INTERNET
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the Senate and committee hearings are available at:

SITTING DAYS—2001

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RADIO BROADCASTS
Broadcasts of proceedings of the Parliament can be heard on the following
Parliamentary and News Network radio stations, in the areas identified.

- **CANBERRA**: 1440 AM
- **SYDNEY**: 630 AM
- **NEWCASTLE**: 1458 AM
- **BRISBANE**: 936 AM
- **MELBOURNE**: 1026 AM
- **ADELAIDE**: 972 AM
- **PERTH**: 585 AM
- **HOBART**: 729 AM
- **DARWIN**: 102.5 FM
THIRTY-NINTH PARLIAMENT
FIRST SESSION—EIGHTH PERIOD

Governor-General

His Excellency the Hon. Sir William Patrick Deane, Companion of the Order of Australia, Knight Commander of the Order of the British Empire

Senate Officeholders

President—Senator the Hon. Margaret Elizabeth Reid
Deputy President and Chairman of Committees—Senator Suzanne Margaret West
Temporary Chairmen of Committees—Senators Andrew Julian Bartlett, Paul Henry Calvert, George Campbell, Hedley Grant Pearson Chapman, Hon. Rosemary Anne Crowley, Alan Baird Ferguson, John Joseph Hogg, Susan Christine Knowles, Philip Ross Lightfoot, James Philip McKiernan, Shayne Michael Murphy, Hon. Nicholas John Sherry and John Odin Wentworth Watson
Leader of the Government in the Senate—Senator the Hon. Robert Murray Hill
Deputy Leader of the Government in the Senate—Senator the Hon. Richard Kenneth Robert Alston
Leader of the Opposition—Senator the Hon. John Philip Faulkner
Deputy Leader of the Opposition—Senator the Hon. Peter Francis Salmon Cook
Manager of Government Business in the Senate—Senator the Hon. Ian Gordon Campbell
Manager of Opposition Business in the Senate—Senator Kim John Carr

Senate Party Leaders

Leader of the Liberal Party of Australia—Senator the Hon. Robert Murray Hill
Deputy Leader of the Liberal Party of Australia—Senator the Hon. Richard Kenneth Robert Alston
Leader of the National Party of Australia—Senator the Hon. Ronald Leslie Doyle Boswell
Deputy Leader of the National Party of Australia—Senator the Hon. Grant Ernest John Tambling
Leader of the Australian Labor Party—Senator the Hon. John Philip Faulkner
Deputy Leader of the Australian Labor Party—Senator the Hon. Peter Francis Salmon Cook
Leader of the Australian Democrats—Senator Meg Heather Lees
Deputy Leader of the Australian Democrats—Senator Natasha Jessica Stott Despoja

Printed by authority of the Senate
## Members of the Senate

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</table>

(1) Term expires at close of day next preceding the polling day for the general election of members of the House of Representatives.
(2) Chosen by the Parliament of South Australia to fill a casual vacancy caused by her resignation.
(3) Chosen by the Parliament of New South Wales vice Robert Leslie Woods, resigned.
(4) Chosen by the Parliament of Western Australia vice John Horace Panizza, deceased.
(5) Chosen by the Parliament of New South Wales vice Bruce Kenneth Childs, resigned.
(6) Chosen by the Parliament of Queensland vice Cheryl Kernot, resigned.
(7) Chosen by the Parliament of Queensland vice Warwick Raymond Parer, resigned.
(8) Chosen by the Parliament of South Australia vice John Andrew Quirke, resigned

PARTY ABBREVIATIONS
AD—Australian Democrats; AG—Australian Greens; ALP—Australian Labor Party; CLP—Country Liberal Party; Ind.—Independent; LP—Liberal Party of Australia; NP—National Party of Australia; PHON—Pauline Hanson’s One Nation

Heads of Parliamentary Departments
Clerk of the Senate—H. Evans
Clerk of the House of Representatives—I. C. Harris
Departmental Secretary, Parliamentary Library—J. W. Templeton
Departmental Secretary, Parliamentary Reporting Staff—J. W. Templeton
Departmental Secretary, Joint House Department—M. W. Bolton
HOWARD MINISTRY

Prime Minister
Minister for Transport and Regional Services and Deputy Prime Minister
Treasurer
Minister for Trade
Minister for Foreign Affairs
Minister for the Environment and Heritage and Leader of the Government in the Senate
Minister for Communications, Information Technology and the Arts and Deputy Leader of the Government in the Senate
Minister for Defence and Leader of the House
Minister for Health and Aged Care
Minister for Finance and Administration
Minister for Education, Training and Youth Affairs and Minister Assisting the Prime Minister for the Public Service
Minister for Industry, Science and Resources
Attorney-General
Minister for Immigration and Multicultural Affairs and Minister for Reconciliation and Aboriginal and Torres Strait Islander Affairs
Minister for Agriculture, Fisheries and Forestry
Minister for Family and Community Services and Minister Assisting the Prime Minister for the Status of Women
Minister for Employment, Workplace Relations and Small Business

The Hon. John Winston Howard MP
The Hon. John Duncan Anderson MP
The Hon. Peter Howard Costello MP
The Hon. Mark Anthony James Vaile MP
The Hon. Alexander John Gosse Downer MP
Senator the Hon. Robert Murray Hill
Senator the Hon. Richard Kenneth Robert Alston
The Hon. Peter Keaston Reith MP
The Hon. Dr Michael Richard Lewis Wooldridge MP
The Hon. John Joseph Fahey MP
The Hon. Dr David Alistair Kemp MP
Senator the Hon. Nicholas Hugh Minchin
The Hon. Daryl Robert Williams AM, QC, MP
The Hon. Philip Maxwell Ruddock MP
The Hon. Warren Errol Truss MP
Senator the Hon. Amanda Eloise Vanstone
The Hon. Anthony John Abbot MP

(The above ministers constitute the cabinet)
Assistant Treasurer
Assistant Treasurer
Senator the Hon. Charles Roderick Kemp
The Hon. Joseph Benedict Hockey MP
The Hon. Ian Douglas Macdonald

Minister for Financial Services and Regulation
Minister for Financial Services and Regulation
Senator the Hon. Ian Douglas Macdonald

Minister for Regional Services, Territories and Local Government
Minister for Regional Services, Territories and Local Government
The Hon. Peter John McGauran MP

Minister for the Arts and the Centenary of Federation and Deputy Leader of the House
Minister for the Arts and the Centenary of Federation and Deputy Leader of the House
The Hon. Lawrence James Anthony MP

Minister for Community Services
Minister for Community Services
The Hon. Bruce Craig Scott MP

Minister for Veterans’ Affairs and Minister Assisting the Minister for Defence
Minister for Veterans’ Affairs and Minister Assisting the Minister for Defence
The Hon. Bronwyn Kathleen Bishop MP

Minister for Aged Care
Minister for Aged Care
Senator the Hon. Eric Abetz

Special Minister of State
Special Minister of State
The Hon. Jackie Marie Kelly MP

Minister for Sport and Tourism
Minister for Sport and Tourism
Senator the Hon. Amanda Eloise Vanstone

Minister for Justice and Customs
Minister for Justice and Customs
The Hon. Charles Wilson Tuckey MP

Minister for Forestry and Conservation and Minister Assisting the Prime Minister
Minister for Forestry and Conservation and Minister Assisting the Prime Minister
The Hon. Ian Elgin Macfarlane

Minister for Small business
Minister for Small business
Senator the Hon. William Daniel Heffernan

Parliamentary Secretary to Cabinet
Parliamentary Secretary to Cabinet
Senator the Hon. Ronald Leslie Doyle Boswell

Parliamentary Secretary to the Minister for Transport and Regional Services
Parliamentary Secretary to the Minister for Transport and Regional Services
Senator the Hon. Kay Christine Lesley Patterson

Parliamentary Secretary to the Minister for Foreign Affairs and Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs
Parliamentary Secretary to the Minister for Foreign Affairs and Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs
The Hon. Sharman Nancy Stone MP

Parliamentary Secretary to the Minister for the Environment and Heritage
Parliamentary Secretary to the Minister for the Environment and Heritage
Senator the Hon. Ian Gordon Campbell

Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts and Manager of Government Business in the Senate
Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts and Manager of Government Business in the Senate
The Hon. Dr Brendan John Nelson

Parliamentary Secretary to the Minister for Defence and Aged Care
Parliamentary Secretary to the Minister for Defence and Aged Care
Senator the Hon. Grant Ernest John Tambling

Parliamentary Secretary to the Minister for Health and Aged Care
Parliamentary Secretary to the Minister for Health and Aged Care
The Hon. Peter Neil Slipper MP

Parliamentary Secretary to the Minister for Finance and Administration
Parliamentary Secretary to the Minister for Finance and Administration
The Hon. Patricia Mary Worth MP

Parliamentary Secretary to the Minister for Education, Training and Youth Affairs
Parliamentary Secretary to the Minister for Education, Training and Youth Affairs
The Hon. Warren George Entsch MP

Parliamentary Secretary to the Minister for Industry, Science and Resources
Parliamentary Secretary to the Minister for Industry, Science and Resources
Senator the Hon. Judith Mary Troeth

Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry
Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry
The Hon. Christine Ann Gallus

Parliamentary Secretary to the Minister for Reconciliation and Aboriginal and Torres Strait Islander Affairs
Parliamentary Secretary to the Minister for Reconciliation and Aboriginal and Torres Strait Islander Affairs

v
**SHADOW MINISTRY**

Leader of the Opposition  
The Hon. Kim Christian Beazley MP

Deputy Leader of the Opposition and Shadow Treasurer  
The Hon. Simon Findlay Crean MP

Leader of the Opposition in the Senate, Shadow Minister for Public Administration and Government Services and Shadow Minister for Olympic Coordination and the Centenary of Federation  
Senator the Hon. John Philip Faulkner

Deputy Leader of the Opposition in the Senate and Shadow Minister for Trade  
Senator the Hon. Peter Francis Salmon Cook

(The following members of the Shadow Ministry are listed in alphabetical order)

Shadow Minister for Industrial Relations  
The Hon. Archibald Ronald Bevis MP

Shadow Minister for Environment and Heritage  
Senator the Hon. Nick Bolkus

Shadow Minister for Foreign Affairs  
The Hon. Laurence John Brereton MP

Shadow Minister for Financial Services and Regulation  
Senator Stephen Michael Conroy

Shadow Minister for Family Services and the Aged  
Senator Christopher Vaughan Evans

Shadow Minister for Science and Resources  
The Hon. Martyn John Evans MP

Shadow Minister for Defence Science and Personnel and Shadow Minister for Forestry and Conservation  
Mr Laurie Donald Thomas Ferguson MP

Shadow Minister for Regional Development, Infrastructure, Transport, Regional Services and Population  
Mr Martin John Ferguson MP

Shadow Minister for Small Business and Tourism  
Mr Joel Andrew Fitzgibbon MP

Shadow Minister for Employment and Training  
Ms Cheryl Kernot MP

Shadow Minister for Justice and Customs and Shadow Minister Assisting the Shadow Minister for Population  
The Hon. Duncan James Colquhoun Kerr MP

Shadow Minister for Industry, Innovation and Technology and Shadow Minister for the Status of Women  
The Hon. Dr Carmen Mary Lawrence MP

Shadow Minister for Education  
The Hon. Michael John Lee MP

Shadow Minister for Sport and Youth Affairs and Shadow Minister Assisting the Shadow Minister for Industry, Innovation and Technology on Information Technology  
Senator Kate Alexandra Lundy
### Shadow Ministry—continued

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<tr>
<td>Shadow Attorney-General</td>
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<td>Shadow Minister for Regional Services, Territories and Local Government</td>
<td>Senator Susan Mary Mackay</td>
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<td>Shadow Minister for Aboriginal and Torres Strait Islander Affairs</td>
<td>The Hon. Robert Francis McMullan MP</td>
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<td>Shadow Minister for Reconciliation, Shadow Minister for the Arts</td>
<td>The Hon. Robert Francis McMullan MP</td>
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<td>Shadow Minister for the Arts and Manager of Opposition Business</td>
<td>The Hon. Robert Francis McMullan MP</td>
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<tr>
<td>Shadow Minister for Health</td>
<td>Ms Jennifer Louise Macklin MP</td>
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<td>The Hon. Dr Stephen Paul Martin MP</td>
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Tuesday, 6 February 2001

The PRESIDENT (Senator the Hon. Margaret Reid) took the chair at 2.00 p.m., and read prayers.

MINISTERIAL ARRANGEMENTS

Senator HILL (South Australia—Leader of the Government in the Senate) (2.00 p.m.)—by leave—Since the Senate last met, Senator the Hon. Jocelyn Newman and Senator the Hon. John Herron have retired from the ministry.

Opposition senators interjecting—

Senator HILL—We will all miss their succinct and informative answers. Consequent upon their resignations and the resignation of the Hon. John Moore, on 19 December the Prime Minister proposed a number of ministerial changes. Among them was the promotion of Senator the Hon. Amanda Vanstone to the cabinet and the promotion of Senator the Hon. Eric Abetz from Parliamentary Secretary to the Minister for Defence to Special Minister of State. For the information of honourable senators, I table an updated list of the full ministry. I also inform the Senate that ill health will cause the absence from parliament for some weeks of the Minister for Finance and Administration, the Hon. John Fahey. I am sure we all send him our best wishes. During that time, the Assistant Treasurer, Senator the Hon. Rod Kemp, will act as Minister for Finance and Administration—

Opposition senators interjecting—

Senator HILL—And very ably, I am sure. Senator Kemp will answer questions on matters within the Finance and Administration portfolio, except those which are the responsibility of the Special Minister of State, Senator the Hon. Eric Abetz.

QUESTIONS WITHOUT NOTICE

Information Technology: Outsourcing

Senator LUNDY (2.02 p.m.)—My question is to Senator Kemp, Acting Minister for Finance and Administration. Why did the government, in deciding to proceed with its IT outsourcing initiative in 1997, ignore the advice of 22 government departments and agencies, all of whom identified serious problems with the government’s proposals? Isn’t it true that these departments warned the government against the centralised control model of IT outsourcing and disputed the government’s claims of $1 billion in cost savings? Haven’t these criticisms been vindicated by both the Auditor-General and Mr Humphry? Can the minister explain why it took the government three years to heed the overwhelming advice of its own departments and agencies?

Senator KEMP—Thank you to Senator Lundy for that question. Senator Lundy referred to the Humphry review. I am not sure whether Senator Lundy has in fact read that carefully because the truth of the matter is—

Senator Lundy interjecting—

Senator KEMP—I do not think you have because the actual review, Senator, was very critical of the Labor Party’s approaches in this area.

The PRESIDENT—Senator Kemp, your remarks should not be directed across the chamber.

Senator KEMP—Among other things, and the review said many things, it said:

The Initiative developed from a range of Government policies focusing on information technology outsourcing dating back to the early 1990’s. Although various efforts were made to encourage agencies to outsource their IT infrastructure very few outsourced ...

In other words, while the Labor Party was in government, while Senator Lundy’s colleagues were in government, they adopted a policy of outsourcing but the fact of the matter is that very few agencies in fact outsourced. He went on to say:

...very few arrangements had been put in place up to the commencement of the Initiative. While there are differing views as to why there was little acceptance of IT outsourcing during the first half of the nineties—

that is during the Labor term of office—

it is widely accepted that agencies’ inertia and resistance to change contributed significantly to the delays.
That provides the background for the initiative that the government took. There was a Labor Party policy and yes, from time to time there are Labor Party policies. This policy was in fact failing to deliver and so the government, as Senator Lundy mentioned, announced that it would put into effect new arrangements. Since the original initiative there has been a review and the government is responding to that review. From what Senator Lundy said in relation to savings—that was one of the issues that Senator Lundy raised—one would have thought that in fact there were no savings at all from the outsourcing initiative. That is not true. It is an irrefutable fact that the IT outsourcing contracts let to date have delivered significant savings. Senator Lundy, to Australian taxpayers—by any measure. This was of course referred to in the Humphry review, which noted:

There is broad agreement that ... the Initiative has delivered significant savings ...

That is what the review found, Senator Lundy. This fact was also confirmed in a recent Senate estimates hearings by the Auditor-General, who stated that on the face of ANAO's arithmetic, there have still been significant savings from IT outsourcing.

So the proposition that Senator Lundy puts to the Senate—that there were no savings from IT outsourcing—is in fact quite baseless. I am sorry, Senator Lundy. You do not appear to me to have read the Humphry report with the detail that one would have expected from you. The fact of the matter is that the government has projected, on the basis of methodologies determined in accordance with expert advice and following consultation with agencies—including, I might say, the Department of Finance and Administration and Treasury—that IT outsourcing contracts let to date should save taxpayers around $365 million over five years. That is the advice that I have received. (Time expired)

Senator LUNDY—Madam President, I ask a supplementary question. Can the minister confirm that the views of the many government departments and agencies that had serious reservations about the IT outsourcing initiative have now been vindicated by both the Auditor-General and Mr Humphry? Can the minister therefore confirm that the government will be ignoring the vindictive implication by Mr Fahey that secretaries to departments who fail to proceed with IT outsourcing will have their performance pay cut?

Senator KEMP—I regret to say that I do not think Senator Lundy listened carefully to the detail in the response that I gave to her. I explained to her that there was an IT outsourcing policy under Labor and that—surprise, surprise—that policy had failed. I then explained to Senator Lundy the procedures which Mr Fahey put in place to advance IT outsourcing. I then mentioned that there was a review and that the Humphry review confirmed that there were savings from IT outsourcing. The Humphry review also proposed certain changes. The government looks very closely at constructive suggestions, Senator Lundy, unlike the pathetic attempt at political point scoring that we often receive from you. Following the government’s response to the recommendations of the Humphry review, agency heads now have responsibility for overseeing their agency’s IT outsourcing and maximising the potential benefits from that outsourcing. (Time expired)

Howard Government: Economic Management

Senator PAYNE (2.07 p.m.)—My question without notice is to the Leader of the Government in the Senate and Minister for the Environment and Heritage, Senator Hill. Will the minister advise the Senate of how the responsible economic management of the Howard government will enable major new investments in higher education, research and innovation, better roads, the environment and the defence of our nation? Is the minister aware of any alternative funding policies?

Senator HILL—The linkage between good economic management and being able to invest wisely for the future is vitally important. Under the Howard government we have seen a significantly stronger economy. Australian businesses have enjoyed a low
inflation, low interest rate environment which has allowed them to grow and to create jobs. In fact, almost 800,000 new jobs have been created since the Howard government was first elected. Compare that with the appalling record of Labor, which topped one million unemployed Australians.

Economic growth has been above four per cent for 14 consecutive quarters—a stunning result, particularly in light of the Asian economic crisis. We have been able to deliver such strong growth because our government brought the budget back into surplus. We know Labor’s appalling mismanagement in relation to surpluses and deficits. In the lead-up to the 1996 election, both Mr Beazley and Senator Cook promised the Australian people that the budget was in surplus.

Senator Bolkus interjecting—

The PRESIDENT—Order! Shouting is disorderly.

Senator HILL—It was not; in fact, they left for the succeeding government a deficit exceeding $10 billion and accumulated debts of around $80 billion from their last five years in government alone.

Because we took the hard decisions to get the budget back into surplus we can now invest wisely and prudently in a range of important policy areas. In recent months we have laid down detailed policy programs which tell the public what we expect to achieve and how we will pay for it. We have committed $700 million to a national salinity and water action plan to tackle our nation’s most important environmental challenge.

Senator Bolkus interjecting—

The PRESIDENT—Order! You are interjecting. You are disorderly.

Senator HILL—We have put down a visionary blueprint for strengthening our nation’s defence forces which will see some $23 billion invested over the next 10 years. We are meeting the challenge of providing better roads with a $1.6 billion road funding package, which includes an estimated $850 million for rural and regional areas where the need for improvement is greatest. Last week the Prime Minister unveiled a $2.9 billion action plan to promote innovation and research in Australia. The plan provides increased funding for the Australian Research Council, research infrastructure, higher education and support for business, research and development. This is a government of new ideas, backed with the economic management skills to pay for them.

Senator Bolkus interjecting—

The PRESIDENT—Order! Senator Bolkus, you have been interjecting since the answer started. Your behaviour is disorderly. You know the standing orders. If you wish to debate the matter, you can do it at the appropriate time.

Senator HILL—Madam President, I was just saying that this is a government with new ideas, backed with sound economic management skills that will pay for them. Contrast that with Labor—not only their appalling record, but what do they offer for the future? No promises. Five years in opposition and no policies, no alternative direction and a proven record of being unable to pay for them. In the end, what will Labor do? They will say they will spend more on just about everything: health, education, rollback. The list will be endless. Then, of course, if they ever get into government, what will they do? They will drop the promises, they will put up taxes and that will be the end of the story. What a contrast between a government with a sound record and a program for the future and a pitiful opposition that has no policies, no alternatives and no capacity to pay for them after five years of opposition.

Senator Carr—You could not even answer your own Dorothy.

Senator Cook—Tell us about the meeting yesterday?

The PRESIDENT—I remind Labor senators that one of your colleagues is seeking to ask a question.

Information Technology: Outsourcing

Senator WEST (2.14 p.m.)—Thank you, Madam President. My question is to Senator Kemp, the Acting Minister for Finance and Administration. Is it true that the Humphry review into IT outsourcing recommended
that the outsourcing of Centrelink and the Department of Family and Community Services should not proceed until the Centrelink board is satisfied that the transition and implementation risks can be effectively managed? Given the decision by Centrelink and the Department of Family and Community Services to reject the whole of government IT outsourcing initiative and to discontinue the existing tender, does this mean that these agencies would have been exposed to unacceptable risks and liabilities had they continued under the government's outsourcing program?

Senator KEMP—Thank you, Senator West, for that question. My first comment, as an aside, is that the opposition has certainly dropped Senator Lundy from the list quickly in relation to IT outsourcing. Senator West, in response to your question, let me make it clear that responsibility for the group 1 and group 2 tender processes was transferred to the relevant agencies in accordance with the government's response to the Humphry report. Accordingly, it is not for me to assess the agencies' decisions going forward. However, let me make it clear that the government has reaffirmed its commitment to IT outsourcing and that each of these agencies has committed to implementing the government's policy.

This policy requires Commonwealth agencies to obtain value for money IT, including savings, and to maximise Australian industry development outcomes. Agency heads will be directly accountable for achieving these objectives within a reasonable time frame, grouping wherever possible to establish economies of scale required to maximise outcomes. The accountability of agency heads for maximising services for value for money and industry development will now be monitored through annual assessments by the Secretary to the Department of the Prime Minister and Cabinet and the Public Service Commissioner and are reported publicly through the annual State of the service report and in individual agencies' annual reports.

Senator WEST—Madam President, I ask a supplementary question. Does the government support the determination by Centrelink's board to explore strategic sourcing and pursue best practice principles and outsourcing of IT expertise? Does the minister acknowledge that this is further proof that the Commonwealth agencies and departments have been placed at great risk by the government's ideologically driven outsourcing program?

Senator KEMP—Senator West may not have been well informed when she was given this question, but IT outsourcing was Labor Party policy too. This issue was dealt with extensively in the Humphry report. The Humphry report pointed to the failure of the Labor government in relation to IT outsourcing. I think I did in fact answer that question, Senator West. Let me make it clear that the government's policy requires Commonwealth agencies to obtain value for money IT, including savings, and maximise Australian industry development outcomes. Agency heads will be directly accountable for achieving these objectives within a reasonable time frame. We have made it clear that the responsibility has been transferred to the relevant agencies in accordance with the government's response to the Humphry report. (Time expired)

Science and Innovation

Senator FERGUSON (2.18 p.m.)—My question is to the Minister for Industry, Science and Resources, Senator Minchin. Can the minister advise the Senate what the government is doing to further support innovation and increase investment in science and technology to create internationally competitive business, new jobs and exports? Is the minister aware of any alternative policies?

Senator MINCHIN—I thank Senator Ferguson for that very pertinent and very important question. As Senator Hill noted, last week the Prime Minister did launch our plan to support Australian innovation. That plan commits the government to an additional spend of $2.9 billion over the next five years—the biggest single investment in science and innovation ever undertaken by any Australian government.

Honourable senators interjecting—
The PRESIDENT—Order! I call the Senate to order. Interjecting in that nature is disorderly.

Senator MINCHIN—This plan is, of course, the result of over two years of very intensive consultation and preparation with industry in particular, the science and academic communities, including the Innovation Summit held last year, and the reports from Dr Batterham and David Miles. At its core, this plan is about investing in Australian ideas and their commercialisation and turning those ideas into Australian jobs. It very much builds on our reforms in industrial relations and taxation, because what we are about is a stronger, more competitive Australian economy. It also builds on our very strong support for science and innovation already, including the establishment of Biotechnology Australia and the fact that we doubled funding for health and medical research with an additional $600 million. In this financial year, before this spending kicks in, we are spending a record $4.5 billion on science and innovation.

The key initiatives in the plan released last week were the doubling of funding for the Australian Research Council grants, boosting the very good CRC program by 80 per cent, at a cost of $227 million, and a range of incentives for additional business research and development. We have a new 175 per cent tax concession rate for additional R&D, a cash rebate for small business and, of course, we are continuing the very successful R&D Start Program, which provides grants for R&D to small and medium sized enterprises. One of our most successful new programs, the COMET program, which assists companies to commercialise their skills and ideas, is being doubled. We are establishing world-class centres of excellence in biotechnology and, very importantly, in information and communications technology, which Senator Alston has pushed very strongly, to support these key emerging technologies and, of course, there is a very substantial increase in funding for university infrastructure to boost their science research.

As you would expect, this package has been very warmly welcomed by the science community. The chief executive of the CSIRO has described the plan as ‘good for science, good for business, and definitely good for Australia’. The chair of the Australian Research Council, Vicki Sara, said that it ‘thrusts Australia forward in the global innovation race’ and is ‘quite superb’. The Australian Industry Group said that it ‘comprehensively addressed the key elements needed to strengthen Australia’s innovation system’. The Business Council applauded it as a ‘major step forward which is very closely targeted’. The chair of the Cooperative Research Centre Association has said that it ‘exceeded all expectations’.

As Senator Hill said, this investment—the biggest ever—is possible only because we got rid of Labor’s deficits and we have got the government’s budget back into surplus. That means that we can make these investments which could not be made previously. What is the alternative to our plan? We have a policy-lazy opposition. All it has had is some slogan, and it runs around mantra-ing that slogan. It has now released last week, which did not last more than five minutes, a half-baked policy for an online university, which has sunk without a trace and been panned by most commentators. Labor has had five years to develop policies on science and innovation, it has preached the knowledge nation but there is absolutely nothing to back it up except a feeble target and an online university. (Time expired)

Information Technology: Outsourcing

Senator LUNDY (2.22 p.m.)—My question is again to Senator Kemp, the Acting Minister for Finance and Administration. Can the minister advise the Senate whether the decision by the Department of Family and Community Services and Centrelink to reject the government’s mandated IT outsourcing program and to call for fresh tenders for group 1 exposes the government’s responsibility and liability for the disruption and costs imposed on departments and agencies to date? Doesn’t their move to abandon the IT outsourcing program also
Senator KEMP—Senator Lundy spoke about costs involved. Let me just read from the Humphry report.

Senator Lundy—If you haven’t got advice, you should have.

Senator KEMP—Senator Lundy, please contain yourself. I am just going to read from the Humphry report, which you quoted. Senator Lundy spoke about costs. The Humphry report states:

There is broad agreement that, in the aggregate, the Initiative has delivered significant savings, however there is a divergence of opinion as to the precise quantum.

You talk about costs, Senator Lundy; the Humphry report talks about savings. That was the point you made. I have indicated, in relation to Senator West’s comment—

Senator Lundy interjecting—

Senator KEMP—Senator Lundy, the truth of the matter is that you have been comprehensively wrong on this for a long time. You have gone around talking about costs when the Humphry report—which you seem to be relying on and which is an important and valuable report—points out that there are significant savings. On a key factual matter, Senator Lundy, you are wrong.

Responsibility for the group 1 and group 2 tender processes, which were referred to by Senator Lundy, was transferred, as I mentioned in relation to Senator West’s question, to the relevant agencies. Let me make it clear that it is not for me to assess these agencies’ decisions going forward. The agencies will make their particular decisions. From the government’s perspective—and I think this is important, Senator Lundy—the government has reaffirmed its commitment to IT outsourcing, and each of these agencies has committed to implementing the government’s policy.

Senator Lundy—Madam President, I raise a point of order on relevance. I asked a very specific question of the minister and I am still waiting for an answer.

The PRESIDENT—There were three questions in the question. The minister is dealing with part of it but maybe not the part you wanted.

Senator KEMP—I actually made the point. Senator Lundy spoke about costs and I pointed to the fact that the Humphry report spoke about savings. There is quite a significant difference.

Senator Lundy interjecting—

Senator KEMP—If you did not want me to answer that part of the question, Senator Lundy, why did you raise it? That is the problem. If you want to raise these questions, you will excuse me if I try to answer them. I am only trying to be helpful. Then there was a discussion, in Senator Lundy’s question, about the agencies’ approach to this: what will the agencies be seeking to do? Senator Lundy wants policy to be devolved to the agencies. We have followed the recommendation of the Humphry report. I would assume that you would agree with that proposal, and the government has accepted that, as I have said.

Then we spoke about the relevance of the agencies and their role. I am making the point that government policy requires Commonwealth agencies to obtain value for money for IT and to maximise industry development outcomes. I make the point again that agency heads will be directly accountable for achieving these particular objectives. Accountability of agency heads for maximising objectives of value for money and industry development will now be monitored.

I am a bit surprised at the tenor of this question, because I would have thought that this was an approach that Senator Lundy would have supported. The government supports the recommendation from the Humphry committee, and now we get a question from Senator Lundy which, if you read into it, seems to imply that she does not. The Labor Party has a record of total confusion on policy, Senator Lundy. I regret to say that you, with your approach, tend to typify that.
Senator Lundy—I would like to re-ask my question: does the government accept liability for costs incurred by both companies and government agencies and departments for the disruption as a result of that group 1 tender not being proceeded with? That was the question; I am still waiting for an answer. I also ask a supplementary question: will the government be refunding to Commonwealth departments and agencies the budget cuts which were imposed on them in anticipation of savings that have been exposed by both the Auditor-General and the Humphry review as being virtually non-existent? Perhaps you could tackle that, Minister.

Senator Kemp—I think I have said this three times, Senator Lundy. I will read from the Humphry report. You spoke about costs to agencies. Let me read from the Humphry report. I refer you to page 9 of the Humphry report, Senator Lundy. Could you turn to page 9 so that you can see that I am not misquoting? It says:

There is broad agreement that, in the aggregate, the Initiative has delivered significant savings...

Senator Robert Ray—How much?

Senator Kemp—That was not the question, Senator Ray. You spoke about costs to agencies, but you have not actually read the Humphry report. It speaks about savings; you speak about costs. Senator Lundy, with great politeness and courtesy—which I think is typical of my approach to Senate question time—I refer you to page 9 of the report entitled Review of the whole of government information technology outsourcing initiative, under the heading 'Key conclusions'. I think you would find that of great interest.

Senator Greig—Madam President, I ask a supplementary question. Could Senator Hill also confirm whether Minister Tuckey recently paid $50,000 in taxpayers' funds to a scientist to produce a report in favour of the advocacy of logging in old-growth forests, a report which I am led to believe will be released just in time for the Western Australian state election? I ask the minister: has he seen this report and does he agree with its findings?

Senator Hill—Again I am puzzled. If we are talking about a report which the honourable senator said was to be released just in time for the Western Australian election, I would have thought that it would have been released by now and that we all would have seen it. I do not know of any such report. Certainly Mr Tuckey has a responsibility in relation to sustainable management of Australia's native forests as well as plantation forests and no doubt engages a number of consultants to assist him in that regard. If the honourable senator will give me some further guidance, such as the name of the apparent

Timber Industry: Western Australia

Senator Greig (2.29 p.m.)—My question is to Senator Hill, the Minister representing the Minister for Forestry and Conservation, Mr Tuckey. Is the minister aware of reports which claim that the minister for forestry, Mr Tuckey, has threatened to withdraw Commonwealth funding for timber industry restructuring should the coalition lose government in Western Australia on Saturday, 10 February? Given that Minister Tuckey made the same or a similar threat against the Beattie government and subsequently carried out that threat, can the minister confirm that these threats and actions by Minister Tuckey have the support and cooperation of the government?
author, or some other assistance in order to trace this report, I will do my best to do so.

**Information Technology: Outsourcing**

Senator CONROY (2.33 p.m.)—My question is to Senator Kemp, the Acting Minister for Finance and Administration. Can the minister confirm that the Department of Finance and Administration is unable to provide the Senate Finance and Public Administration committee with copies of the submissions to the Humphry review of IT outsourcing because the submissions have been returned to the submitters, with no copies having been retained by either the department or the minister’s office? Is the minister aware that these submissions are Commonwealth records and, as such, are subject to the Archives Act? Can the minister assure the Senate that these records have been handled in accordance with the requirements of that act? If it transpires that the act has been breached, will he assure the Senate that remedial action will be immediately taken?

