Senator BROWN (Tasmania) (1.18 a.m.)—The Australian Greens will oppose the following items:

(41) Clause 36, page 26 (lines 4 to 13)
(42) Clause 37, page 26 (lines 14 to 25)
(77) Part 6, page 50 (line 2) to page 55 (line 5).

The object of opposing these is to simply get rid of the provision that so-called notifiable low-risk dealings do not have to be licensed by the regulator—of course, they should be. We want, across the board, accountability for people dealing in GMOs and GM products. To allow this part to remain not only establishes a whole range of such dealings that would not have to be licensed but puts the regulator in the position of having to define where the boundary is in terms of determining that. We want a one-stop shop. We want transparency. We want anybody to be able to know what is going on as far as GM technology in the country is concerned. To create a whole order of so-called low-risk dealings which do not have to be recorded or notified, or therefore licensed, is contrary to that ideal of transparency and the public interest.

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (1.20 a.m.)—The government believes that the clauses should stand as printed. As the simplified outline in the bill explains, part 6 of the bill established a mechanism for the regulations to regulate certain dealings with GMOs that do not involve the intentional release of GMOs into the environment. These dealings are called notifiable low-risk dealings. Notifiable low-risk dealings are dealings that the GTR considers to be particularly low risk. This is because the GMO is biologically contained—that is, it has a reduced ability to survive or reproduce in the open environment. It is not pathogenic and does not produce new proteins that are of high risk because they are toxic.

The regulations describe the categories of notifiable low-risk dealings, as well as the requirements and conditions that must be complied with by a person proposing to undertake notifiable low-risk dealings. The Greens amendments propose to delete the streamlined and sensible notifiable low-risk dealings arrangement, as well as the register of GMOs, in part through these amendments but also through amendments yet to be debated but which have been circulated. The register and the notifiable low-risk dealings are important components of the regulatory system. They ensure that the level of regulation can be tailored to the level of risk. The government will not support amendments that would see these categories deleted. The government understands the adverse effect that this would have on Australia’s research and development base.

Senator BROWN (Tasmania) (1.21 a.m.)—Who determines that something is not pathogenic or is safe?

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (1.21 a.m.)—I am advised that it is determined on the basis of scientific advice and is considered by the regulator.

Senator BROWN (Tasmania) (1.21 a.m.)—So the person who says they have a low-risk operation says that to the regulator, and there it is. Is the regulator going to inde-
pendently go out and assess in the field the information that is being given? What policing is going to occur of these not notified low-risk dealings?

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (1.22 a.m.)—I am advised that it is a disallowable instrument and that there is a full monitoring process.

Senator STOTT DESPOJA (South Australia—Deputy Leader of the Australian Democrats) (1.22 a.m.)—I commend Senator Brown on the last question. I want to make reference yet again to the amount of delegated legislation that we will be dealing with as a consequence of this legislation. I think that some of these issues should well be included in the bill and that it is an unfortunate and increasing trend by governments to ensure that they have as much discretion and flexibility as they can to put these things in a delegated form.

I was also going to ask for an example of what would be classified as a low-risk dealing. I am wondering if Senator Tambling is opposed to referring to the broad outline of the regulations and what they will contain, which is obviously available. Certainly, there is a general indicator in the bill and that it is an unfortunate and increasing trend by governments to ensure that they have as much discretion and flexibility as they can to put these things in a delegated form.

I have received an interesting email from a member of the public who was curious to know what Senator Tambling was reading from. I have assured them that it is the advice provided to him by advisers and the department, but I am happy to stand corrected. I thought that was an interesting observation.

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (1.24 a.m.)—I am advised that the circumstance of the issue that is being considered is that it is always in a contained situation. The regulations have been circulated already in draft form and will be circulated again. There is wide consultation on this whole process.

Senator HARRIS (Queensland) (1.24 a.m.)—I would like to seek some clarification from Senator Tambling on two issues. Senator Tambling is saying that the determination of a low-risk dealing will be based on scientific evidence. A reprint of the Canadian Journal of Health and Nutrition that was put out in March this year, which refers to toxin seepage from Biotech corn, states: Corn has been genetically engineered to contain a toxin called Bt to kill insect pests that eat the corn. Research at New York University shows that the Bt toxin is leaking through the roots of the plants into the soil. Scientists and environmentalists are concerned that the toxin may harm beneficial soil organisms, produce Bt-resistant super-bugs, or cause other ecological damage.

I ask Senator Tambling: how would the gene technology regulator have been able to, on scientific evidence that did not exist, allow that Biotech corn to proceed on the basis that it was a low risk? When the senator has an answer to that one, could he give us an answer to this particular section, which states: Research published in the scientific journal Microbial Ecology in Health and Disease (No 4, 1999) warns that a virus that is inserted into many transgenic crops may result in widespread crop damage. The virus in question, the cauliflower mosaic virus (CaMV), is used to activate genetically-engineered genes. However, the researchers state that it may also reactivate dormant viruses—this is the section that I would like Senator Tambling to address—or create new viruses that attack the host species and spread to other plants.

Taking into consideration Senator Tambling’s point that these would be contained dealings, my question to Senator Tambling is: how will the gene technology regulator perceive the unforeseen and rule something a low risk?

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (1.27 a.m.)—I will take the two very specific questions on notice. Senator Harris has drawn to my attention at a very late stage in the debate particular detailed issues of magazines that have not previously been put before me or of
which I have no knowledge whatsoever. I do not have those in detail, so I will take those on notice. I indicate to him that if he had looked at the Explanatory guide to the draft Commonwealth Gene Technology Regulations 2000 that were issued to him in August 2000, he would have seen that the issue of notifiable low-risk dealings would only be those that—and let me quote from page 42 of that explanatory guide:

- have been assessed over time as presenting minimal biosafety risks where such risks can be properly managed through containment of the GMO in a laboratory certified to physical containment level 2.

For example, some of the factors considered in assessing a GMO to be of low risk (with the low risk able to be managed through containment measures) include the extent to which the GMO is ‘biologically contained’ (because it has a reduced ability to survive or reproduce without human intervention) and the properties of the GMO including the inability of the GMO to be a pathogen or pest or produce toxic proteins.

That is the end of the quote from the explanatory guide. The whole point of the regulatory scheme is that it adopts a very cautious and transparent approach based on science. The regulator has access to expert scientific advice through the Gene Technology Technical Advisory Committee and public comment but also has the capacity to undertake independent research if that is what is necessary to identify risks.

Senator HARRIS (Queensland) (1.30 a.m.)—I thank Senator Tambling for his answer. I would just like to seek some clarification. Once a licence is issued for a particular dealing, if the Gene Technology Regulator received an application for a similar dealing, would the subsequent dealings have to be licensed? To phrase that another way: if a corporation in the industry applied for and received a licence for a particular dealing, could the remainder of the industry also carry out that dealing without a licence?

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (1.31 a.m.)—I move:

(2) Clause 78, page 53 (lines 14 to 16), omit subclause (1), substitute:

(1) The Regulator may, by writing, determine that a dealing with a GMO is to be included on the GMO Register if the Regulator is satisfied that:

(a) the dealing is, or has been, authorised by a GMO licence; or
(b) the GMO concerned:

(i) is a GM product; and
(ii) is a genetically modified organism only because of regulations made under paragraph (c) of the definition of genetically modified organism.

This amendment clarifies the intention that the GMO register will contain only GMOs that have previously been licensed by the Gene Technology Regulator and that GM products that are not live, viable GMOs but that have been prescribed under the bill as GMOs may also be included on the register. This amendment has been discussed in detail with officials from all states and territories and is agreed across all jurisdictions.

Amendment agreed to.

The TEMPORARY CHAIRMAN (Senator Sherry)—The next amendments by Senator Harradine are not being moved, so we will move to opposition amendment No. 11 on sheet 2026.

Senator FORSHAW (New South Wales) (1.33 a.m.)—I move opposition amendment No. 11:

(11) Clause 100, page 66 (after line 18), after subclause (7), insert:
The Minister must ensure that the Committee includes the following members:

(a) a person who is a member of the Consultative Group;
(b) a person who is a member of the Ethics Committee.

The Minister is not required to be satisfied that these persons have skills or experience in an area mentioned in subsection (5).

This amendment seeks to amend clause 100 with respect to the Gene Technology Technical Advisory Committee. It is our view that it is important to ensure greater transparency and more community involvement on this committee. Therefore, we are proposing that the minister must ensure that the committee includes a person who is a member of the consultative group and a person who is a member of the ethics committee. This will ensure that the ethical concerns and the consumer concerns will be represented and heard in the major decision influencing forum established by the legislation.

Senator STOTT DESPOJA (South Australia—Deputy Leader of the Australian Democrats) (1.34 a.m.)—The Democrats will be supporting the amendment. As I have made clear in this debate, we are keen to ensure maximum public participation and confidence in the regulator, and it seems quite appropriate that the consultative committee and the ethics committee be referred to and included in this way. We will be supporting this amendment.

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (1.35 a.m.)—The government agrees with and accepts this amendment which ensures that the scientific committee established under the legislation will also include a member of the community consultative group and the ethics committee. While this does not add additional costs to the running of the committee as it increases membership, it does ensure that there is sufficient communication and cross-membership between the committees. Therefore, the government accepts it. I would like to assure senators of the government’s intention in relation to the broader composition of the Gene Technology Community Consultative Committee. The government will ensure that the committee is by no means hostage to a particular interest group or scientific view. The bill ensures this by providing that the membership of the Gene Technology Technical Advisory Committee must be very broadly based. Not only must the committee include experts in specific scientific disciplines such as molecular biology, virology, entomology and microbiology, but the legislation also requires experts in areas such as public health, risk assessment and occupational health and safety. Importantly, the committee must also include a layperson. This will ensure that the committee is representative of a range of disciplines and that it is not hijacked by one point of view. The committee will contain members who represent both reductionist perspectives and holistic perspectives, to ensure that all risks are properly identified and assessed on both macro and micro levels.

Senator HARRIS (Queensland) (1.36 a.m.)—I rise to support Labor’s amendment. It is very similar to Pauline Hanson’s One Nation amendment (42), which I will not proceed with. The only difference between Pauline Hanson’s One Nation amendment and Labor’s amendment is that we would have asked for a layperson to be present on that technical committee. As well as having somebody from the consultative committee on the technical committee, I believe it is important that there be a representative of the community or a community group. It was with that in mind that Pauline Hanson’s One Nation initially moved that amendment. I support Labor’s amendment to bring on a person from the consultative committee and commend the amendment to the committee.

Amendment agreed to.

Senator BROWN (Tasmania) (1.38 a.m.)—by leave—I move Green amendments (79) and (81):

(79) Clause 100, page 66 (lines 11 to 14), omit subclause (6), substitute:

(6) The Minister must appoint the following persons as members of the Committee:

(a) a layperson;
(b) a representative of the Australian Conservation Foundation;
(c) a representative of the Organic Federation of Australia.
The Minister is not required to be satisfied that a person mentioned in paragraphs (a) to (c) has skills or experience in an area mentioned in subsection (5).

(81) Clause 104, page 67 (lines 21 to 28), omit subclause (1), substitute:

(1) The regulations may prescribe the following matters relating to the members of the Gene Technology Technical Advisory Committee and expert advisers:
(a) term of appointment;
(b) resignation;
(c) leave of absence;
(c) determination of appointment to the extent that it is not covered by this Division.

These amendments would quite specifically bring onto the committee, besides a layperson, a representative of the Australian Conservation Foundation, the umbrella organisation for conservation in Australia, and a representative of the Organic Federation of Australia, which represents organic growers, who are most alarmed about the potential for contamination. Let us remember: if they get GM contaminated, their livelihood will be gone, they will be done for. Yet organic food is arguably the fastest growing, most gilt-edged part of food production in Australia. Certainly at family farm level, that is true. This is the case in my state of Tasmania, as you would know, Temporary Chairman Sherry. This is not in conflict with the amendment which we have just passed. I strongly recommend these amendments to the chamber. I do hope that the government and the opposition can support these amendments. They would give very specific representation from two organisations which have a particular interest in this matter and ought to be represented on this committee.

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (1.35 a.m.)—Amendment (79) is opposed because the government has agreed alternative amendments with the ALP. Amendment (81) is also opposed as we consider it appropriate that disclosure of interest provisions be dealt with in the regulations as previously detailed.

Senator BROWN (Tasmania) (1.39 a.m.)—What does the Labor Party think of this? These are good amendments and they are not going to create any difficulty as far as this consultative committee is concerned.

Senator FORSHAW (New South Wales) (1.40 a.m.)—Our position, Senator Brown, is that we will be opposing the amendments.

Senator HARRIS (Queensland) (1.40 a.m.)—I would just seek clarification from Senator Brown. My understanding is that Greens amendments Nos 79 and 81 would actually bring a representative of the Australian Conservation Foundation and a representative of the Organic Federation of Australia onto the Gene Technology Technical Advisory Committee. If that is correct, I would support the addition of those two groups. I think it is balanced in that you have someone as a representative of the conservation groups but, equally as important, it would also bring a representative from the organic farming industry. I just seek clarification that it is the Gene Technology Technical Advisory Committee. Senator Brown has indicated that that is correct. I indicate Pauline Hanson’s One Nation’s support for the two amendments.

Senator STOTT DESPOJA (South Australia—Deputy Leader of the Australian Democrats) (1.41 a.m.)—The Democrats will be supporting the amendments.

Amendments not agreed to.

Senator BROWN (Tasmania) (1.42 a.m.)—by leave—I move:

(80) Clause 100, page 66 (after line 18), after subclause (7), insert:

(7A) The Minister must not appoint a person as a member of the Committee if that person:
(a) is a director of; or
(b) holds equity or a beneficial interest in; or
(c) holds equity or a beneficial interest in securities in, or issued by, a business or entity involved in the commercialisation of GMOs or GM products.
104A Disclosure of interests

(1) A member of the Gene Technology Technical Advisory Committee who has a direct or indirect pecuniary interest in any business or entity involved in the development, use, release or commercialisation of GMOs or GM products must disclose the interest at a meeting of the committee.

(2) A disclosure under subsection (1) is to be recorded in the minutes of the meeting and the member must not:
   (a) be present during any deliberation of the committee; or
   (b) take part in any decision of the committee; in relation to any matter involving a conflict of interest for that member.

104B Termination of appointment

The Minister must terminate the appointment of a member of the Gene Technology Technical Advisory Committee who:
   (a) fails, without reasonable excuse, to comply with subsection 104A(1); or
   (b) becomes a director of a business or entity involved in the commercialisation of GMOs or GM products; or
   (c) acquires equity, a beneficial interest or securities in, or securities issued by, a business or entity involved in the commercialisation of GMOs or GM products.

110A Disclosure of interests

(1) A member of the Consultative Group who has a direct or indirect pecuniary interest in any business or entity involved in the development, use, release or commercialisation of GMOs or GM products must disclose the interest at a meeting of the group.

(2) A disclosure under subsection (1) is to be recorded in the minutes of the meeting and the member must not:
   (a) be present during any deliberation of the committee; or
   (b) take part in any decision of the committee; in relation to any matter involving a conflict of interest for that member.

110B Termination of appointment

The Minister must terminate the appointment of a member of the Consultative Group who:
   (a) fails, without reasonable excuse, to comply with subsection 110A(1); or
   (b) becomes a director of a business or entity involved in the commercialisation of GMOs or GM products; or
   (c) acquires equity, a beneficial interest or securities in, or securities issued by, a business or entity involved in the commercialisation of GMOs or GM products.

6A The Minister must not appoint a person as a member of the Ethics Committee if that person:
   (a) is a director of; or
   (b) holds equity or a beneficial interest in; or
   (c) holds equity or a beneficial interest in securities in, or issued by; a business or entity involved in the commercialisation of GMOs or GM products.

115 Disclosure of interest

(1) A member of the Ethics Committee who has a direct or indirect pecuniary interest in any business or entity in-
volved in the development, use, release or commercialisation of GMOs or GM products must disclose the interest at a meeting of the committee.

(2) A disclosure under subsection (1) is to be recorded in the minutes of the meeting and the member must not:

(a) be present during any deliberation of the committee; or

(b) take part in any decision of the committee;

in relation to any matter involving a conflict of interest for that member.

(95) Page 74 (after line 32), after clause 115A, insert:

115B Termination of appointment

The Minister must terminate the appointment of a member of the Ethics Committee who:

(a) fails, without reasonable excuse, to comply with subsection 115A(1); or

(b) becomes a director of a business or entity involved in the commercialisation of GMOs or GM products; or

(c) acquires equity, a beneficial interest or securities in, or securities issued by, a business or entity involved in the commercialisation of GMOs or GM products.

(96) Clause 118, page 77 (after line 9), after subclause (3), insert:

(3A) The Governor-General must not appoint a person as the Regulator who:

(a) is, or has been a director of; or

(b) holds equity or a beneficial interest in; or

(c) holds securities or a beneficial interest in securities issued in, or by; a business or entity that is involved in the commercialisation of GMOs or GM products.

(97) Clause 119, page 77 (line 25), after paragraph (d), insert:

; or (e) is appointed as a director of a business or entity that is involved in the commercialisation of GMOs or GM products; or

(f) acquires:

(i) equity or a beneficial interest in; or

(ii) securities or a beneficial interest in securities issued by;

These amendments would remove conflict of interest from the committees and the regulator. For example, the first of these amendments says that the minister must not appoint a person to the committee—that is, the technical advisory committee—if that person is a director of or holds equity in or a financial interest in or securities in ‘a business or entity involved in the commercialisation of GMOs or GM products’. It is a clean-up clause. It simply puts to rest the great fear that many of us have that it will not be very long at all before this technical advisory committee, which is quite an important one, is simply going to have appointees with a vested interest in the industry. That is a conflict of interest. If we make it clear at the outset that that cannot be so, the public will have faith in this committee.

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (1.43 a.m.)—I note the disclosure of interest provisions are already set out in the regulations. The government therefore opposes the amendments.

Senator BROWN (Tasmania) (1.43 a.m.)—Disclosure of interest is not the same as conflict of interest, and the government should understand that.

Senator HARRIS (Queensland) (1.43 a.m.)—I put on record that Pauline Hanson’s One Nation supports this group of amendments and also prefers amendments similar to that in relation to the Gene Technology Regulator. It is important that the community has confidence in these committees and that they are not turned into peak bodies that are captured by the industry. That is a very appropriate word. There is considerable concern about the administration of the FDA in America—what is commonly referred to as the revolving door, whereby people come out of the industry into that department and go out of that department back into the industry. I believe that this would go a long way to giving the community confidence that these committees would be there to assess each of the issues on their merit. I commend them to the Senate.
Senator STOTT DESPOJA (South Australia—Deputy Leader of the Australian Democrats) (1.45 a.m.)—These amendments highlight again not only the issue of public faith and confidence in this regime but also that it is an independent one, and that it is perceived to be independent. I think that the amendments add to that notion.

Amendments not agreed to.

Senator FORSHAW (New South Wales) (1.46 a.m.)—I move opposition amendment (12):

(12) Clause 107, page 69 (after line 10), before paragraph (a), insert:

(aa) matters of general concern identified by the Regulator in relation to applications made under this Act;

This proposes an amendment to clause 107 of the bill, which is the clause dealing with the function of the Gene Technology Community Consultative Group. The current words set out in the bill provide that the consultative group is to provide advice, on the request of the regulator or the ministerial council, on the following—and I quote:

(a) matters of general concern in relation to GMOs;

(b) the need for policy principles, policy guidelines, codes of practice and technical and procedural guidelines in relation to GMOs and GM products and the content of such principles, guidelines and codes.

Our amendment inserts a further subclause (aa) which reads:

matters of general concern identified by the Regulator in relation to applications made under this Act;

Whilst we would have preferred to see the Gene Technology Community Consultative Group have a role in assessing individual applications, either through the public submission process or other forums identified by the regulator, can be referred to the Gene Technology Community Consultative Group for advice. This broadens considerably the functions of the Gene Technology Community Consultative Group and, accordingly, we ask the committee to support the amendment.

Senator STOTT DESPOJA (South Australia—Deputy Leader of the Australian Democrats) (1.48 a.m.)—It is a good amendment and the Democrats will be supporting it.

Senator HARRIS (Queensland) (1.48 a.m.)—I rise also to support Labor’s amendment. Pauline Hanson’s One Nation has a similar amendment (47). As Senator Forshaw has indicated, it would be the preference of the Labor Party for each individual application to be assessed by this committee. However, he has indicated that those negotiations with the government have failed and, therefore, we now rely on the regulator’s request from the consultative group. I believe it would be far more appropriate if the consultative group had the ability to comment on the policy principles, the guidelines, the codes of practice and the technical and procedural guidelines, as well as individual applications. It is very obvious that there is no support from the government for the committee to have, as of right, an ability to comment on individual applications. There is nothing in these amendments that binds the regulator to accept the advice from the consultative group. That would be an improvement to clause 107 of the bill. In speaking to and supporting Labor’s amendment, I indicate that I will not proceed with Pauline Hanson’s One Nation amendment (47).

Amendment agreed to.

Senator STOTT DESPOJA (South Australia—Deputy Leader of the Australian Democrats) (1.50 a.m.)—I move:

(10) Page 69 (after line 15), after clause 107, insert:

107A Citizens’ Juries

(1) The Consultative Committee may appoint a citizens’ jury on an ad hoc basis to assist in the performance of its functions.
Without limiting subsection (1), a citizens’ jury may assist the Consultative Committee to:

(a) formulate advice on a question of policy of significant public interest; or

(b) raise awareness and promote education in relation to an issue of significant public interest.

The Consultative Committee is to appoint 18 members of a citizens’ jury with the aim of ensuring that the jury is randomly selected and demographically representative.

The regulations may prescribe matters relating to the following:

(a) the basis for selecting the jury;

(b) the mode of operation of the jury, including procedures for collecting evidence and questioning witnesses;

(c) the preparation of jury reports;

(d) the publication of the jury’s findings and recommendations.

The Regulator must adopt any recommendation made by a citizens’ jury or publish reasons for not doing so.

This amendment relates to public involvement and public confidence in not only the regulator but also the whole regime and the debate about GMOs, their approval and application processes. I think Senator Tambling and others would be aware of some things that have happened internationally: the bodies, conferences and committees that have been formed to ensure maximum public consultation and input, particularly in the UK. That is basically the concept of a citizens’ jury. In Australia, probably the closest thing we have come to it in relation to the debate on GMOs was the consensus conference, which saw a combination of lay people and representatives from industry and various sectors of the population debating some of their concerns and questions about GMOs.

I have had brief discussions with the government and I understand that this amendment in its current form may not be acceptable. I am happy to listen to the suggestions of the government in relation to how we could pass something that constitutes a similar concept to this; that is, the opportunity to randomly select people from all over Australia and from the standard range of different demographic groups based on geography, educational background, gender, age, ethnicity, et cetera, to participate in these juries. So the 18-member juries would have those characteristics, which I think are necessary to ensure a diverse range of views are reflected and represented in relation to this issue of debate. I ask the government to outline what they are prepared to consider in the form of this amendment—certainly in relation to maximising public participation and consultation. I do commend the concept of citizens’ juries and hope that we do follow some of world’s best practice—examples of which we are seeing in places like the UK—in relation to this issue.

While the government will not support this amendment, the government will agree to establish a consensus conference rather than a citizens’ jury. The government agrees with the principle that good policy decisions are informed by extensive consultation through various means. The First Australian Consensus Conference on Gene Technology in the Food Chain made a number of recommendations which informed this bill. We see future conferences being equally useful. Therefore, while agreeing to the principle, we do not accept the amendment, seeing other avenues to achieve the outcome. We will convene this conference within the first 12 months of operation of the GTR and we will be happy to consult Senator Stott Despoja on the details.

While I am sorry that the citizens’ jury concept is not one we are adopting in Australia, I think it is only a matter of time; I will be a bit of a pollyanna on this one; maybe it is just the time of the morning. I nevertheless thank Senator Tambling for that commitment. I am sure he will be a man of his word and the government will not only fulfill this commitment to me but to the Australian people—now that it is on record in the federal parliament. Unlike the commitment that was given by the gov-
ernment—indeed, by Senator Hill, who is sitting here today—to the Democrats to include a strong role for the environment minister in relation to the approval process of GMOs under this legislation, I am sure this promise will not be broken.

I do believe that Senator Tambling and his advisers have a clear understanding of how beneficial that consensus conference was. I do not think anyone who attended it, regardless of whether they were from Monsanto or from the Consumers Association, doubted the extraordinary benefits of that discussion. I highly recommend that the senators and members of the public read the communique, which outlines some of the issues for discussion. I think all sectors of the industry have probably learnt from that communique, just as it made an impression on government. In the hope that it has made an indelible impression on the parliamentary secretary, I thank him for his commitment and can assure him that the Democrats will endeavour to hold him and the government to it.

Senator BROWN (Tasmania) (1.55 a.m.)—While noting Senator Stott Despoja’s call for a strong role for the environment minister, under current circumstances it is somewhat of a non sequitur or tautology. I indicate I support this amendment.

Amendments not agreed to.

Senator BROWN (Tasmania) (1.56 p.m.)—by leave—I move:

(84) Clause 108, page 69 (line 27), omit “The Minister”, substitute “Subject to subsection (4)”.

(85) Clause 108, page 70 (line 17), at the end of subclause (4), add:

; (c) a layperson;

(d) a representative of the Australian Conservation Foundation;

(e) a representative of the Organic Federation of Australia.

The Minister is not required to be satisfied that a person mentioned in paragraphs (c) to (e) has skills or experience in an area mentioned in subsection (3).

(87) Clause 110, page 71 (lines 2 to 9), omit subclause (1), substitute:

(1) The regulations may prescribe the following matters relating to the members of the Consultative Group:

(a) term of appointment;

(b) resignation;

(c) leave of absence;

(d) termination of appointment to the extent that it is not covered by this Division.

These are amendments to ensure that the Gene Technology Community Consultative Group has amongst the membership a layperson, a representative of the Australian Conservation Foundation and a representative of the Organic Federation of Australia. I would again ask the Labor Party to consider making that appointment. It is probably even more right that these appointments should be made to this particular group. It is the community consultative group, and if representatives of the Australian Conservation Foundation and the Organic Federation of Australia are there in this consultation group then a lot of people are going to feel better about that, particularly those who feel most vulnerable or concerned about the spread of genetic technology into the natural and rural environments in Australia.

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (1.57 p.m.)—The government is opposed to these amendments. As with earlier amendments in relation to the technical committee, the government opposes these amendments. We consider it inappropriate that the Australian Conservation Foundation and the Organic Federation of Australia be given an automatic seat at the table. Nominations for members of the community consultative committee will be drawn from a range of organisations and also from organisations that could embrace groups other than those already named, such as Greenpeace, Friends of the Earth, Gene Ethics, et cetera.

Senator BROWN (Tasmania) (1.58 p.m.)—I do not have a problem with those, but the Senate and the committee ought to be having a say in this. We have done it on legislation before, and it would be very appropriate for the Labor Party to ensure that we did it on this occasion because it does mean
that you are going to get representation from the community groups who are most relevant to the impact of this technology.

**Senator HARRIS** (Queensland) (1.58 p.m.)—I rise to support the Greens amendments on the same basis that I supported them on the previous committee, believing that with this committee it is even more appropriate. I would seek an answer from Senator Tambling as to whether the government has an idea of the numbers that would be involved in this consultative group.

**Senator TAMBLING** (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (1.59 p.m.)—I am advised it is in the bill and it is 12.

Amendments not agreed to.

**Senator STOTT DESPOJA** (South Australia—Deputy Leader of the Australian Democrats) (2.00 a.m.)—I will not be moving Democrats amendments Nos 11 to 14.

**Senator BROWN** (Tasmania) (2.00 a.m.)—by leave—I move:

(90) Clause 111, page 72 (line 17), omit "The Minister", substitute "Subject to subsection (6), the Minister".

(91) Clause 111, page 73 (line 6), at the end of subclause (4), add:

; (c) a layperson;
(d) a representative of the Australian Conservation Foundation;
(e) a representative of the Organic Federation of Australia.

The Minister is not required to be satisfied that a person mentioned in paragraphs (c) to (e) has skills or expertise in an area mentioned in subsection (5).

a business or entity involved in the commercialisation of GMOs or GM products.

(93) Clause 115, page 74 (lines 9 to 16), omit subclause (1), substitute:

(1) The regulations may prescribe the following matters relating to the members of the Ethics Committee:

(a) term of appointment;
(b) resignation;
(c) leave of absence;
(d) termination of appointment to the extent that it is not covered by this Division.

I move these amendments so that the same community groups have representation on the Gene Technology Ethics Committee membership, but I recognise that Labor has just copped out totally as far as community representation here is concerned and is going to leave it to the government. That again is an indication of how pathetic its attitude has been to a whole raft of constructive amendments put forward here. But at least they are consistent.

Amendments not agreed to.

**Senator STOTT DESPOJA** (South Australia—Deputy Leader of the Australian Democrats) (2.01 a.m.)—I move:

(15) Page 71 (after line 26), at the end of Division 3, add:

110A Subcommittees

(1) The Consultative Committee may, with the Regulator’s consent, establish subcommittees to assist in the performance of its functions.

(2) The regulations may prescribe matters relating to the constitution and operation of subcommittees.

This amendment, in relation to subcommittees, goes to the ability for the consultative committee to establish subcommittees in order to assist it in the performance of its functions. I hope this is not seen as a particular controversial amendment. I think it is quite straightforward, just to assist the consultative committee in its work. I think it is a pretty sensible amendment and I commend it to the chamber.

**Senator TAMBLING** (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (2.01 a.m.)—I indicate that One Nation also supports the subcommittees.

Amendment agreed to.

**Senator FORSHA W** (New South Wales) (2.02 a.m.)—I move:

(13) Clause 118, page 77 (after line 11), at the end of the clause, add:
(5) The Governor-General must not appoint a person as the Regulator if, at any time during the period of 2 years immediately before the proposed period of appointment, the person was employed by a body corporate whose primary commercial activity relates directly to the development and implementation of gene technologies.

(6) The Governor-General must not appoint a person as the Regulator if the person has a pecuniary interest in a body corporate whose primary commercial activity relates directly to the development and implementation of gene technologies.

This amendment relates to clause 118 of the bill, which deals with the appointment of the regulator. Our amendment will substantially strengthen and ensure the independence of the regulator. The words to be added to the clause are as follows: that the Governor-General must not appoint a person as the regulator if at any time during the period of two years immediately before the proposed period of appointment the person was employed by a body corporate whose primary commercial activity relates directly to the development and implementation of gene technologies, and also shall not appoint a person as the regulator if the person has a pecuniary interest in a body corporate whose primary commercial activity relates directly to the development and implementation of gene technologies. As I said, that will substantially strengthen the independence of the regulator, and I seek the support of the Senate.

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (2.03 a.m.)—I indicate that the government is pleased to agree to the amendment by the opposition.

Senator BROWN (Tasmania) (2.03 a.m.)—Could Senator Forshaw give us the names of some commercial entities whose primary commercial activity is in gene technology?

Senator HARRIS (Queensland) (2.03 a.m.)—I rise to indicate to the chamber that Pauline Hanson’s One Nation amendment No. 60, though the wording is slightly different, is substantially the same. I commend the Labor Party for having negotiated the clause that they have in the bill. I support the Labor Party’s amendment and indicate to the chamber that I will not be moving my amendment No. 60.

Senator BROWN (Tasmania) (2.04 a.m.)—I note that the Labor Party could not answer that question.

Senator Forshaw—It’s not an exam; it’s legislation.

Senator BROWN—It just shows you how short of the mark it is as far as this provision is concerned and why it turned down the earlier amendment. Not at this hour, says Senator Forshaw, he cannot think. This is very weak.

Senator Forshaw—I did not say that at all.

Senator BROWN—You can get up and speak if you want to. Senator Forshaw, if you’re worried about—

The TEMPORARY CHAIRMAN (Senator Sherry)—Order! Please ignore these interjections, Senator Brown.

Senator BROWN—I will respond to Senator Faulkner by just saying that he might well go and sit in the coffee room for a little longer, and we will get through this faster.

Senator Faulkner—I’m worried about the week, w-e-e-k, that we’re going into next week.

Senator BROWN—Senator Faulkner, if you’re worried about—

Amendment agreed to.
(14) Page 85 (after line 10), after clause 136, insert:

**136A Quarterly reports**

1. As soon as practicable after the end of each quarter, the Regulator must prepare and give to the Minister a report on the operations of the Regulator during that quarter.

2. The report must include information about the following:
   (a) GMO licences issued during the quarter;
   (b) any breaches of conditions of a GMO licence that have come to the Regulator’s attention during the quarter;
   (c) auditing and monitoring of dealings with GMOs under this Act by the Regulator or an inspector during the quarter.

Note: Auditing and monitoring may include spot checks

3. The Minister must cause a copy of the report to be laid before each House of the Parliament within 15 sitting days of the day on which the report was given to the Minister.

4. In this section:
   *quarter* means a period of 3 months beginning on 1 January, 1 April, 1 July or 1 October of any year.

This amendment relates to the provision of quarterly reports to the parliament and is self-explanatory. It will require that the regulator must prepare and give to the minister a report on the operations of the regulator during that quarter. It is a major improvement on what was previously in the bill. I seek the support of all of the Senate, including Senator Brown, for this amendment.

**Senator HARRIS** (Queensland) (2.07 a.m.)—I rise to support the Labor amendment. I seek clarification. I see no provision in the amendment should the chambers not be sitting. I ask whether there should be something put into the amendment to accommodate either the President or the Speaker of the House receiving that report if the chambers are not sitting.

**Senator STOTT DESPOJA** (South Australia—Deputy Leader of the Australian Democrats) (2.07 a.m.)—In the interest of accountability, the Democrats will also be supporting the amendment. So I think Senator Forshaw has almost unanimous support.

Amendment agreed to.

**Senator BROWN** (Tasmania) (2.08 a.m.)—by leave—I move:

(98) Clause 138, page 86 (lines 8 to 17), omit “subclause (3), substitute:

3. The Record must contain a copy of each licence issued under section 55. The Regulator may exclude any confidential commercial information from the copy of the licence contained in the Record.

(99) Clause 138, page 86 (lines 18 to 24), omit subclause (4).

(102) Clause 138, page 87 (line 7), omit subclause (7), substitute:

7. The Record must be kept:
   (a) on the Regulator’s Internet website; and
   (b) in any other form, including a computerised form, that the Regulator considers appropriate.

(104) Clause 138, page 87 (after line 10), after subclause (8), insert:

8A. The Regulator must maintain an Internet website that includes the following matters:
   (a) information about all licence applications;
   (b) all risk assessments and risk management plans;
   (c) the Record;
   (d) information about all certified facilities including:
      (i) the location of the facility; and
      (ii) the person who operates the facility; and
      (iii) the level of containment certification; and
      (iv) the types of GMO dealings that are carried out at the facility; and
      (v) details of the most recent environmental model of the facility; and
   (e) information about all accredited organisations including:
(i) the types of GMO dealings that are carried out by the organisation; and
(ii) details of the most recent environmental audit of the organisation’s GMO dealings; and
(f) such other information as the Regulator considers appropriate.

These amendments are to ensure that there is transparency, so I guess they will be voted down by the government and the opposition. They would mean that the dealings in which the Gene Technology Regulator is involved should be publicly available and in particular should be on the web site. It should be available through the Internet.

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (2.08 a.m.)—The government will oppose this amendment. We consider it inappropriate that the legislation prescribe all matters that the regulator must place on the web site.

Senator BROWN (Tasmania) (2.09 a.m.)—It does not. It says that, if something is commercial-in-confidence, it can be left off, but the rest should be there. If the government has an argument against that, I would like to hear it.

Amendments not agreed to.

The TEMPORARY CHAIRMAN (Senator Sherry)—Senator Brown, I am informed that your next two amendments were consequential on the success of earlier amendments, so you are not moving them?

Senator BROWN (Tasmania) (2.09 a.m.)—That is correct. I now move Australian Greens amendment (9) on sheet 2062:

(9) Clause 147, page 93 (line 5), omit “aggrieved”.

This amendment is to ensure that standing is given to members of the public who wish to take action in defence of their interests as far as genetic engineering is concerned.

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (2.11 a.m.)—The government opposes this amendment. The injunction provision in the bill is already drafted very broadly. Not only can the regulator seek an injunction restraining a person from engaging in certain conduct, but any other aggrieved person may seek an injunction. It is only appropriate that the Federal Court determine who is aggrieved and therefore in a position to seek an injunction.

Amendment not agreed to.

Senator FORSHAW (New South Wales) (2.11 a.m.)—by leave—I move opposition amendments Nos 15 and 20:

(15) Clause 178, page 116 (line 12), at the end of the clause, add:

; (e) review of the operation of the Act.

(20) Page 127 (after line 31), at the end of the Bill, add:

194 Review of operation of Act

(1) The Ministerial Council must cause an independent review of the operation of this Act, including the structure of the Office of the Gene Technology Regulator, to be undertaken as soon as possible after the fourth anniversary of the commencement of this Act.

(2) A person who undertakes such a review must give the Ministerial Council a written report of the review.

(3) The Minister, on behalf of the Ministerial Council must cause a copy of the report of the review to be tabled in each House of the Parliament within 12 months after the fourth anniversary of the commencement of this Act.

(4) In this section:

independent review means a review undertaken by persons who:

(a) in the opinion of a majority of the Ministerial Council possesses appropriate qualifications to undertake the review; and

(b) include one or more persons who are not employed by the Commonwealth or a Commonwealth authority.

These amendments relate to the review of the act. Our proposal is that the review of the act be undertaken as soon as possible after the fourth anniversary of the commencement of the act. We indicated earlier in regard to other amendments and discussion that it will be appropriate and necessary to review the operation of the act.

Senator HARRIS (Queensland) (2.12 a.m.)—I rise to indicate that Pauline Han-
son’s One Nation has an amendment that is substantially the same. The only difference is that the opposition’s amendment waits an extra year prior to commencing the review of the act. I believe it would be preferable that the review commence at the end of a three-year period and report at the end of the fourth year. However, I indicate to the chamber that I will support Labor’s amendment and not proceed with amendments (100) and (118) of Pauline Hanson’s One Nation.

Senator BROWN (Tasmania) (2.13 a.m.)—There is a need for a review, but in the amendment it is a very long way off. I think the pattern of the night is that the shortcomings in the bill at the moment are left, by the opposition and the government, to some review process further down the line. At this point, I ask the government to indicate why the logo of ANZFA, the Australia New Zealand Food Authority, is still on the web site of the University of Queensland botany department despite the minister saying quite a few days ago that some action would be taken on that matter.

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (2.14 a.m.)—Can I indicate with regard to the amendment before us that the government accepts this amendment. With regard to the action ANZFA was taking on the inappropriate use of a web site, I will have to take that on notice and follow it up tomorrow with ANZFA. I will do so.

Senator FORSHAW (New South Wales) (2.14 a.m.)—I have pointed out on an earlier occasion that there is also provision for reviews to occur earlier, obviously with respect to specific areas, if an issue arises, it comes before the ministerial council and it is felt that there is a need to undertake such a review.

Amendments agreed to.

Senator BROWN (Tasmania) (2.15 a.m.)—by leave—I move:

(110) Clause 179, page 117 (before table item 1), insert:

| 1A | To approve a proposed variation to an approved dealing section 28A any person resident in the relevant State or local government area |

(111) Clause 179, page 117 (after table item 1), insert:

| 1A | To issue a licence section 55 any person resident in the relevant State or local government area |

(112) Clause 179, page 117 (cell at table item 2, 4th column), omit the cell, substitute:

| any person resident in the relevant State or local government area |

(113) Clause 179, page 117 (after table item 2), insert:

| 2A | Not to impose a licence condition section 55 any person resident in the relevant State or local government area |

(114) Clause 179, page 117 (cell at table item 4, 4th column), omit the cell, substitute:

| any person resident in the State or local government area |

(115) Clause 179, page 117 (after table item 5), insert:

| 5A | To certify a facility section 84 any person resident in the relevant State or local government area |

(116) Clause 179, page 117 (cell at table item 6, 4th column), omit the cell, substitute:

| any person resident in the relevant State or local government area |

(117) Clause 179, page 117 (after table item 6), insert:

| 6A | Not to specify a condition of a certification section 86 any person resident in the relevant State or local government area |

(118) Clause 179, page 117 (cell at table item 7, 4th column), omit the cell, substitute:

| any person resident in the relevant State or local government area |

(119) Clause 179, page 117 (after table item 9), insert:
These amendments are to extend the range and involvement of the public in the review process. I commend them to the committee.

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (2.15 a.m.)—The government does not support these amendments. The states, territories and Commonwealth believe that a broad right of review would be costly, would diminish certainty and decision making, and could have a very negative effect on research and development which currently represents over 90 per cent of the Interim Office of the Gene Technology Regulator.

Senator BROWN (Tasmania) (2.16 a.m.)—Which, paraphrased, says that the public, to quote a phrase I heard earlier in the night, are ‘pests and possibly pathogens’! We are simply extending public involvement in this, and the government is saying no. It is a pretty simple test. There is public concern about GE. The government would be doing itself a favour if it allowed more public involvement and not less. But the opportunity is not being taken here. I think that is simply going to lead to greater controversy about this matter, as people feel frustrated: they cannot get the information, they do not have community representatives on the relevant committees, they do not have adequate standing and they feel frustrated and left out of the process. I think the government is making a rod for its own back. That is a political decision that it is making.

Senator HARRIS (Queensland) (2.17 a.m.)—The Greens amendments would go a long way to having much better public confidence in this bill. Senator Tambling has indicated the government will not support this. The government is not even prepared to support the rights of adjoining property owners. The amendments that have been put forward by the Greens would have, under this amendment, given those people standing. It is a pity that the government and the Labor Party will not recognise that people adjoining have rights, and those rights should be respected.

Amendments not agreed to.

Senator FORSHAW (New South Wales) (2.18 a.m.)—I move:

(16) Page 119 (after line 26), at the end of Division 2, add:

183A Extended standing for judicial review

(1) This section extends (and does not limit) the meaning of the term person aggrieved in the Administrative Decisions (Judicial Review) Act 1977 for the purposes of the application of that Act in relation to:

(a) a decision made under this Act or the regulations; or

(b) a failure to make a decision under this Act or the regulations; or

(c) conduct engaged in for the purpose of making a decision under this Act or the regulations.

(2) A State is taken to be a person aggrieved by the decision, failure or conduct.

(3) A term (except person aggrieved) used in this section and in the Administrative Decisions (Judicial Review) Act 1977 has the same meaning in this section as it has in that Act.
Senators will recall that, when we were dealing with amendment No. 4 relating to GM-free zones, I foreshadowed that we would also be moving a Labor amendment which would allow for states that believe that the regulator has not taken account of a state’s specific environmental concerns to have standing to appeal such a decision to the Federal Court. That is the purpose of amendment No. 16. Senators will note that the definition of a ‘person aggrieved’ in subclause (2) will include a state and, accordingly, the amendment supports that earlier amendment that we passed regarding extending the rights of states in this particular area.

**Senator HARRIS** (Queensland) (2.20 a.m.)—Pauline Hanson’s One Nation will support Labor’s extended standing for judicial review.

**Senator TAMBLING** (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (2.20 a.m.)—The government will accept this amendment. Minister Llewellyn, the Tasmanian Minister for Primary Industries, Water and Environment, has sought confirmation that, in addition to being invited to make comments on risks associated with a GMO, the regulator will have to take this advice into account and that states will be closely involved in the development of risk assessment criteria. I am happy to give this assurance.

I would like to put on record the fact that the bill provides that the GTR must seek the advice of states and territories in making a licensing decision where the release of the GMO would be into the open environment. The GTR must take the states’ advice into account in terms of both risk assessment and the risk management processes. In addition, states and territories will be closely involved in the development of the risk assessment criteria which will underpin the regulator’s scientific assessment of risks posed by the GMOs. The risk assessment criteria will ensure that the regulator must take into account advice provided by states, including any specific risks peculiar to an individual state or a geographic region within a state.

Amendment agreed to.

**Senator FORSHAW** (New South Wales) (2.21 a.m.)—by leave—I move amendments (1) and (2) on sheet 2067.

(1) Clause 185, page 120 (after line 28), after subclause (2), insert:

(2A) The Regulator must refuse to declare that information is confidential commercial information if the information relates to one or more locations at which field trials involving GMOs are occurring, or are proposed to occur, unless the Regulator is satisfied that significant damage to the health and safety of people, the environment or property would be likely to occur if the locations were disclosed.

Note: This means that, in general, information about sites where dealings with GMOs are occurring will be required to be disclosed under sections 54 and 138, unless the Regulator is satisfied that disclosure would involve significant risks to health and safety.

(2) Clause 185, page 120, after line 30, after subclause (3), insert:

(3A) If:

(a) the Regulator declares that particular information is confidential commercial information, and

(b) the information relates to one or more locations at which field trials involving GMOs are occurring, or are proposed to occur;

the Regulator must make publicly available a statement of reasons for the making of the declaration, including, but not limited to:

(c) the reasons why the Regulator was satisfied as mentioned in subsection (1); and

(d) the reasons why the Regulator was not satisfied under subsection (2) that the public interest in disclosure of the information outweighed the prejudice that the disclosure would cause; and

(e) the reasons why the Regulator was satisfied under subsection (2A) that significant damage to the health and safety of people, the environment or property would be likely to occur if the locations were disclosed.
These amendments relate to confidential commercial information. The Senate inquiry recommended that, where an application for an intentional release of a GMO into the environment includes the size and location of the proposed release, this information should be made available. We have been advised that, while location and size of field trials will be required by the regulator, in the case of commercial release this information would only be provided to the extent that it was possible to do so and would most likely be general information, such as releases above or below certain latitudes. We have, therefore, in our amendment sought to ensure that locations and sizes of field trials will be disclosed unless there is proof that significant damage to property, human health and the environment would occur as a result of this disclosure. In such a case, the regulator must publish the reasons for withholding the location information. This allows for public scrutiny of the suitability of the decision and provision of information to anyone who should seek to challenge the decision in the Federal Court.

Amendments agreed to.

Senator STOTT DESPOJA (South Australia—Deputy Leader of the Australian Democrats) (2.23 a.m.)—I move amendment (1) on sheet 2034:

(1) Page 122 (after line 33), at the end of Division 3, add:

187A Division does not limit access under FOI

Nothing in this Division limits, or is to be taken as limiting, the discretion of a person to make a decision under the Freedom of Information Act 1982 to grant access to a document.

This is a standard amendment that the Democrats put forward, normally by Senator Andrew Murray, as our accountability spokesperson. The amendment seeks to ensure that, basically, there are no constraints on people to apply for freedom of information—there are no constraints on people making such applications. It is a standard amendment that the Democrats move and I hope the chamber will support it.

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (2.24 a.m.)—The government will oppose this amendment. The government cannot agree to it. The effect of the amendment would be that information that is declared to be confidential information by the regulator, having satisfied the very limited criteria for declaration in the legislation, would then be released under the Freedom of Information Act 1982. This means that the amendment could completely undermine the commercial-in-confidence provisions.

Amendment not agreed to.

Senator FORSHAW (New South Wales) (2.24 a.m.)—I move amendment (19) on sheet 2026:

(19) Page 127 (after line 23), after clause 192, insert:

192A Interference with dealings with GMOs

(1) A person is guilty of an offence if:

(a) the person engages in conduct; and
(b) the conduct:
(i) results in damage to, destruction of, or interference with, premises at which dealings with GMOs are being undertaken; or
(ii) involves damaging, destroying, or interfering with, a thing at, or removing a thing from, such premises; and
(c) the owner or occupier of the premises, or the owner of the thing (as the case requires) has not consented to the conduct; and
(d) in engaging in the conduct, the person intends to prevent or hinder authorised GMO dealings that are being undertaken at the premises or facility; and
(e) the person knows, or is reckless as to, the matters mentioned in paragraphs (b) and (c).

Maximum penalty: Imprisonment for 2 years or 120 penalty units.

Note: Chapter 2 of the Criminal Code sets out the general principles of criminal responsibility.

(2) In this section:

authorised GMO dealings, in relation to premises or a facility, means deal-
ings with GMOs being undertaken at the premises or facility:

(a) that are authorised to be undertaken at the premises or facility by a GMO licence; or

(b) that are notifiable low risk dealings; or

(c) that are exempt dealings; or

(d) that are deregulated GMO dealings.

We have, by virtue of earlier amendments, provided for penalties, and we toughened those penalties in respect of companies which engaged in actions which, for instance, unlawfully or deliberately released GM products into the environment. Those amendments were adopted by the chamber.

This amendment, amendment (19), would provide for penalties where persons engage in conduct which results in damage to, destruction of, or interference with, premises at which dealings with GMOs are being undertaken, and similar actions. It is our view that information obtained by persons, for instance, about where GM trials are being undertaken or other similar activities are occurring must be used responsibly. We cannot and should not tolerate either threats of damage to GMO sites or such damage being carried out. Accordingly, we believe that this provides a balance in terms of illegal activities that are undertaken against the gene technology sector.

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (2.26 a.m.)—The government will accept this amendment. While we believe that the criminal law would adequately cover people who destroy GMOs, we will accept the amendment that describes offences of interference with dealings with GMOs.

Senator BROWN (Tasmania) (2.26 a.m.)—All night we have had the government and the opposition backing away from having strong regulation and a strong hand on the GE industry. Now, when it comes to people involved in taking action against crops—like we have seen elsewhere around the world—we stiffen the penalties. You cannot have this. I have a friend currently facing some months jail in Tasmania because she peacefully stood in front of a bulldozer in the forest. We are seeing this great tendency towards giving totally untoward penalties for people standing up for the environment or the public good by protesting in good faith against something which is wrong, yet tonight we could not even pass an ironclad insurance policy for the people who would be damaged by this industry. There is no compensation fund. Time and again, the requirement that this industry be responsible for what it has done is ducked, but we end up saying that people who stand up against it and make a peaceful protest against the spread of GMOs are going to be penalised even more strongly because Labor thinks that the government is being too soft on them. What a situation!

Senator FORSHAW (New South Wales) (2.28 a.m.)—I would like to briefly respond to Senator Brown. I note Senator Brown was quite prepared to support our earlier amendments which increased the severity of the penalties where breaches of licence conditions occur. I remind Senator Brown that we actually strengthened those penalties substantially by introducing provision for imprisonment terms of two years for lesser offences and five years for serious offences. Senator Brown was quite happy to support that because such penalties would clearly apply to persons or companies engaged in GMO research or gene technology work; however Senator Brown has just stood up and said that it is appropriate for those who seek to wreck this industry, who seek to damage it, to get off scot-free and not be subject to any real penalty at all. I point out that the penalties contained in our amendment have a maximum term of two years, which is substantially less than the maximum term that is provided in the other section. I think the real proof of Senator Brown’s approach in this area has just been demonstrated.

Senator BROWN (Tasmania) (2.29 a.m.)—There is the champion defender of verballing, if you don’t mind. Let me just say again that we have seen Labor support the government time after time tonight in ducking strong provisions to defend the community against the big end of town. But it has
ended the night by increasing the penalties against the other end of town. What has the Labor Party come to?

Senator HARRIS (Queensland)  (2.29 a.m.)—I support Labor’s amendment in principle, but I have just one concern and would seek some clarification from either Senator Forshaw or Senator Tambling in relation to 1(e), which states:

(e) the person knows, or is reckless as to, the matters mentioned in paragraphs (b) and (c).

As I said, I support the amendment in principle but I am questioning: what would be a definition of a person who is reckless in relation to (b) and (c)?

Senator FORSHAW  (New South Wales)  (2.31 a.m.)—Might I just respond by saying that the concept of recklessness is actually recognised within criminal law. Without wanting to get into a long dissertation about it, my recollection from my earlier law student days is that a person can be guilty of an offence where their approach is of such a reckless nature that they essentially do not care about the consequences of their actions, which they should have known would have been likely to have arisen. Generally speaking, under criminal law, there needs to be an intention to commit a crime and to do the damage as well. I am sorry that it is a very brief summary, but recklessness is a concept clearly recognised at law. No doubt it would be something that would be determined under any proceedings that occurred.

Amendment agreed to.

Senator FORSHAW (New South Wales) (2.32 a.m.)—by leave—I move:

(1) Clause 32, page 23 (lines 20 and 21), omit “a fine of not more than whichever of the following amounts applies”, substitute “whichever of the following applies”.

(2) Clause 34, page 25 (lines 10 and 11), omit “a fine of not more than whichever of the following amounts applies”, substitute “whichever of the following applies”.

These amendments are consequential to earlier amendments that we moved, which were amendments Nos 5 and 8. Those amendments provided for the increase in penalties related to imprisonment for breaches of licence conditions. But we did notice that, after those amendments were carried, we also needed to alter the wording of the actual clause in the bill from it providing just for a fine to providing for a fine or a term of imprisonment. That is the effect of these amendments—that either of those two penalties would be applicable.

Amendments agreed to.

Senator STOTT DESPOJA (South Australia—Deputy Leader of the Australian Democrats) (2.34 a.m.)—I want to ask a question of Senator Tambling. In the context of my question earlier about refuge and buffer zones, you talked about the regulator’s ability to make a risk assessment. Is it not the case that an assessment of risk has to be in keeping with the objects of the act? I am wondering how the regulator would be able to address an issue of assessment of risk in relation to contamination that was trade related, for example, as opposed to being within the objects of the act; that is, the parameters of health, safety and environmental issues. So, if there is an assessment based on contamination in relation to trade or a risk that has a trade relation, is that outside the scope of the regulator’s power to assess risk under the bill?

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (2.35 a.m.)—I am advised that this matter was addressed in an amendment by the Labor Party earlier, which is that, where the ministerial council determines a policy principle, the regulator cannot act in an inconsistent manner.

Senator BROWN (Tasmania) (2.35 a.m.)—I would like to follow up Senator Stott Despoja’s point because it is important and I wonder if the minister understood it. She was asking about the risk that is involved in a commercial way, that is involved in the handling of GE and GMO products, as against those things listed up front—environmental safety and health. It seems to be a pretty important one and I wonder, if it is not there in the legislation, how the government is going to transmit to the council that it, in its development of policy, should consider that matter.
Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (2.36 a.m.)—I am advised that the ministerial council has the capacity to make GM-free zones, as was done in the Labor Party’s amendment. In addition, the regulator looks at the spread of GMOs in the environment, and ‘the environment’ is defined very broadly.

Bill, as amended, agreed to.

GENE TECHNOLOGY ( LICENCE CHARGES) BILL 2000

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

GENE TECHNOLOGY ( CONSEQUENTIAL AMENDMENTS) BILL 2000

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

Gene Technology Bill 2000 reported with amendments; Gene Technology (Consequential Amendments) Bill 2000 reported without amendments; Gene Technology (Licence Charges) Bill 2000 reported without requests; report adopted.

Third Reading

Motion (by Senator Tambling) proposed:

That these bills be now read a third time.

Senator BROWN (Tasmania) (2.39 a.m.)—I am not supportive of this bill. Even though it moves to give a regulatory framework for the spread of gene technology in Australia, it is weak and therefore it is dangerous. Not only is it dangerous to the Australian environment and potentially to the health of Australians but also it is dangerous to commerce in this country, including the organic farming sector of rural Australia. I said earlier that organic farming is a gilt-edged component of rural industries these days. It is concentrated in family farms, which are big employers in the bush. It also produces high premium produce for Australians and for the overseas market. That market is growing more rapidly than the rest of the export market for primary produce in Australia.

Put simply, if genetic contamination goes into farmlands that are registered as organic, they will be finished. That will be the end of the livelihood of those farms. We do not yet know about the long-term hazards of genetic technology to health, but I do not believe it is adequately regulated in this legislation. What we do know is that, largely because of the failure of the opposition to take a strong stand in the matter, this legislation does not require insurance for those people who get licences for GM products, unless the Gene Technology Regulator requires it. It does not protect the natural environment—Australia’s flora and fauna—from the spread of genetic contamination. It does not give a clear, comprehensive opt-out clause for the states. That has become a very much more difficult matter—a state becoming GMO free—under this legislation. Local government is denied altogether the power to declare itself as having GE free status.

The requirement of licensing so-called low-risk dealings, which we did not define in the debate, is gone. That leaves a raft of GE dealings which are not going to be either licensed or available for public scrutiny in the one-stop shop that we hoped to get but are not getting under this legislation. It could have been the standard bearer for GE legislation around the world. It should have been. Basic to that is public confidence that everything is aboveboard and obvious, that risk management is at the fore and that the precautionary principle would be there and would be strong, but the legislation fails to do that. Time and time again those aims have been eroded by either the failure of amendments moved by the Greens, the Democrats and One Nation or by the substitution of weak amendments by the opposition and the government. It failed to set up even a compensation fund for this industry to ensure that if people are injured, they will have at least a dollar recompense. That practice applies with doctors and lawyers, but it does not apply to the purveyors of GMOs in this country.

The bill falls far short of where it should have been. It even falls short of the standards set by the report of the Senate Community Affairs Legislation Committee. It is a pity that at the end of the year, we are not celebrating breakthrough legislation on one of the great issues of the age not just for our
country but right around the world. I believe we are not celebrating because the big parties are failing to heed public concern about this. They do not have their ears to the ground; they do not understand the rising tide of public concern. We are going to be another country where consumer revolt is going to wake up the body politic to the fact that, while gene technology does have scintillating prospects and great advantages for the human community, it also has its worries as far as our society is concerned. Those worries have not been adequately addressed on this occasion.

Senator STOTT DESPOJA (South Australia—Deputy Leader of the Australian Democrats) (2.44 a.m.)—On behalf of the Democrats, I would like to add that we feel that there has been a lost opportunity here today, that we had an opportunity to pass world’s best practice legislation in relation to the regulation of genetic technology. The Democrats outlined in our committee report contribution and in the second reading debate that we believe, in order to maximise the likelihood of public confidence in Australia’s gene technology regulatory system, the Gene Technology Regulator should be required to possess a number of characteristics, including independence. Unfortunately, some of the amendments that have been knocked back in the context of this debate, such as making it a three-person body as opposed to a single person, have weakened the opportunity for the regulator to be perceived as independent.

Contributing to public debate was a second feature that we felt was all-important. I acknowledge the government’s acceptance of some of the Democrat amendments in that regard—certainly the elevation in our minds of the consultative group to a consultative committee, the ability to form subcommittees and also the notion of a citizens’ jury. Whilst that was not accepted, the government committed to support or undertake or implement a consensus conference. However, at all times we have maintained that the only way the public’s confidence will be instilled in this regime or be gained or maintained for the benefits of this technology is by ensuring public debate, education and information. We also believed that the regulator had to be a powerful watchdog in order to instil that public confidence in these technologies and the regime. Unfortunately, some of the amendments that were defeated, such as the issue in relation to exempt dealings, have, I think, weakened the bill as a consequence. I think we need to be wary of public backlash as a consequence of having an insufficient or inadequately strong regulator. I think that is something with which the government will have to contend.

On a final note, the process of this committee stage and the actual debate has saddened me. As I have maintained from the beginning, I think this is one of the most fundamental pieces of legislation that this parliament has dealt with, yet it was relegated to the evening hours or the early morning hours of the Senate time. So I do extend thanks to the attendants, staff, clerks and those advisers on all sides who have stuck with this debate, but I do think the debate has been deficient in some respects as a consequence of the hours at which we have been working. I want to add on a note of sadness but also happiness that in the last month two of my advisers have moved on including my geneticist or molecular biologist, Rebecca Smith, and also Catherine Wolthuizen. Given this is the last opportunity in the context of the Senate to do so, I would like to wish them well and say that I will miss them dearly.

Senator HARRIS (Queensland) (2.48 a.m.)—I would like to briefly recap the Gene Technology Bill 2000 and place on record the disappointment of Pauline Hanson’s One Nation that, to a large extent, the issues that have been raised, particularly those relating to the rights of people who will be closely associated with dealings as a result of this bill—that is, the rights of adjoining property owners—have not been recognised; that the insurance issue relating to dealings now is optional—that is, the regulator may now issue a licence for a dealing without requiring insurance on that; and also, and I think substantially, that the powers of the states legislation, and, in this case, particularly those of local governments, again have been eroded by the federal government. It will be inter-
esting to see in the development of this gene technology where the rights of local governments stand. I am aware that the Atherton Shire Council on the tablelands in North Queensland have declared their area GM free. So it will become very interesting to see how the federal legislation from this place overrides the rights of those people in that area to determine that their area remain genetically modified free.

As I said in an earlier part of this debate, we are what we consume. This bill has the potential to have the greatest impact on mankind of anything we have seen not only in the last century but in this developing century. It may be a positive step in the development of mankind, but then again it may also have a detrimental side to it. I hope it is the former and not the latter. And I again express my disappointment at the overriding way in which the rights of individuals have been circumvented in favour of what would appear to be large corporates.