Senator KEMP—Thank you, Senator Conroy, for that question. I make it clear to Senator Conroy that the department was not responsible for the record keeping procedures set in place by the Humphry review.

Senator Lundy—It was so. You be very careful here because you are misleading the Senate.

Senator KEMP—Madam President, I am under attack again. This is the advice that I have received, Senator Lundy. If you have alternative advice, I guess we will have a long debate on this in the estimates. We could take up many happy hours with you on this issue. Indeed, I am sure we will. I am absolutely dead sure we will.

Let me look at the advice that I have been given. My understanding is that the Department of Finance and Administration was not responsible for the record keeping procedures set in place by the Humphry review. The independent review of the government’s IT outsourcing initiative was commissioned by the Minister for Finance and Administration. The independent reviewer, Mr Richard Humphry, had complete latitude to conduct the review as he saw fit.

Senator Jacinta Collins—What about the submissions?

Senator KEMP—That is what you would have expected. You would have supported that. Mr Humphry’s administration of the review was independent of the department. Senator Conroy, I suggest that if you have any questions in relation to the submissions, you may like to put those to Mr Humphry. It was his review, and it was he who was responsible. If you wish to pursue questions on that matter, I can only urge you to put that to Mr Humphry.

Senator Conroy—I almost feel sorry for you.

Senator KEMP—Senator Conroy feels sorry for me. Senator Conroy, after the reports on you in the newspapers in the last week, I would not be sleeping too easily if I were you. Madam President, I was diverted by Senator Conroy. Senator Conroy made some comments that various acts of parliament had been breached. Senator Conroy’s record on these issues shows, frankly, that his advice on these matters has not always found to be sound. Out of courtesy—

Senator Conroy interjecting—

Senator KEMP—I make the point that it was an independent review, Senator Ray, and this is the advice I have received. Senator Conroy, I will seek some further advice on the other matters you have raised. I would have to say that, given your record on misleading the Senate and making wild and outrageous statements, prima facie it is probably not correct; but let me follow this through on your behalf.
The PRESIDENT—Senator Kemp, you should withdraw the allegation that the senator has misled the Senate wilfully.

Senator KEMP—Madam President, if I have offended the feelings of Senator Conroy, I certainly withdraw it.

The PRESIDENT—Is that withdrawn, Senator?

Senator KEMP—Certainly. I withdraw.

Senator CONROY—My supplementary question is this, just to follow up on the minister’s answer. Will the minister seek advice on the whereabouts of the submissions and on the issue of whether the department’s handling of these records is in accordance with the Archives Act, and report back to the Senate? That is the point.

Senator KEMP—That was the point. I think that point was in fact answered by me—

Opposition senators interjecting—

Senator KEMP—Thank you very much—and very clearly.

Senator Ellison interjecting—

Senator KEMP—I do not think I appreciate that comment, Senator! Let me make it clear to Senator Conroy that my understanding and my advice is that the department has not been in possession of, nor has it had access to, any of the submissions to the Humphry review. I have got some good news for Senator Conroy, and he might like to put it in his diary. My advice is that Mr Humphry will be appearing before the Senate inquiry on Wednesday evening and, if you can manage to get the odd question in—in between those which are being asked by Senator Lundy—I urge you to do that. That is one of the very questions that perhaps Mr Humphry can take on notice, and he could be advised that you will be asking him that question.

Indonesia: Human Rights Violations

Senator HARRADINE (2.39 p.m.)—My question is to the Leader of the Government in the Senate, representing the Minister for Foreign Affairs. It comes from someone who has a very, very longstanding friendship with Indonesia and its people. Is the government fully aware of the gross violations in the Maluku Islands and some other parts of Indonesia, perpetrated by Laskar Jihid, the Mujahidun and associated thugs? Do those violations include coercing thousands of Christians to convert to Islam under the threat of torture, loss of property and death, and the forced circumcision of large numbers of people—including large numbers of women, some as old as 70 years of age, and an eighth-month pregnant woman? What steps has the government taken to express the concerns of the people of Australia to Indonesia about these gross violations of human rights, and what is Indonesia doing about it?

Senator HILL—The provinces of Maluku, as we all know, have been greatly troubled of recent times. In fact, there are reports that up to 5,000 may have been killed and perhaps up to 400,000 displaced. Australia obviously regrets the personal injury, loss of life and destruction of property that have occurred. We have frequently made our concerns known to the Indonesian authorities at the highest level. Most recently, an embassy team visited the provinces in November and met senior government officials as well as church leaders and NGO representatives. These representations urged restraint by security forces and protection for human rights of all residents in the province. Australia has committed substantial humanitarian relief of over $6.4 million over a period of about the past 18 months, mostly for food and medical aid, and we stand by to offer more as the situation stabilises. We are appalled by the many claims of violations of fundamental human rights that we are hearing in relation to the circumstances of Maluku, including that relating to abuse of religious freedom.

Apart from our representations—and Senator Harradine asks whether we know of any actions that might be occurring that could give a hope of leading to stability and the reduction of these abuses—all I can advise Senator Harradine is that I understand that the governor of Maluku is planning a conference for March to bring leaders of each side together. A presidential working group on Maluku was
to have met, and I presume it did, on 1 February to identify the issues which are perpetuating the conflict, with a view to identifying solutions. Many visits of course have been made, including three from the Indonesian vice-president to the province, again looking for ways to bring about stability and a reduction in the violence that is occurring. So yes, we have heard these awful allegations. We regret what is occurring. We are seeking to do what is within our capacity to influence an end to these abuses. We are offering humanitarian assistance in the meantime, and we will continue to look for other ways in which we can be of help.

Senator HARRADINE—I have a short supplementary question. The board of lawyers of Ambon churches has pointed out that in Bacan 1,300 Christians have been forced to convert. Isn’t that an island quite close to Irian Jaya? Has that been brought to the attention of the Indonesian authorities—the sensitivities in Irian Jaya—from the Christians there?

Senator HILL—I will have to refer that back to the minister and see if I can get some information.

Electoral Matters: Member for Longman

Senator O’BRIEN (2.44 p.m.)—My question is also to Senator Hill, representing the Prime Minister. Can the Leader of the Government advise the Senate what action is being taken to test the veracity of the allegation that Mr Brough was informed of a fraudulent electoral enrolment by a then member of his staff and failed to take any action? Given that there has been no suggestion that Mr Brough was informed before the event, and given that this particular allegation would not be within the scope of the police investigation, how is the government proposing to resolve this issue?

Senator HILL—I do not know the scope of the police investigation, and I would be reluctant to therefore speculate on what might or might not be included within that investigation. I would urge the honourable senator to show restraint until such investigations are completed. If he wants to make a political issue thereafter, he of course is able to do so, but it might be more than matched by political issues on the other side.

Senator O’BRIEN—In asking a supplementary question, perhaps I can make the matter a little more clear for Senator Hill. Isn’t it the case that Mr Brough has publicly acknowledged that his staff were responsible for fraudulent enrolments? So this is hardly the issue. What is at issue is whether Mr Brough was informed of the enrolments and failed to take any action about them. Again I ask: how is the government going to have this question resolved?

Senator HILL—As I said, there is a police investigation—Opposition senators interjecting—

Senator HILL—The Labor Party tells me they are not investigating that aspect. I do not know the scope of the police investigation, and I am not going to speculate on matters that may or may not be included within it. When the police investigation is completed, it would be a more appropriate time for the Labor Party to pursue its political objective, if that is what it wishes to do.

Innovation Action Plan: Backing Australia’s Ability

Senator COONAN (2.46 p.m.)—My question is to the Minister for Communications, Information Technology and the Arts, Senator Alston. Will the minister inform the Senate how the federal government’s historic $2.9 billion innovation action plan, Backing Australia’s Ability, will spur activity in the crucial information and communications technology sector? Is the minister aware of any alternative policy approaches, and what would be the impact if these were implemented?

Senator ALSTON—It certainly is an historic package, as Senator Coonan indicated, and a great deal of the credit for that should go to my colleague Senator Minchin. But it is particularly important, I think, to note that it is a very comprehensive package designed to ensure that Australia is very well placed on the world scale. What we have done here is to boost not only basic scientific research but also applied areas, particularly
areas which lend themselves to commercialisation and areas that are particularly at the leading edge, like information and communications technology. The doubling of the ARC grants, for example, has already funded special research centres like the quantum computing laboratory, and the funding for cooperative research centres has led to the hugely successful photonics CRC.

What we are really seeing now is a quantum leap beyond those very successful programs to establishing a world leading ICT research centre of expertise which will provide a globally recognised capacity, will attract the best and brightest from around the world, will ensure that many leading Australian researchers stay in this country and will provide the opportunity for clustering and networking on the part of major Australian IT and multinational companies. It is particularly important that that ICT centre of excellence is one that will be able to accommodate the various activities that are already occurring around Australia. For the government to be putting $129 million into that ICT centre of excellence, combined with $45 million into a biotech centre of excellence, shows that we are very serious indeed. Of course we drew very extensively on the report of the Chief Scientist, who said that centres of excellence are extremely expensive and highly specialised laboratories which provide leading edge research capabilities. He said that they have very significant cost and are of a specialised nature. In other words, he spelt out very clearly what a centre of excellence is all about.

Those who paid attention to what Mr Beazley said at the Press Club a few weeks back probably could not believe their ears, because what he did was to get out there and say that every school in Australia is going to be a centre of excellence. He was not game to go on the 7.30 Report to explain himself, so he sent along Dr Lawrence, who of course has no idea about these issues. She basically tried to hold the line, saying that Labor’s online university could be funded and promising 100,000 places within 10 years, but all subject to budgetary considerations and not taking account of the fact that places like Charles Sturt University and the University of Southern Queensland, having gone down this track in recent years very successfully indeed, have expressed very real concerns about the Labor proposal. In fact, they have been highly critical of it. The Vice-Chancellor of the University of Southern Queensland said:

USQ and other universities like us possess a great investment already in online education. One would like to think there would not be the need to create a separate institution.

Of course this is one of the universities that Mr Beazley pointed to. So that is a classic own goal.

What is extraordinary of course is that Mr Beazley uses these rhetorical flourishes to try to cover up for the fact that Knowledge Nation is still a two-word policy. They are not interested in serious initiatives; they are not trying to address Australia’s leading edge research capability; they are simply interested in putting a few words on the table and hoping that they can surf into government by being a policy-lazy opposition. This has to be the high watermark of it: to confuse centres of excellence—leading edge research institutions—with saying every school in Australia is going to be one just reduces words to meaningless concepts and makes it plain that they have no idea, no commitment and no interest in policy formulation; they are simply interested in trying to scrape through. The contrast could not be starker. We are off and running; Labor has not even showed the slightest—(Time expired)

**Senator COONAN**—I ask a supplementary question, Madam President. The minister has informed the Senate of special research centres and the ICT centre of excellence. Are there any other aspects of this innovation action plan which will encourage information and communication research?

**Senator ALSTON**—The initiative in relation to 2000 additional university places will give special priority to ICT mathematics and science, as it should. That will be a major step forward. The changes to the immigration regime that will allow students who are already studying in those areas to stay
here and apply for long-term residence will also be very important indeed. Of course, the funding to the ARC program is designed to capitalise on those areas where Australia already has a competitive and comparative advantage, and that quintessentially applies to the ICT sector.

So that is why this is such a squandered opportunity on the part of the Labor Party. They tell the Sydney Morning Herald that they are going to gazump the government’s innovation statement and Mr Beazley trots along to the Press Club, comes up with the most inane nonsense, criticises us and says that we have taken out $5 million and we are only putting back $3 million. They are asked whether they will fund the other two and they say, ‘It depends what time frame you’re talking about.’ Nothing is serious in this game. (Time expired)

Information Technology: Outsourcing

Senator GEORGE CAMPBELL (2.53 p.m.)—My question is to Senator Kemp, Acting Minister for Finance and Administration. Can the minister explain why the Auditor-General, according to his report into IT outsourcing, was:

... unable to locate any Commonwealth record of the selection process used to initially identify and engage the Strategic Adviser—the US consultants, Shaw Pittman—nor was there any evidence of a contract being signed.

How is it that over $7 million of taxpayers’ money was paid to Shaw Pittman between June 1996 and June 1998, not only without having engaged in a competitive tender process but also without even a written contract between the government and the consultants? Isn’t this in direct contravention of the department of finance’s own procurement guidelines?

Senator KEMP—I thank Senator Campbell for that question. At one stage I thought Senator Campbell did not have a question to ask, but I am glad it was passed back to him. I have some advice on the matters that were raised by Senator Campbell. Let me say as a preliminary point that the appointment of Shaw Pittman has been discussed ad nau-seam in this chamber. Perhaps we can try, once more for the record, some of the matters which were touched on in the question.

Shaw Pittman was engaged by the former Office of Government Information Technology in 1996. The appointment was made by the former Chief Government Information Officer, who was himself appointed by the former Labor government. Do you understand that? He was appointed by the former Labor government. OASITO, who assumed responsibility for IT outsourcing after OGIT, conducted a full competitive process for the consultancy in 1998. The advice I have is that the competitive selection process, which involved consultancy firms from Australia and around the world, identified Shaw Pittman as the best firm for the job. Seventeen firms were invited to tender; 10 sought the role and seven were interviewed. The selection committee—which included two senior businessmen from the commercial sector—approved the selection of Shaw Pittman as representing the best value for money for the Commonwealth. The panel explicitly considered the fee levels required by this firm, concluding that they still represented the best value for money. The private sector members, I am advised, remarked that it would be imprudent to forgo the best available advisers on a program of this scale, value and importance merely to reduce the input costs, which are small relative to the project’s benefits.

The fees paid to Shaw Pittman, however, were significant. The scale and importance of initiative required that OASITO sought the highest quality advice from experienced advisers in the field. The worldwide demand for these skills is considerable. Market rates for quality IT outsourcing are, consequently, higher than in some other industries. It was critical that high quality advice was procured to achieve the government’s objectives of improved service, cost savings, employment, industry development and investment. Undoubtedly, we will be going over all these issues at great length in Senate estimates. We have been through many of these questions before; I dare say that we will go through these questions again. As always, Senator
Campbell, we welcome any topic that you take an interest in.

Senator GEORGE CAMPBELL—Madam President, I ask a supplementary question. Can the minister explain to the taxpayers of Australia why a contract was awarded to Shaw Pittman from July 1998 to December 1998, despite Shaw Pittman’s price being 44 per cent higher than the next nearest bid? Perhaps the minister can explain how that represents best value for money.

Senator KEMP—I regret to say—and I am a bit surprised that I do have to say this—that Senator Campbell did not listen to the response that I gave to his first question. Senator, because I know of your great interest in this topic, I invite you to read the response that I gave to your first question. You will find that it actually covered the matters raised in your supplementary question.

Senator George Campbell—No, it did not.

Senator KEMP—I think you will find that it did. The nice, neat and short response—

Senator George Campbell interjecting—

Senator KEMP—Now, don’t get nasty. I refer you to the answer that I gave to your first question.

National Competition Council: Report

Senator MURRAY (2.59 p.m.)—My question is to Senator Hill, the Minister representing the Prime Minister. I refer to yesterday’s report by the National Competition Council. Does the government recognise the report’s ideological pursuit of questionable economic policy at the expense of a balanced view of social, environmental and community concerns? Can the government guarantee that my state of Western Australia will not be disadvantaged in federal grant payments if it fails to follow the ideological blueprint that the NCC insists on in the areas of rail freight, taxi licensing, water fees, grain and potato marketing, retail trading hours and liquor licensing?

Why should the citizens of Western Australia be punished by reduced federal grants if the community, through the Western Australian parliament, decides that social and community concerns override the narrowly ideological pursuits of the NCC? Who will decide this competition policy has gone far enough in Western Australia: the government of Western Australia or an unelected, ideologically driven, unrepresentative body?

Senator HILL—I will make a few comments, and I will also refer the question to the minister responsible to see whether he would wish to add to what I say. But I do think the honourable senator is somewhat unfair on the NCC. It operates within its charter. It has, as I recall, a statutory basis. Its purpose is to advise the government and the Treasurer on the performance of states in relation to various criteria. The overall objective, of course, is to encourage competition and therefore bring down costs and contribute to a stronger economy overall to the betterment of all Australians. That is the purpose and role of the NCC. Then it is up to the government to take that advice into account in making its final decision. Obviously all governments, in making such decisions, take into account other factors of the type that Senator Murray is referring to, which include social and environmental consequences.

We on this side of the chamber are seeking to build a sustainable economy in Australia. We are doing it through looking at not only the short-term economic goals but also the social consequences of actions and the environmental consequences. Out of that, we can be better assured that we will seek long-term gain rather than just short-term gain. But an important part of achieving that overall objective is to encourage competition. Thus, as I said, I think the honourable senator has been somewhat unfair in his representation of both the character and the role of the NCC, which has a difficult task but can contribute to overall sound decision making and the betterment of Australia.

Senator MURRAY—Madam President, I have a supplementary question. I thank the minister for offering a slight back door of hope to all of us. I ask the minister: does he confirm his opinion that it is perfectly valid
for the state of Western Australia to decide to itself regulate taxis, liquor sales, retail trading hours, agricultural marketing, rail, freight and water in the interests of the community and all businesses in Western Australia rather than in the interests of some big businesses? Does the minister accept the proposition that I am putting—that the opinions of the NCC should not be linked to penalties like the $3.8 billion reduction in states grants that they are threatening for all states in this country?

Senator HILL—Again, subject to correction, as I recall it, the states were a party to the agreement. This was under a COAG agreement in which the states agreed to an examination of the issues of competition for what they obviously saw to be a benefit to the people of that state. It may be looking at areas which Senator Murray believes are unnecessary, but I am sure Senator Murray would be the first to come into this place and applaud the work that the NCC is doing in encouraging sustainable water policy in Queensland—an area in which most of us would say there is still a long way to go. Certainly the role of the NCC, under the COAG agreement, is providing a significant influence towards the adoption of better policies in that regard. As I said, I will nevertheless refer the question to the Treasurer and see whether there is anything else he wants to add. Madam President, I ask that further questions be placed on the Notice Paper.

ANNERS TO QUESTIONS WITHOUT NOTICE

Aviation: Safety

Senator IAN MACDONALD (Queensland—Minister for Regional Services, Territories and Local Government) (3.04 p.m.)—On 7 December 2000, Senator Ludwig asked me a question in relation to Civil Aviation Order 48 in my capacity as Minister representing the Minister for Transport and Regional Services, Mr Anderson. Mr Anderson sought advice from the Civil Aviation Safety Authority. The information CASA has provided is relatively extensive, and accordingly I table it for the information of Senator Ludwig and other honourable senators.

Information Technology: Outsourcing

Senator LUNDY (Australian Capital Territory) (3.05 p.m.)—I move:

That the Senate take note of the answers given by the Assistant Treasurer (Senator Kemp), to questions without notice asked today relating to information technology outsourcing.

What a pitiful response there was today from the coalition government, which have had the opportunity to read two very interesting reports into IT outsourcing: that of the Australian National Audit Office and the Humphry review. But the best they can do in this chamber today is stand up and provide an inordinate amount of waffle. I believe there is a concerted effort on behalf of the government to now try to cover up what is an obvious debacle and a blatant misuse and waste of taxpayers’ money.

As many of those who are interested in IT outsourcing would know, there have been tens of millions of dollars wasted as a result of bad advice being provided to consultants with the implementation of this program. Indeed, we find that the departments and agencies which have become victim to it are suffering a terrible bottom line situation as they move to backfill the gap left by the money that has been wasted and spent on the IT outsourcing program. If the government think that tactics of obstruction, of trying to prevent documents coming to light and of standing here and providing no answers to specific questions asked by the opposition are the best ways to handle a government response to an obvious debacle, they are sadly mistaken.

Credibility is very important to any government, and what we have seen today is an absolute lack of it. There was a very important opportunity for the government to take up the issue of IT outsourcing and to explain to the Senate and to the public exactly what they are going to do. We know now that they are choosing not to clear the air and not to try and solve the problems. They are choosing instead to cover up the damage that they have done, to find a way to obfuscate questions and to avoid providing the answers in this place. There is overwhelming evidence of incompetence for which the minister has ultimate responsibility. These are not just the...
observations of an opposition consistently criticising a government for bad policy; there are now two reports—one provided independently by Richard Humphry and one provided by the Australian National Audit Office—which clearly expose the government’s mismanagement.

The government’s response to both of these reports is incredibly telling. The evidence of a cover-up lies in the government’s response to the Audit Office report, where the government actively prevented individual agencies—all of whom were critical of this program in the first instance—from responding individually to the issues raised in the Audit Office report. Instead, the department of finance decided to respond with a whole-of-government response and, as such, very little detail was provided as to how those agencies and departments were actually struggling with the policy. That was not good enough, and the government succumbed to further pressure and initiated its own inquiry, the Humphry report. It is the government’s response to that which shows that this cover-up has turned into a dramatic exercise in damage control.

The government’s very hasty acceptance of all of the Humphry report recommendations demonstrates that they are in trouble, beyond their ability to cope. Specific examples of the sensitivities of this IT debacle can be found in two areas, which I would like to mention today. They include the issue of cost savings. First of all, the Audit Office exposed the attempt by the department of finance to fudge the costing methodology and the prediction of savings. Once that was exposed, the Auditor-General’s office identified a formulation which was more accurate in estimating the savings. But what has not been said in this place is that those savings are indeed not bottom line savings; they are savings in relation to the costs of IT at the time of signing the contract. Just about every agency and department has required IT outsourcing products and services beyond that original scope. Therefore, there are no bottom line savings.

Finally, there is the use of consultants. We had an answer to a question without notice today that said there was a competitive tender. There was not a competitive tender back in 1996: that original contract was awarded without any tender and without any competitive process—and with what we presume to be the full knowledge of the minister at the time, Minister Fahey. We want some answers, and we deserve them now. (Time expired)

Senator WATSON (Tasmania) (3.10 p.m.)—I am indeed very happy to present the government’s position in relation to the report of the Humphry inquiry into IT outsourcing. In fact, I was surprised to hear Senator Lundy say just a moment ago that there are no bottom line savings. That runs counter to what the Auditor-General says and to the government’s own estimates. The recommendations are indeed an endorsement of the success of the program and also the vision of the minister for finance, Minister Fahey. To support these comments, let us refer to the findings in the report, in black and white, which we have before us:

- There is acceptance by all agencies’ senior management that IT outsourcing is an appropriate management approach to the business needs of agencies.
- There is broad agreement—and I stress the words ‘broad agreement’—that, in the aggregate, the Initiative has delivered significant savings...

In any project as ambitious, as complex and as technical as this, there are always going to be one or two little hiccups and a few problems. What we have heard from the Labor opposition is a concentration not on the broad thrust of the savings, the aggregate result, but on where one or two things in such a magnificent program have run into delays and problems. True, this is the prerogative of the ALP, their right, but we have to look at the big picture. We have to look at the overall result, and the Humphry report testifies to the success of the IT outsourcing program. That is what we are looking at now. I return to the findings in the report:
There is broad agreement that, in the aggregate, the Initiative has delivered significant savings, however there is a divergence of opinion as to the precise quantum. The lack of definitive guidance inherent in the Australian Accountant Standard AAS 17 has contributed to this divergence.

And that is what the Labor Party are concentrating on. They are concentrating on the minutiae rather than the big picture. I continue:

The debate over cost savings has tended to obscure—

Senator Conroy—Shame on you!

Senator WATSON—as you are tending to obscure—

other benefits that can arise from properly implemented outsourcing, such as wider access to technology and technical skills, strategic partnerships in a dynamic technical environment and the opportunity to manage capital expenditures more effectively.

Senator Conroy—Shame on you!

Senator WATSON—I am quoting from the report itself, a report that you say damns the Commonwealth initiative. The report says:

• The Initiative has contributed to the development of a body of knowledge within the Commonwealth on the process of issuing large IT outsourcing contracts.

The report then goes on to make an endorsement:

• The Initiative has been a successful catalyst for establishing an IT outsourcing market in Australia.

Something that the Labor Party for many years failed to deliver, John Fahey and the Howard government have delivered successfully to us. Let us look at the savings. They are indeed significant. The important thing is that this review has endorsed the government’s policy on IT outsourcing. It concludes that, while outsourcing represents a number of implementation risks that must be managed, the benefits of outsourcing are significant.

We have heard about criticism from the Auditor-General, but what did the Auditor-General say in relation to outsourcing? The Auditor-General confirmed in the recent Senate estimates committee—and I ask senators opposite to look at the Senate estimates transcript—that, on the face of the Australian National Audit Office arithmetic, there have still been significant savings from the IT initiative. So we have the $365 million that the government states, and then we have that figure there.

It has been said here in the Senate by those opposite that there was a loss. We have heard a lot of bunkum from the other side. We must look at the facts and the significant benefits that have flowed from this initiative. Australians will benefit from this for many years into the future. The agency under this initiative has matured a lot since this started, and we now have in place in Australia a very successful and sophisticated IT industry and market. (Time expired)

Senator CONROY (Victoria) (3.15 p.m.)—I feel sorry for two people who have made contributions today. The first is Senator Kemp. Senator Kemp is challenged in his own portfolio, but anyone watching or listening across the country would have found it sad to see him having to pick up and carry the can for John Fahey today. And then there was Senator Watson’s contribution. Senator Watson is a man of integrity, but I was disappointed to hear this man of integrity stand up today and try to defend the accounting fraud that this government and OASITO have perpetrated on the Australian public.

Senator Watson well knows that OASITO are the only agency in the Commonwealth which have got away with using methods in breach of the guidelines set by DOFA, their own controlling department. Senator Watson was in the room when the DOFA guidelines were held up by the Auditor-General and his staff and they said, ‘These are the guidelines promulgated by this government and this department about how you account for financial leases and operating leases.’ Senator Watson well knows that this is a technical, complex issue, and shame on you, Senator Watson, for siding with OASITO and the government on this one. You know the truth.
The DEPUTY PRESIDENT—Address the chair, please.

Senator CONROY—You know that the Auditor-General absolutely shafted the department on this one and exposed the untruths that were being told by OASITO. This is a program that has been out of control. This is a program that has failed on all counts. We have seen incompetence and lack of accountability. There was a question earlier about what Dun and Bradstreet were paid. This government is yet to fess up. I asked the department, but they do not want to tell us. They do not want to tell us how the department in charge of managing the money in this country once again failed to hedge. With the collapse of the Australian dollar, the amount paid to these overseas spivs, who have completely misled parliament, is more than this government is willing to admit.

We have seen a sorting of the accounting methods by OASITO, who sat there in front of a Senate estimates committee—which Senator Watson was a part of—and tried to tell us they were allowed to account in a different manner from the DOFA guidelines. Tomorrow night, as Senator Kemp has advised the Senate, they have to sit there next to the department and tell the department who controls them why they would not follow their guidelines. That is what is going to happen tomorrow night.

We have seen the government out sharpening its knives for Dr Boxall. We know Dr Boxall is one of the departmental heads that will roll, as was revealed today. Dr Boxall has been flashing his CV around the IMF to get his old job back because he knows he is going to have to pay the price for this government’s incompetence. This department is going to have to cover for the minister, the cabinet and, most importantly, the Prime Minister. Even under the dodgy accounting system being used by this department, we see the Prime Minister being told, ‘There is going to be no cost savings for group 5. Group 5 will actually be a loss to the government even under our bodgie accounting system.’ What did the Prime Minister do then? He rushed out a memo that said, ‘It doesn’t matter what the cost savings are. This is a directive from the government: you’ve got to mount the case not to outsource.’ That completely overturned the previous procedure.

We have seen the Humphry report, which was quoted extensively today but very selectively. We have departmental secretaries basically saying, ‘We’ve been forced to breach the Financial Management and Accountability Act.’ That is what they say to Humphry: ‘OASITO were out of control. We couldn’t bring them to heel. They rode over the top of us. They forced us to accept all these dodgy methods and dodgy contracts.’

Senator Watson—Where is that in the Humphry report?

Senator CONROY—It is absolutely there, and section 44 of the FMA Act clearly states:

A Chief Executive must manage the affairs of the Agency in a way that promotes proper use of the Commonwealth resources for which the Chief Executive is responsible.

What does the Humphry report say? The Humphry report says that departmental secretaries, in actual fact, did not want to go down this path but were made to. That is where it is most damning. (Time expired)

Senator TIERNEY (New South Wales) (3.20 p.m.)—What we have had here today is rank hypocrisy from the ALP, given their approach to IT outsourcing in 1991 at their national conference. They passed a motion at a more recent conference in August 1992 that said that outsourcing should proceed, provide savings, be accountable, ensure quality service and promote Australian industry and development. Even further, their August 2000 conference platform states:

Labor will also ensure that the purchasing power of government is used to nurture and support our domestic industry.

It continues:

Labor believes that the purchasing power of the Commonwealth and other levels of government should be used to provide expanded opportunities for local industry and to achieve savings in the purchase of goods and services for the public sector.
What Labor said at that conference in August 2000 is precisely what this government is setting out to achieve with this outsourcing initiative. According to the recent Humphry review, which was quoted extensively by Senator Watson, this process has led to significant savings, the establishment of a more sophisticated IT market and the development of the Australian IT&T industry. In fact, IT outsourcing contracts to date have ensured that 30 per cent of the work will be done by Australian small and medium enterprises and that Australian value adding will constitute 75 per cent of the total goods and services provided under the contracts. In addition, contracts to date include commitments of around $280 million in exports or import replacements and the creation of some 400 new jobs in regional Australia.

This has been a significant initiative. We are in a time of incredibly rapid change in information technology, and government had to move very quickly in its approach to capture the benefits for Australian industry of this new IT revolution and to deliver these to the government processes. In setting up OASITO, we took an approach which I am sure, if Australia had had the disaster befall them of the Keating government carrying on after 1996, is exactly the approach they would have taken. What is different in the approach we have taken is that we have very quickly instituted a comprehensive review of those processes and we have very quickly acted on the findings of that review. Can you just imagine, if Labor had been involved, what approach they would have taken? It certainly would not have been as upfront, straightforward and corrective as the approach we have taken. Now, as we move to the next stage of evolution of this approach, we are putting it back on certain agencies to operate their own outsourcing initiative. But the key point is: outsourcing continues. The central principle is still applied to the Australian government processes; and all those benefits I have mentioned to export, to local industry, to jobs, to regional Australia, still apply, and probably even more so under this new approach.

Senator Lundy in her comments said that the change had placed the agencies in a terrible position. Well, this is just a lot of hot air. Senator Lundy is talking off the top of her head. I am a member of one of those agencies—I am on the council of the National Library. Last Friday this matter of outsourcing came before the council. We were informed of the Humphry report findings and of the change in position. Did we find ourselves in a terrible position? Not at all. We said, ‘All right, we will just proceed down the new path. On to the next item of business.’ It was not a great trauma for the agency at all. We have the opportunity now to move on and to really gain the great benefits of outsourcing for government.

What is Labor’s policy on this? I kept challenging Senator Lundy through the whole of her contribution: what is your policy? We do not know, do we? What we have opposite here is a policy lazy opposition. They would have done, in fact, precisely what the government has done. They would have continued outsourcing, they probably would have done it through a body like OASITO, then they would have reviewed it and then they would have moved to a more decentralised approach. They would have done exactly what this government is doing: they would have gained some savings from the process and, moving on to a more decentralised approach, gained much greater savings. (Time expired)

Senator GEORGE CAMPBELL (New South Wales) (3.26 p.m.)—It is interesting, isn’t it, how when we get one-liners rolling off the tongues of leading members of the government we get the rest of the stooges standing up with the cue cards repeating them ad nauseam.

The DEPUTY PRESIDENT—Order! Senator Campbell, would you please withdraw that reflection upon members on my right.

Senator GEORGE CAMPBELL—I withdraw it, Madam Deputy President. We get backbench members of the government standing up with the cue cards repeating the one-liners ad nauseam. It is interesting that
Senator Tierney should get up and refer to ALP policy. Perhaps it is another example of the coalition simply looking at the ALP policy booklet as inspiration for their policy agenda. They have done it on innovation, they have done it on a range of other policy areas and they will continue to do it. That is why they are so desperate to see what is going to be in our policy agenda for the next election, because they might actually pick up an idea for their own. Let me assure Senator Tierney there is no comparison with the way in which the ALP will treat the issue of outsourcing of the government’s IT requirements in the same way that this government has.

The reality is that what has emerged out of the Auditor-General’s report and the Humphry report is that the way in which this government has handled IT outsourcing has been an absolute fiasco. There has been the statement made that the initiative has delivered significant savings. However, what people on the other side of the chamber did not go on to say is that there is a significant dispute about the level of those savings and where those savings have come from. Many of the savings purported to have been made under this government’s IT outsourcing policy have been savings that have been taken out of departments and agencies in the outline years of the budget in anticipation of savings that would be made on IT—not in relation to real savings that have been made but in anticipation of savings that were suspected to be made out of the IT outsourcing agenda. Many of those agencies have been under significant pressure to meet their commitments in delivery of the government’s program and servicing the general public, because they have already had the resources taken out of their budgets that otherwise would have been made available to them, in anticipation of savings down the road as a result of this IT outsourcing agenda. That is an issue you do not hear anyone on the other side attempting to beat up.

It is true that we should have a significant expectation in our community that the amount of resources the federal government, as a purchaser, expends on IT equipment, services and so forth should be a significant driver of IT industry development in this country. But what did the Humphry report say? It said the clustering of contracts limited access to the government’s IT market. In other words, the way in which OASITO put together the contracting of IT outsourcing was in fact an inhibitor upon local industry being able to access IT contracts and being able to get the benefit of it. If there is a significant tragedy in terms of industry development in this country it is in the IT sector. It is well known by participants in the IT sector that they have not had the sort of access to government contracts that could have been available to them and could have been used as a platform to build a viable and significant IT sector in the Australian economy. In fact, the Auditor-General said that they did not come across, in any of the agencies that were examined, where there were specific monitoring mechanisms in place to monitor industry development outcomes as a result of IT outsourcing. And it is significant today that Senator Kemp has suddenly said that we are now going to get the Secretary of Prime Minister and Cabinet and the Public Service Commissioner to start to monitor industry development initiatives out of outsourcing. A long way behind the game, Senator Kemp. (Time expired)

Question resolved in the affirmative.

**National Competition Council: Report**

**Senator MURRAY** (Western Australia) (3.31 p.m.)—I move:

That the Senate take note of the answer given by the Minister for the Environment and Heritage (Senator Hill) to a question without notice asked by Senator Murray today relating to federal grants payments for Western Australia.

Competition policy in Australia has two strands. The first strand relates to the Australian Consumer and Competition Commission, which was set up and is governed by the Trade Practices Act. The second strand refers to the National Competition Council and the agreements established between Australian governments in the last decade of the last century. I phrase it in that way to remind Senator Hill and others that it is our...
view that those policies are now based on outdated economic views and need adjustment.

The Democrats are strongly in support of good competition policy through the Trade Practices Act. In fact, we have recommended even stricter or stronger reforms of market measures than the government is suggesting in its own legislation that is due to come forward. We will support that legislation but attempt to improve it. We also are supporters of the introduction of anti-trust laws.

When I refer to competition policy in a critical manner, I refer to national competition policy as established through the NCC. In our view, what we have to do is separate out opinion from this linkage with automatic punishment. That is our great concern. It is not that the government is getting advice—although, frankly, we do not see why the NCC should be duplicating or substituting for the Productivity Commission, which is perfectly competent to deal with these issues on a national basis. We are concerned that the National Competition Council is coming to a view on matters and then recommending to the government that $3.8 billion in states grants be withheld as a result of its recommendations. We say to the government: there is a backlash out there which is reflected in millions of Australians being concerned at the consequences of a narrowly defined economic policy that is dedicated to a least cost approach and does not factor in a countable social and environmental balance and the intangibles which should lead to full economic pricing.

There is that reaction not only from millions of Australians, which should concern the government, but also the Senate inquiry, which was very detailed and very critical on this matter. Recently we had the dairy deregulation outcome, where we saw strong condemnation of the very costly consequences of this kind of policy. We have premiers such as Mr Court and Mr Beattie who have specifically rejected the direction the NCC is taking, based on widespread consultation in their own states. I give as one example Mr Court’s views on retail trading hours, which are directly contrary to the views of the NCC and which the NCC is trying to override. The Western Australian government has had full consultation and many inquiries on the matter. I give as another example the comments from the Premier of Queensland, Mr Beattie. In the *Australian Financial Review* today he is reported as saying:

"... Mr Samuel had overstepped the mark in his pursuit of a radical deregulation agenda.

“This time the National Competition Council president has targeted the taxi industry for open competition, putting thousands of Queensland small businesses at risk,” Mr Beattie said.

“The Queensland Government has already reviewed the taxi industry, and rejected deregulation...”

The point is that the existing policy seeks to override the states, when they have come to a reasonable view based on consideration of all community views, on matters such as pharmacies, taxis, water, agricultural marketing, retail trading hours, railways and liquor licensing. It does not matter if the National Competition Council is going to be retained as an advisory body if that is all it does, but in fact it is turning out to be a quasi-regulator and is almost forcing the government to take a view on states grants which will result in disadvantage to the states. Our view is that it is driven by ideology and its policies are outdated. The NCC should be abolished and you should rely solely on the Productivity Commission when you want these matters to be examined. *(Time expired)*

Question resolved in the affirmative.

**Return to Order**

*Senator KEMP (Victoria—Assistant Treasurer) (3.37 p.m.)—by leave—I wish to respond to an order made by the Senate on 4 October last following a notice of motion moved by Senator Cook that, as Minister representing the Treasurer, I table certain documents within 19 sitting days. On 1 December I made a short statement in relation to this order and I indicated that we were working through the documents to see what the government might be able to make avail-
able. I mentioned at that time that Senator Murray had written to me on the day that the Senate made the order. He advised that the Democrats supported the motion but believed that no information should be released which affects the strategic pursuit of tax avoidance and tax minimisation, which names individual taxpayers or which would impede or harm the recovery of substantial tax amounts that are due.

The documents in question are internal management and operational working documents of the Australian Taxation Office. It is therefore not possible for me to comply with the Senate request for a number of reasons. The documents are part of the strategic, administration and corporate assurance processes within the ATO and they contribute to internal review and discussion. Governments have never made such working documents public. In the government’s view, disclosure of these documents would compromise the ATO’s compliance and enforcement strategies and its internal reporting procedures and would therefore be contrary to the public interest. I am advised in relation to two of the review documents sought that the ATO has already made public what it can make public through speeches and other processes.

As a responsible government we are committed to the democratic principles of transparent and accountable government. It should not be forgotten that the ATO is accountable to the government, to the parliament and to the Australian people. It reports both publicly and to the parliament in the commissioner’s annual report, Senate estimates processes and other parliamentary committee processes. It is also subject to audit process by the Australian National Audit Office and to scrutiny by the Commonwealth Ombudsman.

Within this strong framework of transparency and accountability, it is important to protect the integrity of the internal workings of the ATO to ensure that it can undertake its statutory and administration role. No doubt that is why, historically, it is unusual for the Senate to order production of the internal working documents of an independent agency such as the ATO. That is why the freedom of information processes provide exemptions for internal working documents and for documents concerning the operations of agencies. That is why Senator Murray took the very important step of writing to me to clarify the basis on which he supported Senator Cook’s motion. In the government’s view, disclosure of the documents sought would affect the tax office’s strategic pursuit, and therefore impede or harm the recovery, of a substantial amount of tax. Therefore, I am unable on this occasion to comply with the Senate’s request.

It is worth noting that the approach taken in relation to this issue is consistent with actions taken by previous Labor governments. In June 1992 Senator Gareth Evans, the then Deputy Leader of the Government in the Senate, spoke of wrestling with the very difficult and sensitive responsibilities he had, on the one hand, to the Senate and to the public interest to disclose as much material as he reasonably could and, on the other hand, to his country and to other individuals and interests that might be prejudiced by unreasonable disclosure. In December 1993, in relation to another matter, Senator Evans spoke about how making a working document public would undermine the proper functioning of government. He highlighted the fact that working documents may be used in the process of reaching a decision but do not govern or dictate the decision. I consider that position to be the most responsible position, and it is consistent with Senator Murray’s letter to me of 4 October.

Senator COOK (Western Australia—Deputy Leader of the Opposition in the Senate) (3.41 p.m.)—by leave—I move:

That the Senate take note of the statement.

Madam President, I was out of the chamber at the beginning of the minister’s remarks and I was not aware that he was going to choose this moment to make those remarks.

Senator Kemp—I spoke to your people.

Senator COOK—The minister interjects across the chamber, out of his place, that he spoke to my people. I accept your word on that, Minister. You may have spoken to my
people but I will of course check. What I am saying now is that I was not aware that you were going to make those remarks today and, as a consequence, to some extent I may not be in a position to provide a fulsome reply to what you have said.

The return to order that this chamber has sought from the government on taxation matters is a serious question. It is not often that a parliament says to a government, ‘We would like all of the documents about this case because, essentially, it is in the public interest that we pursue these issues and it is in the public interest that all the documents be on the table so that the parliament, and through the parliament the people of Australia, can form its own views about the conduct of’—in this case—‘the government on taxation.’ I need not say it because it is self-enforcing, but taxation is a fundamental issue that touches all Australians and, as such, all Australians have an interest in it.

My freedom of information request identified 1,910 pages, and they wanted to charge me $19,000 in order to have access to them. So when I sought them directly as a freedom of information request, the information was available at a charge. All I had to do was cough up $19,000 and the information could have become public and the community could have been enlightened. But when through the forms of the parliament the information is sought, it suddenly is not available; it becomes ‘a working document’ and a veil of secrecy is drawn over it, obscuring from the view of the public the contents of essential information about the tax system. The first comment that is obvious here is that there is inconsistency in the conduct of the government. When you make an approach at one level it is available at a price, but if the parliament seeks the information it is available at no price and can never be obtained.

I missed the opening words of the minister’s explanation to this chamber, so I am not in a position to respond to all that he has said. However, I will examine the record and see what other excuses he has offered. I was present to hear the concluding paragraphs of what he said, and he referred, inter alia, to remarks by the former Deputy Leader of the Labor Party in the Senate, Senator Gareth Evans, in which Senator Evans expressed his concerns about making available to the public documents which were sought by the parliament but which, in his judgment—reasonably, he thought—might endanger the public interest if they were available. That was the tenor of the remarks of the minister. I may not have it word perfect, but that was certainly the impression he sought to convey.

I make this observation to begin: Senator Evans was, at the relevant time, the foreign minister. The issue that he was contending with was Australia’s foreign relations: our relations with countries and interests in the rest of the world. I do not, at this short notice, have an opportunity to check the reference, but I will back it in that the sort of information being sought conceivably could have endangered our national interest and put the security of the realm at risk. Someone as deliberative and as careful as Senator Evans was about the right of the community to know and about freedom of information would have tortured himself to stretch the point if he were in any doubt and would favour the public interest and the right to know if there was an on-balance decision about what should be applied here. But this concerns tax, and it does not concern an individual taxpayer. So it is not possible, from the information we are seeking, to identify an individual and to publicly pry into the privacy of an individual’s tax affairs. That is not what we are after. This is about group behaviour and about the behaviour of the government and the tax office.

We are all taxpayers and the government takes our money and uses it—this government would assert it is in the national interest; I would argue that it has a distorted set of priorities in that it is essentially out of touch with what real Australians think. Nonetheless, the theory is that the government takes the money of individual Australians, aggregates it and spends it in the national interest. A fundamental of taxation and a fundamental right of the individual in surrendering funds to a government as tax is to know that the management of those funds is properly con-
ducted and that the money is spent in a publicly accountable and transparent way. So when we ask for this information, what does the minister say? He says, ‘I won’t tell you.’ If he will not tell us, he will not tell the people who are the subject of the taxation. This is a crazy situation. This is a government out of control. This is the sort of thing you get in banana republics, when governments are contemptuous of the community and of the parliament, when they sit in their ivory towers and say, ‘We will take your money but we will not tell you what we are doing with it, and we damn well won’t be accountable to how we manage it and what the proper affairs are.’ The minister has now left the chamber, which is a mild snub to the interests of this issue—but that is the minister we have grown to know, albeit not to clasp to our bosom as someone we necessarily love; nonetheless, due to the forms of this place, we are required to respect him.

To cite a reference from Senator Evans, as foreign minister, talking about endangering the national interest—knowing that Senator Evans is a well-known person who stood up for the rights of individuals, who pioneered legislation and argued all through his professional life about freedom of association—and to cover up on taxation, seems to me to be, at best, a very long stretch indeed. If I am wrong about that, if I have misrepresented the government, I will have no compunction about apologising to them for that. But it would be consistent with the behaviour of this government and of this minister—and utterly consistent with the behaviour of Senator Evans over many years—for that to be a reasonable observation to make, that there is indeed some effort here to manipulate the bureaucracy and the language of the bureaucracy and to draw a veil over information necessary to the community.

I am disappointed in the actions of the government. As I said, I will go back and read the full text of this and reserve the right to return to it.

Question resolved in the affirmative.

CONDOLENCES

Mulvihill, Mr James Anthony

The PRESIDENT—It is with deep regret that I inform the Senate of the death, on 10 December 2000, of former Senator James Anthony Mulvihill, a senator for the state of New South Wales from 1965 to 1983.

Senator HILL (South Australia—Leader of the Government in the Senate) (3.50 p.m.)—by leave—

That the Senate records its deep regret at the death, on 10 December 2000, of James Anthony Mulvihill, a senator for New South Wales from 1965 to 1983, places on record its appreciation of his long and meritorious public service and tenders its profound sympathy to his family in their bereavement.

James Anthony Mulvihill, otherwise known as Tony, was born in 1919 at North Ryde, New South Wales. Prior to his career in politics, he served in the New South Wales Railways Department. He was elected Assistant Secretary of the New South Wales Branch of the ALP in 1957 and held this position until 1964. In that year, he was elected a New South Wales senator and held this position from 1 July 1965 until his retirement in 1983. During his career, he chaired the Commonwealth Immigration Advisory Council, the Senate Environment Committee and the Federal Parliamentary Manpower Committee.

He was the patron of the Australian Native Dog Society, having his own purebred dingo as a pet. He worked tirelessly to improve the public image of the dingo. Tony Mulvihill was also a passionate environmentalist, with campaigns to save the Cape Barren geese, the hairy-nosed wombat and the Leadbeater’s possum among his causes. A plaque was erected in his honour after he battled to have the uranium waste disposal in the Alligator Rivers region in the Northern Territory dealt with properly rather than letting it seep into local rivers. He was also instrumental in the erection of a monument in Tumut in 1978 in recognition of lives that were lost in the building of the Snowy Mountains scheme. He showed a keen interest in migrants and became a member of many migrant clubs,
including the Italian, Greek and Polish clubs. He was a keen sportsman, playing rugby league in the Eastern Suburbs Rugby League Reserve Grade. He was also patron of the Australian Tug of War Association.

My service crossed Tony’s in this place by a couple of years. I remember him as a decent, ‘old-style’ Labor member—always good to deal with, always friendly but with strong beliefs that were the basis of his work in this place. On behalf of the government, I extend to his family and friends our most sincere sympathy in their bereavement.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (3.53 p.m.)—Let me associate the opposition with this condolence motion. Tony Mulvihill was an only child. He was born in 1919 into a working-class family in North Ryde in Sydney. He left school with an Intermediate Certificate. He never managed to get an apprenticeship, but he was a real goer. He became a railway worker. He worked as a fireman, machinist, boilermaker’s assistant and a crane driver. He was elected as chief shop steward at the Chullora railway yards.

After the Second World War, he joined the Australian Labor Party. He was a delegate to the Labor Council of New South Wales, representing the Australian Railways Union. While I never served in parliament with Tony Mulvihill, I knew him for 30 years. He was one of the characters and personalities that you sometimes find in politics—most often, I think, associated with the Labor Party. He was a senator from 1965 to 1983. He served on the opposition front bench for two years after Labor’s defeat in the 1975 general election, and he served as spokesman on the environment. I think that was very appropriate because Tony Mulvihill was a conservationist. It is probably true that he was the first real conservationist to sit in this chamber. It is also true that at times in the 1960s he was ridiculed for espousing pro-conservation views. He was a great advocate for the establishment of Kakadu National Park and an advocate for the park’s protection from uranium waste. He argued the case for the protection of the dingo. As we have heard, he was the patron of the wild dog association. He stridently defended the good name of the dingo to all and sundry. He argued to protect the Cape Barren goose, the hairy-nosed wombat, the Leadbeater’s possum and the red kangaroo. In fact, he earned the nickname ‘the red kangaroo’ after campaigning for the protection of that animal when he became concerned about its possible extinction.

I recall that that nickname caused an amazing fracas in the Labor Party back in April 1977 in Sydney. A throwaway newspaper, called City Extra, which was circulating in the inner city of Sydney, libelled Tony on the front page in its first and only issue, as I recall. It was an extraordinary article that said, ‘To hell with the unemployed.’ It claimed that state ALP leaders had ruthlessly adopted a policy calling for a return to large-scale migration of more than 100,000 per year. The article attacked Tony and was quite famous in the Labor Party at the time. People were trying to scrounge copies of this throwaway newspaper. As you can see, I successfully scrounged a copy of it. The journalist, if you can call him that, said:

City Extra rang Senator Mulvihill to get his side of the story. He said, ‘Anything you’ve got to say about the New South Wales state ALP leaders, refer it to the party officers,’ as you would. This became famous because there was a photograph of Tony on the front page of the City Extra with the caption—this comes back to the issue of the red kangaroo—‘Senator Mulvihill, known as the “red kangaroo” in political circles for his erratic, communistic behaviour.’ As I said, Tony was libelled on the front page of the newspaper. Sadly for Tony, when he took this libel case—which he won, of course—he found that the publisher of the City Extra was a bankrupt, so it was a little bit of a Pyrrhic victory, we would have to say.
It is also true to say, and should be recorded in this condolence debate, that Tony Mulvihill championed the cause of ethnic minorities from his time in the Chullora railway workshops. His work with the Yugoslav community, particularly in Sydney, was very well known, but he was highly regarded in many ethnic communities in the state of New South Wales and beyond the borders of New South Wales. He chaired the Commonwealth Immigration Advisory Council.

I think it is important in a debate like this to also record that Tony Mulvihill was a significant figure in the New South Wales Labor Party in the fifties, the sixties and the seventies. After the split in the mid-1950s, Tony served on the caretaker executive. He was unanimously elected assistant general secretary after Jack Kane was sacked. I think his clashes with Jack Kane in that period were legendary, but it was quite some effort to achieve that office in that way at that time. Along with figures such as Fred Campbell, Bill Colbourne and Charlie Oliver, Tony Mulvihill was a very significant machine figure and did a lot to ensure that the New South Wales Labor Party remained united and to ensure the stability of the New South Wales Labor government.

John Armitage, who was a close friend of Tony’s and a former federal member for Chifley in the House of Representatives, told me some time ago that soon after Tony became assistant general secretary three irate wharfies were menacing the then General Secretary, Bill Colbourne, in room 32 in the Sydney trades hall. Tony’s reaction was probably a bit typical: he jumped the counter, grabbed one of the wharfies by the throat and shouted, ‘Don’t you touch my mate!’ Times were tough back then and, according to John, this was a very significant incident because it really did a lot to cement the relationship between Tony Mulvihill and Bill Colbourne, which, as I said, made a very significant difference to the unity of the Labor Party in those difficult times.

Tony Mulvihill fought out his struggles in the Labor Party full bore, as he did with political challenges in this chamber and in the broader community. I remember Tony Mulvihill appearing before an ALP disputes committee in the mid-1970s. I was a member of the disputes committee at that time. Tony laid an internal party charge against an opponent in the Lowe federal electorate council of the ALP. That charge was one of bringing the Labor Party into disrepute. You might wonder what that was.

Senator Forshaw interjecting—

Senator FAULKNER—Senator Forshaw was also a member of that committee at the time, and Senator Forshaw would recall that the ‘chargee’ was accused by Tony of being discovered—how shall I describe this—in flagrante delicto under a table at the local RSL club.

Senator Boswell interjecting—

Senator FAULKNER—This was in an RSL club, Senator Boswell; it was not at a Labor Party meeting. Tony’s submission to the committee was that you could not be expected to win the marginal seat of Lowe if your party members behaved so inappropriately in an RSL club. He won the dispute.

Senator Forshaw—It was unanimous, I think.

Senator FAULKNER—I do not think it was unanimous, Senator Forshaw. I recall the hearing. Tony was provoked by members of the committee, like me, and some of the witnesses.

Senator Hill—How did you vote?

Senator FAULKNER—Against him. I cannot remember all of the details now, Senator Hill, but I do remember that it was one of the funniest experiences of my life. Tony was a key stalwart in later years for the Labor Party in the Lowe federal electorate. He engaged in the many tight campaigns that were held in that seat over the decades. He was a tough, tough fighter for the Labor Party. I cannot say that Tony did not hold grudges, because he did hold the odd grudge. In fact, there was one memorable Senate speech when he made it absolutely clear that he was in the business of settling scores. If anyone has not seen Tony’s speech of 14 December 1982, page 3492 of Hansard, I
commend the speech as a good read. Let me quote a little of it. It reads:
I take the Senate back to my first dealings with—a family—who lived in Concord. My story has a small beginning. It began on a Sunday morning. I had a fox terrier dog named Jeff. I know that people such as Senator Douglas McClelland who is a dog lover will appreciate this aspect. I went along to my place of worship. The three—unnamed, in my contribution—boys were in the churchyard. They were always vicious. They took umbrage because my dog followed me into the church. Whatever denomination people are, I do not believe it was the end of the world because that inoffensive dog wanted to follow me into the church.

According to Tony, one individual was: the greatest degenerate of any member of the trade union movement in New South Wales—and he—laid my dog out with a brick. I picked up a piece of three by two in order to even things up because there were three—of them—and only myself. It was unfortunate that, with the dog lying in a pool of blood, the father of the boys, who was a policeman, threatened to arrest me. Of course, there was only one victor and it was not me. I carried the dog the half mile to my home. I said to my mother: ‘One day I will even that up’.

He did that on 14 December 1982. It is a great read and I commend it to you. He does say in his speech that the facts are sordid, but he completes his speech with these words:
I conclude by saying that I have kept faith. My dog’s honour has been cleared. I say to the ... family: I do not know what part of Sydney you live in now; but I have squared the account tonight.

And he did, I can assure you.

Tony Mulvihill was a very colourful character. I actually think it is fair to say in the nicest possible way that he was an eccentric. It is important to remember at times like this what an important figure in the Labor Party and the labour movement Tony Mulvihill was, particularly after the split in the mid-1950s. I will not just remember the odd vitriolic speech he made about those of us on the Left of the Labor Party at the New South Wales administrative committee or the annual conference—one or two barbs over the years were directed in my general direction. I will remember a champion of the underdog, someone I really did come to realise was a person of great courage, a great Labor loyalist and a real personality.

Tony suffered a long illness before his death, but as you would expect he was a fighter to the end. To Tony’s family, particularly to Pam and to his friends, on behalf of the Labor Party we offer our sincere condolences.

Senator BOURNE (New South Wales) (4.09 p.m.)—On behalf of the Democrats I would also like to offer our condolences to the family and the many friends of former Senator Tony Mulvihill. I was working in the Old Parliament House from 1978 till the time we moved up here. I well remember Tony Mulvihill popping into former Senator Colin Mason’s office—I used to work for Colin—to mostly discuss environmental campaigns. I would like to mention a couple of those. A few of them have been mentioned already by Senator Hill and Senator Faulkner but there are many things I would like to add. Way back before it was fashionable Tony Mulvihill played a key role in most of the early environmental battles fought in Australia. The one I remember most was the campaign to have Kakadu declared a national park. He was absolutely passionate about it and absolutely determined that Kakadu would be declared a national park, and of course it eventually was. He campaigned to prevent the alienation of public lands. That is something he kept campaigning on after he left parliament. There was never an end to that one.

He was Labor’s shadow minister for the environment for two years—in 1976 and 1977. He consistently raised matters relating to the conservation of our endangered species. This was much to the derision of many of his colleagues and many media representatives. He really was a visionary with regard to environmental protection in Australia. The issues he campaigned on then are of course
mainstream now, and it is a credit to him that he persisted with those efforts. I remember a survey some years back—I think it was a contingent value method survey—that showed that Australians would have been prepared to dip into their own pockets and fork out something like $25 each to buy and therefore save Kakadu had it not been declared a national park. Clearly, Tony Mulvihill understood very early the deep and abiding sense of care that most Australians feel towards our wilderness areas, forests and threatened species. He was determined to have that recognised by the parliament even though he was ridiculed—Senator Faulkner was right in that. It was not a popular thing to do in those early years, but he was absolutely determined and he was absolutely right. Senator Mulvihill campaigned for the protection of Cape Barren geese, the booby population on Christmas Island, kangaroos and, as we have heard, the dingo.

Because it is such a famous speech and everybody remembers it I was going to remind senators of the 14 December 1982 speech that Senator Faulkner has just mentioned. Senator Faulkner did it much better than I would, so I would just like to recommend that speech to people as well. If you have not noted that, it is on page 3492 of the Senate Hansard of 1982. It was an absolute ripper of a speech. Never forgive and never forget was something that really did apply to Tony Mulvihill. It probably does not apply too much to many Labor Party people now, but it sure applied to Tony and he well and truly got back.

When I heard that Tony had died I was also reminded of the time when he was upset with a witness to a committee. That time was popularly referred to around Parliament House as the time Tony Mulvihill tried to table the witness. I do not know what happened to that witness and I hate to think where he ended up.

There are two things I most remember Tony Mulvihill for. Firstly, for being a campaigner for the environment and threatened species. It is a substantial gift to give to Australia. The fact that Kakadu was declared a national park was largely as a result of what he did and he should always be remembered for that. Secondly, I remember him as a larger than life character whom I know Colin was always happy to see when he popped into the office to have a cup of tea and talk about environmental things. He was also larger than life in the things that Senator Faulkner has told us about—his speech about Jeff the fox terrier—and in his tabling of a witness. They were not the only things he did around here that will never be forgotten. He should never be forgotten because of what he did for the environment and how he persisted through ridicule and everything else. He knew he was right, he was right and he persisted. In the end we have all come to agree with everything he thought back in the 1960s and 1970s. We send our condolences to his family and to his many friends.

Senator BOSWELL  (Queensland—Leader of the National Party of Australia in the Senate and Parliamentary Secretary to the Minister for Transport and Regional Services) (4.15 p.m.)—I too would like to associate my National Party colleagues with the condolence motion moved by Senator Hill and the government and to make just a few remarks. Senator Mulvihill left parliament in 1983. I was one of the few people that came in in 1983, so I never had the good fortune to meet Senator Mulvihill, but in my days as a travelling salesman and representative before I came into the Senate I used to listen to the parliamentary debates as I drove around from town to town, and Tony Mulvihill was a very consistent contributor to those debates. I used to listen to him in those days, and in fact I can remember that particular speech that Senator Faulkner referred to—I remember either listening to it or reading about it.

No doubt, Tony Mulvihill was a great ALP stalwart and character, and political parties rely on those characters to go into history. They become a part of the fabric of the political party, and I think it does us all good to have those types of people that we can refer to in the various political parties. He was a great contributor to the ALP in some of those years which must have been pretty hard. In 1974 and 1975, when the Labor Party had a
serious loss of members, he no doubt played his role in their reconstruction. I convey to his family our condolences for their loss.

Senator FORSHAW (New South Wales) (4.17 p.m.)—I also rise to make some brief comments about the sad passing of former Senator Tony Mulvihill. I of course, like other senators from the Labor Party, particularly in New South Wales, knew Tony Mulvihill essentially through his role in the New South Wales Labor Party. Listening to Senator Faulkner’s speech earlier reminded me that Tony obviously taught many of us that invaluable lesson—‘never forget!’ Senator Faulkner’s remarks about those cases before the disputes committee, which I also served on, came back to me very quickly. Tony was certainly a person who, when he put his energies into something, really did it in a very full and forceful manner, as he did on that occasion.

Whilst as a young member of the Labor Party I knew Tony Mulvihill and watched him get into stoushes at state conferences, I came to know him better after I was appointed to the Senate in 1994. He used to drop into my office in Phillip Street to have a chat and a cup of tea or coffee. He was particularly fond of doing that because my secretary at that time was a woman called Marion Grace, whom I am sure many senators will remember. Marion had worked for many Labor politicians, starting out with Dan Curtin, then working for people like Les Johnson and Tony Mulvihill, and then subsequently Senator Richardson. When I replaced Graham Richardson, Marion worked for me. I have to say that it was a great pleasure for me to be able to sit and listen to Tony chat with Marion about old times and also to hear his advice and his counsel about political issues. He was also quite renowned for sending scraps of newspaper articles, whether they be from current newspapers or previous newspapers, to me and other Labor MPs on a regular basis with his views on the issues of the day or on aspects of Labor history that were of importance to him.

As has also been referred to, Tony was an active Labor Party figure not just in the New South Wales ALP office and as a senator but also particularly in the Lowe electorate. My wife’s grandparents, Michael and May Purcell, who are both deceased now, were great stalwarts of the Labor Party and of the Concord community, which is in Lowe. Tony was a great friend of their family. My wife tells me that, when they were kids visiting their grandparents’ place, Tony often dropped in and would go and buy all the children an ice cream, and of course they thought that that was a great thrill.

Over more recent years, I came to know Tony a lot better and had a bit more to do with him. He quite regularly contacted my office and Marion, in particular, to pursue some matter in the immigration area, which he was so involved in and did so much work for members of ethnic communities, even after he left the parliament. He also did of course have those other interests that have been referred to as eccentricities. I remember one of the first occasions that he came up to me after I was appointed to the Senate was at a New South Wales ALP annual conference. He said, ‘I’ve got to talk to you,’ and he grabbed me and took me outside to a Johnno’s coffee shop where he proceeded to tell me that he was the patron of the Australian Women’s Tug of War Association and that they needed some money. I said, ‘You have heard of the sports grants?’ and that I did not think that that was possible but I would see what I could do. There was Tony enthusiastically supporting the need for more money and support for the Australian Women’s Tug of War Association.

It is a sad loss. Tony was one of those great characters, one of those great figures, of the Australian Labor Party, and that makes his passing one that we all feel deeply. I know that we will all remember him as having made a great contribution to this parliament, to our party, to the Australian nation and to the Australian character.

Senator WEST (New South Wales) (4.23 p.m.)—I too would like to associate myself with this condolence motion in respect of Tony. I remember him. I have been a member of the party for 26 years so I remember
Tony for that length of time. He was never one to care about fashion. Tony was a fighter and a supporter of the underdog, the underprivileged, the minority and those groups that were discriminated against. He was somebody who remembered everything. He never forgot—he always repaid his debts as he saw them, a la Senator Faulkner’s reading of his final speech to this place.

He had another love and that was of women’s athletics, particularly women’s field events in the throwing area, the discus and the shot put.

Senator Faulkner—Gael Martin.

Senator WEST—Gael Martin—that is right. Gael Mulvihill as she originally was; Gael Martin as she later was. He fought very hard for women’s sport to get the media coverage that it deserved, did not get, and still does not get, although it certainly has improved. He had a commitment to following the careers of those women in sports which were not the glamour events. He was interested in them and loved to support them. I will always remember him at annual conferences. My late father was an athletics coach, so Tony would feel compelled at each annual conference to come up and give my father and me, if I was around, the latest information on what was happening or, more to the point, what was not happening as far as the appropriate recognition for women’s field events was concerned.

He was someone who had an absolute commitment to the ALP, its philosophies and its ideologies. He was loyal to the party at all times. He was usually loyal to the Right faction when I knew him but on occasions he did some things that put you at a disadvantage. I will never forget being proxied in my first national conference—back when we had six delegates from each state or something small—for my first session. I had been given strict riding instructions—as he was the senior person from our side there I was to go with him but always go with the committee. He was on this particular committee but Tony stands up and moves an amendment on which there has to be a vote. My colleague and I, who were both first timers, were saying, ‘What do we do, Tony?’ He said, ‘You do what you want to do!’ The chair was having a great deal of amusement at this and Graham Richardson came flying back into the chamber saying, ‘What the expletive is going on here?’ and we were saying, ‘What do we do?’ So Tony certainly was an eccentric—somebody who would do his own thing and let you do your own thing too. He was somebody who, as I say, had an absolute commitment to the Labor Party and who was always ready to give you information and advice and to remind you of the ancient history of the party. I express my condolences to Pam and the family and to his friends.