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (2.51 a.m.)—It is important to acknowledge that this legislation is world’s best practice and is setting a very high standard for the international arena. I should acknowledge and thank all senators for the detailed debate that has taken quite some time in the Senate. When we address issues as significant as this, it is very important that we give the matter the time—even though that is sometimes frustrating—and, at the same time, that we engage in what is an appropriate and proper intellectual debate that reflects the breadth of the community that we all represent in so many different forums.

I would also like to acknowledge the fact that there have been many people behind the scenes who have contributed in the development of this legislation. It has not just been to the credit of the government or to the credit of the parliament; stakeholders from the environmental community, the commercial community and the research community right around Australia have taken a very keen and thorough interest in the development of this legislation. Can I also put on record the government’s appreciation of the very sterling work of the departmental officers who have been involved in handling this for some 18 months, particularly those within the Department of Health and Aged Care. They have many compatriots in other departments and agencies with whom there have been very detailed and comprehensive dealings, and I acknowledge the work, the time and the commitment that so many of them have given as well.

I have no doubt that there will be amendments in the future to this legislation. There will be times when we will revisit it, not just at points of review but also because of fundamental shifts that will happen in the community. We have very obviously reached a new point in the development of a new industry. I would like to reflect on the statement often made by the Minister for Health and Aged Care, Dr Michael Wooldridge, in which he refers to the 19th century as the century of the Industrial Revolution, the 20th century as the century of information technology and the 21st century as the century of healing. In adopting that point on healing it is very important to acknowledge that the changes that are happening in gene technology will test, confound, challenge and at times disappoint all of us. But I think it is important to recognise that we have reached a watershed in many areas, and we have certainly done that tonight here in the parliament.

Senator FORSHAW (New South Wales) (2.55 a.m.)—I do not wish to delay the Senate at this very early hour. I just want to say that, notwithstanding the criticisms that have been forthcoming from some members of the Senate, we stand by our view that the legislation we have passed tonight is a significant advance. It fills a gap that currently exists, and the improvements that we believe have been achieved through our amendments will further improve the bill. It is not perfect—we all know that—but it is a start. We also have to bear in mind that this legislation would ultimately never have got off the ground and would never have worked if it had not had the involvement of all the state governments as part of a national scheme. That has been a matter that we have always had to have regard to in terms of our approach to moving
the amendments. Consequently, I think it is a matter of not how much you say but ultimately what you achieve. Whilst I no doubt think that there will be changes in the future—there will have to be changes as this area develops further—we have established for the first time national legislation over an important area that is going to affect the lives of all of us and our industries for many years to come.

Question resolved in the affirmative.

Bills read a third time.

**BILLS RETURNED FROM THE HOUSE OF REPRESENTATIVES**

Message received from the House of Representatives acquainting the Senate that it had agreed to the amendments requested by the Senate to the following bill:

Copyright Amendment (Moral Rights) Bill 2000

**NOTICES**

Withdrawal

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (2.57 a.m.)—At the request of respective senators, I withdraw general business notices of motion Nos 82, 405, 431, 548, 549, 566, 581, 587, 588, 603, 616, 651, 679, 685, 714, 743, 745 and 756.

GOODS AND SERVICES TAX: PUBLIC OPINION POLLING

**Return to Order**

Senator HILL (South Australia—Minister for the Environment and Heritage) (2.58 a.m.)—by leave—I said to Senator Faulkner earlier in the day that I would attempt to respond to the return to order instructing me in relation to GST polling. We have been working long and hard to achieve the requirements of the Senate in this regard, and I have to confess that the project is only part complete. I can tell Senator Faulkner that, in the case of the Department of the Environment and Heritage, I do not know of any GST related polling and that my department advised me that it has not commissioned any GST related polling. The office of the Attorney-General has responded to us and said that neither the Attorney-General’s Depart-
opinion polling between 1 November 1999 and 30 September 2000 inclusive. So we have been successful in excluding a large number of departments. That is as much information as we have been able to get in the short period available. We are continuing to press the remaining ministries, and I can see no problem with tabling other responses as they become available during the recess, which I think was what was requested by me of Senator Faulkner.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (3.03 a.m.)—by leave—The truth of the matter is that the opposition moved this order of the Senate on 30 November. It followed an answer in question time the day before from the Assistant Treasurer, Senator Kemp. Senator Kemp, of course, did not answer the question that was asked of him—hardly surprising, because that is a pattern that we are used to with Senator Kemp. He produced some filler material and rabbited on about how well the GST had gone down with the public. As we know, the small business people and the members of the community who contact the opposition complaining about the complexity and cost of the requirements of the new tax system would beg to disagree with Assistant Treasurer Kemp on those matters.

What the opposition did was to give notice of motion requiring the government to produce the evidence, to come up with the public opinion polling research on the goods and services tax, so the parliament could judge for itself whether the new tax system had been as well received as Senator Kemp claims. We know that the government has spent more than $5 million of taxpayers’ money in undertaking all manner of opinion polling, market research and tracking exercises to assess the introduction of the tax system. We believe that as the taxpayers have paid for it they are entitled to have access to that information. Of course there is no reason to deny the parliament this information. I think Senator Hill has at least grudgingly accepted that. I acknowledge the fact that Senator Hill has agreed to comply with my request earlier that this material be tabled as it comes to hand.

I find it inexplicable that the odd contact with Treasury and the Australian Taxation Office could not have made this task a great deal easier than it seems to have been. I am disappointed that in the time available the government has not been able to provide this important information to the Senate. We accept that in some of these orders of the Senate there is a difficult coordination task and, as my colleagues would acknowledge, the opposition always takes a very reasonable approach in relation to these sorts of issues. I think I can say on behalf of my colleagues that we are prepared to agree on this occasion to the approach that the Leader of the Government in the Senate has outlined. We would ask of the Leader of the Government in the Senate to work assiduously to ensure that this material is collected and tabled out of session as soon as possible. I can see the level of commitment from my colleagues in relation to this matter. On that basis, the opposition will be looking forward to this information as soon as it comes to hand.

Senator HILL (South Australia—Minister for the Environment and Heritage) (3.08 a.m.)—While we are waiting, I might just bring the Senate up to date in relation to matters still to be dealt with. The Senate is awaiting a message from the House of Representatives, the first on the Renewable Energy (Electricity) (Charge) Bill 2000, which we hope will be with us in the not too distant future. That debate has been completed in the House—

Senator Faulkner interjecting—

Senator HILL—It is a very complex process, apparently, writing and forwarding these messages. That is the first message that we are to receive back, which we are now told will get to us in about 30 minutes time, and we hope that it will be followed shortly thereafter by a message on the Taxation Laws Amendment Bill (No. 8) 2000. Unless somebody advises me otherwise, I think that is about the last of the legislative business that we need to deal with in this session, unless the Senate was of a mind to fill in the time with one of the bills that we so generously withdrew from the Notice Paper earlier in the evening.
As I do not sense that the Senate is of the mood to start another piece of legislation at 10 past three in the morning, I suggest to the Senate that we could say a few words to wind up the year in good spirit. Hopefully, it would mean that it would not be necessary to have an adjournment debate a little later.

VALEDICTORIES

Senator HILL (South Australia—Minister for the Environment and Heritage) (3.10 a.m.)—by leave—I certainly want to say a few words of thanks to a number of different parties as we are winding up the parliamentary year. I commence by saying what a tremendous year it has been for the government and how successful it has been. The implementation of the historic goods and services tax legislation has been a great achievement from which all Australians will benefit. It is a government that is very proud of its achievements over the last four or so years. The goods and services tax, which implemented major taxation reform that had been beyond all previous governments, is perhaps the highlight of that period. It should be understood that enormous benefits will flow from the goods and services tax legislation, particularly in terms of contributing to a more efficient and competitive economy in a global market that is going to require Australia to be particularly efficient.

Senator Faulkner—You are going to waffle on for about an hour, aren’t you?

Senator HILL—No, only for another 20 minutes. It is necessary for a country such as Australia to be competitive in all spheres of its economy, including taxation. Most Australians have known for a long time that our undue emphasis on taxation of production, when other nation states had moved the balance to a taxation of consumption, has meant that our producers and industries have been at a competitive disadvantage. Yet, despite the fact that that has been obvious to most Australians, it has simply been too politically difficult for previous governments, particularly the previous Labor government.

Senator Harradine—Madam President, I raise a point of order. I feel I am having a nightmare.

The PRESIDENT—I am sorry Senator Hill has that effect.

Senator Harradine—Could I make a suggestion that we use this time for valedictories.

The PRESIDENT—This is what we are doing.

Senator Harradine—Are we?

The PRESIDENT—Senator Hill sought leave to speak as we await the return of bills from the House of Representatives.

Senator HILL—For Senator Harradine’s benefit, I was going to thank a number of people and wish them happy Christmas, but I wanted to put it in the context of the highly successful year that the government has had, particularly in relation to taxation reform. I think it is important that the opposition in this place remember that—even at three o’clock in the morning of the last day of sitting. But, if other honourable senators feel that that is overdoing it a touch at this time of day, perhaps I will move on—I am getting some nods, I notice—and take this opportunity to thank a number of different parties. I particularly want to thank all of those officials who serve this institution so well—the clerks, Hansard, Comcar, security, attendants and all the other areas of responsibility that help—

Senator Carr—What about the cleaners?

Senator HILL—The cleaners, yes. I am usually working at the time the cleaners come in, Senator, which would be a new experience for you—apart from tonight. These officials and other servants of the parliament are essential to the institution being able to function effectively, and we are particularly grateful for their efforts. I also want to thank my colleagues, right from my Deputy Leader of the Government, Senator Alston, who unfortunately could not be here tonight.

Senator Carr—Where is he? Why does he skive off so often?

Senator HILL—He has had to go to India leading a trade delegation in the interests of the nation, so he could not be here. I want to thank my ministerial colleagues—there does not seem to be too many of them here at the moment either; they are probably off pre-
paring themselves for ministerial duties in a few hours. I thank my Manager of Government Business in the Senate, Senator Ian Campbell, who has done a fantastic job this year, so good in fact that it was important that he be home with his family for a very special school function for his children tonight. In view of the fact that he has put in such a sterling effort this year, we decided that he should be granted that leave. He has put in an excellent performance. He has had to put up with Senator Carr all year—an extra challenge.

I would also like to thank all our whips, including the National Party whip—Senator Calvert, Senator Coonan and Senator McGauran. They have done a brilliant job this year. All of my colleagues have performed admirably, sometimes in difficult circumstances. I make particular mention of the National Party, our coalition party. We are a strong and united team. The National Party, under the able leadership of Senator Boswell in this place, has contributed greatly to the government’s successes this year.

Senator Calvert—What about the whip’s clerk? You have not mentioned the whip’s clerk.

Senator HILL—The whip’s clerk, yes—I am dealing with the National Party at the moment, Senator. I ask Senator McGauran to pass on to Senator Boswell my thanks for the contribution which the National Party have made. In relation to those on this side of the chamber, I want to mention our staff. We have an excellent and capable staff who are committed to the cause. They probably deserve a great deal of the credit for the government’s successes this year. And yes, there are others, such as the whip’s clerk, who help make the process of the parliament and our party work efficiently. I would also like to thank those on the other side of the chamber and the crossbenches for the goodwill with which they have contributed to the year’s parliamentary work. We have not had too many particularly tense moments in this place. There has been reasonable cooperation in relation to the government’s legislative program, Senator Faulkner, and I thank you and your team in particular for that.

I would like to wish everyone a happy Christmas. I hope all will take the advantage of having a break so that we can come back next year enthused and ready for a particularly heavy legislation program. The Olympic Games and other interventions this year have meant that we did not quite achieve the program that we needed for the task. We are probably going to have to do a little more next year, but I am sure all honourable senators will appreciate its importance. The sittings of the parliament might not be the only event of political interest next year: we are going to have the highly important celebration of the Centenary of Federation, when we are all going to be part of history in Melbourne. We are all looking forward to that, aren’t we, Senator Faulkner?

Senator Faulkner—Yes.

Senator HILL—So next year is going to be both interesting and challenging. That is why I urge honourable senators to take advantage of the rest time that is available for us over the next few weeks.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (3.20 a.m.)—by leave—Senator Hill began his valedictory speech, although Senator Harradine did not understand it was a valedictory speech, although Senator Harradine did not understand it was a valedictory speech, by outlining what he believed were the government’s achievements. When he said, ‘What a good year it’s been for the government,’ I immediately thought, ‘What a good year it’s been for Mr Reith.’ Then I thought, ‘What a good year it’s been for Mrs Bishop.’

The PRESIDENT—Senator Faulkner, that ought not to be expressed in that term. I would ask you to—

Senator FAULKNER—Can you think of another way of putting it, Madam President?
The PRESIDENT—I am sure you can, and I require you to.

Senator FAULKNER—I did not want to mention the Federation Fund—if only Senator Hill had not approached the valedictory in this way. What a good year it was for Dr Wooldridge. What a good year it was for Senator Ellison, poacher turned gatekeeper in parliamentary entitlements. And so it goes on. I do not think it is appropriate to do those things, Senator Hill, and I do not want to—

Senator Hill—You certainly wouldn’t want to say what a good year it’s been for the government.

Senator FAULKNER—I just do not want to set the same sort of tone that you did in the valedictory debate. So let me talk about some more positive things and make a more traditional valedictory speech, which I am much more comfortable with, as I am sure you would appreciate. On this side of the chamber—and I know the government does too—we do acknowledge those who contribute to the smooth running of the Senate. As you would know, Madam President, traditionally I always thank you, the Deputy President and others who preside in this chamber. I always thank the clerks—I am pleased that the Clerk of the Senate, Harry Evans, is at the table—and Dr Rosemary Laing, who assists the opposition and the minor parties in terms of her official responsibilities as clerk assistant. I know that the demands that we place on the clerks are heavy at times. We do appreciate their assistance and the fact that so many of those in the building do always come through.

I wish to thank, more generally, the staff of the Department of the Senate, the Table Office, Hansard, the Parliamentary Library, the attendants, the Comcar drivers, the cleaners, the gardeners, the transport officers, the dining room staff, the security staff, the Jetset staff and so many others in this building who assist us and contribute to the effective operation of the parliament. As we know, there always tends to be a focus on the politicians themselves, the parliamentarians themselves, but this place simply would not work without the staff who support us here and we sincerely appreciate all of their efforts.

I particularly would like to acknowledge the staff of the Senate committees, particularly the legislation committees, who this year have contributed very significantly to what I believe is probably the best accountability mechanism that this parliament has. We do appreciate their efforts. I think we ought to acknowledge that the PLO, Gail Bansemer, who toiled here long and hard, recently left that PLO position for greener pastures. We thank her for her efforts over a significant period of time and welcome Myra Croke, who has replaced her. In relation to the opposition, I thank my deputy, Senator Peter Cook, for his support and for his efforts. I would like to thank the Manager of Opposition Business, Senator Kim Carr, who is here at 3.26 a.m. I do not know whether the Manager of Government Business in the Senate is here, but we are managing, as we always have, Senator Carr, to try to show the others how it works.

Opposition senator—You’re a legend, mate.

Senator FAULKNER—He is a legend. I would like to thank the opposition whips—Senator Kerry O’Brien and his two deputy opposition whips—for their great efforts over the year. And of course I thank all my Senate colleagues, and there they are—what a team! They are still awake. It is tremendous to see. I do, and I know the party more generally does, sincerely thank them for their support and assistance over the past year. I am incredibly impressed that so many of them are here and so many of them are awake—and I am only seven minutes into this very long valedictory speech!

Perhaps on a more serious note, a little earlier in the year one of our colleagues Senator Quirke resigned because of ill health. That was something that gave none of us any joy. I want to acknowledge Senator Quirke’s efforts. He has been replaced by Senator Buckland and he is enjoying his role now in the Senate. But I think all my colleagues would want to acknowledge Senator Quirke for his important contribution as part of Labor’s Senate team.

As the Leader of the Government in the Senate, Senator Hill, said, next year will be a busy year with the Centenary of Federation
celebrations. Senator Hill failed to mention, I did note, the fact that the federal parliamen-
tary Labor Party will be celebrating its cen-
tenary in the year 2001; I think perhaps of
more significance than the Centenary of
Federation celebrations for so many of us in
terms of the focus that there will be in the
community. Of course it will be an election
year, as we all appreciate. So while all these
things will be important events, it will be a
very busy year because it is an election year.

All my colleagues here would particularly
want to acknowledge the support that we
have received from our staff. We in the op-
position have only a small staff, but we have
a very effective staff. I want to say on behalf
of my colleagues how much we have appre-
ciated their efforts over the past year. Spe-
cifically, I want to say to my own staff—
George Thompson, Colin Campbell, Lenka
Peraic, Vikki Gibson, David Williams, An-
tony Sachs, Jenny Bates and Helen West-
wood, ably assisted by Christine Cannon and
Ashley Hogan—how much I have appreci-
ated what they have done. I do know that all
my colleagues have had tremendous support
from the staff that we have in this building
and in our electorate offices. At a time like
this we do want to record our genuine appre-
ciation for their assistance and for their loy-
alty. We simply could not do the job we do
without them.

Senator Hill—All those in their rooms,
working away.

Senator Faulkner—Senator Hill, I do not
know how many are working away in
their rooms, but I have absolutely no doubt
that many would be.

Senator Hill—The lucky ones seem to
have been out celebrating.

Senator Faulkner—I have no doubt
that, after your and my speech, they are just
hanging on every syllable.

Senator Bolkus—Time for a drink.

Senator Faulkner—Away you go,
Senator Bolkus. We would like to wish not
only those in the opposition, of course, but
also those in the other parties, the Independ-
ent senators and others in the building a
merry Christmas, the best for the festive sea-
son and a happy New Year and, I hope, for
those many people in this building and be-
"+ beyond who do so much for so many in the
political process, a well-deserved rest.

Senator Harradine (Tasmania) (3.31 am.)—by leave—I would like to join with
Senator Hill and Senator Faulkner in their
valedictory comments. I will be brief be-
cause I think both senators have mentioned
most of the people that deserve to be
thanked. Next week—and I am glad we won’t be sitting next week—I will have been
in this place for a quarter of a century. When
we were elected, our term was backdated six
months.

Senator Bolkus—that’ll help your super.

Senator Harradine—I am still wait-
"+ ing for the back pay. I mention that because
all of the people who were mentioned, and I
have the list but I will not go through them;
they are the staff from the President’s office,
the Clerk’s office, the Table Office, the Black
Rod’s office, the attendants station—all their
names are there. Some of them have been
around for quite a while, and when you think
of the service they have given to this place
and to us in the work that we are attempting
to undertake on behalf of our electors, I feel
very humble. I look at the names and I can
visualise many of them, but some of the peo-
ple that one is in contact with sometimes one
does not know personally. It is a big problem
in this place, too, because you can be in your
room from daylight till dark and not socialise
with the people who are in the service of this
place.

We are in the service of our electors; that
is our function. I am very grateful to the
people who assist us. When I look at the
Clerk’s table there I see Harry Evans and
adviser Dr Rosemary Laing, who does an
enormous amount of work in preparing the
amendments we feel should improve legisla-
tion. In short, my thanks to all of those peo-
"+ le and, of course, to my own staff. They are
very hard working. I wish one and all every
best wish for Christmas for yourselves and
your families. I hope we return with even
greater goodwill in the new year.

Senator Lees (South Australia—Leader
of the Australian Democrats) (3.35 a.m.)—by leave—I, too, wish to thank the many people
who keep this place running. At the risk of missing someone or some group, I will go through those who immediately come to mind, and that first and foremost is the people who work in this chamber and those whom we do, as Senator Harradine says, come across in our daily routines fairly regularly: those who deliver the mail and the Comcar drivers, who make sure that we get here and who are presumably waiting out there to take us home once we finally get those messages back from the other place. I do want to thank all of those who work in a wide variety of ways in this place. Most of us over the last few nights, as Senator Hill has said, have come in contact with the cleaners. It is not too often that many of us are back at this hour, but I certainly run into them in the mornings. I thank also those people who maintain Parliament House and run the canteen and dining rooms, and of course all the many staff on committees—those people who are on the legislative committees and generally also on the references committees and select committees—and the clerks of this place and those who assist us, such as Rosemary Laing, with amendments and actually getting our work here done on time.

I must of course thank my Senate colleagues, the other Democrats senators, and all our staff, who work extraordinary hours and who go well past what one would normally consider to be a reasonable amount of work and indeed put in extra hours not only when we are sitting, which is always a very busy time, but also in those weeks back home in our electorates. A lot of them do an enormous amount of travel. They, like us, are away from their families for a considerable amount of time. I just want to acknowledge all the Democrats staff who work for us collectively or for individual senators. At this time of the year, in this rather early hour of the morning, I want to add the Democrats’ best wishes to everyone on all sides of the chamber for a peaceful and restful Christmas, and an enjoyable time with family and friends. Hopefully it will be a chance for all of us to get a reasonable break before we come back into this place for what I presume will be a fairly hectic year leading into an election campaign. Best wishes for Christmas and the new year to everyone.

Senator HARRIS (Queensland) (3.38 a.m.)—by leave—Madam President, I rise to speak in this valedictory and would like to commend you personally on your fairness and the balance that you have shown in this chamber—and your tolerance. It is not a criticism, but I think at times you are tolerant to a fault. To the Deputy President, Senator West, and to all of the acting deputy presidents through the year, my congratulations. I would like to also congratulate the Senate Clerk; the deputy, Anne Lynch; Dr Rosemary Laing; and all of the other committee staff for an excellent job. To the actual Senate staff who are toiling away even as we speak, my congratulations on a job that is well done in a spirit both of helpfulness and dedication.

To all of those other people who work in this building, without their support and their efforts this place would not function as smoothly as it does. Finally to my own staff, I thank them for all of their efforts this year. To all of my Senate colleagues, both those present in the chamber and those who are no doubt diligently working away in their rooms, I congratulate them as well.

I would like to take this opportunity to speak very briefly on a petition that was presented to the chamber four days ago, on Monday, because it is pertinent. It related to the Senate recognising the part that the church plays in our lives. I will briefly quote from the letter:

I support you in your standing for God and his name throughout your electorate and your responsibilities. Please find attached a petition that supports any stand to honour his name.

Some other politician that I understand to be also Christians have been sent this same letter. The petition had 10,171 signatories. The letter goes on to say:

The first thing that Jesus Christ asked us to ask God for in the Lord’s Prayer, which is to hallow his name.

I commend that to my Senate colleagues. I will briefly read a short passage from Luke, chapter II:

At that time Emperor Augustus ordered a census to be taken throughout the Roman Empire. This was the first census that took place when Quir-
Innus was the governor of Syria. Everyone there went to register himself, each to his own home town. Joseph went down from the town of Nazareth in Galilee to the town of Bethlehem in Judaea, the birthplace of King David. Joseph went there because he was a descendant of David. He went to register with Mary, who was promised in marriage to him. She was pregnant. While they were in Bethlehem, the time came for her to have her baby. She gave birth to her first son, wrapped him in clothes and laid him in a manger as there was no room for them in the inn.

To each and every one of you, I wish a Christ filled Christmas and a safe and happy New Year.

**BILLS RETURNED FROM THE HOUSE OF REPRESENTATIVES**

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

Telecommunications Legislation Amendment Bill 2000

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

National Health Amendment (Improved Monitoring of Entitlements to Pharmaceutical Benefits) Bill 2000

**RENEWABLE ENERGY (ELECTRICITY) (CHARGE) AMENDMENT BILL 2000**

Consideration of House of Representatives Message

Message received from the House of Representatives agreeing to the bill with one amendment, in which it desires the concurrence of the Senate.

Ordered that the message be considered in committee of the whole immediately.

*House of Representatives message—*

(1) Schedule 1, item 1, page 3 (lines 5 to 7), omit the item, substitute:

1 Section 6

Repeal the section, substitute:

6 Rates of charge

(1) The *rate of charge* is $40 per MWh.

Senator HILL (South Australia—Minister for the Environment and Heritage) (3.45 a.m.)—I move:

That the committee agrees to the amendment made by the House of Representatives to the bill.

I am assuming that what the House has done is to take the indexation part out of the bill. I am assuming that with confidence and I commend the House for that wise decision. To include indexation in this particular bill is, in my view, unwise for the reasons that I outlined earlier. But, as we have some new blood in the Senate at this time of the night, I will run through them again.

This bill sets a charge which is really the inducement for the purchase of renewable energy, and it is important to get the charge at the right level. The opposition has argued that an indexation provision will keep the charge at the right level. We on this side have said that there is no real link between CPI increases and the charge level that is necessary to meet the objectives of the bill. Therefore a better course of action is to use the provision of the bill that requires that the bill be reconsidered after a period of years—and that provision has been included within the legislation. One of the specific charges of that inquiry process is, in fact, to look at the appropriate level of the charge. If it is found through that process that the charge, as it has been set at $40, is no longer sufficient to achieve the objectives of the bill, then we can assume that the government of the day will act to alter the charge. Obviously, it would do that because the government would have an interest in ensuring that the act worked effectively.

Therefore I submit to the Senate that to include indexation, whilst I understand the motive of the opposition in doing so, is not well founded and will not achieve the purpose which Senator Bolkus is seeking to achieve, and that the mechanism of the review and the consideration of all factors as to whether the charge is adequate for the time being is a better way to proceed. It is on that basis that I urge the Senate to agree to the amendment by the House of Representatives and to accept that the indexation is not appropriate for inclusion within this bill and should therefore be removed.

Senator BOLKUS (South Australia) (3.48 p.m.)—This is a pretty disappointing response from the minister and from the gov-
ernment. This is an important piece of legislation. It is one that the Senate has already recognised as being flawed in many respects. We have been successful in getting quite a number of amendments up this evening, but I think it would have been in the government’s interests to have accepted the indexation measure, a measure which would have put some real ongoing value into the charge and, as a consequence, could have driven some of the industries that are really necessary under the government’s objectives here.

It does not leave us with an easy decision. There are different driving forces, different pressures—competing industry pressures, for instance. Senator Brown mentioned earlier our large renewable energy sector out there wanting to get going under this legislation. We have had representations from the Sustainable Energy Industry Association, from the Renewable Energy Generators Association, the Stanwell Corporation, a number of state governments, Pacific Hydro and Tasmanian Hydro—a whole range of industries keen to get this legislation in place. At the same time there are some pretty substantive environmental concerns, and we have been trying to address those during the course of the debate, although coming to this part of the debate we have to make a decision now as to what we do with our insistence on the amendment. As I say, the environmental concerns are essentially twofold. There are concerns about the protection of native forests from this measure and also the transparency of the government’s legislation.

Let me weigh up where we are at the end of this debate. On the one hand, in terms of maintaining the value of the charge, we have been able to get the government to concede that the charge not be tax deductible. As a consequence, the measure is maintained to some degree in real value. On the other hand, having brought forward the review of the measure, what we are really arguing about here is something like $3 over the next couple of years: the index of the charge will increase it by about $3 over two years or by about $5 over three years. We were very keen to get the review brought forward by a year to ensure that we had some protection in case the government was not going to accept the indexation. The scrutiny provisions that we have picked up, drawing on the amendments moved by the Democrats, by the Greens and by us, essentially give us a much more transparent process, and that is not just to the benefit of the public interest but also in the interests of protecting the environment. Essentially, therefore, we have been quite successful in getting a whole batch of amendments up to ensure transparency and to ensure that the measure is enhanced in value—although not as enhanced as we would like. There are problems with the bill. There are problems as to whether it will achieve what it sets out to do. There are also problems as to ensuring that the environmental damage that people are concerned about will not flow from the passage of the legislation.

It is a hard decision to make, but at the end of this process it falls on the side of letting the legislation through. Given the balance of considerations and the balance of amendments that we have been able to wrangle out of the government, and given that the value has been maintained—particularly through the tax-deductible concession of the government—we are prepared to give the legislation a chance. We do not do it wholeheartedly, but we acknowledge that there is a driving force in the renewable energy sector that could benefit from this. However, we warn the government that there are a number of areas in the legislation that we will be monitoring closely with a view to redressing them when we win government in some 12 months time.

As I said, the index measure probably amounts to about $3 over two years. For that amount of money, it is probably not worth bowling over the legislation at this stage. Senator Hill, you have not done this in your best interests. You have probably been driven to do this by people like Senator Ferris, Senator Heffernan and Senator Minchin. But we will not stand in the way of this reform as a consequence, and I indicate that we will not be insisting on our amendments—though I do so without much enthusiasm.

Senator ALLISON (Victoria) (3.53 a.m.)—I suppose we have won a few small improvements to the bill this evening, but the
big one that the ALP have been delaying this bill for—CPI adjustment—has just been given away. I really wonder why a special amendment bill had to be introduced just a few hours ago and why the debate we had to have at that stage went ahead only to have the ALP cave in a few hours later. We really could have done all of this two months ago and had the measure up and running in January.

I do not want to extend this debate any longer than is necessary, but I think it is essential to put a few points on the record. The Renewable Energy (Electricity) Bill 2000 debate was unfinished business in more than one sense. The last time it was in the Senate was on 10 October. The debate then was not concluded for a number of reasons. Obviously, the ALP did not want the bill passed before COP6. I was very surprised when the ALP did their turnaround by, at the end of debate, declaring that they would insist on their CPI adjustment of the penalty after all, having not supported our efforts to remove native forests from the measure and a number of other amendments as well.

I did say on 10 October that we would do what so many players had asked, and that was to try to improve the bill—there were certainly plenty of ways that we could do that—and to make sure that it passed the Senate in the best form that the Senate could manage. Senator Bolkus’s efforts to talk out the bill, so it would not come to the vote back then, were successful. To some degree I am grateful for the time that provided for us to regroup and to consult and talk with the people with the most at stake. Painful as Senator Bolkus’s attacks on me and my colleagues were, I am grateful to have had that opportunity—although, at the end of the day, the outcome is hardly any different. We already had tax deductibility. Senator Bolkus is making much of that, but we already had that stitched up. We had most of the other amendments that finally got through this evening too.

As I have said many times in this debate, the Democrats were torn by the difficult position the government and the Labor Party had forced us into on this bill. On the one hand, the legislation offends against core Democrat territory because the bill has the potential to put so much more pressure on our native forests. The presence in the parliament of the forest industry in the last few weeks is testament—although I might say that they did not come and see me—to how important it is to them to have native forests included in this measure. On the other hand, it is critically important to give the renewable energy sector the start it needs to grow. As I said back in October, this bill could have been a small step on the way of weaning this country off dependence on fossil fuels for its energy needs. Senator Bolkus said in the previous debate that the reason he could not support native forest exclusion was that it would be likely to sink the bill. He said:

We are saying that, despite some fundamental concerns we have in respect of it—that is, the bill—we think it should be passed, and we think that an amendment such as the one that Senator Brown moved will ensure that the legislation does not get through this place and the House of Representatives in time for it to be implemented and to have any impact at all.