Senator BROWN (Tasmania) (4.26 p.m.)—On behalf of the Greens, I would like to support the motion and also express condolences on the passing of former Senator Tony Mulvihill. I did but know him in passing and was grateful for his parliamentary support for the saving of the Franklin River back at the end of his career and before my career in this place. I have noted his prodigious support of particularly wildlife at a time when it was not fashionable and I concur with Senator Faulkner that he was somewhat of an elder figure or early starter in being a parliamentary representative of the rapidly growing concern for the environment, in particular wildlife, that has been shown by the Australian nation as a whole. Other members have mentioned his particular support for the causes of the dingoes, wombats, seals on the other side of the world in Ireland, Leadbeater possums in Victoria and Cape Barren geese. I think we should recollect that just two decades ago Cape Barren geese were on the verge of extinction—they were down to a couple of hundred. Now they are on menus of certain dining places and they are found from South Australia through to the south-east island outposts of Tasmania—and in great numbers. That did not just happen. It happened because people like Senator Mulvihill spoke up for them at a time when they were indeed facing extinction and needed some breathing space and land in which to be safe and secure and to recover from the brink of extinction.
I note also from 1982 *Hansard*, but this time from 18 February, a little of what Senator Mulvihill had to say at the time and I want to put that back on the record:

Every time I play a game of golf at Massey Park on Exile Bay in my own area, I see the pelicans gliding into the river. I think it was a Senate committee that exposed not only the damage that the Australian Gas Light Co. was doing to that river—he is talking about the Parramatta River here—but also the fact that State government authorities in New South Wales were not talking to each other. As a result of our vigilance, the river pollution was reduced to an absolute minimum. Pelicans have now come back to the Parramatta River. These are vivid illustrations. I know that Senator Missen—and we will remember Senator Missen also as a very great advocate on the other side of this chamber for the environment—is on my side 100 per cent on these matters. I am not utopian. I know that in my own State there are occasions when one has to say to the present government: ‘You will not get all you want for the border ranges national park but you will get something’. The powerful Senate Standing Committee on Science and the Environment went to Senator Missen’s State several times to the forests—that is to Victoria. He went on:

Three years before the Victorian State authorities had given evidence about the Leadbeater possum and forest enclaves of old gums. We were told: ‘Yes, it will be all right’. Two years later we knew that it was not all right. Senator Melzer, a very active senator from Victoria, and I went back to this area on a sub-committee and the authorities admitted that they had been a bit sluggish. I do not know that the Victorian sawmillers are affected simply because of a few forest enclaves—

He is referring to the protection of them. Then he had this to say—and I think it is very important, because he equated conservation movements with unions:

I join with all my colleagues in this place in defence of the cause of conservation by saying that as in everything else there have to be restraints at times. Perhaps I can use a better analogy. Some people—fortunately there are few of them—want to emasculate completely the trade union movement. If that happened I know what would happen to industrial safety conditions for example. The same situation applies to conservation groups. If we did not have them we would not have had the achievements we have seen.

I think that is a voice we could well do with back here in the Senate. On occasions, I wish he were here with us again. His record stands for itself. It is a very positive one as far as the environment is concerned. In that respect, he is somebody whom we miss.

**Senator HUTCHINS (New South Wales)**

(4.31 p.m.)—I rise also to speak on the condolence motion for Senator Tony Mulvihill. Last Friday the New South Wales administrative committee of the Labor Party met, and we also made a similar resolution. There were a number of men there who recalled fondly—and some not so fondly—Tony’s contribution to the labour movement and the Labor Party. To follow on from what Senator Brown said, I think I should put it on the record that Tony Mulvihill was a very proud trade unionist. He was chief shop steward at the railway goods yard out at Chullora and he was also a delegate to the labour council.

One of the defining periods in his political life, other than his period of environmental concerns, was well documented in a famous book about the Labor Party entitled *The Split* by Robert Murray. A number of activists in the Labor Party in New South Wales were concerned about the direction of the party—not only in New South Wales but nationally—and that led to a great split in our party. At the time, Tony Mulvihill was involved in a group which became known as the combined branches and unions steering committee. When I joined the Labor Party in 1971, that was the name of the left-wing group in New South Wales. That subsequently changed, and now I think it is called the socialist left. But Tony and another famous labour activist, Kath Anderson, were very much involved in the original steering committee. I think Senator Faulkner mentioned that a dispute that Tony Mulvihill intervened in between three wharfies and Bill
Colbourne may have started him on the right course. I do not know.

A number of people who I have spoken to, or members of my staff have spoken to, have given me some interesting anecdotes about Tony. I remember, as president of the party, sometimes having to try to escape around Sussex Street and Goulburn Street. Tony, in his later years, would be prosecuting or persecuting someone for something they had done in a branch somewhere or whatever else, and he would stake out the coffee shop across the road just to see whether you would come out. He would give you a bit of advice on how we were running the party or where we were taking things. But he was, as has been said, a very aggressive man when it came to causes that he was championing or people he was after. I think Senator Ray may recall that in his last speech to parliament he did make it a point to square up. I suppose that was the period of the Irish Catholics within the labour movement, who were never forgotten and never forgiven either.

Tony was not a flashy dresser, as I think most of us recall. That was not what motivated him. What motivated him was his commitments, whether it was his trade union, the environment or, as has been said, migrants generally and Yugoslav migrants in particular. His colleagues included Johnno Johnson, who is a member of the New South Wales upper house; Garry McIlwaine, who used to be a member of parliament in New South Wales; and Michael Maher. I know they fondly recall their association with Tony Mulvihill and miss him.

I was advised today that Tony Mulvihill was famous for sending out Mulvigrams. This is what I have been told. Whenever someone or something came up which he did not like, Tony would persecute the Labor minister responsible with a telegram—or what became known as a Mulvigram. If he was not given a response within three days, he would Mulvigram anybody and everybody to let the entire labour movement know of his displeasure. If any material in one of his many Mulvigrams had the potential to be defamatory, he would ask his lawyer for advice and then he would send the Mulvigram.

There is an excellent obituary piece in the *Sydney Morning Herald* of Tuesday, 19 December last year written by Cynthia Banham. She says at the end—and I think it is appropriate to quote this:

When he was 47, Mulvihill married Pamela O’Connell. They later divorced, having had no children, but remained close friends. For most of his life he lived in Concord but when his health deteriorated 18 months ago, Pamela, who lived in Wentworth Falls, found him a place in a Katoomba nursing home so she could visit him.

I think that should be noted and appreciated. We have talked today about the passing of a unique Australian and, for us in the Labor Party and the labour movement, one of our great loyalists and one of our great standard-bearers.

Senator ROBERT RAY (Victoria) (4.36 p.m.)—I served in the Senate with Tony Mulvihill for only three years. Very early in my career, he gave me some good advice. He said, ‘Son, never flash outside the off stump.’ It was only a couple of weeks later that I realised Tony never followed this advice himself, as in the case of the saying ‘Those who cannot do, teach’. I do not think it has been noted particularly today that he had a remarkable recall of political events. It was absolutely outstanding. I do not know if anyone ever sought out Tony Mulvihill for oral history, but I was browsing in the library in about 1982 and I came across the book on the minutes of the New South Wales special conference in 1957. This was after the Labor split. Just to kill a bit of time, I read through it.

I found where Tony Mulvihill voted against the incumbent faction. I thought that this was a good piece of information to have, so I fronted Tony and asked, ‘Why did you vote in 1957 against the incumbent group in New South Wales?’ Thirty minutes later, I had had a complete description of the circumstances of that vote and what led to that vote. Most of us have trouble remembering what we were involved in five years ago in politics. He had a remarkable memory of his own involvement. Not only that, he had a remark-
able memory for the history of this parliament. I know of a good trivia question which virtually no-one can get. There has been only one case in this parliament of a father entering the parliament, having had his son serve here for nine years beforehand and then die. I used to trick a lot of people with this question—Bill Hayden and a lot of others. I asked Tony Mulvihill this question one day and he named the two members, Baker, the seats they held and the years they held them. He had an incredible knowledge of the history of this parliament.

It has been mentioned that Tony Mulvihill was a patron of many causes. Some have been mentioned, but tug of war was one of his great loves. I still have in my Canberra rented residence a tug of war medal that he sent me for some battle I fought in the Labor Party. He decided to reward me by sending me a tug of war medal. He was very pleased that tug of war was once an Olympic sport and was totally confounded by the fact that it was no longer an Olympic sport.

Tony Mulvihill was a deputy chair in this chamber. I remember watching television one night in the old house. The one thing Tony Mulvihill never ever learnt was that there is a little button that turns off the sound when you are in the chair. He had been in the chair for an hour, the relief chairman came and Tony said: ‘Thank God you’re here. I’m dying for a ...’ I delete the expletive. That went right through the building but, fortunately, we were not live to air anywhere else. I had some regret when Tony left, because he definitely had the worst set of ties of any senator. It was sometimes possible to tell where he had browsed that day for lunch. He had these horrible ties. It put a lot of pressure on me and on Senator Boswell when he left—as in which one of us could front with the worst tie. We have been well overtaken now, fortunately, by new recruits to the chamber.

Once Tony left this place, he missed it. The former member for Lowe Michael Maher very kindly involved him in his office. Tony would come in for a day and a half and do constituency work for Michael. These may seem very generous acts of both Tony and Michael, but it actually doubled Michael Maher’s workload. Michael would sit in his office and Tony would be in the office next door, so Michael could hear what was happening. I will give an example of what used to happen: a constituent came in with an inquiry and saw Tony, and all Michael could hear was Tony saying: ‘You’re nothing more than a whingeing Pom. Christ, it was only 10 quid to get out here. That was the worst money we ever spent.’ This is in a marginal seat on a knife edge. Then Michael had to go and reinterview all these constituents and try to bring them back across. Nevertheless, Tony did miss this place and he did do that constituency work.

The worst message you could ever get from Tony Mulvihill in one of the Mulvigrams was that he had admonished someone, because you never knew whether it meant he had written them an abusive letter, made an abusive phone call or gone the knuckle on them. He was a complex individual. He was volatile, litigious and, as Senator Hutchins mentioned, sometimes overly aggressive. Some of those qualities we would not admire in a person, but it all came together to make a very good individual. Whatever his faults were, when you put the package together you found a caring individual who lived life to the full, who was passionate about causes and the interchange and the sociability of it all. As Senator Faulkner said, despite all the eccentricity, it should never be forgotten that Tony Mulvihill was a serious player. We tend to remember the eccentricity and not the seriousness. I am glad that today Senator Faulkner and others have put on the record that he was also a very serious political player. I offer my condolences to the family.

Question resolved in the affirmative, honourable senators standing in their places.

McLeay, Hon. John Elden

The PRESIDENT (4.42 p.m.)—It is with deep regret that I inform the Senate of the death on 26 December 2000 of the Hon. John Elden McLeay, a former member of the
House of Representatives for the division of Boothby, South Australia from 1966 to 1981.

Senator HILL (South Australia—Minister for the Environment and Heritage) (4.42 p.m.)—by leave—I move:

That the Senate records its deep regret at the death, on 26 December 2000, of the Honourable John Elden McLeay, a member of the House of Representatives for the division of Boothby from 1966 to 1981, places on record its appreciation for his long and meritorious public service and tenders its profound sympathy to his family in their bereavement.

John Elden McLeay was born in Adelaide on 30 March 1922, son of the late Sir John and Lady McLeay. After attending Scotch College from 1928 to 1939, Mr McLeay enlisted in the AIF in 1941 and served in New Guinea as a gunner for the 13th Field Regiment, Royal Australian Artillery, from 1942 to 1943. He joined the Liberal Country League, later the Liberal Party, in 1940. After nine years in the party, he was elected to the Unley City Council, where he served from 1949 to 1970, including as mayor from 1961 to 1963. Mr McLeay held the federal seat of Boothby in South Australia, succeeding his father, former Lord Mayor of Adelaide and Speaker of the House of Representatives, the late Sir John McLeay. He held the seat from 1966 until his retirement from parliament in 1981, which meant that the seat of Boothby was held by the McLeay family for some 31 years.

During his federal parliamentary career, Mr McLeay held several portfolios, including Assistant Minister to the Minister for Civil Aviation, Minister for Construction and Minister Assisting the Minister for Defence. He served as Minister for Administrative Services in the Fraser government from 1978 to 1980. As Minister for Construction, he gave great support to preserving and restoring some of the most significant Commonwealth owned historic properties.

John McLeay resigned from parliament in 1981 and was appointed Australia’s consul-general to Los Angeles from 1981 to 1983, during which time he founded the Australian-American Chamber of Commerce in Los Angeles. For this he received a special commendation from the US Secretary of State. He did much in this period to build the business relationship between Australia and California and the United States as a whole.

He served tirelessly on community committees in South Australia. He founded the Unley Senior Citizens Club and enthusiastically supported both handicapped and pensioner organisations. Apart from what was obviously a lifetime of public service, for which we should all be grateful, John McLeay was also a highly successful businessman, founding the family business of McLeay and Sons Carpets in Adelaide which still operates today. To his wife, Clythe, his three sons, Travis, Robin and Digby, and their families, I extend our deepest sympathies.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (4.46 p.m.)—On behalf of the opposition, I support the condolence motion moved by the Leader of the Government in the Senate on the death of the Hon. John Elden McLeay, a former minister in both the McMahon and Fraser governments. As we have heard, John McLeay was born into the world of politics, with both his father and his uncle being federal politicians, so it was not surprising that John McLeay entered the political arena. He was first elected to parliament in 1966 for the seat of Boothby in South Australia; he succeeded his father who had held that seat for some 16 years. So with John McLeay holding the seat of Boothby for some 15 years until his resignation in 1981, it was quite a significant period that the family was directly involved in the parliament and represented the people of Boothby in South Australia.

John McLeay held several portfolios during his time as a minister, being first appointed to the ministry in 1971 in the McMahon government as the Assistant Minister to the Minister for Civil Aviation. After the 1975 election, he was appointed by Prime Minister Malcolm Fraser as Minister for Construction and Minister Assisting the Minister for Defence. In 1978, he became Minister for Administrative Services, as well as retaining his position as Minister Assisting the Minister for Defence. He held those portfolios until
1980. I think I am correct in saying that in the late 1970s he was the only South Australian minister in the Fraser government. He was well recognised as a very strong and effective representative for the people of South Australia; he was a very dedicated servant in that regard. On behalf of the opposition in the Senate, I offer our sincere condolences to John McLeay’s wife and family.

Senator BOSWELL (Queensland—Leader of the National Party of Australia in the Senate and Parliamentary Secretary to the Minister for Transport and Regional Services) (4.49 p.m.)—I would like to associate my National Party colleagues with the condolence motion moved by the Leader of the Government in the Senate today. John Elden McLeay served Australia in many ways—in the Army during the Second World War, in local government and then in federal government and as a consul-general in the United States. His service extended over many years and took various forms. He was a minister in the McMahon government and then in the subsequent Fraser government. He held the seat of Boothby from 1966 to 1981, and from there he moved to the consul department in America where he founded the Australian-American Chamber of Commerce.

His public service extended over many years. On top of that, he also was, as Senator Hill told us, a successful small business person in the state of South Australia. I think people who put this amount of time—almost a lifetime—into public service deserve to be remembered in this place. I never knew John McLeay. As I said in the previous condolence motion, my interest in politics led me to listen to a number of political debates and I can remember him making contributions in this place. So I associate myself and the National Party with this motion, and I offer our condolences to his wife and three children and pass on our sympathy to his family in their time of loss.

Senator MINCHIN (South Australia—Minister for Industry, Science and Resources) (4.52 p.m.)—I too wish to speak on this motion of condolence for John McLeay. All South Australian Liberals in particular were saddened by his untimely death on 26 December, the day after Christmas. Indeed, the memorial service for John held at Scots College, with which he had a strong association, attracted a remarkably large and very diverse audience, which reflects both the affection in which he was held and the range of interests that he had. May I say that his family and his friends were particularly touched by the fact that Gough Whitlam took the time and trouble to come in the middle of January on a very hot Adelaide day to that memorial service. That really touched his family in particular, and it is a great credit to Gough that he made that trip and expressed his sympathies for the family in that way.

It is particularly interesting that Gough did turn up, because I noticed, in looking through John’s parliamentary file, that he was the minister who, as Minister for Administrative Services, announced in 1979 the sale of the former prime ministerial Mercedes-Benz 450 SEL, which was the subject of extraordinary controversy, I recall, when I was at university in Canberra as a student, when Gough was Prime Minister and roaring around town in the Mercedes. Of course, it was a Liberal government that came in and got rid of the Mercedes and replaced it with a Holden. Indeed, I am glad that tradition has continued, because we make them in South Australia. I think it was most appropriate that John was the one who presided over the sale of that particular Mercedes, and it is a great credit to Gough that he was prepared to be there for that memorial service.

I certainly regard it as a privilege to have known John since I became State Director of South Australia in 1985. I did count him very much as a friend and, indeed, as something of an ideological soulmate, although he was much more controversial than I ever have been or, I think, will be. Again, just looking through some of the headlines with which John is associated, if you start back in 1970, you read: ‘Communist under the carpet: Barry Wain talks to John McLeay’, ‘MHR
renews attack on churchmen’ , ‘MP says textbooks are subversive’ , ‘No stranger to disputes’ , ‘Red outburst: McLeay not sorry’. So he was a man marked by his willingness to be prepared to say what he thought and not be afraid to attract great controversy and the resultant headlines.

It is also interesting to me, as someone who moved to South Australia in 1985, that he is one of those politicians—and it is something of a South Australian tradition—that was part of a father-son duo in politics. That does seem to be a bit of a South Australian phenomenon, because John’s father was a very famous Speaker and, of course, our esteemed leader’s father was of course in state parliament; and there were the Downers and the Wilsons. It is something of a South Australian phenomenon that we produce some great father-son teams.

One of my more enjoyable experiences in South Australian politics has been to have regular lunches with former South Australian federal members of parliament—something that I think we all should do more of. I think we all hope that perhaps we in this place will not be utterly forgotten. I certainly gained great value from a tradition of lunching with the likes of Jim Forbes, Sir Harold Young and, of course, John McLeay. Indeed, the last such lunch we had was last November, when John was clearly in ill health but was, despite that, his normal very feisty and opinionated self and not afraid to express his views about where the South Australian Liberal Party was going, where the government was going and, of course, what was wrong with the Labor Party, and was very keen to make sure we understood his views. It was a wonderful occasion. Of course, we had only some little time earlier lost Bert Kelly from that particular luncheon group: that was a great loss.

I am very sorry now to have lost John McLeay. He was a fine Australian, as shown by his record of service in the war as a gunner in New Guinea, as a businessman, as a city councillor and mayor, as a member of parliament and a minister and, of course, as Consul-General in Los Angeles. He was a great servant of both the parliament and the nation, and we will all miss him very much. My condolences to his family.

Question resolved in the affirmative, honourable senators standing in their places.

DISTINGUISHED VISITORS

The President—I draw the attention of honourable senators to the presence in the President’s gallery of a former member of the House of Representatives and former Labor government minister and member for Reid, Mr Tom Uren.

Honourable senators—Hear, hear!

PETITIONS

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

Republic Plebiscite: Head of State
To the Honourable the President and the Members of the Senate in Parliament assembled:
This petition of certain citizens of Australia draws to the attention of the Senate the growing desire for Australia to become a republic.
Your petitioners therefore request that the Senate conduct a plebiscite asking the Australian people if Australia should become a republic with an Australian citizen as Head of State in place of the Queen.

by Senator Reid (from 21 citizens).

Australian Broadcasting Corporation: Independence and Funding
To the Honourable the President and Members of the Senate in Parliament assembled:
The petition of the undersigned shows:
(1) our strong support for our independent national public broadcaster, the Australian Broadcasting Corporation;
(2) our concern at the sustained political and financial pressure that the Howard Government has placed on the Australian Broadcasting Corporation (ABC), including:
   (a) the 1996 and 1997 Budget cuts which reduced funding to the ABC by $66 million per year; and
   (b) its failure to fund the ABC’s transition to digital broadcasting;
(3) our concern about recent decisions made by the ABC Board and senior management, including the Managing Director...
Jonathan Shier, which we believe may undermine the independence and high standards of the ABC including:

(a) the cut to funding for News and Current Affairs;
(b) the reduction of the ABC’s in-house production capacity;
(c) the closure of the ABC TV Science Unit;
(d) the circumstances in which the decision was made not to renew the contract of Media Watch presenter Mr Paul Barry; and
(e) consideration of the Bales Report, which recommended the extension of the ABC’s commercial activities in ways that may be inconsistent with the ABC Act and the Charter.

Your petitioners ask that the Senate should:

(1) protect the independence of the ABC;
(2) ensure that the ABC receives adequate funding;
(3) call upon the Government to rule out its support for the privatisation of any part of the ABC, particularly JJJ, ABC Online and the ABC Shops; and
(4) call upon the ABC Board and senior management to:
(a) fully consult with the people of Australia about the future of our ABC;
(b) address the crisis in confidence felt by both staff and the general community; and
(c) not approve any commercial activities inconsistent with the ABC Act and Charter.

by Senator Reid (from 32 citizens).

Australian Broadcasting Corporation: Independence and Funding

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

The petition of the undersigned calls on the Federal Government to support:

I. the independence of the ABC Board;
II. the Australian Democrats Private Members Bill which provides for the establishment of a joint Parliamentary Committee to oversee ABC Board appointments so that the Board is constructed as a multi-partisan Board truly independent from the government of the day;
III. an immediate increase in funding to the ABC in order that the ABC can make the transition to digital technology without undermining existing programs and services, and that it will be able to do this independently from commercial pressures, including advertising and sponsorship;
IV. news and current affairs programming is made, scheduled and broadcast free from government interference, as required under law; and
V. ABC programs and services which continue to meet the Charter, and which are made and broadcast free from pressures to comply with arbitrary ratings or other measures.

by Senator Reid (from 50 citizens).

Petrol Prices

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

The petition of certain citizens of Australia draws to the attention of the Senate the extremely high price of petrol and other fuels and the increase in the amount of tax on fuel due to:

• The Government’s failure to keep its promise that the price of petrol and other fuels would not rise as a result of the new tax system, by reducing the excise by the full amount of the GST;
• The fuel indexation increases on 1 August 2000 and 1 February 2001, which will be significantly higher than usual because of the inflationary impact of the GST; and
• The charging of the GST on the fuel excise, making it a tax-on-a-tax.

Your petitioners therefore request the Senate to:

• Hold the Government to its promise that its policies would not increase the price of petrol and other fuel;
• Support a full Senate inquiry into the taxation and pricing of petrol;
• Consider the best way to return the fuel tax windfall to Australian motorists.

by Senator Reid (from one citizen).

Great Barrier Reef: Prawn Trawling

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

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

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

by Senator Bartlett (from 20 citizens).

Petitions received.

NOTICES

Presentation

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

That the Finance and Public Administration References Committee be authorised to hold a public meeting during the sitting of the Senate on 7 February 2001, from 5.30 pm, to take evidence for the committee’s inquiry into the Government’s information technology outsourcing initiative.

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

That the Senate—

(a) notes:

(i) that the unnecessary delays to the RAAF’s Airborne Early Warning and Control project will end up costing taxpayers hundreds of millions of dollars more for fewer aircraft, and will deliver very few benefits to Australian industry,

(ii) the RAAF will only receive four aircraft, which is less than their strategically assessed needs,

(iii) there will be added costs of $185 million for aircraft numbers five and six, and the Government has not yet committed to a purchase date for the extra aircraft,

(iv) that by reducing the capability from seven to four aircraft, the anticipated employment and domestic economic benefits will be severely diminished, particularly in the Hunter Valley and Ipswich regions, and

(v) that these cost blow-outs could have been avoided had the contract gone ahead on schedule; and

(b) recognises that many of the Government’s policies regarding outsourcing of logistical support in the Defence organisation have had a significantly negative impact on many rural and regional economies.

Senator Stott Despoja to move, on the next day of sitting:

That the Senate—

(a) expresses its concern that the proposed changes to the definitions and eligibility criteria for the research and development (R&D) tax concession:

(i) may significantly constrain what is taken to be ‘innovation’,

(ii) may significantly reduce the number and type of eligible R&D projects because projects will need to meet both the ‘innovation’ and ‘high technical risk’ tests,

(iii) will significantly reduce the scope of legitimate components of the ‘innovation’ process by extending the exclusion list (section 73B(2C)) to ‘supporting activities’,

(iv) will discriminate against innovation in mature industries,

(v) will discriminate against innovation in non-applied science fields, and

(vi) may create a compliance regime that will act as a major disincentive to private investment in innovation and R&D; and

(b) resolves 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 26 February 2001, a return setting out the following information:

(i) a list of all determinations of Federal Court and Administrative Appeals Tribunal decisions that the Government claims have unintentionally broadened the scope of the definition of ‘research and development activities’,

(ii) an explanation why these determinations are unacceptable to the Government,

(iii) details on what percentage of currently eligible projects would not
satisfy the proposed changes to the
definitions and eligibility criteria, and
(iv) the financial impact the changes,
including the extension of the
exclusion list, will make to currently
eligible projects.

Senator Murray to move, on the next day of
sitting:
(1) That there be laid on the table, as soon as
practicable after 30 June 2001, a report
by the Australian Competition and
Consumer Commission on the prices
paid to suppliers by Australian grocery
retailers for the goods that they re-sell,
and whether retailers and wholesalers of
a similar scale, as customers of suppliers,
are offered goods on like terms and
conditions, and including:
(a) an assessment, based on a sampling of
key suppliers and major retailers of:
(i) the extent of any price differences,
(ii) the impact of any such price dif-
ferences on competition in the
relevant markets, and
(iii) whether there is public benefit in
the existence of price differences;
(b) subject to paragraph (2)(b),
identification of any conduct found by
the commission in the course of
preparing the report that is likely to be
in breach of the Trade Practices Act
1974, together with an account of
action taken or proposed to be taken
by the commission in respect of such
conduct; and
(c) an outline of the circumstances in
which, in the commission’s view,
differences in prices paid to suppliers
by the various industry participants
would amount to a breach of the anti-
competitive conduct provisions of the
Act.
(2) That, in carrying out the requirements of
paragraph (1), the commission:
(a) is to take ‘prices’ to include all
aspects of the terms and conditions of
dealings between retailers or
wholesalers and their suppliers,
including the total funding support
given by suppliers to the major
retailers and wholesalers; and
(b) may withhold genuinely
commercially sensitive information
from the report provided that the
withholding of such information does
not prevent the commission from
giving the Senate a clear account of
the matters mentioned in paragraph
(1).

Senator Tierney to move, on the next day of
sitting:
That the Senate—
(a) notes that:
(i) while the Premier of New South
Wales (Mr Carr) was visiting Europe
recently, the town of Lithgow in his
home state lost a multi-billion dollar
aluminium smelter project to
Queensland, and
(ii) this project had the potential to create
up to 11 000 jobs and provide a major
boost to not only the economy of
Lithgow but to the entire region;
(b) condemns the amount of unproductive
time the Premier is spending overseas
while his own state is missing out on
projects that are vital for employment
and the economy; and
(c) calls on the Premier to upgrade his
representation of the people of NSW
from a part-time job to a full-time
occupation, with the aim of improving
business opportunities for his state in
regional Australia.

Senator Brown to move, on the next day of
sitting:
That the Senate endorses the comments of the
Western Australian Opposition Leader (Dr
Gallop) that: ‘The time has come to move away
from old-growth logging. I think – our
aspirations, our expectations as a community have
changed and we now understand that the
conservation of these remarkable assets is more
important than their destruction, both in terms of
our conservation values but also in terms of the
jobs. The future lies in protecting our wilderness
and our old-growth forests and that’s where the
jobs will be in the future.’

Senator Cook to move, on the next day of
sitting:
That the following bill be introduced: A Bill
for an Act to amend the Excise Tariff Act 1921 to
provide relief from the 1 February 2001
indexation of rates of excise duty applying to
petroleum. Excise Tariff Amendment (Petrol Tax
Senator Cook to move, on the next day of sitting:

That the following bill be introduced: A Bill for an Act to amend the Customs Tariff Act 1995 to provide relief from the 1 February 2001 indexation of rates of customs duty applying to petroleum. Customs Tariff Amendment (Petrol Tax Cut) Bill 2001.

LEAVE OF ABSENCE
Motion (by Senator O’Brien)—by leave—agreed to:

That leave of absence be granted to Senator Evans for the period 6 to 8 February 2001, inclusive, on account of family illness.

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

That leave of absence be granted to Senator Harris for the period 6 to 8 February 2001, inclusive, on account of ill health.

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

That leave of absence be granted to Senator Ridgeway for the period 6 to 8 February 2001, inclusive, on account of ill health.

COMMITTEES

Legal and Constitutional Legislation Committee

Extension of Time
Motion (by Senator Calvert, at the request of Senator Payne)—by leave—agreed to:

That the time for the presentation of the report of the Legal and Constitutional Legislation Committee on the provisions of the Administrative Review Tribunal Bill 2000 and a related bill be extended to 14 February 2001.

Community Affairs References Committee

Meeting
Motion (by Senator O’Brien, at the request of Senator Crowley)—by leave—agreed to:

That the Community Affairs References Committee be authorised to hold a public meeting during the sitting of the Senate today from 4 pm, to take evidence for the committee’s inquiry into child migration.

National Capital and External Territories Committee

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

That the Joint Standing Committee on the National Capital and External Territories be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 7 February 2001, from 11.30 am till 1.30 pm, to take evidence for the committee’s inquiry into the tender process for the sale of the Christmas Island casino and resort.

Rural and Regional Affairs and Transport Legislation Committee

Meeting
Motion (by Senator Calvert, at the request of Senator Crane)—by leave—agreed to:

That the Rural and Regional Affairs and Transport Legislation Committee be authorised to hold a public meeting during the sitting of the Senate today, from 5.02 pm, to take evidence for the committee’s inquiry into the import risk assessment on New Zealand apples.

NOTICES

Postponement
Items of business were postponed as follows:

General business notice of motion no. 681 standing in the name of Senator Murray for today, relating to international financial transactions, postponed till 6 March 2001.

LUCAS HEIGHTS: NEW NUCLEAR REACTOR
Motion (by Senator Forshaw) agreed to:

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 (INVAP);
(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 INVAP.
(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 INVAP’s ability to meet its contractual obligations.
(8) Any probity or due diligence reports that were compiled by ANSTO regarding INVAP or any of the tenderers, and particularly any advice that was provided to Senator Minchin regarding INVAP 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.

KURNELL: PROPOSED AIRPORT FACILITIES

Motion (by Senator Brown) agreed to:
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.

MATTERS OF URGENCY

Goods and Services Tax: Petrol Prices

The DEPUTY PRESIDENT—I inform the Senate that the President has received the following letter, dated 6 February, from Senator Cook:
Dear Madam President,
Pursuant to standing order 75, I give notice that today I propose to move that, in the opinion of the Senate, the following is a matter of urgency:
The failure of the Howard Government to honour its promise that the GST would not push up the price of petrol which has resulted in the Government collecting a fuel tax windfall from the pockets of struggling Australian motorists.
Yours sincerely
Senator Peter Cook
Is the proposal supported?
More than the number of senators required by the standing orders having risen in their places—
The DEPUTY PRESIDENT—I understand that informal arrangements have been made to allocate specific times to each of the
speakers in today’s debate. With the concurrence of the Senate, I will ask the clerks to set the clocks accordingly.

Senator COOK (Western Australia—Deputy Leader of the Opposition in the Senate) (5.04 p.m.)—Before I address the urgency motion, let me do an unusual thing and seek leave to amend the motion. In discussions with Senator Lyn Allison of the Australian Democrats, I would like to amend the motion to now read:

The failure of the Howard Government to implement energy and transport policies which would significantly reduce Australia’s dependence on petroleum products and to honour its promise that the GST would not push up the price of petrol which has resulted in the Government collecting a fuel tax windfall from the pockets of struggling Australian motorists.

Leave not granted.

Senator COOK—I therefore move:

That, in the opinion of the Senate, the following is a matter of urgency:

The failure of the Howard Government to honour its promise that the GST would not push up the price of petrol which has resulted in the Government collecting a fuel tax windfall from the pockets of struggling Australian motorists.

I note that leave has not been granted to amend my motion, and I am sure the Australian Democrats will be suitably offended.

Senator Ferguson—But you are happier.

Senator COOK—No, I am not happier. If you listen to the terms of the proposed amendment, it was not inconsistent with the motion at all. But this does betray the defensiveness of the Liberal and National parties. They do not want to risk this chamber having the opportunity to carry a motion of urgency by a majority.

Senator Boswell—I rise on a point of order. Senator Cook has just changed his urgency motion. I have not got a copy of the motion; nobody has a copy of the motion. At least he should give us—

The ACTING DEPUTY PRESIDENT (Senator Hogg)—There is no point of order. It has not been changed. You refused leave.

Senator Boswell—I have refused leave, but obviously Senator Cook has the numbers. I would like to know what we are going to debate in the next 15 minutes.

The ACTING DEPUTY PRESIDENT—Senator Boswell, if you refused leave, the motion has not been amended. As I understand it, Senator Cook is now arguing the original motion that was circulated in the chamber, and there is no amendment there.

Senator Boswell—Very good, that is exactly what he should be doing.

The ACTING DEPUTY PRESIDENT—Thank you for your advice, Senator Boswell!

Senator COOK—Thank you, Senator Boswell, for making it emphatic that the National Party do not want this chamber to carry a resolution which condemns the government of Australia for taking a windfall gain of tax out of the pockets of Australian motorists and hurting country Australians, and particularly farmers, more than anyone else. The National Party, which is supposed to be the late, great party defending the interests of rural Australians, is now stopping this debate from proceeding to a majority. Well, cold comfort, because back in the community, where you are answerable to your constituency, we will make it plain that National Party voters should be Labor Party voters at the next election if they want justice on fuel prices. Despite the fact that the National Farmers Federation has commended and supported the Labor Party in trying to block the 1 February indexation of fuel prices, the National Party, against the interests of its rural and farming constituency, supports higher prices for petrol in the bush. That issue is now beyond dispute, and I will refer back to this part of Hansard to prove what I have said to your rural constituents, Senator Boswell, at the necessary time.

On 16 October last year—nearly four months ago—I put on notice 36 questions to the Minister representing the Treasurer in this place. If those 36 questions were answered, it would enable me, any other senator and, most importantly, any other Australian to
work out how much extra tax the government has collected from Australians because of higher petrol prices. For almost four months those questions have sat on the Notice Paper waiting for an answer, and over that time the government has not deemed it fit to reply. This is a government that waves around its charter of budget honesty. ‘Let’s get the facts out on the table about election promises,’ it says. It is a government which is gutless and unable to tell the electors of Australia how much tax they are paying because of higher petrol prices.

Senator Sherry—They are hiding it.

Senator COOK—They are hiding it; it is indeed a cover-up, Senator Sherry. We think Australians are entitled to know how much tax, and how much extra tax, the government has collected. In the absence of any official forecast, let me turn to what the Australian Automobile Association says the windfall is; that is, the amount of tax collected beyond what was predicted in the current budget. The Australian Automobile Association, which represents automobile associations in the states—the NRMA in New South Wales, the RACV in Victoria, the RACQ in Queensland, the RAA in South Australia, the RAC in Western Australia, and the automobile associations in Tasmania—estimates that the government has put its hand through the petrol bowser and into the pocket of Australian motorists to the tune of $1.34 billion a year. That, they say, is their best estimate of the windfall.

On 1 February this year, this government allowed an indexation of excise on petroleum to go ahead—an indexation valued at 1.56c per litre but, when you add the GST, in reality it is 1.72c per litre or $500 million extra tax payable by Australian motorists through the bowser per year. When you cite it as a litre amount, as the Prime Minister does, it does not sound so great, but when you cite it as a revenue haul to the government—half a billion dollars—it is a significant slug to Australian taxpayers. The government wants to pass it on; we want to stop it, and a few minutes ago I announced that tomorrow, in accordance with the standing orders, I will introduce a bill to do so. Those on the other side of this chamber who affect concern for Australian small business, which is struggling under a bleak outlook for the economy, the threat of recession, the BAS, and the cost weight of higher prices, will have a chance to provide relief for them. And those on the other side of this chamber who affect any concern for Australian families—who are running the kids to and from school, using the family car to go to and from work, and taking the annual motoring holiday in Australia—and for elderly Australians who are reliant on services delivered to their home because they are too frail to go out to hospital or other services, know that the costs of higher petroleum permeate the household budgets of all Australians and push them higher.

Those on the other side of this chamber who affect concern for country Australians should heed the words of the National Farmers Federation, which supports our bill. They should heed those words, because the GST is a percentage tax and prices in the country are higher than prices in the city. By the application of that tax, country Australians pay more tax than city Australians, and the gap is widening and worsening for country Australians. Those on the other side of the chamber who affect concern for the bush and for regional Australia are the ones who are taxing them more. The GST, applied to petrol, is a tax on distance. Country Australians fill up their tanks more often, travel further, do not have resort to public transport, and pay more taxes on their petrol as a consequence. What did Mr Howard say? Mr Howard, hand on heart in a scripted speech—not ad lib—with forethought and consideration, said, ‘The GST will not put up petrol prices.’ Is that a promise he has kept? It is not, and one of the reasons why the government is now running scared in the regions is that country Australians know that petrol prices are higher under the GST than they were before and that the GST is to blame.

One of the other elements of the GST that is part of this hidden tax, and another reason why the bill I will introduce will kill the tax is this: from 1 July last year, the GST applied
in Australia. On 1 February this year, the amount of excise the government charges motorists at the pump as partake of petrol taxes rose by the amount of the CPI increase from 1 July last year to 31 December last year. So, for that six-month period, the GST price hike—the GST spike to inflation—is embedded in that CPI increase which applies on 1 February to petrol taxes, thereby starting an upward spiral of inflation based on the GST’s impact on prices.

Last November in this chamber I moved that we set up an inquiry into petrol prices in Australia, and the Liberal and National parties, with the Democrats, voted it down. As a consequence, the Labor Party held their own inquiry. We have not completed it yet, but so far we have been to 34 centres around Australia and heard evidence from 180 different witnesses, many of whom could be described as heartland National Party and heartland Liberal Party voters. Having been exposed to that body of public opinion, I can tell you with some authority that the people of Australia—and particularly people in the bush—are hurting because of higher petrol prices. They do not regard the roads program as a substitute. The roads program is not a substitute.

The roads program is costed at $1.6 billion over four years. The amount of windfall gain, according to the Automobile Association, is $1.34 billion per year. If the roads program accurately handed back the windfall gain, the roads program would be worth in excess of $5 billion, not $1.6 billion. The mistake Mr Howard has made is to believe that $1.6 billion compensates for something that costs more than $5 billion. It does not. The people of Australia want lower petrol prices and a decent roads program. That is what the NFF says. That is what the Labor Party say. In 34 locations around Australia, that is what 180 witnesses have said to our inquiry as well. If you in government do not heed that voice, then at the ballot box you will become you in opposition. You are out of touch now. You have forgotten your base and you are punishing them with higher taxes. (Time expired)

Senator FERGUSON (South Australia) (5.17 p.m.)—Is it any wonder that we have seen this unconvincing little performance from Senator Cook? It is unconvincing in many ways. The fact remains that Senator Cook believes in indexation of fuel excise. After all, his party introduced it. His party said that we would have half-yearly CPI indexation of fuel excise. As a matter of fact, his party introduced fuel excise, so they are not only responsible for the introduction of fuel excise but also responsible for the twice-yearly indexation. It was their policy, and the current government is only continuing a policy that was the Labor Party’s policy for 13 years. Not only that, Senator Cook is also strongly in favour of the GST, because when his leader was asked whether he would take the GST off—

Senator Cook—Mr Acting Deputy President, I rise on a point of order. My point of order, with the greatest respect to all of the senators in this chamber, is that I want to save the senator on the floor from unconsciously misrepresenting himself. He has said that I am strongly in favour of the GST. I have consistently voted in this chamber against the GST, and I authored a report condemning the GST. That is the record.

The ACTING DEPUTY PRESIDENT (Senator Chapman)—There is no point of order.

Senator FERGUSON—If you are not in favour of a GST, when you introduce your bill tomorrow perhaps you could include a proposition to remove the GST totally from petrol. Perhaps you could give us that guarantee tomorrow morning. If you are so opposed to a GST, bring in a bill tomorrow morning that says you will remove the GST from petrol so the people you are so anxious to protect in the long term—if ever you got into government again—would be protected from a GST on fuel. But you will not do that, because your leader has said he will not take away the GST on fuel and he will not do away with indexation on fuel excise—and of course he will not do away with fuel excise. He had plenty of opportunities when he was interviewed by Neil Mitchell only yesterday.
Senator Boswell—What an interview!

Senator FERGUSON—What an interview. I tried very hard to read the interview, but it was almost impossible to read because of some of the language. When asked whether he would take the GST off petrol, Mr Beazley said, ‘I don’t think we would give that contemplation.’ I am still trying to work out exactly what Mr Beazley meant. The Labor Party are in a state of complete confusion when it comes to the issue of petrol taxation. They have no idea what they want to do. All they are trying to do is to get some cheap political capital from trying to freeze a one-off indexation which protects their fuel excise—which they introduced in the first place and which was not part of Liberal Party policy. They put in place a policy of twice-yearly indexation, and they intend to keep it in place. There was no mention by Mr Beazley of removing the twice-yearly indexation, which was their policy, which they put in place and which they intend to keep in place. There was no mention by Mr Beazley of removing the twice-yearly indexation of fuel excise, adjusted to the CPI. There was no mention by Mr Beazley or Senator Cook of removing the GST component of the fuel taxation.

The Labor Party are in a state of confusion. They are telling the government that it should cut petrol excise, but they refuse to commit themselves to a cut in excise as part of the Labor Party’s policy. In other words, the Labor Party have a policy and a plan for what the Howard government should do, but they have absolutely no policy or no plan for what they would do in government. Mr Acting Deputy President, I can tell you what they would do: they would retain fuel excise. They would retain the twice-yearly indexation and they would retain the GST. This little stunt by Senator Cook of introducing a private member’s bill is exactly that: a political stunt to try to curry some short-term political favour for their own advantage.

We need to remember when it comes to indexation that, as a one-off, the indexation on 1 February was a four per cent CPI rate—much lower than the anticipated CPI impact. While the Labor Party were in office for 13 years they had 23 indexations of fuel excise. Of those 23, seven were greater than four per cent. Did the Labor Party freeze it? Did they offer any compensation to those people in far-flung Australia Senator Cook says are going to be impacted so much by this four per cent increase? In August 1983, they had a 4.3 per cent indexation and in February 1987 they had a 5.6 per cent indexation. Was there any thought of compensation for country people? Not one little bit. When the Keating government was in power it increased petrol excise by 5c a litre and the wholesale sales tax by two per cent across the board, and there was no attempt whatsoever to remove those tax rises from the CPI for the purpose of calculating excise indexation. So I repeat: the Labor Party have no intention of cutting the excise, no intention of rolling back the GST on petrol if they get into government and no intention of abolishing fuel excise.

The best way to minimise excise indexation is to have low inflation. Under this government, the inflation average has been under three per cent for the whole period of this government. For the whole of the time that Labor were in government, inflation averaged twice as much as that—it averaged six per cent. That had a far greater effect on the price of petrol than anything that this government has done since 1996, including the impact of the GST. Labor ran inflation at an average of six per cent, and every time there was a rise in the fuel excise rate because of a CPI indexation it went up on average by twice as much percentage wise compared to what has happened since the coalition came into government. Did Senator Cook address any of those issues? When he visited all of these country areas during his own little inquiry into petrol pricing did he say to all those people, ‘I’m from the Labor Party’?

Senator Sherry—Yes.

Senator FERGUSON—Did he say, ‘I introduced fuel excise. I was a member of the Labor government. I introduced a fuel excise and that is why you pay a fuel excise today’? Did Senator Cook say to these people, ‘Not
only did I introduce the fuel excise, but I made sure that it had a CPI indexation twice every year? Did Senator Cook and his committee say to these people—this heartland of National Party and Liberal Party people—I’m from the Labor Party. I introduced the fuel excise and I also made sure that twice every year you had an indexation. Because as a government we were unable to control inflation—we had an inflation average more than twice that of the current coalition government—we made sure that your fuel excise increases were at a greater rate than the current government? Did he also say, ‘I’m from the Labor Party and I now support a GST. We are not going to remove the GST component. I support twice-yearly indexation and I support the introduction of the fuel excise because I was part of a government that introduced it’?

If the Labor Party are going to be genuine with rural Australia, they need to make sure they state all of those facts every time they have a hearing and take evidence. There is no point in just seeking short-term political popularity by saying that, because the inflation rate is four per cent this time—bearing in mind that when they were in government they had seven occasions when it was greater than four per cent but no compensation and no freeze—they want a one-off and once-only freeze. The Labor Party of Australia have to come clean with the Australian people and tell them what their policy would be if they were ever elected to government; otherwise, anything they say in this area cannot be believed and any way they try to gain any short-term benefit politically will be seen by those people as the Labor Party trying to convince them that they are acting in their interest. The coalition government has not changed any provisions dealing with indexation. The indexation on fuel excise was done under Labor’s legislation. This coalition government has not in any way changed fuel indexation.

Mr Beazley went on in the interview to say—and it was almost unintelligible—‘If you want to take the excise off petrol then you need to nominate which school you are going to close.’ Have you ever heard a more ridiculous statement? In other words, the funding of schools is directly related to whether or not we take the excise off fuel. So, if you take the excise off petrol, you need to nominate which schools you are going to close. The simple fact is that Labor have no intention of cutting the excise, because they are going to need more and more money for all of their big spending promises. (Time expired)

Senator ALLISON (Victoria) (5.28 p.m.)—The Democrats join with the opposition in debating this matter of urgency. I must say that it is regrettable that the government would not allow the amendment to the motion. We think this is important, but there are more important issues to consider when we look at the price of petrol. The Prime Minister said very clearly that the GST itself would not be the cause of any increase in the cost of petrol; yet last July the government increased taxes on petrol by 1½c a litre. That was a breach of a direct election promise that petrol would not rise as a result of the GST. We said at the time that it was a broken promise and a promise that should have been honoured. It is true that oil companies will probably achieve cost savings from tax reform over the next few years and 1.5c a litre could have been clawed back, but that is not going to happen overnight.

The Democrats agree with the Prime Minister that this 1.5c a litre is very small compared with the increases in petrol prices of 20c a litre and more that have been due to the price of a barrel of oil, over which Australia has little control. In fact, this 1.5c a litre works out to be less than 50c a week, about $20 a year, for the average motorist. But, as I said, a promise is a promise and the Democrats did warn some time ago that an adjustment to the excise arrangements would need to be made. Of course the ALP introduced an import parity pricing policy for crude oil discovered after 1975. They did that to encourage the exploration for, and development of, Australian crude oil, as well as to have a handy mechanism for attracting more government revenue. The ALP introduced the indexation arrangements on excise that, on 1 February, added another 1.7c a litre to fuel
costs; Labor did not discount the indexation when they increased petrol taxes in 1993. The Democrats do not want to criticise that measure, but it is important to get it on the record just in case Labor might be using this debate to suggest they have always been in there defending the interests of the little Aussie motorist battler.

I do not want to downplay the importance of affordable fuel prices to people on low incomes or to those who must travel long distances on a regular basis. For those people, increasing petrol costs are a very serious drain on their budget and there is real hardship being felt, particularly in rural areas. The Democrats are acutely aware that people on low incomes cannot afford the latest, most fuel efficient vehicles, and in many cases cannot even maintain their vehicles, which, of course, can deliver significant fuel efficiencies. The problem is that this government, and the Labor government before it, has still not heeded the warnings about the need to reduce the consumption of petrol and other petroleum products. Not only will we have to do this in a greenhouse gas constrained environment; there is not an endless supply of oil reserves. This is presumably why we are digging up shale adjacent to the Great Barrier Reef world heritage area in order to crush and to extract the oil. That is a very expensive and greenhouse intensive process.

Other countries have used government policy and legislation to encourage smaller, more fuel efficient vehicles, better public transport and alternative fuels. We have largely ignored those opportunities in this country. Anyone who has travelled to Europe or the UK in recent times will be struck by the absence of large cars. Yet we are still producing them here, still driving them and, of course, the huge increase in the number of four-wheel drive vehicles on the road is taking us in completely the wrong direction in this respect. Australia has a 20 per cent higher use of fuel per capita than other OECD countries because our reliance on motor vehicle transport, both for passengers and freight, is too high, and this is even the case for urban travel. So we cannot find an excuse for ourselves on the basis of distance. Ninety-two per cent of urban passenger transport is undertaken by motor vehicle, and car kilometres travelled in Australia doubled between 1975 and 1995. There are good reasons for Australia reducing its use of oil and finding local alternatives such as natural gas. Only 40 per cent of Australia’s oil consumption is sourced locally and it is estimated that, by 2010, Australia will be producing less than a quarter of the current production here. Oil imports could add an extra $4 billion to Australia’s current account deficit by 2010.

The Democrats asked the ALP to amend this motion because we recognise that there is an urgent need for governments to develop much more comprehensive, integrated answers to the problem of increasing petrol costs. The National Greenhouse Strategy says that efficient transport and sustainable urban planning are a major priority for the government and that the government seeks to promote an integrated, best practice approach to transport. These are fine words but we have not actually seen much action on the ground to achieve that best practice. About the only transport related moves have all come out of the tax package as a result of Democrat initiatives and negotiations such as fuel emission standards, gas conversion, alternative fuels grants and the removal of excise for rail and the like. I encourage the government to take a look at the Senate environment committee’s report on Australia’s greenhouse future. There are numerous recommendations in that report that would not only assist in meeting our Kyoto and National Greenhouse Strategy commitments but also reduce transport costs for all Australians. One point that I would like to draw on is the fact that this would cost taxpayers very little. In fact it would deliver considerable savings.

Every year in Australia around 90,000 vehicles are purchased by governments for their own fleets. Apart from a small number of LPG vehicles, all are petrol vehicles and the vast majority are, I understand, six-cylinder vehicles. There are no incentives for public servants or parliamentarians to drive small
cars or cars that run on alternative fuels. Both the car and the petrol are publicly funded, so fuel efficiency is not an issue. Add to that the large fleet of corporate vehicles on the road whose drivers are similarly not personally affected by fuel costs and you have a very large number of vehicles indeed making up the total number of cars on the road that use more fuel than they should. The greenhouse report suggests that we use tax laws to build in those incentives. It also recommended that rail and public transport should be better funded, that there should be a pool of transport funding and that road and other forms of transport should compete on criteria that are transparent and give the best outcome for the environment.

But there is another way which could provide an Australian car fleet with cars that are much cheaper to run. CSIRO, in association with Holden, produced the prototype ECOMmmodore—a hybrid electric-petrol vehicle that runs on 50 per cent of the petrol that a conventional Commodore uses. It uses a small four-cylinder engine and an electric motor to drive the front wheels. These power sources work in tandem to attain performance levels comparable to those of the current Commodore. The CSIRO was also part of a consortium of 100 Australian companies that developed the hybrid aXcessaustralia concept car, which would produce 10 per cent of the emissions of the average car while reducing fuel consumption by half. Toyota’s Prius is also a hybrid car with similar cost savings. None of these vehicles will be made available in Australia in the foreseeable future, in spite of the fact that, as I understand it, Holden could have its ECOMmmodore on the production line within a few months and with a relatively small outlay. The reason these hybrid cars are not available to motorists is that there is no incentive in place. The technology is known; we could manufacture them in Australia.

The Democrats would like to see the Australian government using their buying power—that is, in connection with their 90,000 vehicles every year—to provide that incentive. Taxpayers would save in reduced fuel costs, the small extra cost of the vehicles would be retrieved in their resale after three years, and there are simply no losers in this proposal. Over time this would provide Australians with a considerable fleet of vehicles running on half as much fuel, as well as with the choice that motorists would make. Government fleets could also be converted to natural gas. My new electorate car runs on natural gas, and I would encourage all senators and members to consider making this their choice next time they need to change their car. It is time for us all to be looking at alternatives to petrol. Petrol is getting more costly, with or without the 1.5c per litre excise increase. It is our view that it is time for governments to show leadership on this issue. There are very many useful steps that can be taken both to reduce the costs of transport in the medium and long term and to reduce our reliance on petroleum products.

Senator MACKAY (Tasmania) (5.37 p.m.)—I cannot really let some of Senator Ferguson’s comments go. It is a shame that he has left the chamber and is not here to hear the entirety of the debate, particularly given that he is from South Australia and a part of South Australia which is very much regional—in fact, rural. But there was one thing that Senator Ferguson did not tell us; he did not talk about the federal government’s promise, the promise that John Howard made. We are signalling here today that we are going to try to fix up not our mess, not the Labor Party’s mess, but the coalition’s mess. That is what we are here to do. Obviously the whole situation with regard to petrol, from our perspective—but, more importantly, far more importantly, from the perspective of regional Australians and people who live in rural communities—is this: it is yet another broken promise from this government. The Prime Minister made that promise on 13 August 1998. In his address to the nation—it was not just any old interview; it was actually an address to the nation—he said, ‘The GST will not increase the price of petrol for the ordinary motorist.’ When he said that, he was obviously giving a non-core promise. A non-core promise: that is a phrase which has gone into the everyday language
of Australians. Often—and other senators probably have this same experience—you hear people talking and using the phrase ‘core and non-core’. Mr Howard may go down in history as the great inventor of the phrase: is that core or non-core? So we have a situation here where, in an address to the nation—not just any old media interview—scripted and well prepared, he made that promise.

Twice this promise has been broken: the first time when the government failed to deliver on its pledge from the Treasurer, Mr Peter Costello, to cut excise by ‘an amount equivalent to the GST’; and now by signalling its intention not to support the Labor Party’s private member’s bill to waive the 1 February indexation that has added another 1.7c per litre to the price at the pump. This latest increase is quite out of the ordinary. It is three times the normal indexation average and the highest since 1983.

The Labor Party in 13 years of government did not pass on an excise increase several times, depending on the circumstances. In fact, there was at least one occasion when we did not do that. We put our money where our mouth was. We did not even introduce the GST. We did not introduce the GST, and it is because of the introduction of the GST that this private member’s bill is here.

Senator Mason interjecting—

Senator MACKAY—Senator Mason clearly thinks the price of petrol is hilariously funny. Senator Mason, I can tell you that in Queensland, where I spent most of my time on the petrol inquiry, they were not laughing; they were not laughing in relation to the price of petrol at all. I would exhort you to go and talk to your constituents in relation to this matter.

Senator Mason—I do.

Senator MACKAY—If you do, then we can expect you on Thursday to make the five steps to courage and vote in favour of the private member’s bill. Now we have Senator Boswell, the Leader of the National Party in the Senate, also laughing. He thinks that this private member’s bill is something to laugh at. I would also say the same thing to Senator Boswell. Senator Boswell, as a member of the National Party, should know what people in regional and rural Australia think about this government in relation to the price of petrol. In fact, we know he does because of the endless press commentary that came out of the coalition’s day long party meeting yesterday with, I understand, 45 speakers. Obviously all that happened was that people talked at John Howard; he did not talk to them. As I understand, a number of those speakers talked about petrol.

There are 12 coalition MPs on the record in relation to this issue, saying that something should be done about the price of petrol; saying that they are getting the blowtorch applied to them by their constituents; saying that the government should consider that this excise should be phased in. I am very sorry to say to Senator Boswell that, of that dirty dozen, those 12 coalition MPs, only two were members of the National Party—only two.

Senator Sherry—Only two?

Senator MACKAY—you would think, wouldn’t you, Senator Sherry, that from a party that has prided itself on representing rural and regional Australia there would be more than two out of 12 with a bit of courage. You really would.

Senator Sherry—You really would.

Senator MACKAY—you really would. Senator Boswell will have the opportunity, as will his colleagues, to support the Labor Party’s private member’s bill when it comes on in the chamber on Thursday.

Let us look at the reality of the situation—and Senator Cook I think put it very well. Despite the Senate’s refusal to agree to the Labor Party’s petrol inquiry—and two of my colleagues, both Labor senators who are here in the chamber at present were involved in that process—I have to say that I personally found the exercise and listening to the evidence from witnesses very distressing and I have to say particularly in Queensland. Some of the stories we heard were very distressing. We heard stories which I very much remember in, for example, Rockhampton, of truck drivers who were driving more than 100
hours a week in order to try and keep up with costs in terms of repayments on their rigs. We had stories of the Meals on Wheels organisations in regional Queensland that simply could not get people to volunteer to deliver meals, because of the cost of petrol. This is not what we are saying; this is not what the Labor Party is making up: this is what the people of Queensland told us in relation to petrol. We said to them quite up-front—and this is to Senator Mason, through you, Mr Acting Deputy President—‘Our proposal will only reduce the price of petrol by around 2c; do you think that’s enough? Is it worth undertaking this exercise?’ They said yes. I came out and was very direct with people—and they said yes. I said, ‘Well, John Howard doesn’t.’ He is okay on the price of milk. In fact, we saw him saying—

Senator Sherry—Here’s another issue.

Senator MACKAY—Yes, here is another issue. Recently on ABC Radio, in relation to the fall of a few cents per litre in the price of milk, he said, ‘To a lot of people who are on stretched budgets, any fall in the price of something like milk is very welcome.’ It is obviously all right to reduce the price of milk, but who cares if the price of petrol reduces by 2c a litre—according to Mr Howard?
The people we spoke to said, ‘Yes, we want the reduction; we want a freeze on excise.’ If you are a truck driver, driving rigs 100 hours a week, 2c a litre is a lot of money. If you live in the back of Queensland, as a number of the people we spoke to do, and you drive two and three hours routinely to take your kids to sport, 2c a litre is a lot of money. This is something that is facing average Australians, and regional Australians in particular, every single day of their lives, and I challenge not just simply the 12 who have actually had the guts to come and say something but some of the senators in here to consider what is happening in regional Australia, to vote with their hearts, and to cross the floor and support the Labor Party’s private member’s bill.

Senator BOSWELL (Queensland)—Leader of the National Party of Australia in the Senate and Parliamentary Secretary to the Minister for Transport and Regional Services) (5.45 p.m.)—After being in politics for something like 18 years—I am in my 19th year at the moment—you expect hypocrisy in this house, but today takes the cake. Let me put this motion into perspective: today we are saying the total excise index rise was four per cent, which relates to an increase of 1.5c a litre on fuel. If there was no GST—and this is what the ALP’s motion has put up: to remove the excise on the GST—we would be saving 1c a litre. I acknowledge that petrol prices are a problem. I am the first to acknowledge that they impact on regional and rural Australia, but we are arguing about 1c a litre—

Senator Sherry—No, we are not.

Senator BOSWELL—Yes, we are. Your urgency motion is saying: remove 1c a litre. That is the light on the hill; that is the vision of the Labor Party—1c a litre—and we come in here and debate 1c a litre. That is the great vision of the ALP; that is the big picture of the ALP; we are going to save 1c a litre. This urgency motion should have never even got up, because your own leader emasculated it yesterday on 3AW when he said that a Labor Party government would not remove fuel excise, nor would it remove the GST on fuel, nor would it remove the indexation on fuel. And then, when he got into a very hard debate with the radio commentator, he said, ‘If you took the excise off fuel, what particular school would you like me to close?’ Your motion today falls to the floor because your leader does not even support it; that is how ridiculous it is. We are debating 1c a litre. The price of fuel goes up and down. In Queensland, where there is no tax on fuel, it can fluctuate by between 15c and 12c. It can even fluctuate by 5c a day: it can be 5c lower in the afternoon than in the morning. So 1c a litre, while it is important, is not the end of the world.

This government has put $1.6 billion into roads—jobs will be created and the roads will be there forever. That is what this government has done. So you go out there with your mates who are running your Labor
Party committee and, no doubt, ring up the local branch of the ALP and say, ‘Listen, we have a troop coming into town tomorrow. Provide us with a few witnesses.’ Of course they will provide you with a few witnesses, and that is what they have done. The ALP committee going out there to investigate petrol prices is just unbelievable.

The hypocrisy of the situation is this: a year ago this parliament had a discussion on fuel, and we discussed a 6.7c litre reduction and a 17c litre reduction on fuel for heavy vehicles, that is, a 24c litre reduction for fuel going into trucks that service rural and regional Australia and trucks that transport cattle. And where were you people when we wanted to reduce the price of fuel by 24c a litre? You voted against it. You voted against a 6.7c reduction, and then you followed it up and voted against a 17c reduction on heavy fuel. And then you have the rank hypocrisy to come into this place and argue about 1c when you rejected a 24c a litre reduction. Do you expect people to support you when you do those sorts of things? You are an absolutely policy-lazy opposition, and you will remain in opposition for many years, because what is your policy on this? You are going to continue with the excise on fuel; you are going to continue with the indexation; you are going to continue with the policy of the GST. You are arguing that we failed to reduce petrol prices by 1c when you refused a reduction of 24c. If you can sell that message to rural Australia, you will be the greatest salesmen of all time. But they will reject you, like they have always rejected you, and they always will reject you, because the ALP just do not talk sense.

Senator SHERRY (Tasmania) (5.53 p.m.)—For those who are listening who are not familiar with Senator Boswell, he happens to represent the state of Queensland and be the leader of the National Party. And for those attempting to understand his somewhat rambling contribution, it was a series of excuses as to why the National Party stands for higher fuel prices in this country—that is effectively what Senator Boswell was arguing. Also, at the beginning of this debate, Senator Boswell refused leave for the Australian Democrats to amend the motion that we are considering, because Senator Boswell and the National Party are petrified about the issue of high fuel prices as it impacts on the people they supposedly represent in rural and regional Australia.

The nub of the issue, the central issue we are dealing with here today, is the promise Mr Howard made as Prime Minister, as leader of the Liberal-National Party government, that petrol prices would not increase as a result of the GST. That was the commitment that Mr Howard gave in the run-up to the last election. He has broken the commitment, and broken it by considerably more than the 1c a litre that Senator Boswell claims is the increase. It is interesting that Senator Boswell actually admits that Mr Howard has broken his promise, but he fobs it off by saying, ‘Well, it is only 1c a litre.’ It is more than 1c a litre.

I will explain how much Mr Howard has broken his promise to the Australian people that fuel prices would not go up as a result of the GST and I am going to quote figures not from members of the Australian Labor Party but from the Australian Automobile Association, which has been critical of the Australian Labor Party in the past. The Australian Automobile Association says in its latest publication that since July last year, when the
GST was introduced, the Commonwealth fuel excise has risen by 3.6c directly as a consequence of the GST, with rises that included the 1.5c in July last year and then a further 1.1c on 1 February as a result of the latest indexation increase. And the reason that that indexation increase is important is because the considerable majority of the inflation increase in the last quarter resulted from the GST. So the total, Senator Boswell, is not 1c; it is actually 2.6c, on average.

Senator Boswell talked about some sort of equalisation fund. Down in Tassie where I live, on the north-west coast of Tasmania, fuel prices are close to $1 a litre, Senator Boswell. Yet, with your so-called equalisation fund, in Sydney and Melbourne apparently fuel prices are 10c to 12c lower. I do not know what your equalisation fund is doing but we have not seen any narrowing of the differential in fuel prices in Tasmania.

The point I make is that it is at least 2.6c a litre higher. In rural and regional areas of Australia, which Senator Boswell and the National Party supposedly represent, it is higher because the base price of fuel is higher and the GST, being a percentage tax, actually imposes a greater burden than 2.6c a litre. In addition, you would think Senator Boswell and the National Party would care about people in rural and regional Australia, because fuel prices there are not just higher but the people who live there drive further. Secondly, public transport, if they have got it, is fairly limited. Where I live, on the north-west coast of Tasmania, the majority of people have no access to public transport.

Thirdly, incomes are lower in rural and regional Australia. So the impact in rural and regional Australia of higher fuel prices resulting from the GST is quite devastating.

What do the National Party do about it? Absolutely nothing. What is very important—and they do not mention this in the debate—is that when the Labor Party was in government it did discount the excise where special circumstances warranted it. The government is fond of saying 23 occasions. On one occasion it did discount it as a result of special circumstances. I cannot think of a better reason as a result of the last inflation increase which was driven by the GST why that $1 billion should not be returned to the Australian people. (Time expired)

Senator MASON (Queensland) (5.58 p.m.)—Senator Cook certainly has courage. I do not think anyone believes the Labor Party actually takes off taxes. No-one believes that. In fact, as my good friend Senator Kemp always reminds the Senate, in Senator Cook’s parliamentary career his second most important statement was: the Labor Party is a high tax party. So for the Australian Labor Party to get up and say, ‘We are going to cut taxes,’ goes against their philosophy and Senator Cook’s greatest contribution to the life of the Australian nation.

This is an important issue. Fuel prices are hurting. Senator Sherry and Senator Mackay are right: in Queensland, where I come from, it is a big issue. The fact is that fuel prices at the pump are set by world parity pricing, the world price of crude oil and the strong American dollar. That’s what sets the price of petrol at the pump.

This is a cheap display of political opportunism and populism by the Australian Labor Party. The Labor Party opposed taxation reform because they thought they could win a few cheap votes. That is why they opposed it when they knew taxation reform was necessary. They opposed taxation reform and supported the retention of the wholesale sales tax policy, when they knew it was the appropriate policy for the Australian people. For 20 years, we had a debate about it in this country and, when it came to the crunch, they squibbed.

Here again we have an issue on which the Australian Labor Party are trying to make a cheap point. Mr Beazley has had five years to work out a policy platform and a policy direction for the Australian Labor Party and he has come up with nothing. His motley crew, the Right of the ALP, the soulless, believe in nothing. The Left believe in everything, but everything they believe in is wrong. The Centre Left, which I think is where Senator Cook comes from, that rare bird of paradise which I understand is nearly
extinct, has the cherry pickers or the management consultants of Labor. At best, Labor at the moment are a cheap, poor, anaemic reflection of the Liberal Party. They stand for nothing.

When I joined the Liberal Party back in the 1980s, we were in opposition. We were in opposition for a while, but no-one ever said that we stood for nothing. We always stood for one hell of a lot, and we changed the policy direction in this country—so much so that 20 years later even people on the Left like Senator Bolkus now adopt the policies that we fought for. That is the greatest thing we did. After five years the Labor Party still stand for nothing. They are a cheap and anaemic reflection of the Liberal Party, standing for absolutely nothing.