It is basically a question of whether we want the legislation or whether we want to make an amendment to it at this stage. ... But we have already signalled a review of the legislation, and one of those close areas of scrutiny will be the way that native forests may be encompassed by the impact of the legislation. As I say, the judgment of the opposition is that the jury is out with respect to that, but we should approach this with a degree of scrutiny to ensure that the measure does not result in an increased biomass extraction in non-plantation forests.

So two months ago Senator Bolkus wanted the legislation passed and then changed his mind, or apparently so. After indicating right throughout the debate on this bill that the ALP would not do anything to stop the passage of the bill, that they would not support most of the Democrats amendments, including taking out native forests, and therefore they would not insist on their amendments, Senator Bolkus did an about-face: yes, Labor would insist on CPI adjustment of the penalty after all and the Democrats could wear the odium of allowing this bill to pass with no restriction on native forests. We will not
be party to supporting this bill, CPI adjustment or otherwise, as long as it includes native forests. I just wanted to make that clear.

I also need to defend myself, for the record, on a couple of cheap shots that Senator Bolkus took in my direction back then. He said I was dishonest in claiming that the amendment passed to ensure that the penalty for this measure was not tax deductible was a Democrat amendment. What he failed to mention at the time was the fact that Labor’s amendment and mine were identical. Labor’s appeared first on the running sheet, as is always the case in the hierarchy of this place, so it was put first. I suppose we could have put ours as well, but it hardly seemed sensible. This is petty stuff and hardly worth the time of the chamber.

Senator Bolkus also said I was gullible and cowardly. He said there was absolutely no imperative for me to fold within 12 hours of the legislation coming back from the House of Representatives. ‘Make them stew for a while; let them cogitate,’ he said. Two months of letting the government stew does not seem to me to have achieved anything much at all, just a lot of time lost, and for what? It was for a three-month delay in the start-up of the measure. There will still be major incentives in the bill to cut down more of our native forests which, as I said, is of the greatest concern to us. It is bad news for forests and for other renewable energy sources. If we end up with biomass burners on the edge of every forest in this country producing cheap electricity, there will be little room in the market for wind or solar.

Having said that, the native forest issue is not yet dead. I hope the general public will be affronted, as we are, by the notion of burning biodiversity to produce electricity in this country. I hope they will demand of their electricity retailer that no energy is sourced this way. The Democrats will include this in their list of election campaign issues, along with schools, on which the two major parties have let the environment and the vast majority of Australians down. I hope this legislation does provide the necessary boost to solar and wind energy in this country. One of the recommendations in the global warming report suggests that Australia could capture five per cent of the global market for renewable energy by the year 2015. I think it will actually take much more renewable industry assistance to achieve that than this bill provides, but perhaps it will at least be a start.

Question resolved in the affirmative.

Resolution reported; report adopted.

**TAXATION LAWS AMENDMENT BILL (No. 8) 2000**

**Consideration of House of Representatives Message**

Message received from the House of Representatives acquainting the Senate that the House has agreed to amendments Nos 2 to 7 made by the Senate, disagreed to amendment No. 1 and seeking the reconsideration of the amendment disagreed to.

Ordered that the message be considered in committee of the whole immediately.

**Senator KEMP** (Victoria—Assistant Treasurer) (4.02 a.m.)—I move:

That the committee does not insist on the amendment disagreed to by the House of Representatives.

The government will not be supporting the Democrat and Labor sponsored amendment to this bill. This amendment by the Democrats seeks to expand the GST-free treatment of first aid and lifesaving with a scope so wide that it will include currently taxable swimming lessons. This goes beyond the agreement between the government and the Democrats, whereby lifesaving and similar courses became GST free. I repeat: lifesaving is GST free and so are similar courses. In addition, the Senate well knows that the GST revenue goes to the states and territories, and they have insisted therefore, under the terms of the intergovernmental agreement, on the reform of Commonwealth-state financial relations, which is a schedule to A New Tax System that the Commonwealth seek the agreement of the states and territories before making any change to the GST base.

The government intends to stick with this agreement. For these reasons, the government will be opposing the amendment. I point out to the Senate that any delay in the passage of this bill will be the result of the Democrats and Labor. Their manoeuvring...
will jeopardise measures which businesses have sought in relation to more flexible GST registration provisions and restricting the tax liabilities that can be offset against BAS refunds. The government has also agreed to an amendment to provide the Commissioner of Taxation with the discretion to backdate GST registrations. We urge the fact that, as I pointed out to you, we will not be supporting—

Senator Faulkner—Stop urging, sit down or get on with it.

Senator Kemp—Why don’t you just keep quiet for the moment? Just go back for a drink, John. On that basis, I make the point that once again the government will not be supporting the amendment moved by the Democrats and Labor.

Senator Faulkner—You’ll be waiting a long time to find me having a drink, you drunken bum.

The DEPUTY PRESIDENT—Senator Faulkner! Would you please withdraw that unparliamentary language?

Senator Faulkner—I withdraw.

Senator Sherry—(Tasmania) (4.05 a.m.)—I think this is a particularly unfortunate note to end the year on in respect of the goods and services tax. That is the issue we are dealing with here. This afternoon we considered the 1,665th amendment to the GST roll-back, and the government cannot find it in its heart at this time of year to exempt the GST from personal aquatic survival skills—swimming lessons. This is a minister who wants to impose a GST on swimming lessons offered by the Royal Life Saving Society of Australia just prior to the Christmas-New Year break. This is a particularly unfortunate episode and it highlights the mean spiritedness of this minister and of this government at this time of year.

We have not received a satisfactory explanation from the Assistant Treasurer, Senator Kemp, about the apparent disagreement between the Australian Democrats and the government in respect of the deal that they signed earlier this year when they agreed to pass the GST. On the one hand, Senator Kemp said that this particular area, swimming lessons—which impacts on hundreds of thousands of Australians, particularly young Australians—would be excluded from the GST. On the other hand, the Democrats have argued that it was part of that deal. Who are we to believe? Senator Kemp or Senator Murray? I know it is a bit difficult. It was a hard call. But, in the end, we decided on the basis of fairness and equity that you should not be applying a GST to hundreds of thousands of young people in this country who are undertaking swimming lessons offered by the Royal Life Saving Society of Australia. Here is the minister attempting to blackmail the Senate and the parliament by arguing that he is going to abandon the 60-odd roll-back GST amendments in this bill that are so important to small business, that they claim were unnecessary but we now have to consider on the basis that they want to put a GST on swimming lessons—swimming lessons. The minister should be ashamed of himself.

The other justification the minister gave for imposing a GST on swimming lessons this afternoon was to assure the Australian public that everyone has tax cuts and increases in allowances. I would wish him well on the beaches of Australia this summer explaining to people in trouble that they should be rescued by tax cuts and increases in allowances. This is an appalling performance by this government. It typifies their approach on the GST, and the Labor Party will not be accepting the concept of a GST on swimming lessons.

Senator Lees (South Australia—Leader of the Australian Democrats) (4.08 a.m.)—I make it very clear for the benefit of the Assistant Treasurer that this is not in any way a move away from our agreement; it is simply a clarification of what was originally intended. The original amendments were drawn up with the Royal Life Saving Society and the Surf Life Saving Society with advice from Treasury. It was not until after the legislation passed that we had a new ruling from Treasury that drew the line at where lifesaving courses became GST free—five or six levels up from what are your basic survival skills at the level of where you start saving someone else. I think it is quite extraordinary, as one who used to be an instructor and
examiner with the Royal Life Saving Society, to suggest that you cannot know something about saving yourself—and it does not seem to be of any great interest to the government; you tax all of that—but once you actually jump in the water, presuming you know when, because all of the previous courses seem to be of minor consideration, all of a sudden it is something that the government considers worth learning.

I say to the government that this is not exempting—and I will just read it in case the minister has forgotten—swimming lessons per se. We are not talking about people who go to their local coach, wanting to perfect their backstroke style or swim like Michael Klim in the butterfly or whatever. These are—and I read—including ‘personal aquatic survival skills’. If the minister has not looked at the manuals recently of the Royal Life Saving Society or the Surf Life Saving Society, they include things like when to go in the water and when not to go in the water—or rather how you actually do go in the water. It is more than just saving lives; it will also save a lot of spinal injuries if people actually know how to enter the water.

Given the hour, I will not go through a full list of the various survival skills that a person needs, but I will say that the first few courses and the first few certificates simply assist people to know the basics of how to look after themselves. I think it is quite extraordinary that this government is such a penny-pinching mob. Considering the amount of revenue we seem to have raised and the size of the surplus, we can suddenly find $23 billion for defence, but we cannot think of basic survival courses for kids who need to be able to look after themselves. Considering the number of Australians who are going to be spending time at the beach or the local creek this summer, it should be a priority for government to actively encourage them into courses that teach them something about how to look after themselves.

What I really do find offensive about this message that has come back is this bit on the end about ‘delay will not be of the government’s doing’. I assure you, Senator, that delay will be of your doing, because we are going to insist on what is quite a simple measure and what is a clarification of an undertaking and a clarification of the earlier amendments that were changed by later rulings—and that was nothing we did or implied. We are going to insist on this new amendment.

**Senator MURRAY** (Western Australia) (4.11 a.m.)—There are three brief points I want to make. Firstly, whilst I appreciate the power of Senator Sherry’s address, the actual phrase is ‘including personal aquatic survival skills’. It does not say ‘including swimming lessons’. The government has said that this amendment has a scope so wide that it is going to put the entire GST base at risk.

Secondly, the government have said—it is just ludicrous, isn’t it?—that this affects their Commonwealth-states agreement. I would make the point to the Senate, which Labor senators might not be aware of, that Senator Lees wrote to the Prime Minister some considerable time back. If the Commonwealth had really wanted to get busy with this and had their hearts in it, they have had plenty of time to talk to the states about it. So this is not a sudden thing that has emerged. This idea that you have not had the time to consult the states, as is implied here, is wrong.

Thirdly, I want to mention this quite ridiculous statement: ‘any delay will not be of the government’s doing’. Senator Faulkner, you have a peculiar sense of humour sometimes. I want to imagine the government going out to small business and saying, ‘Small business, the reason you haven’t got this bill in time is that we wouldn’t accept ‘including personal aquatic survival skills’.” How absolutely pathetic! Imagine that: the government are going to knock on the door of the hardware store and say, ‘Sorry you couldn’t get your amendment. It’s because we wouldn’t accept a Democrat amendment, which was supported by Labor, which said “including personal aquatic survival skills”’. I think it is a pathetic performance by government.

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

The committee divided. [4.18 a.m.]
(The Chairman—Senator S.M. West)
AYES
Abetz, E.  Calvert, P.H.
Cooman, H.L.  Eggleston, A.
Ellison, C.M.  Ferris, J.M.
Heffernan, W.  Hill, R.M.
Kemp, C.R.  Lightfoot, P.R.
Macdonald, I.  Macdonald, J.A.L.
Mason, B.J.  McGauran, J.J. *
Patterson, K.C.  Payne, M.A.
Reid, M.E.  Tambling, G.E.
Tchen, T.  Tierney, J.W.
Troeth, J.M.

NOES
Allison, L.F.  Bartlett, A.J.J.
Bishop, T.M.  Bolkus, N.
Bourne, V.W.  Campbell, G.
Carr, K.J.  Conroy, S.M.
Crossin, P.M.  Crowley, R.A.
Evans, C.V.  Faulkner, J.P.
Forshaw, M.G.  Gibbs, B.
Greig, B.  Harradine, B.
Hogg, J.J.  Lees, M.H.
Ludwig, J.W.  McKerren, J.P.
McLucas, J.E.  Murphy, S.M.
Murray, A.J.M.  O’Brien, K.W.K *
Sherry, N.J.  Stott Despoja, N.
West, S.M.

PAIRS
Herron, J.J.  Buckland, G.
Brandis, G.H.  Collins, J.M.A.
Campbell, I.G.  Cook, P.F.S.
Ferguson, A.B.  Cooney, B.C.
Vanstone, A.E.  Denman, K.J.
Minchin, N.H.  Hutchins, S.P.
Crane, A.W.  Lundy, K.A.
Boswell, R.L.D.  Mackay, S.M.
Alston, R.K.R.  Ray, R.F.
Chapman, H.G.P.  Ridgeway, A.D.
Newman, J.M.  Schacht, C.C.
Knowles, S.C.  Woodley, J.

* denotes teller

Question so resolved in the negative.
Resolution reported; report adopted.

Senator HILL  (South Australia—Minister for the Environment and Heritage) (4.21 a.m.)—This tax bill is vitally important to the government, and the government intends tonight to make every effort to achieve its carriage. Therefore, it is the intention of the government that the message be sent to the House of Representatives to be dealt with and that the bill return to us at a later hour of the morning. I suggest that we invite speakers who intended to speak on the adjournment to address the Senate by leave, and that could save some time a little later.

VALEDICTORIES

Senator WATSON  (Tasmania) (4.23 a.m.)—by leave—As yesterday was the last day in office for the former ACT Legislative Assembly Chief Minister, Kate Carnell, I wish to take this opportunity on our final day of sitting prior to the Christmas break to say a few complimentary words about Kate’s achievements. Prior to entering politics, Kate studied pharmacy at the Queensland University, married and had two children, as well as owning pharmacies. As if this was not enough, she helped lobby for a Pharmacy Guild for the ACT, and became its inaugural president. It was through the world of pharmacy that I first got to know Kate. My own wife’s involvement in pharmacy brought Kate and me together, along with some other interstate pharmacists who were concerned about pending pharmacy legislative changes.

Kate joined the National Council of the Pharmacy Guild—the second woman ever to do so—and then was approached to stand for the ACT Legislative Assembly. In fact, in her own words, ‘Politics was something I never planned to do; it happened while I was doing something else.’ She entered the Assembly as a 37-year-old pharmacist with little party experience but loads of energy. She became ACT Chief Minister in 1995, after a mere three years in politics and has been responsible for a wide range of portfolios. Of the three Chief Ministers who have served in the ACT, Kate has served the longest. In fact, she is the longest-serving female leader that Australian has known.

Throughout the time she has been in the ACT parliament, she has shown great leadership qualities. In fact, her leadership has been inspirational. She has been keen to cut red tape. It is not surprising her leadership style did not win her universal admiration. In fact, this has meant that on some occasions she has been less than popular. At times, she was met with strong opposition. But her grasp of the various issues that confronted her and her determination to resolve them have been of the utmost value during her
career in politics. There is no denying that under the Carnell government the region’s fortunes were turned around and today Canberra does not rely on the presence of government as much as it did when Kate came into office.

Kate has used her keen negotiating skills throughout her political career. It is in this sort of role that her leadership qualities have stood out. She has never lost sight of the fact that the territory is not totally dependent on the presence of parliament—now 54 per cent of the work force in the ACT is in the private sector. It is little wonder that the local business community adored her. She has been a constant saleswoman for the region, rarely missing an opportunity to sell Canberra as a venue to visit, to do business and to host events. Her personal vote in the last election was far higher than any of her Assembly colleagues. Her popularity remained intact, despite political obstacles—many of which were beyond her or her government’s control. It is unfortunate that this real achiever has suffered at the hands of those of lesser qualities and some who have been jealous of her high level of achievement. Australia, and particularly Canberra, is very much the poorer for this.

Canberra is not losing Kate, as she is moving to a new phase of life where she will take up a position with local government broadband carrier, TransACT. So the territory retains one of its greatest advocates. Kate is a person who has set high standards in the ACT parliament, and she has set a fine example to other women with her balanced approach to career and to family. She is an inspiration for women thinking of entering the political arena. As a figurehead, you cannot go past Kate Carnell.

Senator GIBBS (Queensland) (4.28 a.m.)—by leave—I rise this morning to make a short speech highlighting the contribution made to the peace process in East Timor by some particularly brave and courageous constituents in my electorate of Queensland. I am referring to the men and women in our armed forces from the Enoggera based 6th Royal Australian Regiment and the Townsville based 1st Royal Australian Regiment, RAR. I am sure we have all followed with interest, pride and a degree of anxiety the often hazardous situations our servicemen and women find themselves in. East Timor, particularly on the border areas with West Timor, remains a very dangerous and life-threatening place for our peacekeepers. We have been reminded of that fact recently when an Australian peacekeeper from Toowoomba was shot at and wounded by the Indonesian militia near the town of Balibo. Thankfully his injuries, I believe, are not life-threatening. However, it serves to highlight the level of danger our soldiers are facing.

Tragically, one Australian soldier, Corporal Stuart Jones of the 2nd Cavalry Regiment, paid the ultimate price for service to his country, as did a New Zealand infantryman, Private Leonard Manning, and a Nepalese peacekeeper. Corporal Jones, or ‘Monster’ as he was called by his mates, had not been in East Timor for long when a rifle discharged accidentally, mortally wounding him. I am sure that all of my colleagues in this place will join with me today in extending our deepest sympathies to all of the families and friends of these brave young people.

Dispute these sacrifices and the fact that there are still nearly 2,000 Australian diggers still serving in this perilous environment, the general public rarely read any media reports concerning their efforts, now the initial offensive is complete. Their heroism and valour should not be ignored or forgotten by the Australian community, particularly during Christmas celebrations, when many families will be painfully aware of their loved one’s absence. It will no doubt be an emotionally tough and lonely time for many families of diggers serving in East Timor, and they deserve our thoughts and wishes for their safety.

The 6th RAR returned from East Timor approximately six weeks ago, after spending six months on the volatile border area, including the villages of Suai, Batugarde, Tonabibi, Maliana and Balibo. They had numerous military exercises to execute, but they also performed a variety of humanitarian roles during their tour. Overseeing and providing manpower for the reconstruction of some of the countless buildings looted and
destroyed by the pro-Indonesian militia was just one of the many tasks undertaken to directly assist the East Timorese people to rebuild their communities and their lives. The rebuilding of churches, bridges, schools and hospitals was an essential aspect of our troops' efforts to establish an infrastructure that will assist the East Timorese people to regain some normality in their lives and move forward. The re-establishment of an accessible road network was also vitally important to facilitate trade between villages, provide greater social interaction and improve living standards.

The 6th RAR were also instrumental in providing assistance to build a facility that the National Council of Timorese Resistance could operate from. The National Council of Timorese Resistance was established by the United Nations transitional administration in East Timor. Its 36 members will serve as East Timor's de facto parliament until national elections scheduled in August 2001. It represents a broad cross-section of society and debates legislation proposed by the eight-person transitional cabinet. The national council is the first transitional step for the East Timorese people in establishing a democratically elected government.

I visited East Timor with members of the Joint Standing Committee of Foreign Affairs, Defence and Trade in December 1999. We visited Dili and Suai and, of course, the place was in total devastation. One of the things that struck me most was the obvious fondness the people showed towards the Australian soldiers. I plan to revisit East Timor in February and it will be interesting to see the changes and progress that have been made.

Whilst acknowledging the gutsy contribution all of our serving diggers have made, I would briefly like to mention some of them by name. Private Simon Nilon, Private Anthony Schofield, Private Brett Lewis, Private Chad Bryan, Lance Corporal Ryan Hummell, Lance Corporal Andrew Paisley, Platoon Commander Lieutenant Andrew George, Sergeant George Marshall, Major David Thomae and Lieutenant Colonel Michael Moon are just some of the men from the Enoggera based 6th RAR who are particularly pleased to be home with their families for the Christmas break. I think I speak on behalf of all senators from both sides of this chamber when I welcome back our troops from 6th RAR and wish the troops from 1st RAR a safe and speedy return.

Senator TCHEN (Victoria) (4.35 a.m.)—by leave—As the Senate is aware, a notable event occurred in Melbourne last Sunday, 3 December. There was a reconciliation walk across Princes Bridge organised by the Council for Aboriginal Reconciliation as one of its last major undertakings. The walk drew about between 200,000 and 300,000 participants. In the words of Dr Evelyn Scott, Chair of the Reconciliation Council, it gave a clear demonstration of the national mood for reconciliation. Indeed, as Senator Herron said at question time today, reconciliation is now an unstoppable force in the nation. The challenge we as a nation now face is how to direct this force as a force for unity rather than a force for division.

What we witnessed at the Melbourne reconciliation walk and earlier walks that took place in other capital cities was a clear demonstration that indigenous Australians collectively have now won the respect of their fellow citizens as equals. The next step is for indigenous Australians as individuals to win the respect of their fellows. That will be a harder task because, as individuals, our ability to command respect is inevitably judged on our ability as individuals to stand comparison with others, and it is hard to compare well when one's health is poor, one's education is lacking, one is denied employment opportunities and employment choices by circumstances if not necessarily by design, and one's home is often no better than a hovel.

The need for practical reconciliation is recognised by the Council for Aboriginal Reconciliation. In its final report presented to the Prime Minister this morning, the council's concluding remarks note that:

Reconciliation requires overcoming differences in social and economic outcomes between Aboriginal and Torres Strait Islander peoples and other Australians.

Since 1996 the Howard government has directed indigenous affairs along just such a course of practical reconciliation with suc-
cess, achieving notable improvements in indigenous health, education, employment and housing. I have some statistics here; however, these are statistics which Senator Herron raised in question time in the Senate, and so perhaps I might skip them. However, we can confidently expect this part of the reconciliation process to remain steadily on course.

Let me refer to another aspect of the Melbourne reconciliation walk. I was not able to participate in the walk personally because that morning I had a prior commitment with the Cambodian Australian community of Victoria, who were celebrating the opening of the Cambodian Heritage House located in Springvale, a south-eastern suburb of metropolitan Melbourne. By the time I made my way to central Melbourne, the walk was over, although I did briefly join the many people still congregated in the Domain. I made an effort to get to the site of the walk as a gesture by an Australian of non-English speaking background—we account for more than one-quarter of our nation’s citizens—to show our fellows that we are aware of the reality that indigenous Australians have suffered injustices historically. While we cannot be said to have played any part in the creation of these injustices, we do share with all Australians a sense of deep and sincere regret that such injustices have happened. Although we had no part in the wrongs of the past, we do share the hope that henceforth all Australians will move forward together as a people in unity.

I was of course not unique in my desire to demonstrate this commitment to our fellows. Amongst the crowd that remained on the domain when I arrived and amongst the streams of people moving away from that gathering place were people of many diverse appearances, people of all ages, people of all races, people of all statuses—a typical Australian crowd. What was remarkable about this crowd and the crowds at the other reconciliation walk was not only its diversity but its spontaneity. There was no compulsion on anyone to walk. This highlights the most important ingredient of true reconciliation: the spontaneity, the absence of compulsion.

By a coincidence, the reason I was not able to join the walk at its beginning, being the celebration of the opening of the Cambodian Heritage House, brings into sharp relief the way competing priorities could influence individual’s actions in a society in which one’s actions are not by compulsion. We had a celebration on that day of the first peoples of this land and a celebration of one of the newest peoples of this land; a juxtaposition that heightens the richness of our society, a thing in itself worthy of celebration. However, I might well have been criticised for choosing one event over another, as indeed I was so criticised on a previous occasion. We should accept that, when there is an absence of compulsion, a preference of one event over another does not mean denigration of one over the other, but merely the consequence of meeting the need to accommodate competing priorities.

I wish to close my remarks on this note: that true reconciliation cannot be achieved through compulsion, though the temptation to do so must be great. With the best intentions when the task is hard, when the task is known to be hard, when there seems to be so little time, when the desire to see some quick returns becomes overwhelmingly strong, it is tempting to think that if only an order can be applied, a rule written down, then all would be well. It would not be. A free people cannot be ordered what to think. However, the order may appear to be moral rectitude.

For all the wise observations that are to be found throughout the final report, the Council for Aboriginal Reconciliation seems to have fallen at the last hurdle of such a temptation. While the body of the report abounds with observations about the spontaneous and natural manner in which Australians of all backgrounds have embraced the reconciliation process, in the six recommendations that close the final report, the council falls back to the device of recommending the establishment of a regime of governmental, legislative and constitutional rules to compel Australians to reconcile with one another. That may be a good intention but the value of the report is thus diminished. With that, unfortunately, I think the place of the council in history is also diminished. Reconciliation
is a two-way journey taken by and between free peoples. It should always be thought of in this way. This way the nation can truly go forward. I recommend that the council revisit these proposals.

The President (4.43 a.m.)—Earlier this evening a number of senators spoke on the matter of wishing well our colleagues who serve us in this place, and I should also like to make some remarks in that regard. It struck me at the time that, if the 76 of us arrived here one morning and there were nobody in the building to help run the parliament, we would be a sorry lot indeed. I do not think we would get very far. That alone, I think, serves to remind us of the way we are well served by the Department of the Senate, the Department of the Parliamentary Library, the Department of the Parliamentary Reporting Staff and, of course, the Joint House Department. Perhaps we do not see so much of them but, in fact, the work that they do to assist us in running and operating is very significant indeed. To all those in the departments, I wish them well at this time of year as they join their families for Christmas and New Year and perhaps have holidays. I certainly trust that, if they are driving, they drive safely on the roads and come back to us again next year. Without going into the list of all those involved, all those I am referring to are within those departments of the parliament—their service is greatly valued indeed.

I particularly mention those in attendance in the chamber, who have had a busy year and a particularly busy week. We owe a great debt to you indeed for your quiet, efficient way of looking after the chamber and seeing that our needs are met. You are indeed appreciated. We certainly understand the pressure that you have been under during this week. To have had two nights as late as Monday night and tonight is extremely difficult for all concerned.

One other matter I wish to mention before I sit down is that Senator Lees is to marry on 23 December. I certainly wish her well as she embarks on this course. I am sure all of you, my colleagues, join with me in wishing her well for the event, the wedding on 23 December, and for her future.

Senator Bourne (New South Wales) (4.46 a.m.)—by leave—I will now give the speech I would have given on the adjournment. If anybody would like me to speak for longer than 10 minutes, I am more than happy to talk about the ABC for longer than 10 minutes.

Senator Hogg—You are not on broadcast.

Senator Bourne—I don’t care. Let me start off with a quote from Sir Rupert Hamer, a great Australian. He contributed to a book called Save our ABC: The Case for Maintaining Australia’s National Broadcaster, which was published in 1996. He starts off his contribution to this book with a quote from Ken Inglis’s history of the ABC:

As the bells in the tower of Sydney’s General Post Office chimed 8 o’clock on the evening of Friday 1 July 1932, the peals were picked up and carried to every state of the federation. ‘This is the Australian Broadcasting Commission,’ said the announcer, Conrad Charlton. Then he introduced the Prime Minister, Joseph Lyons, to pronounce the Commission inaugurated.

He goes on to talk about the ABC and how it has fulfilled its statutory obligations. In 1996, what did the ABC provide? I think it still provides this and more. In 1996 it provided:

six Australia-wide radio networks
nine metropolitan radio stations
forty-nine regional radio stations
Radio National, a specialist spoken word network—
we all know what has happened to Radio National—
ABC Classic FM
a parliamentary and news network on radio
a national television service
Radio Australia, an international service—
even sadder—
Australia Television, an international satellite service—
extrremely sad—
six symphony orchestras
twenty-four ABC Shops & over 110 ABC Centres
an on-line Internet service

Then he goes on to give a lovely quote—I love this quote of Sir Rupert Hamer’s. He
quotes from the Liberal and National parties' policy document for the 1996 election, Better Communications—one of my favourite reads:

This vast network provides a diverse range of programs and performances of cultural value and intellectual integrity. The ABC has a proud record of offering high quality and diverse programming across a broad spectrum of human interests including news, current affairs, drama, sport and the arts.

It goes on to say a lot more about what the Liberal and National parties would do in 1996—that is, what they said they would do in 1996 if they got into government, what they promised the Australian public they would do for the ABC if they ever got into government. The great tragedy for the ABC is that people believed them. Australians believed the coalition in 1996 when they talked about what they would do for the ABC, and it really was a great tragedy for Australia. Further on in this book, there is a piece by Robyn Williams of the science unit of the ABC—perhaps I should say the former science unit of the ABC. As we know, the ABC science unit has been disbanded. He says:

Our own ABC Science Unit was set up in 1964. The foundation director of science programs for the Australian Broadcasting Corporation was a young chemistry schoolmaster called Peter Pockley.

He talks about the science unit and its importance to Australia and he talks about how science is very popular all around the world—not just in Australia. He says:

Books by Paul Davies, David Attenborough, Richard Dawkins and Karl Kruselnicki sell by the truckload.

People love to know about science. They love to know what is going on in the sciences. One of the reasons for that, of course, is the ABC science unit. It is one of the few places in Australia where Australians can hear in an interesting and friendly way what is going on in science, and they do get interested in it. They go out and buy the books, and they want to know about physics, chemistry and biology. They want to know about science. Unfortunately now, of course, the ABC science unit has been disbanded.

Further on, Mr Williams says:

There are few times in the life of a nation when a whole institution, a major part of its culture, could disappear forever.

That time has been reached. I am sure that an ABC will live on in some benign form, providing basic services of news, current affairs and river heights. I have profound doubts about the rest of our services and traditions. Many of them look as wobbly as a mad cow, some are already on their knees.

At the end of his piece, he says:

... the first casualties of penury will be the specialist programs, notably science, and once gone they will take a generation to get back.

Well, yes, that is true. The first casualty has been science.

What of the other specialist units? What of religion, what of the arts, what of media, what of all those other specialist units? They are going to go next. I am sure religion will go after science. We do not have any interesting, friendly commentary about religion anywhere else in Australia, and we will not have it once that specialist unit is gone, and it looks to me as if that specialist unit is going to go next. This morning the Senate passed a motion of concern about the ABC. The majority of senators are very concerned about what is going on in the ABC. The thing they are most concerned about, of course, is the budgetary appropriation to the ABC, which is so vastly and appallingly inadequate.

Earlier this week we had an announcement of an extra $23 billion over 10 years for defence funding. Previous to that we had heard that the government could not find any extra money for anything, particularly for the ABC, and then they found $23 billion. Good on them. The Defence Force could use some more money—that is excellent. But, with only 6½ per cent of that money that the government found for defence, you could bring the funding of the ABC back up to what it was before even the ALP government started to cut it. You could bring it up to what it was under Malcolm Fraser—the glory days of the
With only 6½ per cent of what defence is getting, you could have the funding of the ABC back to where it ought to be. It is not very much at all. If the government can find $23 billion over 10 years to increase Defence Force funding, surely they can find 6½ per cent more to put into something which is absolutely necessary to Australia, and that is the ABC, the public broadcaster.

Minister Alston answered a question from me—I think it was earlier this week, or it could have been last week; it is a bit late and my brain is not exactly what it ought to be, I am afraid—

Senator McGauran—You are doing all right.

Senator BOURNE—Thank you, Senator McGauran; my friend Senator McGauran, unlike some in this chamber. In the answer to that question, he first of all mentioned that he had not noticed a copy of my private member’s bill on the ABC board. I do not know how it slipped past him. I actually sent him a copy, but perhaps he does not read everything that comes across his desk—fair enough, he is a minister. But I sent him a copy of my private member’s bill on the ABC board and how it should be appointed. He did say that he would read it. I hope he does because in fact my private member’s bill was a reflection of Senator Alston’s own recommendation in the ABC report of March 1995. That recommendation was that there should be a joint parliamentary committee to look into all appointments to the ABC board. In March 1995, a majority of the Senate—at that point it was the Democrats, the Liberals and the Nationals—was concerned that there were some political appointments to the ABC board. I must say that I am even far more concerned now. The primary desire of people on the ABC board should be to see the ABC grow and prosper, but I do not think that is what everybody who is being put on this ABC board want. I hope it is, but I think it has been shown from many things that we have heard that there is at least one person on that board who does not want that. I think that is another tragedy. I think the ABC is full of tragedies at the moment.

There are several other recommendations that Senator Alston made in this excellent report, Our ABC, the report of the Senate Select Committee on ABC Management and Operations, March 1995. Unfortunately, it appears to me that he has completely reversed on them; he has gone in the completely opposite direction to what he recommended. I know honourable senators just cannot believe that Senator Alston would do the complete opposite of what he recommended in 1995 once he got into the ministry—I know that senators will find that absolutely astounding. I find it astounding. I find it shocking, and I am sure that Senator Alston would also find it shocking. (Extension of time granted) I thank the Senate for granting an extension of time. I am very grateful for the Senate’s indulgence, in particular from those senators who do not particularly like what I am saying. I recommended to Senator Alston that he go back and have a look at this excellent committee and its excellent recommendations. I should perhaps mention, although it is a little inglorious of me, that I was the deputy chair of the committee—but, of course, I was only the deputy chair to Senator Alston’s excellent chairing of the committee. One of the recommendations says:

No changes to the existing structure of TV news and current affairs should be made without full consultation with staff, the obtaining of detailed research information, and comprehensive consideration by the board of all relevant issues.

I understand that that is something that is up to the board, but I would have thought that Senator Alston would have made it very clear to the board that this is something that the Senate, at least in 1995, thought was a really excellent idea. It is very sensible not to change that sort of thing. However, the area of news and current affairs is being changed and it is being changed quite drastically, and we are all aware that it is being changed quite drastically. Recommendation 16 is a really central recommendation:

... where the Parliament requires the ABC to undertake new Charter activities or to expand existing Charter activities, it should provide funds sufficient to ensure that existing activities are not adversely affected.
That certainly has not happened—in fact, the opposite has happened. I keep thinking of the word ‘tragedy’. I am trying to think of another one, but it is pretty well the most adequate word to describe what is happening to the ABC at the moment. I am not the only person who thinks that; I have had hundreds and hundreds of emails over the last couple of days—and before that I had hundreds of emails on the disbanding of the science unit—since the strike of ABC staff. It was the first one we have seen of this magnitude in 10 years. In fact, I may be wrong but I think that even in that last one 10 years ago some of the management were still working, but in this strike I think that even management was not working. I tried to turn on ABC Television news on the night of the strike, and instead of the news there was an excellent program on the river red gum. I had hopes that it was from the ABC science unit but unfortunately not; it was from the natural history unit. But it was still an excellent program, and it was still about Australia. Of course, that is one of the things that we will not be getting if we do not have an adequately funded ABC.

So there was no television news, there was no 7.30 Report, there was no current affairs. Tim Fischer was stopped at the door on his way into the House of Representatives the next morning and somebody said to him, ‘Would you like to comment on anything?’ And he said, ‘No, I can’t comment on anything because I couldn’t hear any news this morning—I turned on the radio and there was no news.’ Like Mr Fischer, I always turn on ABC Radio in the morning to hear the news, to hear the current affairs, to hear AM, to find out what is going on in the world outside parliament. I know that Mr Fischer is a great fan of the ABC—we have discussed it many times—and so am I. It was very disorienting not to have the ABC news that morning and not to know what was going on outside Parliament House—which, after all, is a pretty closed environment.

That is the sort of thing that we can all try to get used to because more and more parts of the ABC are just going to disappear because the funding is so vastly inadequate. Of course, it is not just the funding that is inadequate. It is very difficult with such inadequate funding to actually do the right thing by the staff, and the staff are feeling very unloved at the moment. It must be very difficult to do that job when there is such a difficult atmosphere. The atmosphere is obviously very difficult within the ABC, and that should be of concern to every single Australian. In fact, it is of concern to the vast majority of Australians. If the government does not understand that, it is doing itself a terrible disservice, because at the next election people will know what the government actually did, what its actions were; they will not believe what it says. They will know what they have seen it do, and the government is in big trouble if that is the case.

Senator SANDY MACDONALD (New South Wales) (5.01 a.m.)—by leave—I listened with interest to Senator Bourne’s comments about the ABC. Nobody in regional Australia could possibly disagree about the importance of the role that the ABC play. I wish to make the point that the ABC get a very large amount of money, and the government takes the view that they should manage, and manage they will. It is not a debate about the value of the ABC: I think we all value it. But I do particularly make the point about regional radio, which is important to us, that there can be no cost cutting there. If you ring the radio people, the person answering the phone is generally the person on air and is also the person who is making the coffee. They are particularly hard working and they do a particularly good job for all of us who live outside the metropolitan areas.

I wish to make some comments about the defence white paper which was released the day before yesterday. It is a most timely strategic review. It has been described as the most important strategic review of Australia’s defence in 20 years. It is timely for all sorts of reasons, particularly in light of what Senator Gibbs said in terms of our continuing commitment in East Timor. Our commitment there is just over a year old. I think the decision was taken in September last year that we go in; it looked like we were going in around September and I think the troops left just on a year ago. It is not just about East
Timor: we have an arch of instability that surrounds Australia, both to the north and east, in the Indonesian archipelago and West Irian, in Papua and West Papua, in the Solomons and in Fiji. For many years Australians have focused on this matter more than on other terms of their defence requirements.

There is a greater interest in defence issues now than there has been for many years. There are a number of reasons for this. There is a distance from the antiwar movement of the 1970s. Grandfathers are keener to talk about defence issues with their grandchildren than they were with their children, when the war was too close and too painful for them. There is the fact that, to their credit, the previous government had in 1995 Australia Remembers, which highlighted the 50 years since the end of the Second World War. I think Australians appreciated that. There is the very keen interest that young Australians especially have in Gallipoli, and the fact that greater numbers of young Australians are going to Gallipoli each year. There is the fact that what was Armistice Day, when I was young, is now Remembrance Day. That day nearly went out of fashion in the 1970s because of the very painful divisions in the Australian community over Vietnam, and I think that time has healed those wounds.

All Australians are immensely proud of the role that we took in East Timor, which we took for all sorts of reasons which are perhaps divisive and political. I will not discuss those tonight, but what we did was morally correct. We went in to help people who needed help, as Australians have always done. We have never been warmongers. We have never gone out to impose our will on people. Earlier this week when I was at the Australian War Memorial with students from Farrer High School in Tamworth, which is my local city where I have my office, I made the point to the boys who were there that 102,000 Australians have been killed in wars this century. When you remember the number of people who filled Stadium Australia—Stadium Australia takes 140,000—you realise that 102,000 is an awful lot of people. They did it not to impose their will or our will on other people but to do the right thing. They were making a contribution to world peace, and they did it very successfully.

For all those reasons, I think there is an increasing interest in defence issues. So it was very timely that we had the defence white paper. I make the point that the defence white paper came out not only after this continuing and increasing interest in defence but also after the work of the community consultative committee headed by former Minister for Foreign Affairs, Andrew Peacock, assisted by General Clunies-Ross and two former members of this place—Senator Stephen Loosley and Senator David MacGibbon. They held committee hearings right around the country, and these were well attended. I make the point that it is one thing to say that we need to spend more money on defence but it is another thing to have community ownership of that debate. That is essential. The consultative committee certainly played its part in doing that, and it is important that it did. I commend all the members of that committee. I think they did an admirable and important job.

We have had a respectable increase in the amount of money that will be spent on defence over the next 10 years. A figure of $23 billion has been cited, which takes us to $140 billion to defend Australia over the next 10 years. Like the management of the ABC, the management and senior officers of Defence have been told that they have a large amount of money which it is up to them to manage, and manage they will. They will manage in exactly the same way as the ABC. I would give them the same advice, Senator Bourne. We have given the ABC a budget, we have given them a charter and we have asked them to manage, and manage they will. Particularly for the Navy, we have had a commitment to make the Collins class submarine and its warfare system ready for war. Its combat system needs continuing effort to make it so. There is also a commitment to upgrade the Anzac class frigates. The final couple will come online shortly. We have a commitment to upgrade and replace the Fremantle class patrol boats. When you consider that Australia has eight million square kilometres of ocean in its exclusive eco-
nomic zone, we have to make a very large commitment to that.

I made the point the week before last in New Zealand, where I had been asked to make some comments on integration between the New Zealand and Australian military, that, whereas New Zealand has, surprisingly, half the exclusive economic zone that Australia has, its effort in policing that is almost negligible. It has four inshore patrol boats and it has five ageing maritime patrol Orion aircraft. While Australia might be criticised for not doing enough with our exclusive economic zone, we in fact put up 19 Orion aircraft, about 18 Bombardier DASH-8 type aircraft and two helicopters. We put out 15 Fremantle patrol boats, a couple of deep sea fishing boats and seven or eight Customs boats. (Extension of time granted) So we do make for our exclusive economic zone a very considerable effort. Some people might argue that it is perhaps not enough and that we should do more but, when we compare ourselves with our New Zealand friends across the Tasman, we make a very considerable effort.

The next area of expenditure to which the white paper directs itself is the Army. There is a determination to increase the numbers of the ADF, and most of those will be in the Army. The figure goes from 51,000 to 54,000, increasing the number of battalions that have a degree of readiness from four to six. I think this was highlighted specifically in our East Timor response. So the extra 3,000 service men and women will basically be in those battalions which are available for some degree of action and readiness immediately. Also, the Army will be getting new attack helicopters. The degree of weaponry on those armed helicopters is as yet unknown, but it is important. There are some heavy lift helicopters too.

The Air Force—this also refers to our capacity to oversee our exclusive economic zone—will be getting AWACS aircraft, which are essential for surveillance and also for the management of strike aircraft and fighter aircraft these days. There are upgrades to the FA18s and a commitment to new aircraft to replace the FA18s and the F111s towards the middle of the second decade of the new century.

Finally, I make some brief comments on the reserves, which have always been very important to this country. They are important to regional Australia because they are very often based in regional Australia. There is a commitment in the white paper that deals with the call-out capacity for the reserves in times that are less than a national call-out; that is, the capacity to call them out for flood, fire and national emergencies. Pretty clearly the reserves want that. In fact, they are used in these sorts of situations already. We, as a government, and all governments would see that a proper legislative program of arrangements is essential for that to happen. Mr Deputy President Hogg, when you were chair of the inquiry into the military’s assistance to the civil authorities, you would have seen that it is important that the legislative program is put in place to make sure that people understand exactly what is expected of them. This legislative program will include a recognition by the government that the reservists must be able to leave their workplace, their employer must be happy and their conditions of employment must be maintained and protected. These things will be addressed, and they have been highlighted in the white paper.

I think the East Timor deployment has specially highlighted the need for reservists, not only specialist reservists like doctors, nurses and people like that but very often the nuts and bolts people who keep the show on the road: the carpenters, the plumbers and people able to get tankers driven off the beach. These sorts of people were essential and they are not in the critical mass of regular service men and women. The role that they played in East Timor was very important in that regard.

The other important point that the white paper makes is that you cannot be all things to all people, and it might be appropriate that the role of the reservist is that of a specialist, in terms of a specialist job in response to a crisis. I think that is important. I also think the suggestion that various Defence reserve units be held in differing degrees of readiness is appropriate. I do not think any of us
Senator CAL VERT (Tasmania) (5.16 a.m.)—by leave—I do not think I have ever made a speech at this time of the day in the 13 years I have been a senator—I have only just woken up in fact—but I wanted to put on the record that, as the Government Whip, I appreciate the cooperation that I have had from the opposition whips and their staff this year. It has been a particularly difficult year, with a lot of legislation going through this place. In any event, things do not happen unless you have the cooperation of the other side, and I would like to put that on the record.

In February next year, the Senate Rural and Regional Affairs and Transport Committee will be conducting an inquiry into the proposed importation of apples and pears from New Zealand, which has become quite a hot issue. Without canvassing all the issues, I must put on the record that it is going to be a very important inquiry as far as one of the major industries in Australia and my home state is concerned. As Senator O’Brien would know, after many years of neglect, those in the apple industry are starting to find their feet again. They are doing that by changing their orchards from the old varieties to the new varieties that are more akin to market demands, particularly in Japan and Taiwan. In Tasmania we have developed fuji apples, a variety which is much sought after. It is pleasing to see that the Huon Valley has revived itself, not just through the salmon industry but also through the changes to the apple industry.

So I look forward to February 2001 when the committee will, I understand, traverse Australia and take evidence from all the apple and pear growing states, and with some luck we might even go to New Zealand. It is going to be a very controversial subject, and I just hope that the Senate can do what it did with the salmon inquiry—that is, show the people of Australia that the bureaucracy does not run the situation and that the Senate plays a very important role, and provide the people of Australia with the opportunity to put their point of view. In the case of the fruit industry, it is very important that the industry itself has the opportunity to put forward its views because the biggest criticism of this inquiry has been that the industry has not had the consultation with AQIS, Biosecurity and the powers that be that it should have had. This is an ongoing problem. I just hope that next year people take the opportunity to put their points of view to Senator O’Brien and me—I do not know whether Senator Murphy will be going—and listen to what other fruit growers have to say. The fact that Shepparton closed its doors and people marched through the streets shows that it is a very hot issue around rural areas of Australia.

I am particularly pleased that we in the Senate have taken the lead in referring this matter to a committee—a committee of which I am no longer a member. The Senate Rural and Regional Affairs and Transport Committee was originally called the Senate Select Committee on Animal Welfare. I think I am pretty right in saying that when former Senator Brownhill and the Democrats joined forces to control the debate in the previous government we were able to create a committee that did not exist before. I think the last time the primary industry department was reflected in the Senate was in 1940. So we were able to create a new committee—the Senate Rural and Regional Affairs and Transport Committee—and it has become probably the hardest working committee in the Senate.

This committee has had to tackle particularly difficult issues like civil aviation. I see Senator O’Brien walking around the chamber with his hands in his pockets, and I must take my hat off to some of the issues that have been raised by the opposition about transport matters, particularly civil aviation. If that committee had not been created a few years ago—and I take my hat off to former Senator Brownhill who was very instrumental in forming that committee—we would not
have the opportunity to reflect in this parliament on the types of issues that are most important to rural and regional Australia. So at 5.25 a.m. on Friday, I make the point that next year the Senate Rural and Regional Affairs and Transport Committee will continue its hardworking investigations around Australia, not just into fire blight but into many other issues that may come forward. With those few words, I will sit down and let Senator Murphy put forward his views on the world at the moment.

Senator MURPHY (Tasmania) (5.24 a.m.)—by leave—I find it of great interest that at almost 5.25 a.m. on a Friday you can stand up and make a contribution in the Senate.

Senator Heffernan—Going fly-fishing, are we?

Senator MURPHY—I detect an interjection from Senator Heffernan. That is one of the few times he has actually made a contribution in the Senate. Nevertheless, listening to Senator Calvert and, of course, a few other senators here on Friday morning, it is rather interesting to consider the remarks that they made. I start with the most recent contribution, and that goes to the question of quarantine issues that affect this country. I have a degree of admiration for Senator Calvert because he has endeavoured, on a number of occasions, to at least take his own government to task on quarantine issues that have primarily, I suppose, affected the state for which he is a senator. Underlying all of that, if we look at quarantine issues per se, one of the problems that has confronted this country, and will continue to confront the country, in respect of quarantine matters is that we have a government that has removed the ability, to a large degree, of the Quarantine Inspection Service to do its job appropriately. I listened to the Prime Minister— I think it was yesterday—when he addressed the question of the WTO outcome on lamb, saying what a wonderful success it was for Australian lamb producers. I agree—it was good. But, historically, if you look back at that question alone, we have failed on many occasions to take the game up to the major trading countries around the world.

Senator Sandy Macdonald—Lamb—success today.

Senator MURPHY—Today—Senator Sandy Macdonald points out. I apologise for not really taking a great deal of note of what the Prime Minister has said in that respect, but it was today. I say to Senator Sandy Macdonald that we should never have been in a position to have had to address today the question of the US imposing tariffs on lamb from Australia. We should never have had to proceed to the WTO disputes panel and the appellant body to ultimately decide that if we had had appropriate representation in the WTO process. That, I think, is a reality for this country.

I know that Senator Calvert mentioned salmon and apples. In the salmon case, which was dealt with by the Senate Rural and Regional Affairs and Transport References Committee, it was abundantly clear from the evidence received that the process we found ourselves in was to our own detriment, even though we may have had an intention to be totally transparent to the rest of the world. We failed miserably to represent the interests of this country in any way, shape or form. That is why I make the comments with regard to lamb. It is just appalling that countries of a similar size and nature in trade terms, like Canada, take a totally different approach to the WTO process. We seem to be only too ready to accept—Senator Macdonald, I can tell you where we go wrong: we just do not have sufficient legal representation in the process. We clearly do not, and we have not in any way, shape or form argued our case in a lot of WTO processes. Until such time as any government—I say this in an apolitical sense—ensures that we do have the appropriate representation, we will continue to fail in a number of areas, and that will be to our detriment. Of course free trade, which has been proposed and pushed by all sides of politics in this country, is a worthy pursuit because we as a country are very efficient in primary production. But at the end of the day we have to ensure, if we are competing in a global marketplace, that the terms upon
which we compete are as even as we can possibly make them.

There are circumstances in which, insofar as this country is concerned, we have failed our primary producers. If you look back at a number of issues that have arisen, certainly since GATT and following on with the WTO, you will see that we have simply not been up to the game. Why haven’t we been up to the game? My view is that we have not put in sufficient resources, from a legal point of view. I was a participating member of the Senate Rural and Regional Affairs and Transport References Committee dealing with the salmon case. I was interested to hear people from AQIS saying that we were the ones that were up there in the front row developing the sanitary and phytosanitary agreement in terms of trade in animal and agricultural produce—plants and so on. Yet we failed miserably.

Senator McGauran—We didn’t.

Senator MURPHY—We did. Senator McGauran; we failed miserably to have any real legal representation in the salmon case. I have to say, in respect of Senator Calvert raising the issue of fire blight, that it would seem we have almost got ourselves into the same position in respect of apples and the New Zealand application. How ridiculous that in 1995, in the salmon case, we prepared a draft report—prepared by our Quarantine and Inspection Service—and that the Canadians got a copy of before the industry in this country got one. The Canadians were then able to develop arguments about the outcome of a likely final report. In 1996, we prepared a final report that was different from the draft report and we said, ‘What is the scientific basis for the change?’ We did not have a scientific basis that, in the case of salmon, said, ‘We believe that the restrictions that existed at that time should be removed. That was based on the scientific information available to us at the time, so let us remove them.’ In 1996, the final report said, ‘Keep them in place.’ What new scientific argument has been presented? None. *(Extension of time granted)*

It is abundantly clear that the authorities have not got the resources to carry any real argument. Taking note of the interjections from Senator Sandy Macdonald and Senator McGauran from Cocky’s Corner, ‘Tell us about lamb,’ if you wanted to count on all your fingers and toes the successes that we have had in respect of those matters, those quarantine matters and tariff arguments et cetera in terms of the WTO, there is one—

Senator Sandy Macdonald—Were you pleased about that?

Senator MURPHY—Yes, absolutely. But, frankly, as I said at the start, we should never have been in these sorts of situations with our backs to the wall. If we had properly resourced the legal side and had people appropriately qualified in international law to argue the case and be on top of the issues confronting this country’s rural sector, both from an export and import point of view, there would never have been a problem. I guess I spoke about that issue because of my conservative colleague from Tasmania, Senator Calvert.

Another very interesting aspect which this Senate may well have to deal with in the year 2001 relates to taxation. What has grown to be of significant interest to me relates to agribusiness and the taxation treatment that some agribusiness industries receive and also to what seems to have become a proliferation of prospectus based investment proposals across the whole sector of agribusiness industries. What was drawn to my attention, and something that I think I have got a reasonable degree of knowledge about, is plantation forestry. What has concerned me quite deeply has been the approach by some prospectus based companies in promoting forest plantations. The fact is that many of them contain projections and predictions about return to the investor that are simply not supportable. It is very easy to prove that to be the case, yet the Australian Taxation Office and the Australian Securities and Investment Commission seem to do little about that. We are already aware of many instances where the Australian Taxation Office have reassessed the tax affairs of tens of thousands of Australians to their detriment. This government believes that it has passed legislation that would deal with these issues, but clearly that is not the case. There are major problems in this industry in terms of pro-
spectus based investment proposals, particularly in the agribusiness area, that will have to be rectified. It will be a major issue for this government and for any government in the ensuing few years. It will have to be addressed, in my view, legislatively to take account of the protection of investors, because it is abundantly clear that people are getting out there and are flogging these things and many of these companies, some of them already listed on the stock exchange, have taken advantage of people by promoting tax effective—(Time expired)

Senator McGAURAN (Victoria) (5.40 a.m.)—by leave—It must be the hour, but I really think there have been some very fine contributions here this morning. However, that was not one of them. I thought I was listening to someone from S11 speaking. I thought your side of politics as well as ours had signed up to a rules based trading system, but during your contribution—we thank you for it at this hour, we are looking for speakers—you took the opportunity to talk in a way I have never heard you talk before in the light of day, Senator Murphy. It will go into Hansard. You spoke like someone from S11. You clean forgot, until you had to pick up the interjection from my colleague about the announcement just yesterday with regard to the lamb victory at the WTO. That was pursued by this government with all vigour—two appeals, a trip to Washington. At the end of the day we have been successful, which proves that a rules based trade system works. You failed to mention that, Senator Murphy, in your rambles. Even if you are allowed to talk at this late hour, with no-one at the Hansard table, some people are still listening, so get your facts right, Senator Murphy. Give credit where credit is due. The lamb decision by the WTO has been a superb victory for the farmers of Australia and for the trading capacity of Australia. Americans have got the signal from Australia that we will pursue them through this rules based trade system.

Mr Murphy—If you couldn’t win the lamb case, you couldn’t win a raffle with one ticket in it.

Senator McGAURAN—Even at this hour you provoke me. That is remarkable. What a fine effort, Senator Murphy. Senator Ludwig, don’t you interject, because you slept through the whole thing, I watched it. I do not like to dob you in to one of your own colleagues, but I can see you are keen to throw an interjection across at me at this hour as if to say, ‘That was a fine speech by Senator Murphy, a fine contribution.’ You slept through the whole lot of it, and I do not blame you—not because Senator Murphy was that dull but because we are all just a little tired at this hour. In fact, that leaves no-one, Senator Murphy, other than me listening. I noticed those two over there were talking through the whole thing. But we do thank you for your contribution at this hour.

The other contributor was Senator Calvert. I am on the committee that he was speaking about, the Senate Rural and Regional Affairs Committee. It is an important committee that in February next year will be going around the states taking evidence with regard to the fire blight problem in the apple and pear industry. It does show the worth of the committee.

Senator George Campbell—It’s a quarter to six—you’ve woken everybody up.

Senator McGAURAN—What have you come in for, Senator Campbell? Someone has finally woken you up. We have not seen you all morning and you decide to come in to annoy me in my contribution. Time is running out. I may go for an extension myself, because I was going to talk about unemployment, the government’s achievements in unemployment, and you are just the man to listen to my spiel on unemployment. Why would that be, Senator Campbell? Why should you be interested in unemployment? Because you have a history of it. I am going to refrain from an attack upon you, but you know exactly what I mean, because there was a certain person down at the Holy Grail last week—I do not know if you were there—who accused you of some of the worst crimes you could visit upon a working family man. Senator Calvert, I will join you on that committee in February. I should take this opportunity in the Christmas spirit to thank you for your professionalism, always lending me an ear, always listening to what I have to say throughout the year, and for your
friendship and knowledge. I think I am wasting my time because you are not even listening to me.

Senator George Campbell—Who was this person at the Holy Grail?

Senator McGAURAN—Mr Paul Keating.

The PRESIDENT—Order! Multiple interjections make it very hard to hear.

Senator McGAURAN—Mr Paul Keating.

Opposition senators interjecting—

The PRESIDENT—A little decorum!

Senator McGAURAN—Moving on to the other contributor, Senator Bourne, who called me her friend, which I was most touched by, at this hour—

Senator Tierney—I heard that.

Senator McGAURAN—I have a witness over there, and that will go into Hansard. Senator Bourne, as a friend, I want to set you straight about your contribution in regard to the ABC. It is the most trumped-up crisis down at the ABC. It is all generalisation. No one can really tell us what, particularly, is wrong down at the ABC. There was a 10 per cent cut—not across the board at the ABC, by the way, but in departments. Certain departments had to take 13 to 15 per cent cuts. In 1996 news and current affairs at the ABC did not receive any cuts, so other departments had to receive more. On average it was a 10 per cent cut. Every department, as you well know, had to take a 10 per cent cut. The ABC was no more quarantined than any other important department, for obvious reasons, because of the $10 billion black hole we were left. I do not think that under any analysis the ABC has suffered since then. We have had great shows like SeaChange and Foreign Correspondent. They are all still on air. They have very high ratings.

Senator George Campbell—SeaChange has finished.

Senator McGAURAN—Every series has its day. What about the fantastic show The Games? They have managed to put all that together post-1996. In fact, I think the ABC are going through their heyday. It is all so trumped up and self-centred, this Friends of the ABC rubbish. Mr Jonathon Shiers has every right to expand and broaden the horizons of the ABC.

Senator Hill—What about Quadrant?

Senator McGAURAN—Quantum? I do not watch it myself. It is a science show, I believe.

Opposition senators interjecting—

Senator McGAURAN—I cannot watch everything.

Senator Chris Evans—That’s because you’re watching too many dirty movies. That’s what we hear.

Senator McGAURAN—Senator Lees made the point about the cut in the Science Show—

Opposition senators interjecting—

Senator McGAURAN—that is very ungracious.

Senator Chris Evans—you put out the press releases about them.

Senator McGAURAN—I am not going to be provoked on that one—I would have to go for an extension of time. Is Senator Evans talking about my attack on the movie Salo, which I and the government had banned for obvious reasons? Is that the sort of movie you want out in the theatres, Senator Evans? Is that the sort of movie you want out in the theatres, the movie Salo, which has twice been banned in this country? Senator Lees and the interjection by—

Senator George Campbell—Have you seen it?

Senator McGAURAN—Yes. Boy, I am really filibustering now, taking your interjections. I shouldn’t take you seriously, not even at this hour. Senator Lees believes that Quantum and the Science Show will no longer be on the ABC. That is utterly false. The ABC is still committed to a science show, still committed to Quantum. They are simply outsourcing, you might say. What is so funny about that? There will always be a science show at the ABC. Senator Lees, in her most charming language, was setting up a straw man to knock down. As my colleague also said, the 48 regional radio stations which are so important in getting out the news and current affairs to our rural and
Before all the speakers before me gave me such great material, I wanted to make a point about the delay in the Senate we are all experiencing. I cannot remember such a one since the native title debate. We are still talking at 10 to six in the morning. I have a plane to catch in less than an hour; I do not like my chances. It is reminiscent of the obstruction of the Senate that we experienced when we first came into government in 1996. Very reminiscent. I hope we are not slipping back into those days as we enter an election year.

It is reminiscent of an opposition that has opposed every major reform that this government has ever attempted to bring in. When we brought in our first budget in 1996, you opposed every measure, but that was the budget which has set us up the surplus we so enjoy today in this country. If it were not for the hard decisions which we made then, we would not have the surplus we have today—which the opposition want to jump on. Mr Crean, the shadow Treasurer, wants to have an even bigger budget than we have, when we have a budget in the black. The opposition opposed us all the way. They opposed us in regard to debt reduction and they left us the deficit, but they know that.

The PRESIDENT—Senator McGauran, are you seeking an extension?

Senator McGAURAN—Madam President, I have quotes from the Reserve Bank, I have quotes from the waterfront, I have quotes with respect to Roads to Recovery, but I will spare the Senate because I have a big gun to follow me in Senator Tierney. I yield to Senator Tierney.

Senator TIERNEY (New South Wales) (5.51 a.m.)—by leave—On behalf of the Senate, I would like to thank the senator for his wide ranging speech—a brilliant contribution at ten to six in the morning. I would like to focus on one topic. It is now almost the 10th anniversary since I made my first speech in this place. You will all be surprised to know that it focused on the Hunter Valley. Since that time, I have made many speeches on the Hunter, to the point where last year in the government Senate awards I was awarded the Blue Hills award for going on longer about any topic than anyone else. I was very disappointed not to win that award this year, so I thought I should start my run for the award next year by making a speech today on the same topic. Ten years ago, I told the Senate about the tremendous potential of the Hunter Valley and about the great contribution the Hunter Valley makes to the Australian economy. I think my first speech is the only one in the history of parliament during which, towards the end, there were a considerable number of interjections. This is very unusual in a first speech. The interjections were from both sides and from one particular group—that is, Tasmanians. Ten years on, I would like to explain that I really was not attacking Tasmania.

I told the story of the mythical island of ‘Hunterland’. The island of Hunterland was about 140 miles off the coast. It had its own state parliament, five representatives in the House of Representatives and 12 senators. The very point I was making was that the Hunter Valley, which has an economy the size of Tasmania and a population larger than Tasmania, at that point was going to gain only one senator, whereas Tasmania had 12. I really think I should be paid some sort of bonus for doing the work of 12 senators. In my next life, I hope I can come back as a senator for Tasmania. I soldier on alone up in the Hunter Valley as the only senator. It has been a very rewarding time over those 10 years to serve the Hunter, which had enormous potential 10 years ago and has fulfilled a lot of that potential in the last 10 years. It has gone through quite a lot of trauma over that period, but there is a great spirit in Newcastle and the Hunter and it has shown enormous resilience. A little over 10 years ago, the earthquake knocked down a fair part of the city. People were killed and whole areas had to be rebuilt. And one year ago we had the closure of the steelworks.