I want to go to a bit of history. Senator Sherry spoke about the Labor Party’s performance on petrol when they were in office. Let us go back to 1983. When Labor came into office in 1983, petrol excise was 6.155c per litre. Thirteen years later, when they left office, excise was 35c per litre—an increase of 28c or 450 per cent. Labor introduced indexation in 1983, and not once during their term did Labor compensate motorists for their consumer price indexation increase or their discretionary increases in fuel excise. The thing about the Labor Party is that you do not listen to what they say—they say a lot of things; you do not listen to what Senator Cook or Senator Sherry says—but you remember what they did.

When they were in office, the CPI increase on petrol was 450 per cent. In contrast with the Liberal Party and this government, on five occasions during their term in office Labor legislated to increase the petrol excise over and above the consumer price index to raise more money, to raise more taxes. Yet Senator Cook says, ‘We’ll take the tax off.’ No Australian listening today believes the Labor Party will take off taxes. The Labor Party do not take taxes off. Labor have opposed all the measures, as Senator Boswell said, introduced by the government to help keep fuel prices down. That is what Labor have done. It is not what they say; it is what they have done. They have even opposed our attempts to introduce more competition into the petrol industry, which would have benefited motorists.

If Labor had succeeded in voting down taxation reform and fuel concessions, firstly, petrol would be around 10 per cent more expensive for farm and other businesses. Secondly, as my friend Senator Boswell said, diesel would be around 24c a litre more expensive for heavy vehicles. Thirdly, diesel would be taxed at around 44c more for rail and for marine transport. It is important to note this: the Commonwealth government, the coalition government, does not benefit from higher petrol prices. The excise rate stays the same. Regardless of whether the retail price is, for example, 90c, $1 or $1.50, the excise remains the same—at 39c per litre. The indexation of the petrol excise does not provide a windfall to the Commonwealth government. In fact, for every dollar of extra revenue raised through indexing excise, around $2.40 is paid out through higher pensions and other government allowances also linked to indexing.

The point here is clear. Remember what the ALP did when they were in government: not only did they land this country with a $10 billion deficit in their last year in office but there was debt of $80 billion over their last 10 years. Remember what they did on petrol. They raised excise phenomenally—450 per cent during the life of the Labor government. (Time expired)

Question put:

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

The Senate divided. [6.09 p.m.]

(The President—Senator the Hon. Margaret Reid)

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<tr>
<th>Ayes</th>
<th>32</th>
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<td>Noes</td>
<td>27</td>
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AYES

Allison, L.F. Bartlett, A.J.J.
Tuesday, 6 February 2001

SENATE

Bolkus, N.  Bourne, V.W.  Buckland, G.
Brown, B.J.  Carr, K.J.  Denman, K.J.
Campbell, G.  Crossin, P.M.  Harradine, B.
Collins, J.M.A.  Cook, P.F.S.  Lees, M.H.
Cooney, B.C.  Crow, B.  Lundy, K.A.
Crowley, R.A.  Denman, K.J.  Ludwig, J.W *
Forshaw, M.G.  Gibbs, B.  Mackay, S.M.
Greig, B.  Harradine, B.  McKiernan, J.P.
Hutchins, S.P.  Lees, M.H.  Murray, A.J.M.
Ludwig, J.W *  Lundy, K.A.  O'Brien, K.W.K.
Mackay, S.M.  McKiernan, J.P.  O'Brien, K.W.K.
Murphy, S.M.  Ray, R.F.  O'Brien, K.W.K.
O'Brien, K.W.K.  Stott Despoja, N.  West, S.M.
Schacht, C.C.  Woodley, J.  West, S.M.

NOES

Abetz, E.  Boswell, R.L.D.  O'Brien, K.W.K.
Brandis, G.H.  Calvert, P.H.  Ray, R.F.
Coonan, H.L.  Ferguson, A.B.  Ray, R.F.
Ferris, J.M.  Gibson, B.F.  Reid, M.E.
Heffernan, W.  Herron, J.J.  Reid, M.E.
Kemp, C.R.  Knowles, S.C.  Tchen, T.
Lightfoot, P.R.  Macdonald, I.  Tierney, J.W.
Macdonald, J.A.L.  Mason, B.J.  Troeth, J.M.
Payne, M.A.  Sherry, N.J.  Watson, J.O.W.
Tambling, G.E.  Ellison, C.M.  Watson, J.O.W.

PAIRS

Bishop, T.M.  Eggleston, A.  Brien, K.W.K.
Evans, C.V.  Patterson, K.C.  Ray, R.F.
Faulkner, J.P.  Crane, A.W.  Reid, M.E.
Hogg, I.J.  Vanstone, A.E.  Reid, M.E.
McLucas, J.E.  Minchin, N.H.  Reid, M.E.
Sherry, N.J.  Ellison, C.M.  Reid, M.E.

* denotes teller

Question so resolved in the affirmative. Motion (by Senator Carr) agreed to:

That the resolution relating to petrol pricing be communicated by message to the House of Representatives for concurrence.

COMMITTEES

Electoral Matters Committee

Statement

Senator MASON (Queensland) (6.14 p.m.)—by leave—As the Senate is aware, the Joint Standing Committee on Electoral Matters is undertaking an inquiry into the integrity of the electoral roll. As part of that inquiry, Mr Lee Michael Bermingham was invited and agreed to appear before the committee at a public hearing held in Brisbane on Thursday, 14 December 2000. Unfortunately, Mr Bermingham failed to appear at the public hearing at the specified time, so a summons was served on Mr Bermingham to appear at the hearing that day.

Mr Bermingham failed to appear before the committee on 14 December 2000 in response to the summons. As this is a serious issue, under standing order 176(2) the committee is acquainting the Senate with this matter. Under House of Representatives standing order 362(b), the chair of the committee will similarly report to the House of Representatives. Following the completion of the hearing on 14 December 2000, Mr Bermingham contacted the committee secretariat to explain his reasons for not attending. Mr Bermingham subsequently appeared before the committee at a public hearing held on Tuesday, 30 January 2001 in Sydney. Accordingly, the committee does not wish to take this matter any further.

DOCUMENTS

Tabling

The PRESIDENT—Pursuant to standing orders 38 and 166, I present documents as listed below which were presented to me, the Deputy President and temporary chairmen of committees since the Senate last sat. In accordance with the terms of the standing orders, the publication of the documents was authorised.

The list read as follows—

Companies Auditors and Liquidators Disciplinary Board—Report for 1999-2000. [Received 11 December 2000]
Council for Aboriginal Reconciliation—Reconciliation: Australia’s challenge—Final report of the Council for Aboriginal Reconciliation to the Prime Minister and the Commonwealth Parliament, December 2000. [Received 8 December 2000]


Department of the Environment and Heritage—Report for 1999-2000, including the report of the Supervising Scientist for the Alligator Rivers Region and reports on the operation of the Hazardous Waste (Regulation of Exports and Imports) Act 1989 and the Ozone Protection Act 1989—Corrigendum. [Received 10 January 2001]

Department of the Treasury—Tax expenditures statement 2000, December 2000. [Received 25 January 2001]

Federal Magistrates Service—Report for the period 23 December 1999 to 30 June 2000. [Received 13 December 2000]

Foreign Investment Review Board—Report for 1999-2000. [Received 20 December 2000]


International Labour Organisation—Australia’s submission report on International Labour Organisation (ILO) instruments adopted in 1999. [Received 8 December 2000]

Medibank Private—Report for 1999-2000. [Received 15 December 2000]


Migration Agents Registration Authority—Report for 1999-2000—Errata. [Received 18 December 2000]

National Crime Authority—Report for 1999-2000. [Received 8 December 2000]


War Crimes Act 1945—Report for 1999-2000 on the operation of the Act. [Received 8 December 2000]

Wheat Export Authority—Report for 1 October 1999 to 30 September 2000. [Received 18 December 2000]

Auditor-General—Audit reports for 2000-2001—

No. 22—Performance audit—Fraud control in Defence—Department of Defence. [Received 14 December 2000]

No. 23—Financial statement audit—Audits of the financial statements of Commonwealth entities for the period ended 30 June 2000—Summary of results. [Received 15 December 2000]

No. 24—Performance audit—Family Relationships Services Program—Department of Family and Community Services. [Received 20 December 2000]

No. 25—Information support services—Benchmarking the finance function. [Received 22 December 2000]

No. 26—Performance audit—Defence Estate facilities operations—Department of Defence. [Received 22 December 2000]

No. 27—Performance audit—Program administration in Training and Youth Division: Business process re-engineering—Department of Education, Training and Youth Affairs. [Received 22 December 2000]


COMMITTEES

Reports: Government Responses

The PRESIDENT—I present two declarations made pursuant to an act. In accordance with the usual practice, and with the concurrence of the Senate, I propose that the government responses be incorporated in Hansard.

The documents read as follows—

GOVERNMENT RESPONSE TO THE REPORT OF THE PARLIAMENTARY JOINT STATUTORY COMMITTEE ON CORPORATIONS AND SECURITIES

MATTERS ARISING FROM THE COMPANY LAW REVIEW ACT 1998

Introduction

In March 1997 the Government commenced the Corporate Law Economic Reform Program as a comprehensive initiative to improve Australia’s corporate law as part of the Government’s drive to promote business and economic development.
The Program also included a commitment to ensuring that the Corporations Law is user friendly. The Company Law Review Act 1998 began that work.

The Company Law Review Act 1998 has also improved the efficiency of corporate regulation, and reduced the regulatory burdens on business and other users of the Corporations Law. The Government considers that the Act has brought substantial benefits for both small and large business. This has been confirmed by the strong support from the business community for the Act.

The Act rewrote and improved the core company law rules regarding registering companies, meetings, share capital, financial reporting, annual returns, deregistration of defunct companies and company names, with a view to facilitating business and investment.

The proposed reforms in the Company Law Review Bill 1997 were exposed for public comment in 1995. In June 1996 the Government referred the draft Bill to the Parliamentary Joint Statutory Committee on Corporations and Securities (PJSC). This provided an additional opportunity for input by users of the Corporations Law. The PJSC’s Report was tabled in the Senate on 18 November 1996. The PJSC expressed its approval for the general content of the Bill, and made 11 specific recommendations that the Government addressed separately.

As a result of public consideration, a number of significant changes were made to the Bill by the Government following its consideration by the PJSC in 1996. However, a number of amendments to the Corporations Law were moved by the Senate during the passage of the Bill, without the benefit of public consultation and analysis by stakeholders. The Government wished to ensure that amendments passed in this fashion were subjected to public scrutiny and therefore referred the amendments to the PJSC.

Accordingly, the reference for the PJSC to examine certain matters arising from the passage of the Company Law Review Act 1998 was given by the Treasurer, the Hon Peter Costello MP, in July 1998. The matters referred were as follows:

(a) The Government opposes the following amendments:

- The directors of a listed company should be elected by a proportional voting system;
- Companies should be required by the Corporations Law to report on compliance with environmental regulation (section 259(1)(f) of the Corporations Law);
- Listed companies should disclose information which is disclosed to, or required by, foreign exchanges (section 323DA of the Corporations Law).

(b) The following matters have been the subject of complaint and/or concern expressed to the Government by the business community:

- Companies should be obliged to report any proceedings instituted against the company for any material breach by the company of the Corporations Law, or trade practices law, and, if so, a summary of the alleged breach and the company’s positions in relation to it;
- An application to register a proprietary company should include a copy of its constitution;
- Listed companies must give at least 28 days notice of a general meeting (section 249HA of the Corporations Law);
- Listed companies should be required to disclose more information relating to proxy votes (section 251AA of the Corporations Law).

(c) The Government requests that the Committee generally examine the following matters:

- Listed companies should be required by law to establish a corporate governance board;
- Listed companies should be required by law to establish an audit committee;
- Whether the directors and executive officers of a company should be obliged to report to the auditor any suspicion they might have about any fraud or improper conduct involving the company;
- Whether a director of a listed company should have the power to call a meeting of members (section 249CA of the Corporations Law);
- Whether listed companies must specify a place, fax number and electronic address for the purpose of receiving proxy appointments (section 250BA of the Corporations Law);
- Whether listed companies’ annual reports should include:

  (a) discussion of broad policy for determining the nature and amount of emoluments of board members and senior executives of the company;
  (b) discussion of the relationship between such policy and the company’s performance; and
  (c) details of the nature and amount of each element of the emolument of each director and each of the five named officers of the company receiving the highest emolument (section 300A of the Corporations Law).

The PJSC also considered new section 117(2)(ka) of the Corporations Law: “Applying for registration” –

(ka) for a company limited by shares or an unlimited company, a statement that the written agreement referred to in sub-paragraph (k)(i):
(i) includes a summary of the rights and conditions attaching to the shares agreed to be taken up;  
(ii) sets out the total number of persons who have consented to be members and the information referred to in sub-paragraph (k)(i) and (k)(ii);  
(iii) contains a statement that, if a constitution has not been adopted, the Replaceable Rules will apply and that they create a contract between the members the terms of which may alter if the Replaceable Rules change after the company is registered.”

Following the Federal election in 1998, the PJSC recommenced its inquiry. On 2 August 1999, the Minister for Financial Services and Regulation, the Hon Joe Hockey MP, requested the PJSC to also examine the operation of sections 249D and 249Q of the Corporations Law and the then proposed regulation-making power in Schedule 6 of the Corporate Law Economic Reform Program Bill 1998. The PJSC resolved to consider these matters in the context of its inquiry into matters arising from the Company Law Review Act. The PJSC reported in October 1999.

Some of the issues considered by the PJSC have also been considered by the Companies and Securities Advisory Committee (CASAC) in the context of its Report entitled Shareholder participation in the modern listed public company, released in June 2000.

The Government thanks the members of the PJSC for their comprehensive consideration of the relevant issues.

Together with the PJSC, the Government acknowledges the valuable contribution made by those persons who appeared before the PJSC, and who provided written submissions to the inquiry.

Summary of recommendations

PJSC recommendations supported by Government

- that the Corporations Law should not provide that listed companies establish a corporate governance board.
- that the Corporations Law should not require listed companies to establish an audit committee.
- that the Corporations Law should not expressly require the reporting of suspicions of fraud and improper conduct involving the company to the auditor.
- that section 249CA of the Corporations Law be repealed.
- that the Corporations Law [in Chapter 13 of the PJSC’s Report]:  
  (iii) should include in section 249X(1) provision for a body corporate as well as a natural person to be appointed as a proxy.

PJSC recommendations supported by Government in part

- that the Corporations Law should be amended as follows [in Chapter 8 of the PJSC’s Report]:  
  (ii) section 250J(1A) should be repealed and replaced with a provision that requires the minuting of proxy votes “For” and “Against” the resolution when a resolution has been decided on a show of hands;  
- that the Corporations Law:  
  (i) should retain section 250BA subject to the amendments described above [in Chapter 13 of the PJSC’s Report] to authenticate proxy appointments.

PJSC recommendations not supported by Government

- that the ASX and ASIC broadly review company voting procedures with a view to encouraging best practice in relation to voting design and process. This review could take the form of advising on a number of options for voting procedures, with indications of the advantages and disadvantages of each.
- that the Corporations Law should provide for:  
  i. a proprietary company to lodge a copy of its constitution on registration with the ASIC;  
  ii. proposed amendment of section 117(2)(ka), apart from item (iii).
- that the Corporations Law should be amended as follows [in Chapter 8 of the PJSC’s Report]:  
  (i) section 251AA(1)(a) should be repealed;  
  (ii) section 250A(7) should be amended to correct what appears to be a drafting oversight;  
  (v) the AWB Ltd should be granted exemption from the provisions of the Law relating to proxy appointments.
that the Corporations Law [in Chapter 13 of the PJSC's Report]:
(ii) should include a new definition of “sign” in Section 9 – Dictionary, to define sign for electronic purposes to be the input of a “PIN”.
• that the Corporations Law be amended to provide that the sole test to requisition a special meeting of a company is 5% of the issued share capital to be met collectively by the requisitioning members.

Proportional voting for directors

During the committee stage of debate on the Company Law Review Bill 1997, Senator Murray of the Australian Democrats moved that a provision be added to the Corporations Law that would mandate a form of proportional voting for directors of listed companies and require other companies to put a proportional voting proposal to their members for resolution. The proposed amendment was unsuccessful, and the Government indicated its opposition to the proposal when referring the matter to the PJSC.

The Corporations Law does not currently mandate any particular form of voting for the election of directors. That is, companies are generally free to choose voting methods they consider appropriate, with the constitution making provision for the appointment of directors. Constitutions often provide for the power to appoint directors to be exercised by the general meeting, and boards may be able to make appointments to fill casual vacancies or to bring the numbers of the board up to the maximum allowed by the constitution. Some companies may rely on the replaceable rules in the Corporations Law, which allow a company to appoint a person as a director by resolution passed in general meeting (replaceable rule, section 201G) unless the company’s constitution provides otherwise. In addition, directors may appoint other directors, subject to confirmation by resolution (replaceable rule, section 201H).

There are other provisions in the Corporations Law and the Australian Stock Exchange (ASX) Listing Rules that affect the election of directors, but generally companies are free to choose the method of voting that suits them.

A common system adopted by companies in Australia allows each member to cast one vote per share for a candidate for each vacancy to be filled, so that a bare majority of shares is able to elect the board. In contrast, the system of proportional voting suggested by the Australian Democrats would allow the number of shares held by a member to be multiplied by the number of vacancies (sometimes known as cumulative voting). The members may then cast their votes among the candidates for directorships as they think fit. It is one method that could be used to ensure minority representation on the board.

The Government notes that should a listed company wish to adopt a system of proportional (or cumulative) voting, a waiver of the ASX Listing Rule of one vote per share would be required (ASX Listing Rule 6.9).

In its Report, the PJSC has indicated that:
• The current state of the Law is preferable, where companies themselves decide on the form of the election. The members of a company may decide if they wish to adopt any form of proportional representation, including cumulative voting, but there should be no compulsion in the Corporations Law for members to vote on a particular system;
• Proportional representation has the potential to affect the essential unity and cohesion of a board, with the possibility of factions and dissidents. Elections for directors are not comparable to those for Parliamentarians;
• Proportional voting may be impractical and counter productive. It strikes at the principle that directors should be generally representative of those with the greatest financial interest in the company, a position usually achieved by electing directors by an absolute majority of members voting;
• Proportional representation may affect consumer confidence and have adverse economic effects;
• Although proportional representation would increase minority representation on boards, its mandatory or irrevocable introduction would have disadvantages easily outweighing any benefits;
• Where there is a perception of unfairness when members vote one by one for directors in cases where there are more candidates than vacancies, the problem could be addressed by any suitable voting system, not necessarily proportional or cumulative;
• There is considerable merit in the ASX and the Australian Securities and Investments Commission (ASIC) encouraging education and publicity campaigns with the object of making companies aware of the different voting procedures that are available and may be suitable for the individual circumstances of the company. This could be a matter for consideration when companies are revising their constitutions. Companies should be encouraged to adopt best practice in relation to the voting design and process in relation to their existing constitutions.

PJSC recommendations

The PJSC recommends that the Corporations Law make no provision mandating the adoption of any form of proportional voting for directors or requiring a company to put any such proposal to its members.
The PJSC recommends that the ASX and ASIC broadly review company voting procedures with a view to encouraging best practice in relation to voting design and process. This review could take the form of advising on a number of options for voting procedures, with indications of the advantages and disadvantages of each.

CASAC's views

CASAC has considered whether cumulative voting should be mandatory for elections of directors in Australian listed companies in its Final Report, *Shareholder participation in the modern listed public company* (paragraphs 4.197 to 4.207).

In its Report, CASAC indicates that the rationale for cumulative voting is to assist minority shareholders to secure some representation on the board of directors. The greater the number of vacancies, the higher the possibility of minority shareholders securing some representation by focusing their multiple votes on the same one or few candidates. By contrast, under non-cumulative voting, a majority shareholder, or a majority group of shareholders who vote, could determine all positions of the board. CASAC recommends that there should be no legislative provision for cumulative voting (Recommendation 30, page 95 of CASAC’s Final Report).

Government response

The Government supports the recommendations of the PJSC and CASAC. Shareholders may choose any form of proportional voting, including cumulative voting (a waiver of the ASX Listing Rule may be required for listed companies) that meets their specific corporate governance requirements.

The Government does not consider it necessary for the ASX and ASIC to undertake the suggested reviews, as CASAC has already considered the issue of voting procedures.

Environmental reporting

During the passage of the *Company Law Review Act 1998*, paragraph 299(1)(f) was inserted into the Corporations Law following a motion by the Australian Democrats. Paragraph 299(1)(f) requires that the directors’ report for a financial year must include disclosure of:

“(f) if the entity’s operations are subject to any particular and significant environmental regulation under a law of the Commonwealth or of a State or Territory – details of the entity’s performance in relation to environmental regulation.”

The Government indicated that it opposed the provision during debate in the Senate and indicated its continued opposition when referring the matter to the PJSC for inquiry.

The PJSC has advised that:

- It is inappropriate for the Corporations Law to require inclusion in the annual directors’ report of details of performance in relation to environmental regulation, noting the almost total unanimity on this point in submissions from the Australian financial and legal communities;

Environmental reporting is not a matter that relates to the Corporations Law – the proper place for such reporting is the environment law itself;

- Why should environmental performance be singled out to the exclusion of other worthwhile performance indicators (for example, taxation regulation or occupational health and safety);

Mandatory reporting may lead to a standardised form of general words as the lowest common denominator – a voluntary system would better encourage companies to achieve best practice, while the market will deal adversely with those companies that lag;

- The provision is vague and uncertain, and cannot be solved by asking ASIC to refine its Practice Note;

- The provision lacks any of the usual safeguards, even those for other requirements imposed by section 299 – there is no protection for self-incrimination or in relation to civil proceedings or other liability claims;

- There is an existing obligation on listed companies to disclose immediately all events that would have a material effect on the price or value of its securities. Any additional material required by paragraph 299(1)(f) would be non-material and up to a year out of date, limiting the practical effect of the provision;

- There are significant legal or economic structures to which paragraph 299(1)(f) does not apply – for example to the overseas operations of entities formed under the Corporations Law. Also the provision requires entity rather than project reporting for mining and exploration joint ventures;

- Companies are required to duplicate existing Commonwealth and State environmental reporting requirements, with resulting additional costs;

The submissions from the environmental groups were not as persuasive as those from the business community.

**PJSC recommendation**

The Committee recommends that s.299(1)(f) of the Corporations Law be delted.

**Government response**
The Government supports the PJSC’s recommendation in principle.

However, the Government does see value in greater public environmental reporting as it can address environmental accountability and community right-to-know concerns, as well as generate significant benefits to the reporting organisation.

In this regard, the Government is actively encouraging greater public environmental reporting through a range of voluntary, as opposed to mandatory, measures. These include:

- the release by the Government of a guidance document on how to prepare public environmental reports, *A Framework for Public Environmental Reporting – An Australian Approach*, March 2000; and
- partnering with the Business Council of Australia, the Australian Chamber of Commerce and Industry and the Australian Industry Group, to employ Public Environmental Reporting Extension Officers to assist members of these industry associations in preparing reports.

The Government encourages public corporations to adopt appropriate governance structures and processes (for example environmental disclosure), on an on-going basis and in a non-prescriptive manner. It is considered preferable for Australian corporate governance practices to develop in response to competitive economic, commercial and international pressures, rather than in response to prescriptive rules mandated by Government. The Government will therefore not seek to impose additional mandatory legislative requirements unless there is a clear failure of these mechanisms to produce appropriate corporate governance practices.

In the context of environmental issues, the benefits of mandatory reporting may need to be further reviewed and acted upon, depending upon the voluntary uptake and quality of public environmental reporting in Australia over the next few years.

**Disclosure of information filed overseas**

During the passage of the *Company Law Review Act 1998*, section 323DA was inserted into the Corporations Law following a motion by the Opposition, requiring Australian listed companies that disclose information to, or as required by:

- the Securities and Exchange Commission of the United States of America; or
- the New York Stock Exchange; or
- a prescribed securities exchange in a foreign country,

to disclose that information to the Australian Stock Exchange.

The Government indicated that it opposed the provision during debate in the Senate and indicated its continued opposition when referring the matter to the PJSC for inquiry.

The PJSC has concluded that:

- The provision is superfluous and includes a number of potentially undesirable consequences:
  - The ASX Listing Rules already require the disclosure of any information that would have a material effect on the price or value of a company’s securities. Any additional information disclosed to foreign exchanges would not be price sensitive and would not be material to the Australian market;
  - It is conceptually preferable for the ASX Listing Rules to provide for disclosure requirements of listed companies, with the Corporations Law providing for enforcement of these. It is not appropriate for the Corporations Law to provide this kind of detailed prescription for listed companies;
  - There are possible difficulties with the release of confidential information and the large amount of non-material information disclosed to, for instance, United States exchanges, which would need to be reconciled with Australian accounting principles to be meaningful, at some cost to the individual company;
  - The PJSC accepts that the strongest argument in favour of retaining the provision is that it would encourage globalisation and harmonisation of disclosure standards. Although the PJSC strongly supports these objectives, it considers that the best way to advance these desirable features is not through the Corporations Law, but rather the ASX and the various accountancy bodies should move to adopt world best practice for disclosure standards;

Shareholders will not be disadvantaged by removal of the provision, because the only additional information that the provision requires to be disclosed is non-material.

**PJSC recommendation**

The PJSC recommends that s.323DA of the Corporations Law be deleted.

**Government response**

The Government supports the PJSC’s recommendation.

**Reporting of proceedings**

During the debate on the *Company Law Review Bill 1997*, a provision was unsuccessfully sought
to be inserted by the Australian Democrats that companies should be obliged to report any proceedings instituted against the company for any material breach by the company of the Corporations Law, or trade practices law, and, if so, a summary of the alleged breach and of the company’s position in relation to it.

The Government referred the issue to the PJSC as a matter that has been the subject of complaint and/or concern expressed to the Government by the business community.

The PJSC has advised that:

- The evidence before the PJSC was not supportive of the proposal;
- In the continuous disclosure regime, it is difficult to assess the benefits arising from the recommended disclosures, particularly if the company’s defence is a denial of the statement of claims or that the alleged breach has not been proven;
- The institution of proceedings is not by itself proof that a breach has occurred or that an offence has been committed. If the proceedings have only been instigated, then it is premature for a company to declare its position in relation to the alleged breaches;
- The nature of proceedings under the Trade Practices Act is such that the reporting of allegations or claims of breaches under section 52 can be misleading;
- Legal proceedings should not be the subject of company reporting beyond the usual continuous disclosure requirements for reporting entities;

When proceedings have commenced, any written statements or admissions could be used against the company in litigation to the detriment of the company and its shareholders;

There is difficulty in determining whether qualified privilege should attach to the company’s summary of the statement of claim, especially where these contain defamatory imputations;

- The high cost of compliance is a concern, estimated at over $750,000 annually for a large listed company;
- Although the requirement is misplaced and should not be legislated, companies should, as a matter of corporate governance, disclose the instituting of proceedings or make a fuller report when these have been concluded.

PJSC recommendation

The PJSC recommends that the Corporations Law should not require companies to report any proceedings instituted against the company for any material breach of the Corporations Law or the trade practices law.

Government response

The Government supports the PJSC’s recommendation and notes the important role of the continuous disclosure provisions of the Corporations Law. The Government also notes that companies are currently required to disclose information about legal proceedings in the notes to their accounts where the proceedings constitute a material contingent liability.

Proprietary company registration

Following the Company Law Review Act 1998, public companies are required (as previously) to lodge a copy of their constitution on registration and any modifications of their constitution with ASIC. The Act removed that requirement for proprietary companies, although the Corporations Law grants:

- the power to ASIC to direct a company to lodge a consolidated copy of its constitution (section 138 of the Corporations Law); and
- a member the right to request the company to send them a copy of the company’s constitution (section 139 of the Corporations Law).

The Government referred the issue of the lodging of company constitutions by proprietary companies to the PJSC as a matter that has been the subject of complaint and/or concern expressed to the Government.

The PJSC concluded that:

- Information about a company as fundamental as its internal rules, powers and shareholding should be available to parties dealing with the company in the commercial environment – uncertainty about documents executed by a company can affect the efficient conduct of its business;
- Although the Company Law Review Act 1998 simplified company registration and conduct of affairs, the statistic that 50% of all new companies have purportedly issued shares of a particular class or classes without having adopted a constitution, is an unsatisfactory risk for the company and its members;
- A proprietary company should file a copy of its constitution on registration with ASIC;
- A proprietary company on filing its constitution may elect to adopt the replaceable rules in place of a constitution;

Any subsequent modifications to a constitution should also be filed with ASIC;

Proprietary companies should re-lodge their constitutions and ASIC should maintain a database for this purpose;

ASIC should also retain its emergency power under section 138 to direct a company to lodge a consolidated copy of its constitution with ASIC.

PJSC recommendation
The PJSC recommends that the Corporations Law should provide for:
i. a proprietary company to lodge a copy of its constitution on registration with the ASIC.

Government response
The Government notes that an early draft of the Company Law Review Bill would have required proprietary companies to lodge their constitution with ASIC. The draft provision was withdrawn following consultations with small business interests, which expressed concern at the unnecessary nature and extent of the compliance costs for lodging constitutions.

A Corporations Law company has the legal capacity and power of an individual. The exercise of a power by a company is therefore not invalid merely because it is contrary to an express restriction or prohibition in a company’s constitution, or because it is contrary to, or beyond, any objects in the company’s constitution.

The Government supports the point put to the PJSC that the public has full protection under sections 128-130 of the Corporations Law and therefore does not need to know the contents of a constitution to secure their interests when transacting with a company (paragraph 6.14 of the PJSC’s Report). A person may assume that a company’s constitution (if any), and any provisions of the Corporations Law that apply as replaceable rules, have been complied with. A person is not taken to have information about a company merely because the information is available to the public from ASIC. A third party’s dealings with a company will generally only be affected by a restriction in the company’s constitution if the third party knew of, or suspected, a limitation.

The rights and liabilities of persons doing business with companies are generally not affected by the company’s constitution, and those whose rights may be affected (mainly a company’s members) are able to obtain the constitution at short notice.

In light of the above, and the concerns expressed by small business, the Government does not support the PJSC’s recommendation.

Proposal to require additional information in applications for company registration
During the debate on the Company Law Review Bill 1997, a provision was unsuccessfully sought to be inserted by the Australian Democrats to amend section 117 of the Corporations Law to require further information to be stated in an application for registration as a company.

The contents of an application to register as a company must currently include the following information:
- The number and class of shares each member agrees in writing to take up (Corporations Law paragraph 117(2)(k)(i));
- The amount (if any) each member agrees in writing to pay for each share (Corporations Law paragraph 117(2)(k)(ii)); and
- If that amount is not to be paid in full on registration – the amount (if any) each member agrees in writing to be unpaid on each share (Corporations Law paragraph 117(2)(k)(iii)).

The proposed amendment (paragraph 117(2)(ka)) would have required additional information to be stated in the application to register a company in relation to such shares:
- A summary of the rights and conditions attaching to the shares agreed to be taken up;
- The total number of persons who have consented to be members and the information referred to in subparagraphs 117(2)(k)(i) and (k)(ii);
- A statement that, if a constitution has not been adopted, the replaceable rules will apply and that they create a contract between the company and the members the terms of which may alter if the replaceable rules change after the company is registered.

PJSC recommendation
The PJSC recommends that the Corporations Law should require the following additional information be provided in an application to register as a company:
- A summary of the rights and conditions attaching to the shares agreed to be taken up, and
- The total number of persons who have consented to be members and the information referred to in subparagraphs (k)(i) and (k)(ii).

However, the PJSC considered that an additional statement in section 117 as to the contractual effect of the replaceable rules would result in duplication. The Government notes that section 140 of the Corporations Law already sets out the contractual effect of a company’s constitution and the replaceable rules.

Government response
The Government does not support the inclusion of the additional requirements in section 117 recommended by the PJSC, namely a summary of the rights and conditions attaching to the shares agreed to be taken up, and the total number of persons who have consented to be members and the information referred to in subparagraphs 117(2)(k)(i) and (ii).
The Company Law Review Act 1998 sought to simplify the processes for forming a company. It was decided that notice of the issue of shares would not have to be lodged with ASIC, but details would need to be recorded in the company’s register of members. Section 169 of the Corporations Law requires detailed information to be kept as to the members of a company, and the shares and classes of shares that they hold.

Furthermore, section 246F requires that, where a company divides its shares into classes or converts shares of one class into shares in another class, then the company must lodge a notice with ASIC setting out details of the division or conversion. Public companies must lodge with ASIC a copy of each document (including an agreement or consent) or resolution that attaches, varies or cancels rights attaching to shares, or binds a class of members.

Section 117 itself already requires details of numbers and classes of shares, and the amount agreed to be paid for each share (paragraphs 117(2)(k)(i) and (ii)). Where shares are to be issued by public companies for non-cash consideration, prescribed particulars are required about the issue of the shares, unless the shares are to be issued under a written contract and a copy of the contract is lodged with the application (paragraph 117(2)(l)).