If 10 years ago I was predicting that what would be happening at the end of the nineties was the closure of the steelworks and then if I was to predict at that time that one year following the closure of the steelworks 40,000 new jobs were created in the Hunter Valley, some would think that that was a very
courageous prediction. But that is what happened. We lost 2,000 jobs at the steelworks and we picked up 40,000 jobs. That is on the figures of the Australian Bureau of Statistics and of the Hunter Valley Research Foundation. The Hunter has boomed, and a lot of that is because of the natural advantages of the Hunter and the way in which it has been able to attract a very wide range of industries. Ten years ago the Hunter Economic Development Council wrote a major report on the future of the Hunter and in that they identified 22 industries that had enormous potential for growth. That is what is underpinning the economy at the moment. If you fly over the area and look down and see the steelworks, from the air it looks like a one-industry town. But of course it is not; it is very diverse. As a matter of fact, the job profile of the Hunter is almost identical to that of the nation. A lot of the test marketing is done there, because it is a true reflection of Australian society in its population, its job structure and its diversity.

The foundation of the Hunter is the natural advantages it has through its geography. To the north is the blue water wonderland of Port Stevens; to the south is Lake Macquarie, the largest saltwater lake in Australia. There are the Watagan rainforests, the vineyard areas, which are diverse and extend right across from the lower Hunter to the upper Hunter, massive open-cut coalmining and major power generation. In contrast to a lot of that, in the far north of the valley is the Scone horse stud country, which is bigger in its economic impact than the bluegrass country in Kentucky. Indeed, there is a very close link between the bluegrass country in Kentucky, the Upper Hunter at Scone, Hong Kong and Arabia. What moves between those four centres is horses, personnel, expertise and money. That is a major industry, in an area where there is six per cent unemployment and a youth unemployment rate of under six per cent as well.

As you move south from there, you move into the coalmining and power generation areas then into the vineyards then into the major industries in the Newcastle region. When you talk about the area, people think that it is all heavy engineering and steel. It surprises people to hear who the two largest employers are: the largest employer is the Hunter Area Health Service; the second-largest employer is the University of Newcastle. When I went to Armidale, which is considered a university city, and I was speaking to the Chamber of Commerce I said, ‘I bring greetings to the university city of Armidale from the university city of Newcastle,’ and that surprised people. They didn’t think of Newcastle in that way. In the University of Newcastle we have one of the top 10 universities in the country by any measure. It is the most diverse regional university in Australia. It has the top medical school, the second-top engineering school and a whole range of other quality faculties. It has become a major driver in the Hunter economy, as indeed universities tend to be everywhere else.

Massive change in the nature of industry in the Hunter is developing at the moment, as it moves from the smokestack age to the information age. This development is happening on the margins, in small businesses employing 10, 20, 30, 40 people, as opposed to the large industries such as BHP that used to employ thousands of people. To illustrate that contrast, I will tell a small story about two types of industries. One is textiles, and the other is information technology.

Senator Murphy—National Textiles.

Senator TIERNEY—I am going to get to that, Senator Murphy. At the start of this year, National Textiles in the Hunter Valley shut down. There was a loss of 340 jobs. It made national headlines. What did not make national headlines was that, at the same time, over a year, a small group of companies involved with Internet products had formed a network association. They came to see me at the time National Textiles shut down on a different matter. They said: ‘You know, Senator, 340 jobs have been lost at National Textiles, but our little group of companies, between us, over the last year, have employed more people than that. But no-one noticed, because they were adding two, three, five and 10 people.’ That is what is happening a lot.

Senator Patterson—Of course, the wharves are able to deliver more efficiently.
Senator TIERNEY—Thank you, Senator Patterson. That is very true and that is another aspect of our economy. We are moving towards a new information economy with that type of employment, but we are also redeveloping a lot of the old industrial land. They are knocking down the steelworks currently, and we are all cheering that on—except that some of the heritage people wanted to keep the massive gas holders; they thought they were heritage. Everyone else wanted to knock them down and I think that is what is going to happen. We are going to redevelop that site as a deepwater port. There is work under way to put in a major port on the east coast of Australia, at Newcastle. It is one of the best deepwater port locations in Australia and companies like P&O are quite prepared to come in and do major studies on developing that type of activity.

Other things have been happening. Through a major infusion of capital from the state and federal governments, the way the city is being set up and the development of land is being considered, Newcastle is being positioned for a whole range of new industries. I would mention the Steel River project and the Honeysuckle project as two projects that will help position the Hunter for the future. The Honeysuckle project is a result of combined federal and state funding of $60 million to clear old port rail land, right on the harbour, right near the centre of the city, and to open that up for new development, which will help take the city into a very new era. (Time expired)

Senator CARR (Victoria) (6.02 a.m.)—by leave—I rise to speak about Greenwich University. Greenwich University is an organisation established by a Dr John Walsh out at Norfolk Island. This is a man who, I understand, has claim to a direct line of ascendency to the Russian throne. He calls himself the Duke of Brannagh and is known throughout the education industry in this country as ‘the Duke’. He has extensive links through various other shonky organisations in the university area. His record is complemented by the Vice-Chancellor of Greenwich University, Dr Ian Murray Mackechnie, who—as I understand it—was jailed by the Victorian County Court for one year and four months after pleading guilty to embezzling $220,000 from the Anglican charity the Brotherhood of St Laurence.

This particular organisation came to the attention of the Senate estimates committees back in February 1999 after it was established as a result of the direct intervention of the Minister for Regional Services, Territories and Local Government, Senator Ian Macdonald, who sought to direct the Administrator of Norfolk Island to establish the university on that island after he had received correspondence and assurances from this outfit out at Norfolk that they would be establishing an Internet university which would exist and operate only on Norfolk Island. It was quite an extraordinary proposition put to the Senate by the minister—that the Internet could be stopped at the borders of Norfolk Island.

The interesting fact about these matters is that the inquiry that the government has established, which followed the revelations of a whole series of irregularities in the operations at Norfolk, has now found that on the basis of the information provided to the committee—this is the Gallagher committee, a committee made up of Commonwealth and state officials across Australia—the Greenwich University failed to meet the review criteria and is not eligible for listing under the Australian qualifications framework. The Greenwich University does not meet the required standards for Australian degrees in the fields assessed, including theology, business, computing and health sciences, and nursing and psychology. On the basis of the evidence provided to the review committee and the assessment panels for three of the courses, Greenwich does not satisfy the review criteria with respect to quality, teaching, student support or scholarship and research, and the financial status of Greenwich University cannot be ascertained on the information made available to the committee or the financial assessor. The report goes on to tell us that the governance structures have been established but it is all too early to know whether they are operating effectively.

The recommendation of the committee, which I understand the government has accepted, is that the Greenwich University not
be listed on the register of Australian qualifications framework because the standard of its courses, its quality assurance mechanisms and its academic leadership fail to meet the standards expected of Australian universities. Yet Senator Macdonald saw fit to direct the Administrator of Norfolk Island to establish this university, a university which has undermined the credibility and reputation of Australian universities throughout the world. This minister was so gullible that he thought to accept the assurance of the Duke of Brannagh that he was establishing an Internet university which would operate only on the island of Norfolk. Now we have the government itself dumping this so-called university because of its scandalous behaviour out at Norfolk.

One has to ask oneself: just how far will this government go in accepting shonky outfits like that at Norfolk? What action would this government feel was necessary to allow these sorts of outfits to be established? It would appear that this minister is prepared to accept anything at all, no matter how dubious. How completely obvious this outfit is—this outfit that pretends to offer an academic program which clearly has not met the criteria of any other university in this country and, of course, has now been discovered by the government’s own committee not to meet the standards necessary in an Australian university. When I raised these concerns, what did we hear from the government benches? The government said that these were trivial matters and that I should apologise for them. Perhaps Senator Tierney, Senator Ellison and Senator Macdonald should be now asking whether they are the ones who should be apologising to the Australian people for allowing this bunch of crooks to get established and undermine the reputation of Australian universities throughout the world.

It strikes me that if anyone had done the most preliminary of investigations—which clearly this government has not done—they would have known that the outfit had travelled all around the Pacific seeking to find a home. They were rejected in New Zealand, they were rejected in Victoria, they were rejected in Hawaii, they were rejected in California, but they found Senator Macdonald and they said, ‘Come in spinner.’ The Duke of Brannagh had found the ultimate in gullible ministers, and Senator Macdonald signed up to a proposition that said that the Internet university was going to operate on only one island, no matter how dubious its courses, no matter how many of its staff were completely unqualified and no matter what the nature of the programs—deep-sea settlements, intergalactic travel and the mysticism of various religious cults. This is the stuff of the brave new world of Senator Macdonald—he would accept anything.

What really troubles me is that this issue was allowed to get so far. On 9 December 1997, an officer of the Department of Transport and Regional Services contacted the department of education. The matter was dealt with at the junior officer level because it was Christmas and people were on holidays. A bunch of crooks were able to get established on Australian soil because the Australian Public Service could not cope in December and because they had a gullible minister who was prepared to accept anything when, clearly, every other state in the Pacific was not. Minister, you stand condemned by this government’s committee.

**TAXATION LAWS AMENDMENT BILL (No. 8) 2000**

**Consideration of House of Representatives Message**

Message received from the House of Representatives acquainting the Senate that it had disagreed to amendment No. 1 made by the Senate, had made an amendment in place thereof and seeks the reconsideration of the bill in respect of the amendment.

Ordered that the message be considered in committee of the whole immediately.

**House of Representatives amendment**—

Schedule 1, page 7 (after line 9), after item 15, insert:

15A Section 195-1 (at the end of subparagraph (a)(i) of the definition of first aid or life saving course)

Add “including personal aquatic survival skills but not including swimming lessons”.

Senator KEMP (Victoria—Assistant Treasurer) (6.11 a.m.)—I move:

That the committee does not insist on amendment no. 1 to which the House of Representatives has insisted on disagreeing and agrees to the amendment made by the House in place of that amendment.

The government indicated earlier this morning that it would not support the Democrats and Labor sponsored amendment to the bill concerning the expansion of the GST-free treatment for first aid and lifesaving, which would have had a scope so wide that it would have included swimming lessons. This would have gone beyond the policy intent of the government and beyond the agreement between the government and the Democrats whereby lifesaving and similar courses became GST free. It would have resulted in some swimming lessons being GST free and others being taxable. The government also opposed the amendment because, under the terms of the Intergovernmental Agreement on the Reform of Commonwealth-State Financial Relations, which is a schedule to the A New Tax System (Commonwealth-State Financial Arrangements) Act 1999, the Commonwealth has to seek the agreement of the states and territories before making any changes to the GST base.

However, this is an important bill that contains many measures beneficial to taxpayers. The government has therefore agreed to amend the Democrats proposal so that it fits more closely to the policy intent of the GST-free treatment of lifesaving and similar courses. The new amendment is designed to allow survival skills courses taught by the Royal Lifesaving Society and the surf lifesaving society, but not including their specific swimming lessons, to be GST free. As this new amendment is a clarification of the existing policy intent of the Commonwealth, the government does not consider that a state agreement is necessary.

Senator LEES (South Australia—Leader of the Australian Democrats) (6.12 a.m.)—The problem we have had all along is in the Australian Taxation Office ruling that was given to the Royal Lifesaving Society. Basically, the ruling was that the swim and survive courses do not satisfy the requirements of first aid lifesaving courses and are therefore subject to the GST. I just want to make it very clear as we accept what the government has done that this is what has now been overturned, that the swim and survive courses that involve the element of personal survival are now to be GST free. I thank the government for finally agreeing to this measure.

Senator SHERRY (Tasmania) (6.13 a.m.)—I should firstly state on behalf of the Labor opposition that we are opposing this compromise. Let me next state that we will not be dividing. Our reasons for being concerned about the compromise that has been negotiated—and if I heard the minister correctly, he indicated that swimming lessons offered by the royal Australian lifesaving association would not necessarily be GST free—are that we see the issue being fraught with definitional problems. This is an important issue of public safety. We will be monitoring the outcome over the next year. We reserve our right to roll back—

Senator Hill—Roll-back! It’s finally come out.

Senator SHERRY—Here we are at 6:15 a.m. in the morning and, if you want to be provocative, we are considering the Taxation Laws Amendment Bill (No. 8) 2000, which includes some 60-odd amendments—principally roll-back of the GST, Senator Hill—and that total now comes to 1,665 amendments since July 1.

Senator Patterson interjecting—

Senator SHERRY—I am well aware of that, Senator. If you will just be quiet, I will conclude very quickly. We are not happy with the outcome. We reserve our right. It is an important issue of public safety. Finally, I would note an important Labor amendment in this roll-back Taxation Laws Amendment Bill (No. 8) 2000 which is further roll-back, and you have accepted it, Senator Hill, I am glad to say. It relates to the thousands of small businesses that have inadvertently registered for the GST for a variety of reasons that I have stated on the record. If small businesses will be allowed to deregister, they should be allowed to deregister retrospectively. The Labor amendment to this bill
gives the commissioner the power to decide on cancellation of registration back to 1 July. This will be of considerable benefit to small business in this country, which will be released from the paperwork and bureaucracy of the GST. This represents a significant roll-back and a significant benefit to those businesses. With those remarks, I state again that we will not be dividing. I wish everyone a happy Christmas and a happy New Year.

Question resolved in the affirmative.
Resolution reported; report adopted.

**LEAVE OF ABSENCE**

Motion (by Senator Hill) agreed to:
That leave of absence be granted to every member of the Senate from the termination of the sitting this day to the day on which the Senate next meets.

*Senate adjourned at 6.17 a.m. (Friday) till Tuesday, 6 February 2001, at 2 p.m.*

**DOCUMENTS**

**Tabling**

The following documents were tabled by the Clerk:
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Department of Foreign Affairs and Trade: Year 2000 Preparations
(Question No. 1792)

Senator Hogg asked the Minister representing the Minister for Foreign Affairs, upon notice, on 2 December 1999:

(1) What percentage of the department’s total business critical systems are year 2000 (Y2K) compliant.

(2) Has there been any change in the level of compliance since the production of the Commonwealth agency-based Year 2000 readiness report and government business entity report by portfolio - Third report; if so, what changes.

(3) If systems are not fully Y2K compliant, what is the reason for this delay.

(4) If departmental information technology (IT) functions have been outsourced, has this outsourcing had any impact on the department’s ability to reach 100 percent Y2K compliance dates prior to the Commonwealth target for executive sign-off at the end of July 1999.

(5) What penalties will be incurred by the department, or the company to which the department’s IT functions were outsourced, for failure to meet the Commonwealth deadline with respect to Y2K readiness.

(6) What is the new date for certification of Y2K readiness for all business critical systems in the department and its agencies.

(7) What is the current level of contingency planning for Y2K business critical systems readiness in the department and its agencies.

(8) If the level of contingency is not 100 per cent: (a) what is the reason for failure to complete prior to July 1999; (b) what has been the cause of delays in ensuring full contingency plans are available; and (c) when is it expected that the required plans will be completed.

(9) On 31 December 1999 and 1 January 2000, how many staff will the Minister have: (a) on call; and (b) working in the department.

(10) How many of these will be there solely to monitor and prevent the potential impact of Y2K on business critical systems.

(11) (a) Who are the staff involved; (b) what is their relation with the department; and (c) at what level are they currently employed.

(12) What will be the additional cost to the department of ensuring that these staff are available.

(13) What has been the total cost of Y2K readiness preparations for the department and its agencies.

Senator Hill—The Minister for Foreign Affairs has provided the following answer to the honourable senator’s question:

(1) The department’s business critical systems are certified 100% Y2K compliant.

(2) There has been no change in the level of compliance of the department’s business critical systems since the production of the Commonwealth agency-based Year 2000 readiness report and government business entity report by portfolio - Third report.

(3) The department’s business critical systems are fully Y2K compliant.

(4) Outsourcing had no adverse impact on the department’s ability to reach 100% Y2K compliance.

(5) The question of penalties did not arise as the department achieved Y2K compliance of its business critical systems on time.

(6) All business critical systems are certified compliant.

(7) Contingency planning for Y2K business critical systems in the department and its agencies is complete.

(8) The level of contingency planning is 100%.
Within the 48 hour period of 31 December 1999 and 1 January 2000, there will be (a) 22 staff on call; and (b) a total of approximately 126 staff working in the department at various times over the period.

As DFAT runs a 24 hour a day operation throughout the year, under normal circumstances in addition to staff during normal working hours there would be approximately 24 communications staff, 6 security staff and 3 consular staff rostered on in the department in Canberra over any given 24 hour period. A further 4 staff would be routinely on-call.

At various times on 31 December 1999 and 1 January 2000, the department will also have staff in state offices and at posts overseas involved in verification and testing of aspects of the department’s business critical systems.

In addition in that period, the department will have staff in Canberra and at posts overseas involved in reporting on and responding to major Y2K developments that might impact on the welfare of Australian overseas or on our commercial interests.

Of the additional staff rostered on or on-call in Canberra for 31 December 1999 and 1 January 2000, 61 will be directly involved in monitoring business critical systems, responding to any disruption to those systems or on-call to do so.

(a) Staff involved will be mainly permanent departmental staff and some contract employees working in the department’s Information Management Branch. As noted above, at various times on 31 December 1999 and 1 January 2000, the department will also have staff in state offices and at posts overseas involved in verification and testing of aspects of the department’s business critical systems.

(b) In Canberra, 39 are permanent departmental staff. 22 are contract employees.

(c) They include a range of levels between BB1 and BB3.

The additional cost to the Department in ensuring these staff are available is estimated at approximately $18,000.

Expenditure to date on Y2K preparations by the department and its agencies (Includes DFAT itself and The Australia-Japan Foundation) is estimated at approximately $28 million. In some instances, the need to achieve Y2K compliance meant that the Department brought forward some IT expenditure which may otherwise have been incurred at a later date.

**East Timor: Australian Aid**

*(Question No. 1807)*

Senator Bourne asked the Minister for Foreign Affairs, upon notice, on 8 December 1999:

(1) With reference to the line item for aid which in the 1999-2000 financial year is budgeted at $60 million: (a) why is this item only budgeted for the 1999-2000 financial year and no subsequent years; (b) what will be the source of future aid for East Timor; (c) will the money come from the existing aid budget or will the aid budget be increased; and (d) can the Minister provide assurance that no other aid programs will be cut in order to fund increased aid to East Timor.

(2) With reference to the civilian police for the United Nations administration line item budgeted as $26 million for the 1999-2000 financial year, why is this only budgeted for the 1999-2000 financial year, given that the intention is for a rolling roster under the United Nations Transitional Authority in East Timor.

(3) Why are Australian Defence Force personnel entitled to tax exemption whereas the civilian police are not.

Senator Hill—The Minister for Foreign Affairs has provided the following answer to the honourable senator’s question:

(1) (a) Subject to budgetary processes and satisfactory burden sharing, Australia will continue to play its part in contributing to East Timor’s reconstruction and development in future financial years. The appropriate size and scope of Australia’s aid role in East Timor in 2000-01 and beyond will be considered in the 2000-01 budget context.

(b) and (c) The source of future aid for East Timor, including any additional funding for the aid program, will be considered in the 2000-01 budget context.
(d) No other aid program has been cut this financial year in order to fund increased aid to East Timor. The situation next financial year will be assessed in the 2000-01 budget context.

(2) The second part of the honourable Senator’s question is a matter for the Minister for Justice and Customs.

(3) The Minister for Defence has provided the following answer: The Minister for Defence declared service in East Timor to be warlike because it is a Peace enforcement operation conducted under Chapter 7 of the United Nations Charter. Warlike operations attract a tax exemption for Australian Defence Force personnel because the application of military force is authorised to pursue specific military objectives and there is an expectation of casualties.

The issue of tax exemption entitlements for the civilian police is a matter for the Minister for Justice and Customs.

Depreciation Allowances
(Question No. 1808)

Senator Harris asked the Assistant Treasurer, upon notice, on 8 December 1999:

(1) What was the accelerated depreciation allowed for Schedule 25A companies in the 1995-96 and 1996-97 financial years.

(2) What would have been the depreciation allowed to these companies for the above financial years if accelerated depreciation was abolished on the lines of the proposals in the Review of Business Taxation (Ralph report) which the Government has accepted.

(3) What would have been the net tax payable by these companies for the above financial years if the company tax rate was 30 per cent and accelerated depreciation was replaced by normal depreciation on the lines of the Ralph report proposals.

Senator Kemp—The Treasurer has provided the following answer to the honourable senator’s question:

Information on accelerated depreciation is not captured on company tax returns, including for those companies completing Schedule 25A. Therefore, it is not possible to provide answers to the questions.

Australian Seafarers: Tax Concessions
(Question No. 2287)

Senator O’Brien asked the Minister representing the Treasurer, upon notice, on 26 May 2000:

Do Australian seafarers engaged in ships trading internationally qualify for concessional tax treatment under section 23AG of the Income Tax Assessment Act; if so, what are the conditions imposed by section 23AG that have to be met in order that these seafarers qualify for the above taxation concession; if not, why not.

Senator Kemp—The following answer is provided to the honourable senator’s question:

Australian seafarers who earn income while working in international waters are not entitled to the exemption under section 23AG of the Income Tax Assessment Act 1936.

The tax law provides an exemption from tax for the foreign earnings of Australian residents who are engaged in service in a foreign country for a continuous period of at least 91 days and generally requires that the foreign country taxes the foreign earnings.

I refer the honourable Senator to Taxation Ruling TR96/15 issued by the Commissioner of Taxation, which deals with issues relating to the practical application of section 23AG. Paragraph 19 of the Ruling states that income earned by Australian seafarers while working in international waters is not regarded as income earned in service in a foreign country. This is because international waters are considered beyond the sovereignty of any country. The Taxation Ruling can be found on the Australian Taxation Office’s web page at www.ato.gov.au.

The view expressed in the Ruling was confirmed in a decision of the Administrative Appeals Tribunal.
Department of Foreign Affairs and Trade: Corporate Services
(Questions Nos 2633 and 2638)

Senator Faulkner asked the Minister representing the Minister for Foreign Affairs and the Minister for Trade, upon notice, on 9 August 2000:

What were the state and city or town location, number of employees and annual salary values of all corporate services as at 30 June, 1996 and 30 June, 2000, for the following functional areas: (a) human resources; (b) property and office services; (c) financial and accounting services; (d) fleet management; (e) occupational health and safety; (f) workplace and industrial relations; (g) parliamentary communications; (h) payroll; (i) personnel services; (j) printing and photocopying; (k) auditing; (l) executive services; (m) legal and fraud; and (n) any other corporate services (please specify).

Senator Hill—The answer to the honourable senator’s question is as follows:

Department of Foreign Affairs and Trade (DFAT)

It has not been possible to provide the Honourable Senator with reliable historically comparable figures for staff performing corporate functions to the level of detail specified in points (a) to (n) of the question. The complexity of the task aside, many DFAT employees - particularly those overseas - perform a mix of functions so their work cannot be easily assigned to any single type of function.

Owing to the nature of the information in the relevant database, the figures for 1996 are estimates only.

30 June, 1996
Australia Based - All Corporate Services
Employees - 619
Salary - $31,234,461
Overseas - All Corporate Services
Australia-based Employees - 273 Locally-Engaged Employees - 1,204
Salary - $12,839,753 Salary - $44,948,387

30 June, 2000
Australian Based - All Corporate Services
Employees – 451
Total Salary - $26,237,612
Overseas - All Corporate Services
Australia-based Employees - 143 Locally-Engaged Employees - 1,181
Salary - $8,623,012 Salary - $46,367,719

AusAID

<table>
<thead>
<tr>
<th>Corporate Service</th>
<th>* Location</th>
<th>No. of employees @30/6/1996</th>
<th>Salary Values @30/6/1996 ($)</th>
<th>No. of employees @30/6/2000</th>
<th>Salary Values @30/6/2000 ($)</th>
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<tr>
<td>(i) Human Resources - Personnel Develop't</td>
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<td>444,628</td>
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<td>(ii) Property &amp; office services</td>
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<td>(iii) Finance &amp; accounting</td>
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<td>Corporate Service</td>
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<td>Salary Values @30/6/1996 ($)</td>
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<td>(iv) Fleet management</td>
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<td>18,305</td>
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<td>(vii) Parliamentary communications</td>
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<td>(ix) Personnel services</td>
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<td>(x) Printing and photocopying</td>
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<td>1</td>
<td>31,881</td>
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<td>(xi) Auditing</td>
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<td>(xii) Executive services</td>
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<td>(xiii) Legal &amp; fraud</td>
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<td>(xiv) Other</td>
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<td>- Public Affairs (not inc Parliamentary communications)</td>
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<td>- Library AusAID</td>
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<td>TOTALS</td>
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* AusAID State Offices had only a very minor role in the implementation of Corporate Service.

**Austrade**

It has not been possible to provide the honourable senator with reliable historically comparable figures for staff performing corporate functions to the level of detail specified in points (a) to (n) of the
question. The complexity of the task aside, many Austrade employees - particularly those overseas - perform a mix of functions so their work cannot be easily assigned to any single type of function.

Owing to the nature of the information in the relevant database, the figures for 1996 are estimates only.

Corporate Services As At 30 June 1996

There was a total of 107 employees, including 13 based in Sydney and 94 based in Canberra.

Functional areas include corporate finance and accounts, property management, information technology, security, risk management and communications.

The total salary value of all corporate services at 30 June 1996 was $4,954,349.

Corporate Services as at 30 June 2000

There was a total of 118 employees, including 18 based in Sydney and 100 based in Canberra.

Functional areas covered include corporate finance and accounts, property management, information technology, knowledge management, corporate communications, security, risk management and government relations.

The total salary value of all corporate services at 30 June 2000 was $6,639,371.

**EFIC**

Corporate Services Costings

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<tr>
<th>Location/Comment</th>
<th>Number of Staff</th>
<th>Annual salary 1996</th>
<th>Annual salary 2000</th>
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<td>(c) financial and accounting services; Sydney NSW</td>
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<td>(d) fleet management; Outsourced</td>
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<td>(e) occupational health and safety; Part of HR</td>
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<td>(f) workplace and industrial relations; Part of HR</td>
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<td>(g) parliamentary communications; Executive liaise with the Dept Sydney NSW</td>
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<td>42,000</td>
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<td>(h) payroll; Sydney NSW Part of HR</td>
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<td>(i) personnel services None</td>
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<td>(j) printing and photocopying; Outsourced</td>
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<td>(k) auditing; Provided by Executive Assistants</td>
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<td>(l) executive services; Sydney NSW N/A</td>
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**Finance and Administration Portfolio: Public Opinion Research**

(Question No. 2660)

**Senator Faulkner** asked the Minister representing the Minister for Finance and Administration, upon notice, on 9 August 2000:

(1) Since 1 July 1999, has the department, or any agency in the portfolio, commissioned or participated in any way in public opinion research in non-metropolitan areas; if so, which agency or which functional area of the department.
(2) What was the purpose of this research and what were the objectives as set out for the research company or body when commissioned.

(3) Was any of this research designed to test the reaction of rural and regional constituents to Federal Government decisions, policies or potential policies, in any way similar to the research described in the *Sunday Telegraph*, 23 July 2000, page 81.

(4) (a) Which company or other body carried out the research; (b) what were the research methods to be used; and (c) what was the expected timetable for this research.

(5) Was any of the work sub-contracted to any other company or body; if so, why, and to which company or body.

(6) What were the results of this research.

(7) Who made the request that this research be undertaken, and who authorised the expenditure.

(8) What was the estimated cost of this research, and what was the total cost.

(9) How will the results of this research be used.

**Senator Ellison**—The Minister for Finance and Administration has supplied the following answer to the honourable senator’s question:

The Department of Finance and Administration, Commonwealth Grants Commission and ComSuper have a Nil response to all parts of the honourable senator’s question. The Australian Electoral Commission (AEC) and the Office of Asset Sales and IT Outsourcing (OASITO) have the following responses.

**AEC**

1. Newspoll Market Research is commissioned by the Elections and Enrolment Branch of the AEC to conduct research on enrolment.

2. The research is intended to determine the proportion of Australian citizens who are enrolled to vote, at their current address, in Australian federal or State elections

3. No.

4. Newspoll Market Research conducted the study nationally among 1200 respondents aged 18 years and over.

   Respondents were selected by means of a stratified random sample process, which includes a quota set for each capital city and non-capital city area, as well as a quota set for each telephone area code; random selections of telephone numbers were drawn from current telephone listings of each area code; and random selection of an individual in each household by a “last birthday” screening question.

   Studies are conducted quarterly over one weekend period.

5. No.

6. According to the most recent survey, 96% of Australian citizens are enrolled to vote, at their current address, in Australian federal or State elections. Breakdowns are also obtained according to various socio-demographic and geographic criteria.

7. The research was undertaken at the initiative of the AEC, in a manner consistent with much research into enrolment patterns which has been undertaken over the years. Expenditure was internally authorised within the AEC.

8. $1,800 per survey. The study was conducted nationally among 1200 respondents aged 18 years and over.

9. The figures obtained from the research give an indication of the extent to which eligible persons are complying with their legal obligation to enrol.

**OASITO**

1. The Office of Asset Sales and IT Outsourcing commissioned public opinion research on an Australia wide basis which included non-metropolitan. The Telstra Instalment Receipt Trustee Limited (“the Trustee”) commissioned research for the Telstra 2 final instalment collection process.
2. Qualitative, quantitative, tracking and post sale research was undertaken in the Commonwealth’s sale of its 16.6% equity in Telstra. Qualitative, quantitative and tracking research was undertaken in the Telstra 2 final instalment collection process.

3. No.
   4 a DBM Consultants Pty Ltd carried out the research.
   4 b The research method used was telephone surveys and focus group discussions.
   4 c The timetable for the Telstra 2 research was July to November 1999. The timetable for the Telstra 2 final instalment collection project was September to October 2000.

5. The qualitative research for the Telstra 2 sale was subcontracted to Irving Saulwick & Associates. The qualitative research for the Non English Speaking Background and disabilities groups for the Telstra 2 final instalment collection process was subcontracted to Cultural Perspectives and Hunarch Consulting.

6. The results contain commercially and price sensitive information which is inappropriate to release.

7. The Joint Global Co-ordinators as project managers in the Telstra 2 sale, in consultation with OASITO, the Government’s business adviser, Goldman Sachs and the Government’s communications consultant, Gavin Anderson requested the research be undertaken as part of the Telstra 2 sale. The Telstra 2 market research expenditure was authorised by OASITO as part of the Government approved sale costs. The Trustee in consultation with OASITO and the Trustees communications consultant, Gavin Anderson requested the research be undertaken as part of the Telstra 2 final instalment collection project. The expenditure was authorised by the Trustee as part of the final instalment collection process approved by OASITO.

8. The total cost for this research was $1,133,012.

9. The research was used to determine retail investor attitude and demand, tracking of the communications campaign, determine the awareness of the final instalment payment obligation and to contribute to the evaluation of the sale of Telstra 2.

**Department of Foreign Affairs and Trade: Market Testing of Corporate Services (Questions Nos 2671 and 2676)**

Senator Faulkner asked the Minister representing the Minister for Foreign Affairs and the Minister for Trade, upon notice, on 9 August 2000:

(1) Has the department and/or any agency in the portfolio, set a timeframe to market test any of its corporate services; if so, which agency, which functions, and what is the timeframe.

(2) In relation to each agency which has, or will, move to market test corporate services, what arrangements have been made to consult with affected employees and their representatives; if such arrangements have not been made, when will these consultations be undertaken.

Senator Hill—The answers to the honourable senator’s questions are as follows:

**Department of Foreign Affairs and Trade (DFAT)**

The Department has had an active market testing agenda for a number of years. Corporate services which have been market tested and outsourced include:

- facilitation of international conferences/workshops/seminars;
- IT support/upgrades;
- logistical and delivery services;
- mail processing;
- archival processing;
- staff recruitment;
- legal services;
- receptionists and telephone services facilities management;
• contractor security clearances; and
• employee counselling.

Where outsourcing has occurred, all affected staff have been consulted. There have been no involuntary redundancies resulting from the outsourcing.

Other corporate services which are expected to be examined with a view to market testing in the next year include:

• mainframe services;
• corporate printing services; and
• accounts and travel claims processing.

The Department has identified other corporate support services which may be market-tested within the next three years. These include:

payroll processing;
property management; and
fleet management.

The Department has a rigid process of consultation with staff including through its Workplace Relations Committee which comprises representatives of staff groups and staff associations, and the Department’s senior management. Options resulting from market testing activities will be discussed with affected staff directly and AusAID
(1) Yes. AusAID is aiming to market-test all its corporate services by July 2001.
(2) All affected employees and their representatives have been consulted about the proposed market-testing of corporate services. A staff representative has been included in the Steering Group for the market-testing process.

Austrade
(1) No. Austrade has not set a timeframe to market test any of its corporate services.
(2) Not applicable.

Export Finance and Insurance Corporation (EFIC)
(1) Some corporate services (notably internal audit) are already outsourced, for services that are not already outsourced, there is no timeframe to market test any further corporate services.
(2) Not applicable.

Department of Foreign Affairs and Trade: Market Testing
(Questions Nos 2690 and 2695)

Senator Faulkner asked the Minister for Foreign Affairs and the Minister for Trade, 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 corporate services, what arrangements have been made to consult with affected employees and their representatives; if such arrangements have not been made, when will consultations be undertaken.

Senator Hill—The answers to the honourable senator’s questions are as follows:

Department of Foreign Affairs and Trade (DFAT)

The Department has recently commenced a preliminary review to prepare a business case which could lead to possible market testing of the department’s security functions. The Department has set March 2001 as the completion date for any market testing of this function. Locations of staff under-
taking security functions that would be involved in such market testing are: Canberra, Beijing, Jakarta, Kuala Lumpur and Port Moresby.

As part of the contract for the preliminary review there is a comprehensive communications strategy and human resource management plan which requires considerable consultation with potentially affected employees.

**AusAID**

(1) The delivery of the Australian Aid Program is already wholly out-sourced.

(2) Not applicable.

**Austrade**

(1) No, Austrade has not set a timeframe to market test any of these functions.

(2) Not applicable.

**Export Finance and Insurance Corporation (EFIC)**

(1) No.

(2) Not applicable.

**Department of Family and Community Services: Grants to Employer Organisations**

(Question No. 2842)

Senator O’Brien asked the Minister for Family and Community Services, upon notice, on 24 August 2000:

(1) What grants or other payments were made to employer organisations by the department or any of its agencies in the 1998-99 financial year.

(2) In each case: (a) what was the purpose of the grant or other payment; (b) what was the actual value of the grant or other payment; and (c) was the grant or other payment made as a result of an application from the organisation.

(3) If the grant or other payment was made in response to an application from the organisation, in each case: (a) how was that application assessed; and (b) who approved the application.

Senator Newman—The answer to the honourable senator’s question is as follows:

(1) In 98/99 grants were provided to the Construction Forestry Mining Energy Union (CFMEU), the Council of Small Business Organisations of Australia, Victorian Employers Chamber of Commerce and Industry, and the Pharmacy Guild of Australia.

(2) (a) Grants were for:

. CFMEU – disability employment assistance services in SA and wage subsidies to employers providing jobs for people with a disability;

. CFMEU – disability employment assistance service in VIC and wage subsidies to employers providing jobs for people with a disability.

. COSBOA – Special Employment Placement Officer (SEPO).

. Victorian Employers Chamber of Commerce and Industry - to pay for a Centrelink staff member to attend a training course.

. Pharmacy Guild - to pay for Centrelink Jobs, Education and Training customers to attend pre-vocational courses.

(b) The following amounts were paid in 98/99 to:

. CFMEU (SA service) - $71,164 for employment assistance and $7,148 for wage subsidies;

. CFMEU (VIC service) - $61507 for employment assistance and $27,695 for wage subsidies.

. COSBOA – $2,873.

. Victorian Employers Chamber of Commerce and Industry -$140.

. Pharmacy Guild - $6,055.
(c) Only wage subsidy grants to CFMEU were made as a result of an application from the organisation.

3. (a) Wage subsidy grants were based on a funding formula approved by the Minister responsible at the time and the number of organisations applying for the limited funds.

(b) The wage subsidy agreement was signed by Minister’s delegate in the State Office.

**Supported Wage System**

(Question No. 2902)

Senator Chris Evans asked the Minister for Family and Community Services, upon notice, on 7 September 2000:

With reference to disability employment:

1. Has an evaluation of the Supported Wage System been completed.

2. Is the report compiled by KPMG available to the public; if not, why not.

3. When was the report provided to the Minister.

4. What level of consultation with service providers and participants was undertaken by KPMG during the evaluation.

5. What was the total cost of the evaluation.

Senator Newman—The answer to the honourable senator’s question is as follows:

1. No. The evaluation of the Supported Wage System is currently underway.

2. A discussion paper prepared by KPMG identifying key issues that arose during initial consultations has been made public. The final report compiled by KPMG will be made public once completed.

3. The report will be provided to the Minister once the evaluation is completed.

4. Initial consultations included 50 service providers and 4 focus groups of participants. Further consultation with both groups has been facilitated by the circulation of the discussion paper referred to in (2). In addition ACROD and ACE, representing employment service providers, and National Caucus of Disability Consumer Organisations, representing participants, have been represented on the evaluation Reference Group.

5. Total cost of the evaluation is expected to be $131,000.

**Air Passenger Transport Services**

(Question No. 2908)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 11 September 2000:

1. Since January 1998, how many interim and final recommendations have been made by the Bureau of Air Safety Investigation or the Australian Transport Safety Bureau relating to air passenger transport services.

2. What was the date and the nature of each recommendation.

3. (a) How many of the above interim and final recommendations were made to the Civil Aviation Safety Authority (CASA);

   (b) when did CASA respond to each recommendation; and

   (c) what was the nature of each response.

4. (a) How many of the above interim and final recommendations were made to Airservices Australia (ASA);

   (b) when did ASA respond to each recommendation; and

   (c) what was the nature of each response.

Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:
(1) From 1 January 1998 to 22 September 2000, a total of 123 interim and final recommendations were issued by the ATSB relating to air passenger transport services.

(2) Details, including date of issue, any response and date of response, of recommendations are available in the Quarterly Safety Deficiency Reports (QSDR) published by the ATSB. To extract the date and nature of each recommendation would require significant resources to be diverted from safety activities that I do not think is warranted. However I am prepared to make available to the honourable Senator copies of the published QSDRs since January 1998, a list of those air passenger transport services recommendations issued to either CASA (3a) or Airservices Australia (4a) and summaries of those not already published in a QSDR.

(3) (a) A total of 46 interim and final recommendations relating to air passenger transport services were issued to the Civil Aviation Safety Authority in that period.

(b) The date of each response is provided in either the identified QSDR or the summary provided at (2).

(c) The nature of each response is contained in either the identified QSDR or the summary provided at (2).

(4) (a) A total of 23 interim and final recommendations relating to air passenger transport services were issued to Air Services Australia in that period.

(b) The date of each response is provided in either the identified QSDR or the summary provided at (2).

(c) The nature of each response is contained in either the identified QSDR or the summary provided at (2).

**ATSB RECOMMENDATIONS (INTERIM (IR) & FINAL (R)) FORWARDED TO CASA from January 1998 to 22 September 2000**

The following Summaries are attached as the responses have not yet been published in a QSDR.

<table>
<thead>
<tr>
<th>Recommendation No:</th>
<th>Occurrence No:</th>
</tr>
</thead>
<tbody>
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<td>199906038</td>
</tr>
<tr>
<td>R19990109</td>
<td>199703221</td>
</tr>
<tr>
<td>R19990110</td>
<td>199703221</td>
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<td>199805078</td>
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<td>R19990156</td>
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<td>199702276</td>
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<td>R19980277</td>
<td>199802830</td>
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<td>199901455</td>
</tr>
<tr>
<td>IR19980253</td>
<td>199805078</td>
</tr>
</tbody>
</table>

* Summaries are attached - responses not yet published in a QSDR.

**ATSB RECOMMENDATIONS (INTERIM (IR) & FINAL (R)) FORWARDED TO AIRSERVICES AUSTRALIA - From January 1998 to September 2000**

The following Summaries are attached as the responses have not yet published in a QSDR.

<table>
<thead>
<tr>
<th>Recommendation No:</th>
<th>Occurrence No:</th>
</tr>
</thead>
<tbody>
<tr>
<td>R20000003</td>
<td>199901009</td>
</tr>
<tr>
<td>R19990220</td>
<td>199902666</td>
</tr>
<tr>
<td>R19990202</td>
<td>199805874</td>
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<td>R19980163</td>
<td>199801905</td>
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<tr>
<td>R19980157</td>
<td>199801905</td>
</tr>
<tr>
<td>IR19980059</td>
<td>199901959</td>
</tr>
</tbody>
</table>
Goods and Services Tax: Australian Business Numbers
(Question No. 2943)

Senator Cook asked the Assistant Treasurer, upon notice, on 20 September 2000:

(1) How many Australian Business Numbers (ABNs) have been issued.

(2) How many taxpayers have registered for the goods and services tax (GST).

(3) In regards to (2), how does this compare with the pre 30 June 2000 estimates.

(4) Of all the GST registrations, what is the breakdown between business registrations, non-profit registrations and charity registrations.

(5) Of all the business GST registrations, how many are companies, trusts, superannuation funds, sole traders and partnerships.

(6) How many businesses with a turnover of $20 million or more have registered for the GST.

(7) In regards to (5), how does this compare with the pre-30 June 2000 estimates.

(8) How many taxpayers are paying GST on a monthly basis.

(9) How many taxpayers are paying GST on a quarterly basis.

(10) (a) How many Business Activity Statements for the month of July 2000 were lodged by the 4 September deadline; and (b) how many are still outstanding.

(11) The Business Activity Statement contains a calculation sheet with label codes from G1 to G20; what are the total consolidated figures for each of the label codes G1 through to G20 for the month of July 2000 for all taxpayers that have lodged (the total of each individual code to be provided separately).

(12) Can a breakdown be provided of the data from (9) by industry sector.

(13) Can the data from (9) be provided by the level of GST inclusive sales of the taxpayer at the interval of $50 000 or less, $50 001 to $100 000, $100 001 to $250 000, $250 001 to $500 000, $500 001 to $1 million, $1 million to $2 million, $2 million to $5 million and $5 million to $20 million.

Senator Kemp—The answer to the honourable senator’s question is as follows:

(1) As at Friday 27 October, 3,237,571 ABNs had been issued.

(2) As at Friday 27 October, 2,128,914 entities had registered for the goods and services tax.

(3) The number of entities that registered for GST is around 43% higher than was originally expected.

(4) As at Friday 27 October, 157,713 entities which intended to register for GST had indicated in their application that they are non-profit organisations.

As at Friday 27 October, 56,511 entities which intended to register for GST had indicated that they were intending to apply to be endorsed as deductible gift recipients and / or income tax exempt charities.

The remainder (1,914,690) of the total number of GST registrants consists of business entities, government entities and other entities not in the previous categories which had applied to register for GST.

(5) As at 27 October, the total number of entities registered for GST (which include those which are not businesses) comprise the following entity types:

<table>
<thead>
<tr>
<th>Entity Type</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Company</td>
<td>637,810</td>
</tr>
<tr>
<td>Government</td>
<td>11,257</td>
</tr>
<tr>
<td>Individual</td>
<td>720,170</td>
</tr>
<tr>
<td>Partnership</td>
<td>451,720</td>
</tr>
</tbody>
</table>
(6) As at 27 October 2000, a total of 8,186 entities which indicated that their turnover is greater than $20 million have registered for the GST. This figure includes entities which are not businesses.

(7) The number of entities which indicated that they had a turnover of $20 million or more and which are registered for GST is slightly higher than originally estimated.

(8) The number of entities registered as required to report GST on a monthly basis is 215,689.

(9) The number of entities registered to report GST on a quarterly basis is 1,912,500. Expected lodgements are closer to 1.6m due to normal business restructuring and cancellation of mistaken GST registrations.

(10) Information collected up to 21 November 2000 indicates that July Activity Statement lodgements and/or payments (including both refunds and payments to the ATO) were as follows:

BAS expected to be lodged for the July period = 290,000
(a) Total lodged and/or paid by 4/9 = 152,800
(b) Total lodged and/or paid for July= 287,000
(c) Outstanding lodgements= 3,000

(11) Aggregate data from labels G1 to G20 will not be available until data quality checks and consolidations are complete.

(12) Please refer to Table 1 below.

(13) Data with the ranges as requested above are unavailable. Table 1 below, provides a profile of Quarterly GST Registrants and groupings of Annual Turnover collated from applications for GST Registration.

Table 1. Quarterly GST registrations as at 27/10/00

<table>
<thead>
<tr>
<th>Broad Industry</th>
<th>Range of GST Turnover</th>
<th>Total Quarterly</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$0-$50000 Quarterly</td>
<td>$50000-$20m Quarterly</td>
</tr>
<tr>
<td>All Entities</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Primary Production</td>
<td>99,400</td>
<td>123,800</td>
</tr>
<tr>
<td>Mining</td>
<td>3,900</td>
<td>7,500</td>
</tr>
<tr>
<td>Manufacturing</td>
<td>23,400</td>
<td>53,100</td>
</tr>
<tr>
<td>Electricity Gas and Water</td>
<td>3,900</td>
<td>8,100</td>
</tr>
<tr>
<td>Construction</td>
<td>87,800</td>
<td>193,900</td>
</tr>
<tr>
<td>Wholesale</td>
<td>12,700</td>
<td>42,400</td>
</tr>
<tr>
<td>Retail</td>
<td>31,800</td>
<td>131,800</td>
</tr>
<tr>
<td>Accommodation</td>
<td>10,300</td>
<td>43,600</td>
</tr>
<tr>
<td>Transport &amp; Storage</td>
<td>44,100</td>
<td>61,900</td>
</tr>
<tr>
<td>Communication Services</td>
<td>15,900</td>
<td>20,500</td>
</tr>
<tr>
<td>Finance</td>
<td>45,600</td>
<td>39,400</td>
</tr>
<tr>
<td>Property and Business Services</td>
<td>121,900</td>
<td>215,800</td>
</tr>
<tr>
<td>Government</td>
<td>900</td>
<td>1,300</td>
</tr>
<tr>
<td>Education</td>
<td>12,500</td>
<td>9,900</td>
</tr>
<tr>
<td>Health &amp; Community Services</td>
<td>28,000</td>
<td>54,100</td>
</tr>
<tr>
<td>Recreational &amp; Personal Services</td>
<td>159,700</td>
<td>176,100</td>
</tr>
<tr>
<td>Other</td>
<td>13,400</td>
<td>14,100</td>
</tr>
<tr>
<td>Total</td>
<td>715,200</td>
<td>1,197,300</td>
</tr>
</tbody>
</table>
Department of Transport and Regional Services: Unauthorised Computer Access  
(Question No. 2967)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 28 June 2000:

(1) What systems are in place to ensure there is no external unauthorised access to departmental computer systems or computer systems operated by agencies for which the Minister is responsible.

(2) Since 1 January 1999, has there been any external unauthorised access to computer systems operated by the department or agencies for which the Minister is responsible; if so, in each case: (a) when did the external unauthorised access of the computer system occur; (b) what was the nature of the unauthorised access; (c) how was it detected; and (d) what action was taken as a result of the unauthorised access.

(3) Where external unauthorised access of a computer system has occurred: (a) what was the security status of the computer system; (b) what action was taken to identify the person who illegally accessed the system; and (c) what was the result of the action

Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

**Departmental of Transport and Regional Services (DoTRS)**

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
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<tbody>
<tr>
<td>1</td>
<td>The Department protects its computer systems from external attack through the use of firewall software, segregating external connections from internal systems and considerable logging of activity. Access to internal systems are protected by unique user identifiers and passwords. All activity is logged.</td>
</tr>
<tr>
<td>2</td>
<td>No intrusions have been detected.</td>
</tr>
<tr>
<td>2 (a)</td>
<td>Not Applicable</td>
</tr>
<tr>
<td>2 (b)</td>
<td>Not Applicable</td>
</tr>
<tr>
<td>2 (c)</td>
<td>Not Applicable</td>
</tr>
<tr>
<td>2 (d)</td>
<td>Not Applicable</td>
</tr>
<tr>
<td>3</td>
<td></td>
</tr>
<tr>
<td>3 (a)</td>
<td>Not Applicable</td>
</tr>
<tr>
<td>3 (b)</td>
<td>Not Applicable</td>
</tr>
<tr>
<td>3 (c)</td>
<td>Not Applicable</td>
</tr>
</tbody>
</table>

**Australian Maritime Safety Authority (AMSA)**

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>The Australian Maritime Safety Authority uses a number of security measures to protect its computer network from outside unauthorised access. These include the provision of Internet Gateway Router, comprehensive Access Control Lists and a separate external network segment to screen any unauthorised access.</td>
</tr>
<tr>
<td>2</td>
<td>The Australian Maritime Safety Authority network security logs have not indicated any external unauthorised access to its computer systems.</td>
</tr>
<tr>
<td>2 (a)</td>
<td>Not Applicable</td>
</tr>
<tr>
<td>2 (b)</td>
<td>Not Applicable</td>
</tr>
<tr>
<td>2 (c)</td>
<td>Not Applicable</td>
</tr>
<tr>
<td>2 (d)</td>
<td>Not Applicable</td>
</tr>
<tr>
<td>3</td>
<td></td>
</tr>
<tr>
<td>3 (a)</td>
<td>Not Applicable</td>
</tr>
<tr>
<td>3 (b)</td>
<td>Not Applicable</td>
</tr>
<tr>
<td>3 (c)</td>
<td>Not Applicable</td>
</tr>
</tbody>
</table>
Australian Maritime College (AMC)

1. Systems are passworded and a firewall is in place to protect corporate systems.

2. There has been no detected external unauthorised access.
   2 (a) Not Applicable
   2 (b) Not Applicable
   2 (c) Not Applicable
   2 (d) Not Applicable

3. Not Applicable
   3 (a) Not Applicable
   3 (b) Not Applicable
   3 (c) Not Applicable

Australian River Company (ARCo)

1. Australian River Co Limited has no significant information technology capabilities or requirements. Four leased personal computers are used for word processing and the like, and the accounting software is MYOB, which is primarily used for general ledger/trial balance purposes.

   All personal computers have password protection, which is altered on a regular basis.”

2. There has been no external unauthorised access to the above mentioned personal computers.
   2 (a) Not Applicable
   2 (b) Not Applicable
   2 (c) Not Applicable
   2 (d) Not Applicable

3. Not Applicable
   3 (a) Not Applicable
   3 (b) Not Applicable
   3 (c) Not Applicable

Stevedoring Industry Finance Committee (SIFC)

1. SIFC has no computer systems or hardware.

2. Not Applicable
   2 (a) Not Applicable
   2 (b) Not Applicable
   2 (c) Not Applicable
   2 (d) Not Applicable

3. Not Applicable
   3 (a) Not Applicable
   3 (b) Not Applicable
   3 (c) Not Applicable

Maritime Industry Finance Company (MIFCo)

1. IT facilities for MIFCo are provided by the Department of Transport and Regional Services. The Department protects its computer systems from external attack through the use of firewall software, segregating external connections from internal systems and considerable logging of activity.

   Access to internal systems are protected by unique user identifiers and passwords. All activity is logged.

2. No intrusions have been detected.
<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
</table>
| 1 | Access to CASA computer systems is controlled through uniquely identifiable user identification and passwords. Passwords are regularly changed in accordance with CASA security policy. There are a limited number of external access points to CASA systems.  
- Access for internet users is limited to the CASA internet site through the use of firewall products.  
- Access to CASA e-mail through the Internet is restricted to CASA authorised individuals through the use of valid user identification and passwords.  
- Access to CASA’s internal business systems, by remote access facilities for authorised individuals, is controlled using authentication of valid user identification and passwords. CASA’s infrastructure provider, IPEX ITG, monitors all methods of external access to CASA systems for intrusion. |
| 2 | (a) There has been one documented unauthorised access to CASA computer systems since 1 January 1999  
(b) In that one incident, the security of the CASA Intranet Web site was breached by an unauthorised external access on Monday 10 July 2000 at approximately 1400 hours and again at 1420 hours. Evidence of the intrusion was in the form of ‘graffiti’ over the CASA website, or script intrusion. This involved the hacker painting over the CASA introduction page with a message. Expert advice indicates that a novice hacker most probably performed the “Hack”, possibly from overseas.  
(c) The intrusion was detected when the CASA web master undertaking normal system checks launched the web browser and immediately detected that the home Web page had been changed. He re-launched the correct CASA home page and commenced investigation of the issue, referring the problem to CASA officers responsible for security. The site was then breached again within 20 minutes in the same manner.  
(d) As a result, action was immediately taken to shut down the external access to the CASA Internet site while the security breach was investigated. A full security audit was undertaken including an assessment of the incident and potential impact on other CASA systems. As a result of the security reports recommendation, a number of changes to the configuration of the CASA Internet site were undertaken. |
| 3 | (a) At the time of the incident, the CASA Internet site contained unclassified publicly available documents.  
(b) As part of the process of resolving the security breach, both the Australian Federal Police and the Defence Signals Directorate were contracted for assistance and advice. As part of the security review the unauthorised access was tracked back to its origin.  
(c) No further action could be undertaken as the attack on the CASA Internet site was undertaken from an overseas locality. |
| National Capital Authority (NCA) |   |
| 1 | The NCA currently has a firewall running Windows NT 4.0 and also CheckPoint Firewall-1 software which protects the internal network from external threats. The NCA Internet site is currently hosted at Total Peripherals Group where it is protected by a firewall. |
Airservices Australia

1 Airservices Australia is protected from unauthorised external access to computer systems with the deployment of security measures ensuring appropriate authentication for the delivery of on-line services. These measures include controlled, encrypted, remote access services utilising virtual private network capability as well as the installation of a Firewall facility for general Internet based transactions.

All external access points are monitored within the access applications through audit trails and checked at regular intervals for abnormal trends or occurrences.

2 There has been no external unauthorised access to computer systems operated by Airservices Australia.

Department of the Treasury: Unauthorised Computer Access

(Question No. 2968)

Senator O’Brien asked the Minister representing the Treasurer, upon notice, on 3 October 2000:

(1) What systems are in place to ensure there is no external unauthorised access to departmental computer systems or computer systems operated by agencies for which the Minister is responsible.

(2) Since 1 January 1999, has there been any external unauthorised access to computer systems operated by the department or agencies for which the Minister is responsible; if so, in each case: (a) when did the external unauthorised access of the computer system occur; (b) what was the nature of the unauthorised access; (c) how was it detected; and (d) what action was taken as a result of the unauthorised access.

(3) Where external unauthorised access of a computer system has occurred: (a) what was the security status of the computer system; (b) what action was taken to identify the person who illegally accessed the system; and (c) what was the result of that action.

Senator Kemp—The Treasurer has provided the following answer to the honourable senator’s question:

(1) Treasury Central Office (Treasury) The Treasury Network is protected from unauthorised external access by a secure Gateway, composed of two firewalls. This gateway is currently undergoing E3 Accreditation by Defence Signals Directorate (DSD).
<table>
<thead>
<tr>
<th>Organisation</th>
<th>Security Measures</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Australian Bureau of Statistics</strong></td>
<td>The ABS has only three external connection points to its computer systems. Two of these are limited to staff only. The other is a connection to the Internet. The ABS has comprehensive systems in place to ensure the risk of unauthorised external access is minimised and any unauthorised access attempts are detected. ABS security measures include: Defence Signals Directorate accredited Internet firewall and gateway systems; physical access controls to firewall and gateway systems; change Management procedures to maintain status of systems; cryptography; access restrictions; logging and monitoring of gateway activity; analysis of activity in real time by Intruder Detection Systems linked to support staff mobile telephones; operational procedures for ongoing risk assessment of reported exploits against systems; audits of systems; penetration testing to attempt to compromise systems; knowledge of best practice and information sharing with security focused organisations such as DSD and AusCert; and risk assessment of new systems before deployment.</td>
</tr>
<tr>
<td><strong>Australian Competition and Consumer Commission (ACCC)</strong></td>
<td>The Commission has a security policy in place which requires that access to all computer systems is via secure login ID and password. Passwords are required to be changed monthly. The Wide Area Network has all links encrypted. Access to and from the Internet is via a firewall maintained and monitored by Secure Gateway Environment Pty Ltd and is rated by DSD to Highly Protected level. Remote dial-in facilities are provided to agency employees only using dedicated notebook computers with encrypted modems. Login is via user authentication and password protection.</td>
</tr>
<tr>
<td><strong>Australian Prudential Regulation Authority (APRA)</strong></td>
<td>APRA has a firewall and DMZ to control access from external users. It conducts regular security reviews of systems and policies.</td>
</tr>
<tr>
<td><strong>Australian Securities and Investments Commission (ASIC)</strong></td>
<td>ASIC has three firewalls in place to protect computer systems from external unauthorised access. These firewalls deny access to all external unauthorised activity. ASIC also uses MimeSweeper and Websweeper software that enable a level of control over the content of material coming in and out of the network via internet and e-mail. The software also prevents access to inappropriate web sites. The effect of this software is designed to minimise the misuse of the facilities and to reduce the threat of inappropriate content coming into the agency’s network e.g. viruses.</td>
</tr>
<tr>
<td><strong>Australian Taxation Office (ATO)</strong></td>
<td>Australian Taxation Office (ATO) physical and IT security systems and standards are in place—no systems have been introduced in addition to those. The systems are of a similar standard to those of the Defence Signals Directorate. Direct external access to the server is limited to nominated administrators, and internal controls are such that access to the server through the Taxlan is on a needs basis. No ATO systems are available from outside the ATO.</td>
</tr>
<tr>
<td><strong>Companies and Securities Advisory Committee (CASAC)</strong></td>
<td>All the computers have been installed by ASIC Information Technology, and are security locked and have security passwords in the same manner as ASIC computers. Security pass/code is required to gain entry into the office at all times; desktop computers are turned off when staff are not in the office; staff are required to supply valid user name and password; servers are password protected; data backup tapes stored offsite in security vault; users are required to supply a valid user name and password when accessing the system remotely; proxy server has firewall features to protect system; no telnet sessions are available; virus protection is updated fortnightly; and logs are reviewed weekly.</td>
</tr>
<tr>
<td><strong>National Competition Council (NCC)</strong></td>
<td>Security pass/code is required to gain entry into the office at all times; desktop computers are turned off when staff are not in the office; staff are required to supply valid user name and password; servers are password protected; data backup tapes stored offsite in security vault; users are required to supply a valid user name and password when accessing the system remotely; proxy server has firewall features to protect system; no telnet sessions are available; virus protection is updated fortnightly; and logs are reviewed weekly.</td>
</tr>
<tr>
<td><strong>Productivity Commission</strong></td>
<td>Firewall with content scanning.</td>
</tr>
</tbody>
</table>
Royal Australian Mint (RAM)  
The following information is needed to externally access RAM systems: the phone number of RAM dial-in modem; the IP addresses of RAM machines; a user name & password to access Windows NT network; and a user name & password to unlock the machine being accessed.

Yes. Two incidents occurred which did not involve unauthorised access to the internal Treasury network, but they did involve ‘hacking’ of publicly available systems.

Incident 1  
The first incident occurred on 19 March 2000; it involved the defacement of the index page of the publicly available Treasury Website (www.treasury.gov.au). The defacement was reported to Treasury Helpdesk staff. Technical staff restored the page and applied the necessary security patches.

Incident 2  
The second incident occurred on 29 and 30 June 2000. The outsourced Direct Assist database which was part of the GSTASSIST website was compromised. A hacker exploited a code weakness in the database programming and mailed back details including bank account numbers to the individuals and companies who had registered in the database. The hacker sent emails to the GSTASSIST office alerting it to the security weakness in the database.

d. The website was taken down immediately and a security survey was conducted by independent experts including DSD. As a result this survey the site was redesigned before it was reopened.

Incident 1  
(a) At the time of the hacking incident, the site’s security was being upgraded, in response to an initial security survey.
(b) The individuals responsible for the ‘hack’ identified themselves as a group of Brazilian hackers using the signatures ‘Dexter07’ and DuCk-WaGe.
(c) The incident was reported to DSD.

Incident 2  
(a) The computing infrastructure supporting the DirectAssist system was secure but the code of the database application itself had a significant security weakness which was exploited.
(b) The AFP conducted a successful investigation to identify the individual concerned.
(c) The incident is the subject of an ongoing AFP investigation.
ABS  N/A.
ACCC  N/A.
APRA  a. Security status was low. This was a back-up machine in an external server in a DMZ.
b. External consultants were engaged to trace the attack. It was traced to the USA and continental Europe.
c. Given the low impact of the attack, a mischievous hacking, the consultants advised it was not worthwhile pursuing it any further. Security measures however, were tightened together with a system of refreshing data on a ten-minute cycle.
ASIC  N/A.
ATO  N/A.
CASAC  N/A.
NCC  N/A.
PC  N/A.
RAM  N/A.