The Government considers that detailed information is already provided as to members, shareholdings and classes of shares, and the amount agreed to be paid for each share. The evidence that companies have been forced to the major expense and disruption of two mailings for the purpose of an AGM gives rise to concern; the doubling of the period of notice from 14 to 28 days is a minimum nominal period that can be extended by other time periods such as the three-day rule and obtaining consent from the ASX.

Notice of meetings

During the course of debate on the Company Law Review Bill 1997, section 249HA was inserted following a motion put forward by the Australian Democrats and the Opposition. Section 249HA extends the notice period that must be given for meetings of listed companies from the 21 days, proposed by the Government, to 28 days. The Corporations Law previously obliged companies to give 14 days notice for an ordinary resolution, and 21 days notice for a special resolution.

The Government did not support the amendment when it was moved during debate and indicated to the PJSC that this is a matter about which the business community has expressed concern.

In its March 1998 Report on the Company Law Review Bill 1997, the PJSC advised that it did not support calls for extending the period of notice from 21 days to 28 days. Although the PJSC had considerable sympathy for those concerned that the 14 days was too short, it was not convinced that the doubling to 28 days was either justified, necessary or in the interests of the company.

The evidence that companies have been forced to the major expense and disruption of two mailings for the purpose of an AGM gives rise to concern; the doubling of the period of notice from 14 to 28 days has added considerably to costs and inefficiency in company meeting cycles; the evidence that companies have been forced to the major expense and disruption of two mailings for the purpose of an AGM gives rise to concern; the doubling of the period of notice from 14 to 28 days has added considerably to costs and inefficiency in company meeting cycles; the evidence that companies have been forced to the major expense and disruption of two mailings for the purpose of an AGM gives rise to concern; the doubling of the period of notice from 14 to 28 days has added considerably to costs and inefficiency in company meeting cycles;
In addition, considerable changes would need to be made to the ASX Listing Rules and time-frames;

- No strong argument has been made to the PJSC as to the differentiation the Corporations Law makes between listed and unlisted companies;

Retention of the 28 day notice period would mean that members of listed companies may be disadvantaged by out of date information or positions that were overtaken by the lapse of over a month or longer;

In circumstances where members are required to vote on matters that are subject to changes in market conditions, information and directors’ recommendations could be out of date, inaccurate or misleading as a result of changed circumstances;

- The issue of timeliness and quality of information supplied to members is critical to a company’s ability to conduct its affairs. Any action that can delay the holding of a meeting is not in the best interests of the company or its shareholders.

**PJSC recommendation**

The PJSC recommends that the 28 day period of notice for meetings of listed companies should be reduced to 21 days.

**Government response**

The Government supports the PJSC’s recommendation.

**Disclosure of proxy voting**

Chapter 8 in the PJSC’s Report focuses on two recent additions to the Corporations Law, section 251AA and subsection 250J(1A). These provisions were inserted during the passage of the *Company Law Review Act 1998*, following a motion put forward by the Australian Democrats and the Opposition.

The Government expressed its opposition to these provisions during the passage of the Act, and referred section 251AA to the PJSC as a matter about which the business community had expressed concern, following the passage of that Act. The PJSC also addressed section 250J(1A) in response to concerns raised in several submissions.

Subsection 251AA(1) requires listed companies to minute in respect of each resolution at a meeting, the total number of proxy votes exercisable and;

(a) if the resolution is decided by a show of hands, the total number of proxy votes where the proxy appointment specified that the proxy:

(i) vote for the resolution;

(ii) vote against the resolution

(iii) abstain; and

(iv) vote at the proxy’s discretion; and

(b) if the resolution is decided on a poll, the information in (a) and the total number of votes cast on the poll:

(i) in favour of the resolution;

(ii) against the resolution; and

(iii) abstaining on the resolution.

The company must also pass this information to the ASX (subsection 251AA(2)).

Section 250J(1A) applies to a company that is subject to the replaceable rules under section 135 of the Corporations Law and does not provide to the contrary in its constitution. It provides that:

250J(1A) Before a vote is taken the chair must inform the meeting whether any proxy votes have been received and how the proxy votes are to be cast.

The PJSC has recommended that these disclosures should be reduced. The PJSC considered that:

- The promotion of shareholding voting was not achieved by mandatory disclosures of this kind;

- There is no evidence to suggest there is a step change in the way shareholders or institutions use their voting rights as a result of the requirement for additional information;

- Witnesses had advised the PJSC that section 251AA and subsection 250J(1A) were inconsistent and might lead to confusion and unnecessary administrative difficulties;

- The reporting of proxy voting intentions might also be misleading as the Corporations Law does not reflect accurately the nature of a voting direction to an agent either with or without voting instructions;

- CASAC examined the operation of section 251AA in its September 1999 Discussion Paper Shareholder Participation in the modern listed public company, and concluded that its disclosure requirements were unworkable;

- There was no reason for the minuting of proxy intentions where these had not been exercised when a resolution was disposed of on a show of hands or when a vote was taken by poll;

- Subsection 250A(7) does not relate to the exercise of a dual proxy or whether two appointments are mutually exclusive, but rather which appointment should take precedence if more than one appointment can be exercised at the meeting. There is a presumption that a later appointment reflects a person’s current thinking and subsection 250A(7) should be drafted to reflect this;
The structure of AWB Ltd may be in conflict with the provisions of the Company Law Review Act 1998. The Senate Rural and Regional Affairs Legislation Committee had examined the structure of AWB Ltd and recommended that it should be exempted from any of the unintended consequences of the Company Law Review Act that may impact on the system of proxy voting.

PJSC recommendation
The PJSC recommends that the Corporations Law should be amended as follows:
(i) section 251AA(1)(a) should be repealed;
(ii) section 250J(1A) should be repealed and replaced with a provision that requires the minuting of proxy votes “For” and “Against” the resolution when a resolution has been decided on a show of hands;
(iii) section 251AA(1)(b)(iii) should be repealed;
(iv) section 250A(7) should be amended to correct what appears to be a drafting oversight;
(v) the AWB Ltd should be granted exemption from the provisions of the Law relating to proxy appointments.

CASAC’s views
CASAC has considered the operation of section 251AA in its Final Report, Shareholder participation in the modern listed public company. CASAC notes the shortcomings in the existing requirements regarding the disclosure of proxy voting details (some argue that the information required may be irrelevant, repetitious, or misleading), and the argument that, if the minutes are to be strictly accurate, they should record only the outcome of the show of hands (paragraph 4.84 of CASAC’s Final Report).

Show of hands
Notwithstanding the limitations, CASAC recognises the benefits in making publicly available proxy voting information for resolutions decided by show of hands. CASAC considers there is no public interest in refusing shareholders access to the information, particularly as disclosure of the shareholder decision making process is a fundamental corporate governance principle. The finding by the University of Melbourne Centre for Corporate Law and Securities Regulation Research Report Proxy Voting in Australia’s Largest Companies, that the level of inaccuracy of the information provided under section 251AA(1)(a), is very low, was also relied upon by CASAC.

CASAC recommends that section 251AA(1)(a) should be retained, and extended to include direct absentee votes, if its recommendation that the Corporations Law should permit the directors of a listed public company to provide for direct absentee voting (Recommendation20), is accepted by the Government.

Poll
On the other hand, CASAC does not consider that requiring companies to include in the minutes for resolutions decided by poll all the proxy voting information required by paragraph 251AA(1)(a), serves any transparency purpose.

CASAC advised that the goal of ensuring transparent shareholder decision making is already covered by the recording of votes for and against, and abstentions, given that these details include proxy votes in any case.

Abstentions
CASAC also recommends that the total number of votes abstaining on the resolution (paragraph 251AA(1)(b)(iii)) should continue to be disclosed in the minutes, as it gives more complete information on shareholder voting patterns.

Disclosure of proxy voting information prior to voting
The Government notes that CASAC has also considered the issue of the disclosure of proxy figures at a meeting, in advance of the debate (paragraphs 4.44 to 4.69 of the CASAC Final Report). The Corporations Law makes no reference to whether proxy voting details can or should be disclosed prior to commencement of the debate at a meeting. Subsection 250J(1A) only requires disclosure before the vote is taken. CASAC has done an analysis of the arguments for and against disclosure prior to the debate but has not indicated a view on section 250J(1A) in its Final Report. However, in its Discussion Paper (Shareholder participation in the modern listed public company, September 1999), CASAC indicated that the information required to be disclosed under section 250J(1A) is, in any case, inherently unreliable (paragraph 4.36 of the Discussion Paper).

Section 250J(1A) provides (as a replaceable rule) that a chair must disclose, before any vote is taken, whether any proxy votes have been received and how they are to be cast. CASAC’s view in its Discussion Paper is that the provision is based upon the assumption that proxies are required to vote the shares according to the terms of the proxy. Proxies (other than the chair) are not required to vote and directions on voting in a proxy form may quite legally not be followed by the proxy. A shareholder who has appointed a proxy may attend the meeting and vote, negating
the proxy. The chair cannot accurately inform the meeting how proxy votes are to be cast.

**Government response**

The Government supports CASAC’s recommendation that the current requirement in section 251AA(1)(a) for disclosure of proxy voting information where resolutions have been decided by a show of hands, should be retained. The Government does not support the PJSC’s recommendation with regard to section 251AA(1)(a).

The Government will consider whether section 251AA(1)(a) should include information as to direct absentee votes, when it reviews Recommendation 20 of the CASAC Final Report in due course.

The Government supports CASAC’s recommendation that section 251AA(1)(b) should be amended to exclude the information required by section 251AA(1)(a). The PJSC recommendation that paragraph 251AA(1)(b)(iii) should be repealed is not accepted by the Government. The Government supports CASAC’s analysis that information regarding abstentions gives a more complete picture of shareholder voting patterns.

The Government supports the PJSC recommendation that section 250J(1A) should be repealed (and agrees with CASAC’s analysis of the provision’s difficulties in its September 1999 Discussion Paper).

The Government does not support the PJSC recommendation that section 250J(1A) be replaced with a provision that requires the minuting of proxy votes “For” and “Against” a resolution, when a resolution has been decided upon a show of hands, in view of the Government’s acceptance of CASAC’s recommendation that the current requirements in section 251AA(1)(a) be retained.

**Section 250A(7): Appointments of second proxies**

The Government does not consider that section 250A(7) is a drafting oversight. This amendment was inserted into the Corporations Law by the *Company Law Review Act 1998* to clarify that members can appoint a second proxy at any time after the first appointment, so long as the second appointment does not effectively replace the first one.

The PJSC indicates that one submission considered that the wording of section 250A(7) makes little sense, unless the word “could” is substituted for the words “could not”. In the Government’s view, the substitution of the word “could” does not assist the interpretation of the provision, as an earlier and a later appointment can, in certain circumstances, both be validly exercised. Where a later and an earlier appointment cannot both be validly exercised, section 250A(7) ensures the validity of the later appointment is assumed by the Corporations Law to reflect the appointor’s current thinking.

An example of a situation where both an earlier and a later appointment can be validly exercised is where a shareholder appoints one proxy and then later appoints a second joint proxy. The appointing shareholder wants the second proxy to be able to exercise half his votes (or any proportion that the shareholder indicates) at the same time as the first proxy is exercising the remainder of the votes. Where the second appointment does not specify the proportional number of votes that the proxy may exercise, each proxy is able to exercise half the votes (subsection 249X(3), which is a replaceable rule for proprietary companies only). The insertion of the word “could”, instead of “could not”, would mean that the later appointment would revoke the earlier appointment, when in these circumstances both appointments should be valid.

**AWB Ltd**

The Government disagrees in principle with the recommendation that AWB Ltd should be granted an exemption from the proxy provisions in the Corporations Law. The Corporations Law does not confer a discretion on ASIC to exempt AWB Ltd from these provisions, nor does the Corporations Law allow regulations to be made having this effect. If AWB Ltd is to be exempted from the proxy voting provisions, it would be necessary to either amend the Corporations Law or for the Commonwealth to enact legislation prevailing over the Law to the extent required to provide such an exemption.

The PJSC indicates that AWB Ltd has moved from the status of a statutory authority, with its own enabling legislation and regime, to become a company incorporated under the Corporations Law, subject to the general policies and requirements imposed upon all bodies incorporated pursuant to the Law.

The Government considers that it is generally undesirable for individual companies to be exempted from the policies applied by the Corporations Law to all companies registered under the Law, as these policies are set in place for the protection of shareholders, creditors, and in the best interests of companies themselves.

The evidence given by the Grains Council (paragraph 8.35 of the PJSC Report) would appear to be that it would be to the advantage of shareholders for certain changes to be made to the constitu-
tion of AWB Ltd, concerning the holding of open or closed proxies by directors and the issue of election of directors. The constitution of AWB Ltd could be amended by special resolution to achieve desired outcomes for shareholders, to the extent consistent with the Corporations Law, without exempting AWB Ltd from the general proxy voting provisions of the Law. This may be a matter on which AWB Ltd and its shareholders would wish to seek legal advice.

Corporate governance board
Amendments were moved by the Australian Democrats during the debate in the Senate on the Company Law Review Bill 1997, but not passed, to require all companies that become listed after the commencement of the section to have a corporate governance board. All other listed companies would have been required to propose a resolution that the company have a corporate governance board and, if passed, such a resolution would have been unable to be changed. The Government requested the PJSC to generally examine the matter.

The functions of the corporate governance board (to the exclusion of the main board) would be as follows:

- To determine the remuneration of company directors;
- To appoint auditors and determine the remuneration of auditors;
- To review the appointment, remuneration and functioning of independent agents, such as valuers, who provide material information to shareholders;
- To appoint persons to fill casual vacancies of directors;
- To determine whether amendments should be made to the company’s constitution, whether on the request of the company’s directors or on the board’s own initiative;
- To decide issues of conflict of interest on the part of the company’s directors and determine how those conflicts will be managed;
- To control the conduct of general meetings and determine voting procedures.

ASX Listing Rule 4.10.3 requires each listed company to disclose its main corporate governance practices that have been in place during the reporting period. An indicative list of corporate governance matters is set out as a guide for listed companies in preparing the required statement. The matters listed include:

- The main procedures for establishing and reviewing the remuneration arrangements for directors and senior executives; and
- The main procedures for the nomination of external auditors and for reviewing the adequacy of existing external audit arrangements.

In its March 1998 Report on the Company Law Review Bill 1997, the PJSC indicated that it did not favour a prescriptive approach to corporate governance and opposed detailed arrangements of the kind recommended by shareholder groups. The PJSC has advised in its October 1999 Report that:

- Research in the United States suggesting a correlation between good corporate governance practices and increasing shareholder value, and seeking to extend that correlation to establishing corporate governance boards cannot necessarily be extended to Australian markets, without undertaking Australian research;
- There are several concerns regarding a two tier governance model and the specific amendments that codify the method of election of members of the corporate governance board:

The proposed amendments would lead in practice to the bifurcation of board responsibilities and the devolution of the board’s additional role with respect to shareholder protection;

The delegation of shareholders’ powers to a supervisory board would reduce the rights and entitlements of individual shareholders, the most potent being the power to dismiss a director at the general meeting;

The amendments would stipulate that the establishment of a corporate governance board is irreversible notwithstanding a resolution by members to the contrary;

The amendments deny property rights to individual shareholders because the system of voting for election to the corporate governance board is on the basis of one vote per shareholder and not on the basis of economic interests;

- A strong case has not been made to support the amendments and the evidence before the PISC does not justify imposing on companies another layer of expense and the possibly divisive structure of a two tier model;

The framework of company management in Australia is constructed on the basis of a unitary board. The introduction of a two tier governance model would shift the emphasis of current corporate governance developments from an “outsider” model to an “insider” model, with significantly reduced voting and property rights for individual shareholders.

- The responsibility for corporate governance must rest with the main board. Responsibility to shareholders should not be diminished to any degree by the estab-
lishment of a separately constituted corporate governance board;

- There are important issues where independent judgments need to be exercised on remuneration practices, selection of board members and company accounts, for example;

The effectiveness of the board may be enhanced by sub-committee structures that will vary from board to board depending upon the size of the company;

Initiatives by the Investment and Financial Services Association, the Australian Institute of Company Directors and the ASX, in promoting more disclosure of corporate governance practices are fully supported in this regard;

- The proposed amendments do not help to underpin future progress towards higher standards of corporate governance.

**PJSC recommendation**

The PJSC recommends that the Corporations Law should not provide that listed companies must establish a corporate governance board.

**Government response**

The Government supports the PJSC’s recommendation. The Government considers that the shareholders of a company are generally best placed to determine the corporate governance arrangements that are most appropriate for their company.

While it will seek to encourage public corporations to adopt appropriate governance structures, the Government will avoid unnecessary prescription that could lead to inflexibility and inhibit innovation. It is preferable for Australian corporate governance practices to develop in response to competitive economic, commercial and international pressures, rather than in response to prescriptive rules mandated by Government. The Government will not impose additional mandatory legislative requirements unless there is a clear failure of those mechanisms to produce appropriate corporate governance practices.

The Government fully supports the disclosure regime in ASX Listing Rule 4.10.3 – disclosure enables the market to decide on the presence or otherwise of good corporate governance practices.

**Audit committee**

Amendments were moved by the Australian Democrats during the Senate debate on the Company Law Review Bill 1997, but not passed, to require listed companies to establish an audit committee. The Government requested the PJSC to generally examine the matter. The amendment would have required:

- The directors of listed companies to establish and maintain an audit committee with functions that include:
  - Assisting the directors of a company to ensure that financial reports comply with the requirements of the Corporations Law;
  - Assisting the directors of a company to ensure that the company at all times has a proper system of management and financial controls;
  - Providing a forum of communication between the directors, senior managers and auditors of the company;

  - The majority of members to be persons who are not executive officers of the company;
  - An audit committee to be established and maintained on such a basis that a meeting could not be held unless there are at least two members who are not executive officers of the company;
  - The chair of an audit committee to be a member who is not the chair of the board of directors of the company.

The PJSC considered that:

- For most small to medium sized companies, the requirement for an audit committee would be costly, impracticable and redundant – with only three or four directors acting as the board, smaller listed companies would not be able to meet the requirement for an audit committee to have at least two non-executive directors and an independent chair;

- In the absence of an audit committee, a board would need to have other mechanisms in place to reassure shareholders and potential investors of the quality of the audit and the adequacy of the company’s financial statements;

- The requirement for listed companies to establish an audit committee is addressed in the ASX Listing Rules: ASX Listing Rules 4.10.2 and 4.10.3 and the Guidance Note deal adequately with the functions and composition of an audit committee and, in terms of best practice, provide the same level of monitoring and accountability as sought under the proposed amendments;

  - The ASX Guidance Note in fact requires more, requesting companies to state their policy regarding the composition of the audit committee.

  - The diversity, size and circumstances of listed companies makes it impractical for the Corporations Law to regulate the disclosure of information on audit committees in annual reports;

Any low level of disclosure in annual reports is a matter that should be addressed in the first instance by the ASX and its contracting parties.

**PJSC recommendation**
The PJSC recommends that the Corporations Law should not require listed companies to establish an audit committee.

**Government response**

The Government supports the PJSC’s recommendation.

The Government notes that the *OECD Principles of Corporate Governance* (May 1999), while identifying common elements that underlie good corporate governance, are clear that there is no single model of good corporate governance.

The Principles do not, for example, advocate any particular board structure. The Principles specify that the elements of good corporate governance are the same whether a “unitary” or “two tier” board model has been adopted, whether there are independent directors on the board, or whether specific committees have been established to deal with matters where there is potential for conflict of interest.

Whatever its structure, a board’s fundamental responsibilities remain the same, whichever structures or processes are chosen by the company to enable the board to meet those responsibilities. Companies may choose to have some form of corporate governance board, audit (or other) committees, or some number of independent directors. The Government considers that a company must be free to choose the structures and processes that best enable its own particular board to meet those responsibilities. The Government will not impose mandatory legislative requirements unless there is a clear failure of current mechanisms.

**Obligation to report suspicion of fraud**

Amendments were moved by the Australian Democrats in the Senate during debate on the Company Law Review Bill 1997, but not passed, to require directors and executive officers of a company to inform the auditor if they suspect that fraud or other improper conduct has occurred.

The PJSC considered that:

- Directors have primary responsibility for the accounts and financial reports of a company, as well as for implementing internal control structures for the prevention and detection of irregularities – if directors or officers suspect fraud or misconduct they already have a duty to take action;
- A director’s duty to act in the best interests of the company imposes the duty of disclosure to the board, which may or may not involve the auditor;
- A legislative requirement that imposes a duty of disclosure to the auditor will reduce a director’s responsibilities under the Law. It will also place the auditor and not the board in the position of deciding how best to deal with suspicions of fraud or misconduct.

**PJSC recommendation**

Recognising that directors and executive officers already have a duty to report suspicions of fraud and improper conduct involving the company, the PJSC recommends that the Corporations Law should not expressly require the reporting of such suspicions to the auditor.

**Government response**

The Government supports the PJSC’s recommendation.

**Director’s power to call a meeting**

Section 249C of the Corporations Law was inserted by the *Company Law Review Act 1998*, providing as a replaceable rule that a single director may call a members’ meeting. Following a motion by the Australian Democrats, section 249CA was also inserted into the Company Law Review Bill 1997. Section 249CA provides that a director of a listed company may call a meeting of members despite anything in the company’s constitution. The Government expressed its opposition to the provision during the passage of the Bill and requested the PJSC to generally examine the matter.

The PJSC considered that:

- A director’s power to call a meeting can be exercised despite anything in the company’s constitution. By overriding a company’s constitution, the Law permits a director to do so without regard to bona fides and without any sanction;
- The Corporations Law should not override the wishes of shareholders who will have to bear the costs of a general meeting called by a director.
- If the director’s view does not prevail at the board it is unlikely it will prevail at a general meeting called by the director;
- It is undesirable for the Corporations Law to be used as leverage in board discussions and may have the effect of dissuading directors from exercising their commercial judgment in decisions affecting the company;
- A director’s power to call a meeting should be optional under a listed company’s constitution.

**PJSC recommendation**

The PJSC recommends that section 249CA of the Corporations Law be repealed.

**Government response**
The Government supports the PJSC’s recommendation, noting that section 249C provides that a director may call a meeting of the company’s members as a replaceable rule. This allows companies to adopt this rule if it is appropriate for their circumstances.

**Receipt of proxy appointments**

Section 250BA of the Corporations Law provides that, in a notice for a meeting of members, a listed company must specify a place and a fax number and may specify an electronic address for the purpose of receiving proxy appointments. This provision was inserted into the Company Law Review Bill 1997, following a motion by the Government during the course of debate. The Government requested the PJSC to generally examine the matter.

Section 249X(1) of the Corporations Law provides that a member of a company may appoint a “person” as the member’s proxy. In response to a submission made by the Australian Shareholders’ Association, the PJSC considered whether an amendment is desirable to enable a body corporate, as well as natural person, to be appointed as a proxy.

The PJSC considered that:

- It is a matter of prudence and good corporate governance for companies to facilitate the receipt of proxy appointments;

Most listed companies already retain the services of a professional share registry to receive proxies by facsimile. The requirement for a facsimile address is not a large imposition on a listed company, and the benefit for companies is not in question;

There are however certain practical issues to consider including the authentication of proxies and security of electronic communications;

- The requirement allowing electronic forms of communication should remain optional for listed companies;

However, there are still two major concerns, that is, security of communications and the impediment of the Law;

Companies should be able to transmit electronically any document that the Corporations Law requires they send to members provided that the individual shareholder or institution has agreed.

To facilitate the receipt of proxy appointments a new definition of “sign” should be inserted in the Section 9 - Dictionary, which defines signing for electronic purposes to be the input of a “PIN”;

- To formalise the practice of some listed companies in accepting proxies appointing the Australian Shareholders’ Association, the words “including a body corporate” should be inserted after the word “person” in section 249X(1).

**PJSC recommendation**

The PJSC recommends that the Corporations Law:

- (i) should retain section 250BA subject to the amendments described above to authenticate proxy appointments;
- (ii) should include a new definition of “sign” in Section 9 – Dictionary, to define sign for electronic purposes to be the input of a “PIN”;
- (iii) should include in section 249X(1) provision for a body corporate as well as a natural person to be appointed as a proxy.

The PJSC recommended the following amendments to authenticate proxy appointments:

- For a facsimile transmission of a proxy to be executed, the proxy should be a complete reproduction of the entire original writing or transmission;
- For proxy appointments executed by corporate or institutional investors, proxy appointments must be witnessed or executed by an officer of the court. In the case of foreign investors it must be executed by an attorney;
- The notice of meeting must specify only one place and facsimile address.

**Government response**

The Government agrees that section 250BA should be retained, but does not consider that prescriptive requirements concerning the receipt and validation of proxy appointments should be imposed upon companies by the Corporations Law. Companies should be able to decide for themselves what arrangements are most appropriate for the authentication of proxy appointments. The amendments suggested by the PJSC concerning complete reproductions, witnessing of proxy appointments, notification of facsimile address, and appropriate methods of authenticating proxies lodged electronically, are matters that companies can include in their constitutions if they consider it desirable.

A non-prescriptive approach to the authentication of electronic signatures is consistent with section 10 of the recently commenced Electronic Transactions Act 1999. Section 10 provides that where a law of the Commonwealth requires a person’s signature, that requirement is taken to have been met if (so far as relevant):

- A method is used to identify the person and to indicate the person’s approval of the information communicated;
Having regard to all the relevant circumstances at the time the method was used, the method was as reliable as was appropriate for the purposes for which the information was communicated; and

If the person to whom the signature is required to be given consents to that requirement being met by use of the method mentioned above.

Subsection 250A(1) provides that a proxy appointment is only valid if it is signed by the member of the company making the appointment. Section 10 of the Electronic Transactions Act allows any reliable method agreed between parties to be used to authenticate electronic signatures.

The Government considers that companies should be able to decide on their own methods for the authentication of proxy documents. Companies may wish to adopt the suggestion of an electronic PIN number, and the Government thanks the PJSC for their suggestion on this.

CASAC has considered the issue of whether a shareholder should have the option of appointing a body corporate as its proxy in its Final Report, Shareholder participation in the modern listed public company (paragraphs 4.31 to 4.36). The PJSC indicates that section 249X should be amended to specifically recognise “bodies corporate” as persons in this context.

CASAC supports shareholders having the option of appointing a body corporate as their proxy, noting the arguments in support that it may encourage shareholder voting, and remove technicalities in shareholder voting. The body corporate could advise the company of who will represent it at the meeting, being either a nominated individual or whatever natural person holds a nominated position within the body corporate.

The Government supports the PJSC’s recommendation that a body corporate as well as a natural person should be able to be appointed as a proxy.

**Directors’ Remuneration**

Section 300A was introduced into the Company Law Review Bill 1997 during the course of debate in the Senate. The Government requested the PJSC to generally examine the provision to ensure ample opportunity for public consideration and consultation about the amendment.

Section 300A(1) of the Corporations Law requires the following disclosures about director and executive officer remuneration in the annual directors’ report of listed companies:

(a) Discussion of broad policy for determining the nature and amount of emoluments of board members and senior executives of the company;

(b) Discussion of the relationship between such policy and the company’s performance; and

(c) Details of the nature and amount of each element of the remuneration of each director and each of the five named officers of the company receiving the highest remuneration.

Section 300(1)(d) of the Corporations Law also requires the directors’ annual report to disclose details of options that are:

(i) Granted over unissued shares or unissued interests during or since the end of the year; and

(ii) Granted to any of the directors or any of the five most highly remunerated officers of the company; and

(iii) Granted to them as part of their remuneration.

The PJSC considered the operation of section 300(1)(d) in the context of its examination of section 300A.

The PJSC considered that:

- The overriding principles in respect of directors’ and executives’ remuneration are those of accountability and openness;
- Full disclosure of directors’ and executives’ remuneration is a means of ensuring accountability to shareholders and public confidence in the capital markets;
- The disclosure objective behind paragraphs 300A(1)(a) and (b) is inherently reasonable, but the current requirement may only produce a discussion that states the board’s justification for its policies;
- More meaningful statements will result if boards indicate the manner in which directors’ present and future benefits are structured to encourage higher performance;
- The statement of board policy should at a minimum discuss how the remuneration package reflects the responsibilities and risks assumed by the director and the various performance orientated factors linking rewards to corporate and individual performance;

- The provisions relating to the disclosure of directors’ and executives’ remuneration should apply to all listed companies;

- It is not unusual for companies to have highly paid technical staff who are not in positions of management, and disclosure of their remuneration would be misleading. A definition of the term “executive” should be inserted into section 9 as being “a person who is involved in the management of the company or entity.”
• There is some evidence of a lack of apparent compliance with section 300A, particularly with the disclosure of the value of options, which is due to lack of clarity in the drafting of section 300A.

Section 300A is inconsistent with section 300(1)(d). Section 300(1)(d) does not specify whose options should be disclosed, and section 300A, which requires “details of the nature and amount of each element of the emolument” does not specify whether the details of the emoluments are to be aggregated for the purpose of disclosure.

To resolve the inconsistencies:

Section 300(1)(d)(ii) should be replaced by “granted to the directors and to the five most highly remunerated executives of the company”;

Section 300A should include a provision that requires disclosure of the value of options granted, exercised and lapsed unexercised during the year and their aggregation in the total remuneration;

• Although ASIC’s Practice Note 68 indicates the method of valuation to be used, this methodology has been criticised, and there is no certainty that the methodology will be used in the future as financial reporting moves towards market value accounting;

One body should be responsible for developing the method of valuation, and that body should be the Australian Accounting Standards Board (AASB);

This is consistent with the AASB’s policy to develop a new accounting standard on directors’ and executives’ remuneration.

• There is no reason for applying the disclosure requirements to companies and not to listed schemes – section 300A should apply to listed managed investment schemes to ensure that the same levels of accountability and transparency apply to these entities.

PJSC recommendation

The PJSC recommends that sections 300 and 300A of the Corporations Law should be amended as described above.

[These recommendations were that:

• Section 300A should be amended as follows:
  - The word “broad” should be amended to “board”;
  - The words “senior executive” should be amended to “executive”;
  - The reference to “company” should be retained and that it is intended that this will include executives within an “economic entity”, as referred to in AASB 1034 and in ASIC Practice Note 68, paragraph 55(iv);
  - The words “emolument” and “emoluments” should be amended to “remuneration”, which has a more general and agreed use than the word emolument and is defined for the purpose the Law intended in Accounting Standards, AASB 1017 and AASB 1034;
  - The words “details of the nature and amount of each element of the emolument of each director and each of the five named officers of the company receiving the highest emolument” should be replaced with “details of the nature and amount of each element of the remuneration received by the five named most highly remunerated executives of the company”;
  - To include a provision which requires disclosure of the value of options granted, exercised and lapsed unexercised during the year and their aggregation in the total remuneration;
  - Section 300(1)(d)(ii) should be replaced by “granted to the directors and to the five most highly remunerated executives of the company”;
  - The new accounting standard on directors’ and executives’ remuneration should require a statement by the board which discusses its remuneration policy and the relationship between that policy and the company’s performance and how individual performance is measured, in addition to the responsibilities of directors to encourage higher corporate performance, the risks assumed by the directors and how rewards are related to that policy;
  - A definition of the term “executive” should be inserted in Section 9 – Dictionary as being “a person who is involved in the management of the company or entity”;
  - The Australian Accounting Standards Board should be the only body responsible for developing methods of valuation;
  - Section 300A should apply to listed managed investment schemes to ensure that the same levels of accountability and transparency apply to these entities.]

Government response

The Government is committed to the principle of enhanced transparency in the corporate sector, particularly in the area of executive remuneration, which in recent times has become the focus of intense public interest. While it is appropriate for executive remuneration to be set through the operation of the market mechanism, transparent and relevant information on remuneration and its relationship to the performance and policy of the board is an essential tool for accountability to shareholders.

The Government supports the PJSC’s view that sections 300A and 300(1)(d) should be retained. To a large degree, financial and accounting information should be set by an independent body, the AASB. However, transparency of executive remuneration is of such importance that it should
continue to be imposed by the Corporations Law, and be retained in the annual director’s report (rather than the financial or concise financial statements), to ensure the widest possible dissemination to shareholders.