Department of Education, Training and Youth Affairs: Programs and Grants to the Gwydir Electorate (Question No. 3058)

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

(1) What programs and/or grants administered by the department provide assistance to people living in the electorate of Gwydir.

(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 is the level of funding provided through programs and grants that has been appropriated for the 1999-2000 financial year.

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

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

Programmes which have a higher level national, research or policy development focus, and which cannot be readily attributed to a postcode, electorate or State are not listed.

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

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

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<tr>
<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td>Vocational Education and Training</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>255</td>
</tr>
<tr>
<td>Job Placement, Employment and Training Programme</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>Workplace English Language and Literacy (WELL)</td>
<td>20</td>
<td>21</td>
<td>29</td>
<td>44</td>
</tr>
<tr>
<td>New Apprenticeships Incentives (Direct)</td>
<td>(g)</td>
<td>(g)</td>
<td>87</td>
<td>95</td>
</tr>
<tr>
<td>New Apprenticeships Incentives (Indirect)</td>
<td>(g)</td>
<td>(g)</td>
<td>574</td>
<td>925</td>
</tr>
<tr>
<td>Green Corps Programme</td>
<td>-</td>
<td>23</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Schools</td>
<td>-</td>
<td>-</td>
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This table provides information for the electorate on a calendar year basis:

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</thead>
<tbody>
<tr>
<td>School To Work</td>
<td>68</td>
<td>68</td>
<td>68</td>
<td>68</td>
</tr>
<tr>
<td>Higher Education</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Australian National University</td>
<td>252,819</td>
<td>264,865</td>
<td>280,191</td>
<td>268,931</td>
</tr>
</tbody>
</table>

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

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<tr>
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</thead>
<tbody>
<tr>
<td>Schools</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>General Recurrent Grants – Non-Government</td>
<td>7,348</td>
<td>8,438</td>
<td>9,496</td>
<td>10,476</td>
</tr>
<tr>
<td>Capital Grants – Government and Non-Govt</td>
<td>1,023</td>
<td>3,497</td>
<td>507</td>
<td>1,575</td>
</tr>
<tr>
<td>Australian Student Traineeship Foundation</td>
<td>191</td>
<td>191</td>
<td>191</td>
<td>138</td>
</tr>
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</table>

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

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<tbody>
<tr>
<td>Schools</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Indigenous Education Direct Assistance (c)</td>
<td>9,759</td>
<td>14,098</td>
<td>14,430</td>
<td>13,582</td>
<td></td>
</tr>
<tr>
<td>ABSTUDY (d)</td>
<td>24,086</td>
<td>29,407</td>
<td>26,748</td>
<td>(e)</td>
<td></td>
</tr>
<tr>
<td>School To Work Programme (State Component)</td>
<td>596</td>
<td>1,515</td>
<td>1,476</td>
<td>886</td>
<td></td>
</tr>
<tr>
<td>Assistance for Isolated Children (AIC) (b)</td>
<td>6,527</td>
<td>6,706</td>
<td>6,607</td>
<td>5,240</td>
<td></td>
</tr>
<tr>
<td>Australian National Training Authority</td>
<td>2,000</td>
<td>2,000</td>
<td>2,100</td>
<td>1,850</td>
<td></td>
</tr>
<tr>
<td>Advanced English for Migrants Programme (AEMP)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Literacy and Numeracy Programme</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>National Office of Overseas Skills Recognition Bridging Programme – Assessment Fee Subsidy</td>
<td>257</td>
<td>238</td>
<td>196</td>
<td>159</td>
<td></td>
</tr>
</tbody>
</table>

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

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</thead>
<tbody>
<tr>
<td>Australian National Training Authority</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>VET In Schools</td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Schools</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>General Recurrent Grants – Government Schools</td>
<td>319,494</td>
<td>345,254</td>
<td>357,711</td>
<td>322,242</td>
<td>399,447(a)</td>
</tr>
<tr>
<td>Grants to Schools for Literacy</td>
<td>N/A</td>
<td>60,598 (c)</td>
<td>63,838 (c)</td>
<td>68,037 (c)</td>
<td>77,119 (c)</td>
</tr>
<tr>
<td>Special Education</td>
<td>25,378</td>
<td>29,009</td>
<td>30,049</td>
<td>27,933</td>
<td>32,500</td>
</tr>
<tr>
<td>Full Service Schools</td>
<td>N/A</td>
<td>N/A</td>
<td>50</td>
<td>4,033 (c)</td>
<td>2,458 (c)</td>
</tr>
<tr>
<td>English as a Second Language - New Arrivals</td>
<td>18,799</td>
<td>15,125</td>
<td>15,311</td>
<td>14,933</td>
<td>(a)</td>
</tr>
<tr>
<td>Country Areas Programme</td>
<td>3,983</td>
<td>4,613</td>
<td>4,826</td>
<td>5,834</td>
<td>6,266</td>
</tr>
<tr>
<td>Indigenous Education Strategic Initiatives Programme</td>
<td>21,091</td>
<td>23,380</td>
<td>29,793</td>
<td>28,025</td>
<td>(a)</td>
</tr>
</tbody>
</table>
### Programme/Grant

<table>
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<tr>
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</tr>
</thead>
<tbody>
<tr>
<td>Students with Disabilities</td>
<td>4,021</td>
<td>4,581</td>
<td>5,815</td>
<td>5,527</td>
<td>6,828(a)</td>
</tr>
<tr>
<td>National Asian Languages and Studies in Australian Schools</td>
<td>N/A</td>
<td>9,703 (c)</td>
<td>6,093 (c)</td>
<td>14,097 (c)</td>
<td>9,089 (c)</td>
</tr>
<tr>
<td>Priority Languages Incentive</td>
<td>1,446</td>
<td>1,539</td>
<td>1,570</td>
<td>1,719</td>
<td>1,185</td>
</tr>
<tr>
<td>Community Languages</td>
<td>3,826</td>
<td>4,109</td>
<td>4,298</td>
<td>4,533</td>
<td>4,611</td>
</tr>
</tbody>
</table>

**Notes:**

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

(b) These figures are estimates based upon AIC customer numbers in each state for the corresponding year.

(c) Does not include National Office Expenditure which cannot easily be broken into State components.

(d) Based upon location of the office in which the payment is made.

(e) 1999-2000 data for ABSTUDY is currently unavailable.

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

(g) Data is not readily available.

### Agriculture: New Zealand Apples

**Question No. 3108**

**Senator Harris** asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 13 October 2000:

1. Has the Australian Quarantine and Inspection Service (AQIS) already approved the entry of New Zealand apples into Australia.

2. Will the Minister assure our orchardists that the AQIS approval of New Zealand apples and pears does not place our Australian apple and pear industry at risk of fire blight.

3. If my prediction of a fire blight infection proves correct, is the Minister willing to stand by an unequivocal assurance that orchardists affected by a subsequent infestation of fire blight in their orchards, will be fully and comprehensively compensated.

**Senator Alston**—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator's question:

1. The entry of New Zealand apples into Australia is currently not permitted. On 6 October 2000, Biosecurity Australia, a group within the Department of Agriculture, Fisheries & Forestry, was established to take responsibility for assessing the quarantine risks associated with commodity imports. Responsibility for the conduct of Import Risk Analysis (IRA) previously rested with the Australian Quarantine and Inspection Service (AQIS).

2. The Government supports a highly conservative quarantine system and will not, in this case or any other, support arrangements that present unacceptable risks to the domestic industry and the environment.

3. There are currently no formal compensation arrangements for plant pests and diseases. Plant Health Australia, the members of which are the Commonwealth, States and Territories and plant industries, including the apple and pear industry, is currently working to establish new funding arrangements, possibly including compensation, for plant pests and diseases.
Motor Vehicle Fuel and Freight Costs
(Question No. 3118)

Senator Mackay asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 18 October 2000:

(1) (a) Can the Minister or the department identify areas within regional Australia where the costs of leaded petrol, unleaded petrol and diesel have decreased since 1 July 2000; and (b) can a list of these regions, towns and localities be provided.

(2) What was the cost of leaded, unleaded and diesel fuel in the following towns on (a) 30 June 2000; and (b) 6 October 2000: Parkes, New South Wales; Launceston, Tasmania; Esperance, Western Australia; Longreach, Queensland; Bundaberg, Queensland; Lakes Entrance, Victoria; Nullabor, South Australia; Alice Springs, Northern Territory; Yass, New South Wales; Bogabilla, New South Wales; and Violet Town, Victoria.

(3) (a) What are the current freight costs on a trip between Melbourne and Brisbane via the Newell Highway for a B-double truck; and (b) what was the freight rate on 30 June 2000.

(4) (a) What are the current freight costs on a trip between Melbourne and Sydney via the Hume Highway for B-double truck; and (b) what was the freight rate on 30 June 2000.

(5) (a) What are the current freight costs on a trip between Melbourne and Perth via the Eyre Highway for B-double truck; and (b) what was the freight rate on 30 June 2000.

(6) (a) What are the current freight costs on a trip between Brisbane and Cairns via and Newell Highway for B-double truck; and (b) what was the freight rate on 30 June 2000.

(7) (a) What was the average household spending on fuel for domestic vehicles on 30 June 2000; and (b) what is the average household spending on fuel for domestic vehicles now.

(8) What was the size of the fuel excise paid to the Federal Government for the following months: February 2000; April 2000; June 2000; July 2000; August 2000; and September 2000.

(9) What was the proportion and actual dollar figures for the leaded, unleaded and diesel contributions to these monthly excise amounts.

(10) With reference to the following statements made by senior government ministers about the price of fuel and the impact of the goods and services tax on fuel prices:

On 13 August 1998, the Prime Minister stated in an address to the nation that, ‘The GST will not increase the price of petrol for the ordinary motorist’; on 7 September 1998, the Treasurer stated in a press release that, ‘The Government’s proposed New Tax System will not lead to any increase in petrol prices’;

On 23 August 2000, the Treasurer said on the Today program that, ‘The GST didn’t add anything to the pump price. The only thing which changed between 30 June and 1 July was the new tax system. An petrol prices were either stable or overall fell’;

On 3 October 2000, the Minister for Communications, Information Technology and the Arts, Senator Alston, stated during question time that, ‘substantial reductions in fuel prices have occurred since 1 July (2000)’:

(a) are these commitments being honoured; if so, how are these government commitments being honoured; and (b) what is the department’s role in honouring these commitments.

(11) As the department is the coordinating agency for Government policy on rural and regional Australia, can details be provided of the department’s involvement in ensuring this commitment on fuel is met.

Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) The Department does not collect this type of data. The Australian Competition and Consumer Commission may be able to provide information concerning fuel prices and the GST transition.

(2) See (1).
(3) Freight rates are negotiated on a commercial basis between road transport providers and their clients.

(4) See (3).

(5) See (3).

(6) See (3).

(7) The Department does not collect this type of data.

(8) This question is best directed to the Treasurer.

(9) See (8).

(10) (a) This question should be directed to the Treasurer.

(b) The Department plays no role in administering the GST on fuel.

(11) The Department plays no role in administering the GST on fuel.

**Summer Rains Project: Funding**

(Question No. 3134)

**Senator Brown** asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 30 October 2000:

What Commonwealth funding, from the Natural Heritage Trust or elsewhere, has been given to the Summer Rains Project in Tasmania, and to what was the funding directed, when, for how long and why.

**Senator Alston**—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

(1) Senator Brown asked a similar question (question number 2896 on 3 October 2000) about the Summer Rains project. The following response was given.

“The Tasmanian Department for Primary Industries, Water and Environment has provided the following information.

An expression of interest was made to the Irrigation Partnership Program (Community & Industry Water Infrastructure Development Project) under the Natural Heritage Trust’s, Tasmanian Strategic Natural Heritage Program, in February 1999 by Mr Nic Van den Bosch of Bosch Engineering for funding of environmental impact studies. The expression of interest related to 14 proposed dam sites around Tasmania. The proposal is known as the "Summer Rains" project and Bosch Engineering is the project sponsor and manager. Mr Van den Bosch’s interest is now focused on 6 sites, and a notional $328,000 has been requested from the Irrigation Partnership Program for environmental impact studies of the sites.

The Tasmanian Steering Committee on Water Resources has assessed the expression of interest in accordance with the Irrigation Partnership Program guidelines.

The Steering Committee has approved $100,000 for hydrological and environmental feasibility/impact studies for the Waterhouse Community Irrigation Development Submission, which make up three of the six sites to build water storages on the Tomahawk, Boobyalla and Little Boobyalla Rivers.

The results of these studies together with the results of the feasibility study (economic and engineering aspects) being undertaken by Mr Van den Bosch will be used to determine the future viability of the sites.

In response to an inquiry from the Federal Member for Bass in July 1998, the then Department of Primary Industries and Energy wrote to the Federal Member on this matter. The Department advised that, in light of the range of water resource management initiatives the Commonwealth was already supporting under the Trust in Tasmania, and to ensure a coordinated approach to water resources management issues, the proponents of Summer Rains were advised to contact the Tasmanian Government.”

(2) Of the $100,000 approved for hydrological and environmental feasibility/impact studies, the Tasmanian Department of Primary Industries, Water and Environment advises that $85,000 will come
from the Natural Heritage Trust. It is expected that the feasibility study for the scheme will take six months.

Child Support: Custody Arrangements
(Question No. 3135)

Senator Brown asked the Minister for Family and Community Services, upon notice, on 30 October 2000:

(1) Has the Government considered the risks of custodial parents reducing access to the non-custodial parent in order to avoid reductions in the payment of child support.

(2) Does the Government agree that the aim should be to increase the access of non-custodial parents, usually the father, to their children.

(3) Has the Government investigated the option of automatic joint custody on the separation of parents, as occurs in some states of the United States of America.

(4) Does the Government agree that joint custody would help to address most of the issues that plague separating parents, such as custody, access, property and child support, but most particularly the interests of the children who long most of all to retain equal and ongoing contact with both parents.

Senator Newman—The answer to the honourable senator’s question is as follows:

(1) The linkage between a non-resident parent having contact with their children and how much child support is to be paid is not a new concept. Since the inception of the Scheme contact by the non-resident parent has been recognised within the Child Support Formula. Currently, where non-resident parents exercise contact of more than 30 per cent of the nights in the year, their child support liability is adjusted.

Most separated parents have existing court orders or parenting agreements concerning contact and these are generally used to determine the amount of contact when calculating a parent’s child support liability.

(2) This Government believes that contact with both parents is beneficial to the children of separated parents and that non-resident parents should be encouraged to maintain contact with their children following separation. This is why the Government has introduced legislation into this Parliament to amend child support legislation to provide for a fairer recognition of the costs borne by non-resident parents who have contact with their children for between 10 and 30 per cent of the time.

By recognising that these parents incur costs during contact, the proposal will improve incentives for non-resident parents to maintain contact with their children. The amendments will also provide a distinction between the liabilities of those parents who have no or minimal contact and those who have ongoing and regular contact with their children. Contact with both parents is of benefit to the development of the children, and leads to a higher likelihood of payment of child support.

(3) It would appear that what exists in those states that have a presumption of “joint custody” is really shared parental responsibility - which is what was introduced into the Family Law Act 1975 by the Family Law Reform Act 1995. This concept does not equate to an expectation that the children of separated parents will reside with each parent for equal periods of time. Rather parents are encouraged to agree on residential arrangements that are in the best interest of their children.

The Reform Act abolished the concepts of “access”, “custody” and “guardianship” (which suggested ownership of children by their parents) with a new statutory concept called parental responsibility. Section 61C of the Family Law Act now provides that each parent has parental responsibility for a child and this responsibility is not affected by changes in the parents’ relationship.

(4) The amendments to the Family Law Act mentioned in the above answer illustrate the Government’s belief that shared parental responsibility is the appropriate principle upon which to determine a parent’s responsibility to a child upon a marriage breakdown. The Government also believes the best arrangements for children are those where the parents have agreed. For this reason the Family Law Act encourages parents to agree on what parenting arrangements to make for their children.

However, where parents are unable to co-operate to reach an agreement, or where there is animosity between them, it is less likely that a parenting arrangement that involves the child living equally with both parents will be a workable arrangement and may create greater dispute and anxiety within that separated family. Where the parents have sought an order from the court for such an arrangement it is,
of course, open for the court to make that order if it is of the opinion that it is in the best interests of the child or children involved that the order be made.

Darwin-Adelaide Railway Link: Building Material

(Question No. 3143)

Senator Brown asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 31 October 2000:

With reference to the proposed Darwin-Adelaide railway line:

(a) What are the types of sleepers under consideration for use on the line; and

(b) From where would they be sourced.

Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(a) and (b) The Commonwealth’s involvement with the Alice Springs to Darwin railway project is limited to its commitment of $165m and the provision of the existing line between Tarcoola and Alice Springs to the consortium building the railway at a nominal rent.

The AustralAsia Railway Corporation (AARC) set up by the Northern Territory and South Australia is responsible for managing the delivery of the project. AARC has advised that two sleeper factories will be built at Tennant Creek and Katherine to manufacture concrete sleepers for use on the line.

Organisation for Economic Co-operation and Development: Guidlines for Multinational Behaviour

(Question No. 3154)

Senator Bourne asked the Minister representing the Treasurer, upon notice, on 2 November 2000:

(1) What action has the Government taken to make companies aware of the Organisation for Economic Co-operation and Development (OECD) guidelines for multinational behaviour.

(2) What practical steps is the Government taking to oblige or encourage companies to implement the guidelines and to advise them about this.

(3) What publicity campaign is the Government planning.

(4) Does the Government have requirements to report to the OECD; If so, how will the Government facilitate this.

(5) What resources is the Government making available to the National Contact Point, for example, staff levels.

(6) How does the National Contact Point fit within the Treasury structure.

(7) What inter-agency cooperation is there, for instance between portfolio areas such as Trade, Foreign Affairs and Treasury.

(8) (a) What kind of consultation is going to take place with non-government organisations and other stakeholders; and (b) what is the time frame for these consultations.

(9) Which companies are being targeted as potential signatories.

Senator Kemp—The Treasurer has provided the following answer to the honourable senator’s question:

(1) to (9).

The Government has embarked on a thorough process of consultation with interested parties in order to formulate the Government’s approach to implementation of the revised Guidelines.

Among other things, the revised implementation procedures for the Guidelines require adhering countries, through their National Contact Points, to adopt a more pro-active approach to promotion of the Guidelines. The Review provided considerable guidance to help NCPs carry out their duties and it has established mechanisms for promoting transparency, accountability and best practice. However, the revised implementation procedures also afford some flexibility to governments in the way they organise their NCPs and approach the implementation procedures.
On 8 November 2000, the Treasury released a discussion paper on possible Government approaches to implementation of the revised Guidelines. The discussion paper has been posted on the internet and provides background on the Guidelines, sets out the outcomes of the recent review and puts forward some options for the Government to pursue in implementing the Guidelines. The paper calls for comments and contributions from interested parties. The paper is available through the Treasury website at http://www.treasury.gov.au/OECD-AusNCP/. The Treasury is also planning to host seminars on the Guidelines, inviting stakeholders to speak about their views on the revised Guidelines and how they should be implemented.

While the Government has already put in place some new procedures in relation to implementation of the revised Guidelines, particularly in relation to promotion of the Guidelines, the Government is not prepared to finalise all details of its implementation strategy without first considering the results of wide-ranging consultations. I understand the Treasury officials responsible for conducting these consultations have already contacted the honourable senator’s office, forwarding a copy of the discussion paper, and offering to meet with Senator Bourne to discuss the matters raised in this paper.

Native Title: Representative Bodies

(Question No. 3155)

Senator Woodley asked the Minister for Aboriginal and Torres Strait Islander Affairs, upon notice, on 3 November 2000:

(1) Has the Minister extended the transition period for applications from eligible bodies under Section 203AA of the Native Title Act 1993 beyond the extended date he proclaimed for June 2000.

(2) (a) Has the Minister made a determination under section 203AA in respect of each native title representative body area in Australia; and

(b) were all of these determinations made before the end of the transition period; if not:

(i) what, if any, are the implications under the Native Title Act 1993 of not doing so; and

(ii) what, if any, are the implications for the traditional owners of those areas, in terms of support for and representation of their native title interests.

(3) Is the Minister aware that a decision made under section 203AA of the Native Title Act 1993 to amend the boundaries of a proposed native title representative body area requires that he, among other things, take account of ‘the need to minimise any disruption to the performance of the functions of those (affected) representative bodies’.

(4) Is the Minister aware that approximately 2 years after the commencement of the transition period, the traditional owners of two former representative body areas in southern Queensland still do not have the support of a recognised representative body.

(5) Is the Minister aware of the impact of this on the ability of these traditional owners to plan for their native title claims, to enter into effective Indigenous land use agreements and to have their interests in native title properly represented.

(6) What options, including a new determination of the relevant representative body areas in line with the previous boundaries, is the Minister able to propose in order to meet the requirement that these traditional owners be properly represented at the earliest possible stage.

Senator Herron—The answer to the honourable senator’s question is as follows:

(1) No.

(2) (a) I assume the Senator’s question relates to the selection of bodies for recognition as representative bodies under section 203AD of the Native Title Act 1993. If that is the case, the answer to the Senator’s question is no. As at 22 November 2000 there have been native title representative bodies recognised for 14 out of 21 invitation areas, covering approximately 83% of mainland Australia. In addition, in three of the 21 areas (Tasmania, the Australian Capital Territory/Jervis Bay, and External Territories) no Applications for recognition were received.

(b) No,
To assist the Senator I have listed below the dates decisions were made for each area that now has a recognised native title representative body.

<table>
<thead>
<tr>
<th>Invitation Area</th>
<th>Recognised Native Title Representative Body</th>
<th>Date Decision Made</th>
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<tbody>
<tr>
<td>Queensland</td>
<td></td>
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<tr>
<td>Torres Strait</td>
<td>Torres Strait Regional Authority</td>
<td>19 November 1999</td>
</tr>
<tr>
<td>North</td>
<td>Central Queensland Land Council Aboriginal Corporation</td>
<td>19 November 1999</td>
</tr>
<tr>
<td>Central</td>
<td>Gurang Land Council Aboriginal Corporation</td>
<td>20 September 2000</td>
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<tr>
<td>West</td>
<td>Carpentaria Land Council Aboriginal Corpora-</td>
<td>25 April 2000</td>
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<tr>
<td>New South Wales</td>
<td></td>
<td></td>
</tr>
<tr>
<td>North</td>
<td>New South Wales Aboriginal Land Council</td>
<td>5 October 2000</td>
</tr>
<tr>
<td>South Australia</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Greater South</td>
<td>Aboriginal Legal Rights Movement Inc</td>
<td>23 December 1999</td>
</tr>
<tr>
<td>Australia</td>
<td></td>
<td></td>
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<tr>
<td>Northern Territory</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Southern</td>
<td>Central Land Council</td>
<td>29 November 1999</td>
</tr>
<tr>
<td>Northern</td>
<td>Northern Land Council</td>
<td>17 November 1999</td>
</tr>
<tr>
<td>Western Australia</td>
<td></td>
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<tr>
<td>Kimberley</td>
<td>Kimberly Land Council Aboriginal Corporation</td>
<td>8 May 2000</td>
</tr>
<tr>
<td>Pilbara</td>
<td>Yamatji Barna Baba Maaja Aboriginal Corpo-</td>
<td>30 June 2000</td>
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<td>ration</td>
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<tr>
<td>Central Desert</td>
<td>Ngaanyatjarra Council Aboriginal Corpora-</td>
<td>7 February 2000</td>
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<tr>
<td>Geraldton</td>
<td>Yamatji Barna Baba Maaja Aboriginal Corpora-</td>
<td>14 April 2000</td>
</tr>
<tr>
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<td></td>
</tr>
<tr>
<td>Goldfields</td>
<td>Goldfields Land Council</td>
<td>22 June 2000</td>
</tr>
</tbody>
</table>

(2) (b) (i) There are a small number of areas without recognised native title representative bodies due to the inability of the previously determined representative bodies to meet the criteria, as prescribed by the Native Title Act 1993, for recognition. To ensure the continued provision of services to native title claimants in those areas, the Aboriginal and Torres Strait Islander Commission (ATSIC) has continued to fund previously determined representative bodies to perform all of the functions of representative bodies pending the outcome of the general invitation process in those areas. In those circumstances I do not consider that there are any significant implications in the short term for claimants and other interested parties in those areas currently without a recognised body.

(2) (b) (ii) See (2)(b)(i) above.

(3) Yes, in deciding on invitation areas under the Act I had regard to that matter. My decision on the boundaries for the invitation areas followed an extensive consultation process conducted by ATSIC and which included consultations with representative bodies determined at that time.

(4) I have not yet recognised a representative body for the Queensland South invitation area because I was not satisfied that the two bodies previously determined as representative bodies in that region were able to meet the criteria for recognition set down in the Act. I then acted promptly to issue a general invitation to all eligible bodies to apply for recognition as the representative body for the Queensland South invitation area. I hope to make decisions shortly with respect to the applications received. In the meantime, ATSIC has continued to fund the two previously determined representative bodies to perform all of the functions of native title representative bodies in the areas for which they were previously determined.
(5) Work has continued on the preparation of native title claims and Indigenous Land Use Agreements in the Queensland South invitation area and, with the aid of ATSIC funding, the two previously determined representative bodies have been acting to protect the interests of native title holders.

(6) I hope to make a decision on the applications for recognition in the Queensland South invitation area soon. If however none of the applicant bodies meet the criteria for recognition, I intend to consider advice from ATSIC and others about how I ought to proceed.

Mobile Phone Service: Tolmie Residents
(Question No. 3157)

Senator Allison asked the Minister for Communications, Information Technology and the Arts, upon notice, on 6 November 2000:

(1) Is it a fact that residents of Tolmie in Victoria have been unable to receive mobile phone services since the closure of the analogue network.

(2) Has Telstra received representation from Tolmie residents to the effect that even with an external antenna with a signal strength of 4 covering the CDMA band, calls only get through on very rare occasions; if so, what does Telstra propose to do to provide a mobile service to this location and when.

Senator Alston—The answer to the honourable senator’s question, based on advice from Telstra, is as follows:

(1) No. CDMA coverage in the Tolmie area is reasonably equivalent to the coverage provided by the analogue mobile phone service.

As with all radio based communication systems, performance will vary according to a number of factors such as terrain, radio shielding, antenna locations and equipment condition. Existing CDMA coverage varies throughout the area from having very strong signal strength to marginal and no coverage, depending on the terrain. This is similar to the coverage provided by the analogue service. Telstra is keen to work with its customers to address coverage and service issues and will be taking the opportunity to contact the customer/s reporting this issue.

(2) Telstra has received a report from at least one customer in relation to CDMA service in Tolmie. Radio surveys of the Tolmie area have been conducted as recently as Friday 10 November 2000 and no problems were experienced making calls in good signal strength locations. (eg signal strength of 4 bars).

The Australian Communications Authority has been monitoring the transition to CDMA. The ACA considers Telstra has complied with its licence condition and that digital coverage across Australia is reasonably equivalent, and in many cases better, than AMPS. Consumers who believe they do not receive CDMA coverage in areas where they previously received AMPS should contact the ACA hotline on 1800 35 11 35.

Agriculture: Poppy Products
(Question No. 3159)

Senator Brown asked the Minister representing the Minister for Agriculture, Fisheries and Forestry:

With reference to the answer to question on notice no. 2954 (Hansard, 27 November 2000, page 19846):

(1) What is the value, on the Australian Market, of derivatives of 200 tonnes of Anhydrous Morphine Alkaloid.

(2) (a) What is the “vertically integrated process”;
(b) where is it carried out;
(c) what are the end products; and
(d) where are these sold.
Senator Alston—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

(1) Industry sources are currently unable to supply an accurate valuation of Anhydrous Morphine Alkaloid derivatives due to commercial sensitivities, fluctuations in price and a variety of different purchasing arrangements such as long term contracts and spot prices. However, the industry did provide an estimated value of Australia AMA production, which was approximately $100 million to $115 million in 1999.

(2) (a) A vertically integrated process is where the same firm handles various positions in the supply chain for a product.

In the case of Australia’s poppy industry, according to discussions with Tasmanian Alkaloids, Glaxo Wellcome and the Poppy Advisory and Control Board, either Glaxo Wellcome or Tasmanian Alkaloids, the only two licensed firms, contract growers to cultivate poppies and own the produced poppy straw. These firms then extract the AMA from the poppy straw and convert the AMA concentrate into morphine, natural codeine and thebaine and further process these extracts into range of different forms of codeine and codone.

(b) All Australian poppy cultivation occurs in Tasmania. However while Tasmania Alkaloids processing occurs in Tasmania, Glaxo Wellcome’s initial processing facilities are in Victoria which provides various inputs to Glaxo Wellcome’s UK based operations for further processing.

(c) The end products of poppy production are: natural codeine, semi-synthetic codeine, ethylmorphine, pholcodine, dihydro-codeine, codeine, hydrocodone, oxycodone and various other narcotics.

(d) 10 percent of Australian production is sold domestically while the remaining 90 percent is produced for export.

Baransano, Mr Alex
(Question No. 3171)

Senator Brown asked the Minister representing the Minister for Foreign Affairs, upon notice, on 13 November 2000:

(1) What has happened to Alex Baransano, aged 29, the Vice-Commander of the Papuan Task Force in Jayapura who was arrested last Tuesday, 7 November.

(2) What enquires has the Government made about Mr Baransano’s safety and well-being and what information has been forthcoming from Indonesia’s Government.

(3) Will the Government make representations to ensure Mr Baransano’s civil rights are honoured while he remains under police or military detention.

Senator Hill—The Minister for Foreign Affairs has provided the following answer to the honourable senator’s question:

(1) The Government understands that following Mr Baransano’s arrest he was held in police detention for three days and later moved to house arrest, where he currently remains.

(2) and (3) The Australian Embassy in Jakarta has spoken to the Indonesian authorities in Irian Jaya about Mr Baransano, and has been informed that he is well and under house arrest.

Minister for Education, Training and Youth Affairs: School Visits
(Question No. 3174)

Senator Allison asked the Minister representing the Minister for Education, Training and Youth Affairs, upon notice, on 27 November 2000:

(1) How many schools has the Minister visited in the past 12 months.

(2) What was: (a) the purpose and date of each visit; and (b) the name of each school and the federal electorate in which it is located.

(3) What is the proportion of government to non-government schools visited.

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

(1), (2) & (3) Dr Kemp consults widely with government and non-government principals, teachers and parents at local, State and National levels, but the precise details are not available, as they are relevant to the Minister’s diary, which is a personal and confidential document.