The Government’s response to the various amendments proposed by the PJSC is:

- Paragraph 300A(1)(a) should be amended to replace the word “broad” with “board”;
- The words “senior executives” in paragraph 300A(1)(a) should be substituted with “executive officers”. The term “executive officer” is defined in Section 9 of the Corporations Law as a person who is concerned in, or takes part in, the management of the body (regardless of the person’s designation and whether or not the person is a director of the body);
- The word “company” should be retained in section 300A;
- The words “emolument” and “emoluments” should be substituted with “remuneration” wherever occurring in section 300A;
- Subsection 300A(1) should be amended to make it clear that disclosure of the value of options granted to directors and the five most highly remunerated executive officers, together with the valuation of options they exercised and the value of options lapsed unexercised, and their aggregation in the total remuneration, is required;
- While the Government supports the disclosure of information about remuneration policy and the relationship between that policy and the company’s performance as already required by subsection 300A(1), the Government considers it would be inappropriate to use accounting standards as the vehicle for requiring the disclosure of this information and the additional information recommended by the Committee;
- Accounting standards can only be used to specify the methodology to be used for accounting for different types of transaction and the disclosures that should be made in the financial report in respect of those transactions. In the case of information about remuneration, any disclosures required by an accounting standard would have to be included in a note to the financial statements;
- The Government believes information about remuneration policies and the relationship between those policies and the company’s performance is of considerable importance to shareholders and that the Corporations Law should continue to contain the requirement for the information to be disclosed in the annual directors’ report;
- However, the Government considers it unnecessary to make this general requirement any more specific and detailed as suggested by the Committee. In this regard, the general requirements in new section 300A are considered to be wide enough to encompass the matters outlined by the Committee. It is important that the requirements are flexible enough to enable companies to report those matters that most significantly impact on, and influence, remuneration and performance. An unnecessarily prescriptive approach in this area could risk stifling market developments and competition with regard to best practice;
- The Government is concerned that the disclosure currently required by paragraph 300A(1)(c) may be effectively limited, because one or more of the five named officers may also be directors;
- The Corporations Law should be amended so that the details of the remuneration of each director is listed, and the details of the remuneration of each of the five most highly remunerated executive officers, other than directors, is also disclosed;
- There does not need to be a new definition of the term “executive” inserted in Section 9 – Dictionary, as there is already a definition of “executive officer”;
- It is preferable for methods of valuation to be developed by the AASB, especially as accounting standards have the force of law. However, ASIC can provide guidance as to how a legal requirement may be met, and the Government recognises the assistance that ASIC renders the business community in this regard;
- The Government does not support the application of section 300A to directors and senior executives of responsible entities of listed managed investment schemes. This position would also apply to unlisted managed investment schemes;

Section 300A requires listed companies to disclose the remuneration of directors and senior executives to shareholders who, as the owners of the company, have an equitable interest in the affairs of the company, including payments received by company officers and management;

The position of unit holders (or members) in a managed investment scheme is fundamentally different from that of shareholders in a company. Members of a managed investment scheme do not, as members, have any ownership interest in the responsible entity that manages the scheme’s assets. As a consequence, it is not appropriate for managed investment schemes to provide members with information about remuneration of the directors and other company officers of the scheme’s responsible entity;

Members do, however, receive information about fees and charges imposed by the responsible entity through the Corporations Law prospectus requirements. This provides unit holders with sufficient information to make decisions on the relative merits and costs of the different schemes in which they could invest.
Requisitioning a general meeting

Section 249D of the Corporations Law requires the directors of a company to call and arrange a general meeting at the request of:

- Members with at least 5% of the votes that may be cast at a general meeting (section 249D(1)(a)); or
- At least 100 members who are entitled to vote at the general meeting (section 249D(1)(b)).

Section 249Q of the Corporations Law provides that a meeting of a company’s members must be held for a proper purpose. Both sections 249D and 249Q were inserted into the Corporations Law by the Company Law Review Act 1998.

Following the passage of the Company Law Review Act 1998, the Government requested the PJSC to examine the operation of sections 249D and 249Q of the Corporations Law and the regulation-making power in Schedule 6 of the CLERP Law by the Corporate Law Economic Reform Program Act 1999 (the CLERP Act).

CASAC has also considered section 249D in the context of its Final Report, Shareholder participation in the modern listed public company, released in June 2000. CASAC has recommended that the 100 member test should be abolished for listed public companies, stating that only shareholders whom collectively have at least 5% of the votes that may be cast at a general meeting should have the power to requisition a general meeting of a listed public company (CASAC Recommendation 2, page 15 of the Final Report).

The PJSC has concluded that:

- The present provision for 100 members to requisition a meeting of the company is inappropriate and open to abuse;
- Currently 100 members who together may hold only a tiny economic interest in a company and be only a miniscule proportion of the company’s numbers, may require the company to hold a special meeting, with the costs to be met by the company itself. The company is also disadvantaged by its directors and managers being diverted from their core functions;
- Section 249Q is not a safeguard against abuse of the requisition power. It appears that a proper purpose is any matter that is within the competence of the general meeting, and it would be easy to draft a requisition in those terms;
- On making the present numerical test a replaceable rule, the PJSC endorses CASAC’s preliminary view that requisitioning a meeting is a significant matter of corporate governance, for which a uniform rule is appropriate;
- The sole test for requisition of a special meeting should be an issued share capital threshold, which must be met collectively by the requisitioning members;
- The numerical shareholder test or any variation of that is unsatisfactory because such tests do not overcome the basic difficulty that a group of members with an insignificant economic stake in the company may put the company and the other shareholders to the expense and inconvenience of a meeting;
- The test of a minimum proportion of issued share capital to be met by requisitioning members is preferable not only as a matter of principle but also for administration reasons – it is simpler to administer and more transparent. If requisitioning members cannot cross a 5% shareholding threshold, there must be serious doubts their resolution would succeed;
- A 5% issued share capital test would be reasonable, given CASAC research that this is compatible with overseas practice;
- Large mutual companies such as the NRMA are in a special position and may need different provisions.

PJSC recommendation

The PJSC recommends that the Corporations Law be amended to provide that the sole test to requisition a special meeting of a company is 5% of the issued share capital to be met collectively by the requisitioning members.

Government response

The Government is a strong supporter of share ownership and shareholder democracy. However, there must be a balance: companies should not be unnecessarily distracted from the business of wealth creation.

Without limiting individual shareholder rights the Government is concerned that companies are free to get on with the business of maximising wealth. The Government believes that companies should not be unreasonably subjected to the substantial cost of conducting a general meeting. In most cases the current 100 member test is too low, especially for the most traded listed companies (for example, in two recent cases members representing 121 and 166 (or 0.045% and 0.005% of shareholders funds) members sought to requisition a general meeting of members.

To address the concerns with the 100 member threshold, the Government has developed an alternative proposal to determine the number of
members required to requisition a members’ meeting under section 249D of the Corporations Law. However, the Government does not propose to alter the existing rules regarding shareholders’ resolutions and statements through the shareholder proposal process.

The Government proposes to replace the existing 100 member test (section 249D(1)(b)) with a new ‘square-root’ rule. Under the proposal, the number of members required to call a company meeting would be the square root of the total number of members of the company who are entitled to vote at a meeting. The proposal involves retaining the proper purpose test currently in the Corporations Law (section 249Q) as well as the 5% of votes that may be cast at the annual general meeting rule (the “5% rule” (section 249D(1)(a)).

In contrast to the existing 100 member rule which is fixed arbitrarily, under the square root proposal, the number of members will be proportionate to the size of the company’s member base. It is a fair, objective and simple formulation that links the required number of shareholders with the size of the company’s shareholder base, but without sacrificing shareholder democracy. For instance, in the case of a company with a shareholder base exceeding 1 million members, the square root rule would require 1000 members (at least) to call a company meeting. For smaller companies, the number of shareholders required would decline proportionately.

The retention of the proper purpose test will continue to provide a safeguard against meetings being called for vexatious, frivolous or irrelevant purposes, while the retention of the 5% rule will continue to allow holders of substantial parcels of shares to call meetings.

At this time, the Government does not propose to include a specific mechanism to exclude persons who have become members solely for the purpose of joining in the requisitioning of a meeting (for example, by acquiring a small number of shares). However, if evidence of abuse becomes apparent then the Government would need to consider measures to disqualify certain shareholders from the ability to join in the requisitioning of a meeting.

Alternatives

There have been numerous alternatives considered including the removal of the existing 100 member threshold and retaining as the sole test members holding 5% of the voting shares as recommended by CASAC. This test would be in line with the position in the major capital markets overseas. However, the Government considers that this test proposes a threshold that is too high in a market that increasingly contains a material proportion of retail investors.

Another suggestion has been the retention of the current 100 member test modified with the additional requirement that each requisitioning shareholder has a minimum shareholding that has a minimum average market value. CASAC considers that requisitioning shareholders should have a minimum economic interest in the company, but considered it would be more directly and uniformly achieved through the issued share capital test (para 2.21, page 14 of CASAC’s Final Report).

The Government recognises the merit of a minimum economic requirement policy, but considers that there are also some serious limitations. A minimum economic requirement would require a requisitioning shareholder to hold shares with an average market value of a certain amount at the time of requisition. If shareholders were, for example, seeking to requisition a meeting because of a falling share price, potential requisitionists may be required to increase their shareholding in order to qualify. Requisitionists may be reluctant to “throw good money after bad”.

A further difficulty with a minimum economic requirement test is that it could not easily apply to companies with non-standard capital and voting shares (for example, such a test could not apply to mutual organisations, where the members have a single nominal value share). Such a test would require modification to cater for non-standard companies. There are a very large number of companies that do not have all of their shares quoted, so a test based on market value would necessarily be complex and could involve a difficult and potentially expensive valuation exercise.

In conclusion, the Government believes that the square root test strikes the appropriate balance between shareholders rights to call a company meeting in extraordinary circumstances, while lessening the potential for abuse of such a right.

Government Proposal

The Government proposes the following model to replace the current 100 member test contained in section 249D(1)(b):

- The Corporations Law would continue to require that a meeting be held for a proper purpose. The directors of a company would be required to call and arrange a general meeting on the request of:

Members with at least 5% of the votes that may be cast at a general meeting; or
Other matters

In the course of the inquiry by the PJSC some suggestions were made to the PJSC that other additional matters arising from the Company Law Review Act 1998 ought to be dealt with in subsequent legislation.

These matters include issues concerning redeemable preference shares and selective capital reductions.

The PJSC has not undertaken an inquiry into the additional matters raised, and does not make any recommendations on those issues.

The Government thanks the PJSC for bringing these matters to its attention, and will consider them in due course.

GOVERNMENT RESPONSE TO THE REPORT BY THE SENATE RURAL AND REGIONAL AFFAIRS AND TRANSPORT LEGISLATION COMMITTEE

THE ALBURY-WODONGA DEVELOPMENT AMENDMENT BILL 1999

OCTOBER 2000

Recommendation 1

The Committee recommends that the Albury-Wodonga Development Amendment Bill 1999 be passed.

Response

The Albury-Wodonga Development Amendment Bill 1999 was passed by the Senate on 6 April 2000 and the Albury-Wodonga Development Amendment Act 2000 received Royal Assent on 3 May 2000.

Recommendation 2

The Committee, recognising the inequity that has existed since establishment of the AWDC(NSW), AWDC (Victoria) and Commonwealth AWDC by the ex-gratia payment of rates to local government authorities in Victoria, but no similar treatment for the Albury City Council and Hume Shire Council in New South Wales, recommends

(a) that the responsible NSW Minister consider ex-gratia payments equivalent to rates on AWDC(NSW) Land since 1992;

(b) that, once the Commonwealth’s amending legislation commences and the land assets pass to the Commonwealth, the Commonwealth address this inequitable treatment of local government authorities by instituting ex-gratia payments equivalent to rates for Corporation land in both NSW and Victoria.

Response

The Government notes the recommendation.

(a) The Minister for Regional Services, Territories and Local Government, Senator the Hon Ian Macdonald wrote to the NSW Minister for Regional Development, the Hon Harry Woods MP, on 1 May 2000 advising him of the Committee’s recommendations.

Mr Woods responded on 25 August 2000 agreeing to the payment of rates to the Albury City and Hume Shire Councils at the same level as the payment to the Wodonga Council, but he did not support retrospective payments.

(b) The Government is currently considering its position on the payment of rates when the landholdings of the Albury-Wodonga (Victoria) Corporation and the Albury-Wodonga (New South Wales) Corporation are transferred.

Recommendation 3

The Committee notes the AWDC held assets of $138.4 million as at 30 June 1999, the sale of which will continue over the next 10 years. Accordingly, the Committee recommends that the Commonwealth consider the reinvestment of interest repayments by AWDC to the Commonwealth into infrastructure projects in Albury-Wodonga.

Response

The Government notes the recommendation.

Funds from Commonwealth consolidated revenue were originally used to purchase the land for development of the Albury-Wodonga area. Accordingly, it is appropriate that the revenue from the sale of this land is returned to consolidated revenue and not hypothecated to another purpose.

FOREIGN AFFAIRS, DEFENCE AND TRADE REFERENCES COMMITTEE

Report

The PRESIDENT—I present the interim report of the Foreign Affairs, Defence and Trade References Committee on the disposal of defence property, namely the Artillery Barracks, Fremantle.

Ordered that the report be printed.

Senator WEST (New South Wales) (6.16 p.m.)—I move:

That the Senate take note of the report.

I seek leave to continue my remarks later.

Leave granted; debate adjourned.
DOCUMENTS
Register of Senate Committee Reports
The PRESIDENT—I present the Register of Senate Committee Reports year 2000 supplements.

Business of the Senate
The PRESIDENT—I table Business of the Senate for the period 1 January to 31 December 2000.
Ordered that the document be printed.

Summary of Questions on Notice
The PRESIDENT—I table a summary of questions on notice for the period 10 November 1998 to 31 December 2000.

Aboriginals and Torres Strait Islanders: Reconciliation
The ACTING DEPUTY PRESIDENT (Senator Lightfoot)—I present a response from the Premier of Victoria, Mr Bracks, to a resolution of the Senate of 9 October last year concerning state reconciliation committees.

Centenary of Federation
The ACTING DEPUTY PRESIDENT—I present a letter from the Ambassador of the Kingdom of Cambodia, His Excellency HOR Nambora, relating to the Centenary of Federation.

BUDGET
Consideration by Legislation Committees
Additional Information
Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (6.18 p.m.)—I table a corrigendum to the portfolio additional estimates statements for 2000-01 for the Foreign Affairs and Trade portfolio. Copies of the corrigendum are available from the Senate Table Office.

Senator CALVERT (Tasmania) (6.18 p.m.)—On behalf of the chair of the Rural and Regional Affairs and Transport Legislation Committee, I present additional information received by the committee relating to the supplementary hearings on the budget estimates for 2000-01.

On behalf of the chair of the Employment, Workplace Relations, Small Business and Education Legislation Committee, I present a transcript of evidence, tabled documents and additional information received by the committee relating to various hearings on the budget and additional estimates during the period 1998-2001.

On behalf of the chair of the Legal and Constitutional Legislation Committee, I present additional information received by the committee relating to the hearings on the budget estimates for 2000-01.

GOODS AND SERVICES TAX: OPINION POLLS

Return to Order
The Deputy Clerk—Documents are tabled pursuant to the order of Senate of 4 December for the production of documents concerning GST related polling.

COMMITTEES
Foreign Affairs, Defence and Trade Committee: Joint
Membership
The ACTING DEPUTY PRESIDENT—The President has received a letter from a party leader seeking a variation to the membership of a joint committee.
Motion (by Senator Ian Campbell)—by leave—agreed to:
That Senator McKiernan be discharged from and Senator Gibbs be appointed to the Joint Standing Committee on Foreign Affairs, Defence and Trade.

ASSENT TO LAWS
Messages from His Excellency the Governor-General were reported, informing the Senate that he had assented to the following laws:

Indigenous Education (Targeted Assistance) Bill 2000
States Grants (Primary and Secondary Education Assistance) Bill 2000
ACIS Administration Amendment Bill 2000
Renewable Energy (Electricity) (Charge) Amendment Bill 2000
Interactive Gambling (Moratorium) Bill 2000
Telecommunications Legislation Amendment Bill 2000
Fuel Quality Standards Bill 2000
Roads to Recovery Bill 2000
Privacy Amendment (Private Sector) Bill 2000
Taxation Laws Amendment Bill (No. 8) 2000
Veterans’ Affairs Legislation Amendment (Budget Measures) Bill 2000
Aged Care Amendment Bill 2000
Copyright Amendment (Moral Rights) Bill 1999
Financial Sector Legislation Amendment Bill (No. 1) 2000
Jurisdiction of Courts (Miscellaneous Amendments) Bill 2000
Horticulture Marketing and Research and Development Services Bill 2000
Horticulture Marketing and Research and Development Services (Repeals and Consequential Provisions) Bill 2000
Education Services for Overseas Students Bill 2000
Education Services for Overseas Students (Assurance Fund Contributions) Bill 2000
Education Services for Overseas Students (Consequential and Transitional) Bill 2000
Education Services for Overseas Students (Registration Charges) Amendment Bill 2000
Migration Legislation Amendment (Overseas Students) Bill 2000
Gene Technology Bill 2000
Gene Technology (Consequential Amendments) Bill 2000
Gene Technology (Licence Charges) Bill 2000
Broadcasting Services Amendment Bill 2000
Taxation Laws Amendment Bill (No. 7) 2000
Renewable Energy (Electricity) Bill 2000

BILLS RETURNED FROM THE HOUSE OF REPRESENTATIVES

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

Renewable Energy (Electricity) Bill 2000

ABORIGINAL AND TORRES STRAIT ISLANDER COMMISSION AMENDMENT BILL 2000

First Reading

Bill received from the House of Representatives.

Motion (by Senator Ian Campbell) agreed to:

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

Bill read a first time.

Second Reading

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (6.22 p.m.)—I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

The Aboriginal and Torres Strait Islander Commission Amendment Bill 2000 (the Bill) establishes a new body known as Indigenous Business Australia (IBA) by expanding the functions of the Aboriginal and Torres Strait Islander Commercial Development Corporation (CDC).

The Bill reflects the government’s commitment to increasing opportunities for indigenous Australians to participate in commercial development. Participation in business enables more indigenous Australians to escape the cycle of welfare dependency and provides opportunities for employment and the creation of wealth and capital to generate further economic development opportunities.


The Bill was introduced by the Minister for Communications, Information Technology and the Arts and Senator Ian Campbell moved the Bill to be read a second time.

The Bill received agreement from both houses and was returned to the Senate on 6 February 2001.
The government is committed to ensuring that outcomes from indigenous business support programmes are optimised. Accordingly, the government is commissioning an independent review of indigenous business programmes to recommend mechanisms for the most appropriate and effective delivery of such programmes.

The Bill is also designed to improve current services and contains three key aspects.

The first aspect is changing the name of the CDC to IBA. The establishment of a new organisation, with a new name, will provide an opportunity to re-focus business client expectations on commercial objectives clearly differentiated from the broad social and economic objectives of the Aboriginal and Torres Strait Islander Commission (ATSIC).

The second aspect is expressly allowing ATSIC to outsource its commercial functions. ATSIC will be enabled to use IBA or other organisations to deliver its commercial services, such as the provision of loans, to indigenous businesses. These changes are designed to encourage a shift in culture surrounding indigenous business support and, in particular, to help bring the public and private sector closer to an effective partnership.

The final aspect provides the option of appointing a full-time Chairperson to IBA. Currently the Chairperson of the CDC is appointed on a part time basis. The option to appoint a full time Chairperson is in recognition of the significant role that IBA will play in stimulating the economic advancement of indigenous Australians and will help to ensure that IBA can maintain and expand the successful joint venture arrangements the CDC has established with a wide range of Australian companies.

In conclusion, I would like to say that an important means for addressing indigenous employment and economic disadvantage is to promote growth in indigenous business. The Bill is a significant step towards improving indigenous participation in viable businesses, and is part of the government’s ongoing commitment to assist indigenous Australians achieve economic independence.

Debate (on motion by Senator Carr) adjourned.

The speeches read as follows—
ADMINISTRATIVE REVIEW TRIBUNAL BILL 2000
ADMINISTRATIVE REVIEW TRIBUNAL (CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) BILL 2000

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

Bills read a first time.

Second Reading
Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (6.23 p.m.)—I table revised explanatory memoranda relating to the bills and move:
That these bills be now read a second time.

Leave granted.

Almost 25 years ago the Administrative Appeals Tribunal was created to provide merits review of a broad range of administrative decisions. The intention at the time was to have a single independent tribunal dealing with appeals against administrative decisions across as wide a spectrum of Commonwealth activity as possible. Despite this intention, a number of specialist federal merits review tribunals were subsequently established. These include the Social Security Appeals Tribunal, Migration Review Tribunal and Refugee Review Tribunal.

The Administrative Review Tribunal Bill provides for a fundamental reform of the system of federal merits review. It will establish the Administrative Review Tribunal to replace four merits review tribunals—the Administrative Appeals Tribunal, the Social Security Appeals Tribunal, the Migration Review Tribunal and the Refugee Review Tribunal.
The role of each of these tribunals is to provide independent, external review of administrative decisions made in particular areas of government. However, each is invested with a range of different powers and modes of operation. It was therefore appropriate to assess whether the federal merits review system was providing an efficient and effective avenue of redress for individuals seeking review of government decisions.

Such an assessment was undertaken by the Administrative Review Council in its report Better Decisions: Review of Commonwealth Merits Review Tribunals. The Council is a distinguished body that was set up to monitor the administrative law system and recommend improvements. The Council urged the formation of a single tribunal to replace a number of existing federal merits review tribunals.

The government accepted the recommendation. It decided to create a strong, independent tribunal that would exercise the jurisdiction of several existing tribunals, and at the same time would streamline merits review, remove duplication and inefficiencies, and improve performance. To have several tribunals performing a similar review function, but with separate membership, staff, premises, information technology and corporate services systems, is wasteful of resources. It also limits the range of work available to the members of the various tribunals.

The establishment of the new Tribunal will be a major development in the field of administrative review. It demonstrates the government’s commitment to improving and enhancing the Commonwealth system of merits review. A vast number of decisions made by government departments and agencies on a daily basis affect the rights and interests of individuals. The government is committed to ensuring individuals have ready access to independent and high-quality review of decisions that is inexpensive, prompt, informal and effective. The vital task of increasing public awareness of review rights and the availability of external review will be more easily achieved when there is one major tribunal conducting most federal merits review.

The goal of creating a tribunal that provides individuals with an appropriate review forum and encourages efficient public administration is reflected in the objects set out in the Bill. These include:

- to ensure that the Administrative Review Tribunal provides an accessible mechanism for reviewing decisions that is fair, just, economical, informal and quick;
- to enable the Tribunal to review decisions in a non-adversarial way;
- to enable the Tribunal to use flexible and streamlined procedures and a variety of processes, including inquiries and conferences, for resolving issues.

The government made several minor amendments to the Administrative Review Tribunal Bill in the House which are reflected in the revised explanatory memorandum.

The new Tribunal will be headed by an independent President, appointed by the Governor-General as a statutory office-holder. The President will be responsible for the operation and administration of the Tribunal. Unlike the President of the AAT, there is no requirement in the Bill that the President of the new Tribunal be a judge. This is in keeping with the government’s goal of creating an informal, non-legalistic environment in the new Tribunal. Other members will also be appointed by the Governor-General.

The Tribunal’s six divisions will reflect the main review jurisdictions of the existing tribunals. The Divisions are the Commercial and General Division; the Immigration and Refugee Division; the Income Support Division; the Taxation Division; the Veterans’ Appeals Division; and the Workers’ Compensation Division. Each Division of the Tribunal will be headed by an executive member who will have responsibility for the day-to-day management of that Division.

In recognition of the different classes of decisions that will be reviewed by the Tribunal, and the needs of particular classes of applicants, specialist procedures will continue to exist for particular Divisions where appropriate. Practices that have worked well in the separate tribunals will be carried over to the new Tribunal. However, it is not the Government’s intention that the new Tribunal will merely be the sum of its parts. As far as possible, the Government intends the Tribunal as a whole to develop a flexible, non-adversarial culture, with an emphasis on informality and accessibility.

Members appointed to the new Tribunal will have a range of knowledge and skills. It is expected that many members will be chosen from those currently serving on the existing tribunals, bringing their experience and expertise to the new Tribunal. Members will be appointed to a particular Division, and they may be cross-appointed to other Divisions to accommodate fluctuations in divisional workloads. The Bill provides for the appointment of a limited number of members as senior members—highly skilled and experienced members suitably qualified to review difficult,
complex or particularly significant decisions and to provide intellectual leadership and guidance to other members.

The Government has carefully considered whether a second-tier of external merits review should be provided. Second-tier review clearly adds to the time and costs of merits review. In its Better Decisions report, the Administrative Review Council concluded that applicants should not have an automatic right to second-tier review.

The Government agrees that the merits review process should be finalised as efficiently as possible. Accordingly, there will not be an automatic right to second-tier review in the new Tribunal. Second-tier review will be limited to cases that raise a principle, or issue, of general significance where the first-tier review was conducted by a single member of the Tribunal. It will also be available where parties to the first-tier review agree that the decision involved a manifest error.

This reform will mean that second-tier review will be available in areas for which currently there is no second-tier review, such as taxation and workers' compensation. The current right to appeal a decision of the Veterans' Review Board to the Administrative Appeals Tribunal will not change: decisions of the Board will be subject to review in the Veterans' Appeals Division of the new Tribunal.

Appeals from the new Tribunal to the Federal Court will be available, in the same circumstances as appeals from the tribunals being amalgamated. Transfers of such appeals to the Federal Magistrates Court will be possible to the extent presently provided for. Judicial review of administrative decisions under the Administrative Decisions (Judicial Review) Act 1977 will also continue to be available to the same extent as at present.

The Government intends that the new Tribunal will develop a user-friendly culture. To encourage informality and an efficient use of resources, the Government envisages that most reviews will be heard by the Tribunal constituted by a single member. The President will have discretion to direct that two or three members constitute the Tribunal where the review raises a principle, or issue, of general significance or where additional specialist expertise is required. The Tribunal will generally give its reasons for decision orally, with written reasons being provided on request or where the Tribunal considers the reasons for decision should be in writing due to the significance or normative value of the matter.

Departments and agencies whose decisions are under review will not be required to participate in a review, in the sense that they must appear before the Tribunal. This will not affect the need for departments and agencies to give to the Tribunal information and documentation relevant to the decision under review. However, it will assist in reducing the formality and adversarial nature of reviews. When decision-makers participate in reviews, the Bill provides that they must use their best endeavours to assist the Tribunal. The emphasis is on achieving the correct and preferable decision, rather than on defending the original decision.

Flexible practice and procedure directions will be a feature of the new Tribunal. It will be able to tailor its practice and procedure according to the Division within which a decision is reviewed and the type of decision under review. Other measures to promote economical and quick review will include the use of technology, such as conducting reviews by use of video and telephone conferencing.

The Government is also keen that the new Tribunal use a variety of processes, as well as informal hearings, in reviewing decisions. The Tribunal will have a discretion to direct that conferences or inquiries be held at any time during a review in the interests of justice. The emphasis is on achieving the correct and preferable decision, rather than on defending the original decision.

In keeping with the Government's aim of improving the quality and processes of administrative decision-making, the Bill will continue in existence the Administrative Review Council. The Council provides expert advice to the Gov-
Four merits review tribunals—the Administrative Appeals Tribunal (AAT), the Social Security Appeals Tribunal (SSAT), the Migration Review Tribunal (MRT) and the Refugee Review Tribunal (RRT)—will be amalgamated in order to establish the Administrative Review Tribunal. The Government is honouring its commitment to the veteran community by retaining the Veterans’ Review Board and providing for its decisions to be reviewed by the new Tribunal.

The establishment of the ART will be the most significant reform to the federal merits review system in 25 years. The ART will become the Commonwealth’s principal merits review tribunal, providing ready access to review that is fair, just, economical, informal and quick. It will operate in a ‘user-friendly’ manner and will have the capacity to tailor its procedures to suit the requirements of particular classes of applicants.

The Bill being introduced today forms the second part of the ART legislative package. The Bill makes provision for the following matters. First, it provides for the abolition of the existing tribunals, the AAT, SSAT, MRT and RRT; and for the repeal of the Administrative Appeals Tribunal Act 1975 and of other legislative provisions that establish and provide for the operation of the existing tribunals.

Secondly, it contains amendments to Acts that currently confer jurisdiction on the existing tribunals, so that, on the abolition of those tribunals, that jurisdiction is conferred on the ART. Thirdly, it make specific provision for procedures to be followed by the ART in reviewing specified classes of decisions. Fourthly, the Bill contains provisions of a transitional nature. These include provisions for review by the ART of decisions made before the ART commences operations, where such decisions have not already been reviewed by an existing tribunal. It also contains provisions for appeals and references from decisions made by the existing tribunals, where the appeals or references have not been completed by the time the ART commences operations. The Bill also provides for the transfer to the ART of matters that, just before the ART commences operations, are before the AAT, SSAT, MRT or RRT.

Preparation of the Consequential and Transitional Provisions Bill was a very large undertaking, which involved all departments and many agencies. The main Bill was therefore introduced in the House before this Bill so that the Parliament and the community could examine the general provisions that will establish the new Tribunal and provide for its structure, membership and procedures. Several minor amendments to the Bill were made in the House.
Both the ART Bill and this Bill have been referred to the Senate Legal and Constitutional Affairs Committee. The Consequential and Transitional Provisions Bill contains six clauses providing for the following matters: the short title of the Bill (clause 1), the commencement of its provisions (clause 2), the repeal of the Administrative Appeals Tribunal Act 1975 (‘AAT Act’) (clauses 3 and 4), the amendment of legislation as set out in the Schedules to the Bill (clause 5), and the making of transitional and savings regulations (clause 6).

There are 18 Schedules to the Bill. My comments provide a brief overview of each Schedule.

Schedules 1 and 2 will replace references in Commonwealth Acts to the AAT and the AAT Act with, respectively, references to the Administrative Review Tribunal and the Administrative Review Tribunal Act 2000.

Schedule 3 makes consequential amendments to various Acts. The amendments are necessary as a result of the differences in structure between the current tribunals and the ART, and differences in terminology between the existing legislative provisions and the ART Bill. In some circumstances, the amendments to be made by Schedule 3 effect more substantive, though minor, changes to the current review regime. Those amendments are designed to further the objectives of the ART reforms.

Schedules 4 and 5 set out procedures for the review by the ART of adverse or qualified security assessments. The Commercial and General Division of the ART will be called the Security Appeals Division when reviewing such assessments. Special procedures are currently used for such reviews, and will continue to be required. They are necessary in order to protect the confidentiality of security intelligence and information used by the Australian Security Intelligence Organisation in making security assessments and to protect other evidence and documents that may be given to the ART for the purpose of reviewing security assessments. Present procedures operate well and provide an appropriate balance between the right of applicants to procedural fairness and the needs of security. Consequently, the schedules make minimal changes to the present arrangements.

Schedule 6 makes consequential amendments to the Taxation Administration Act 1953 in respect of the review of certain taxation decisions. In particular, it provides that the ART Bill is subject to the modifications set out in the Schedule to that Act, which is to be inserted by Schedule 7 of this Bill.

Schedule 7 adds Schedule 2 to the Taxation Administration Act, to provide for the modified application of the ART Bill to the review of certain decisions made under that Act. Generally, the modifications will retain existing procedures for the review of taxation decisions. The Small Taxation Claims Tribunal, currently operating under the umbrella of the AAT, will be retained in the ART. However, its jurisdictional limit will be changed. Experience has demonstrated that the amount in issue in the review of an objection decision is not necessarily indicative of the complexity of the matter. Schedule 7 therefore raises the monetary limit in the Small Claims Tribunal to $15,000 and at the same time imposes an additional requirement that the matter must be able to be conducted quickly or easily and does not raise an issue of general significance.

Schedule 8 makes consequential amendments to enable the ART to review decisions made by the Veterans’ Review Board regarding veterans’ entitlements. Such reviews are to take place in the Veterans’ Appeals Division of the ART. Schedule 8 also provides that the ART Bill, in relation to applications for review of decisions made under the Veterans’ Entitlements Act 1986, is subject to the modifications set out in the Schedule to that Act, which is to be inserted by Schedule 9 to this Bill.

The Schedule to the Veterans’ Entitlements Act that is to be inserted by Schedule 9 makes provision for reviews by the ART of decisions of the Veterans’ Review Board to be treated as second-tier reviews. This is because the Board provides first-tier external review of veteran decisions. Veterans will have a right to review by the ART of decisions made by the Board.

The retention of the Veterans’ Review Board and veterans’ rights to a second-tier of review is part of the Government’s commitment to the veterans’ community. The Government accepts the need for a specialised review mechanism for veterans.

Part 1 of Schedule 10 makes consequential amendments to enable the ART to review decisions made under the Social Security Act 1991. Review by the ART will replace review by the SSAT and AAT. Social security reviews will be conducted in the Income Support Division of the ART. The amendments made by Schedule 10 will incorporate many of the existing features of review by the SSAT into the ART regime. Part 2 of Schedule 10 makes similar amendments in rela-
tion to decisions made under the Social Security (Administration) Act 1999.

Presently, decisions in relation to social security matters are generally reviewable internally, after which an application may be made to the SSAT. SSAT decisions are reviewable by the AAT. Under the amendments, after internal review, applications for first-tier review can be made to the ART, after which second-tier review can also be sought on the grounds set out in the ART Bill. Schedule 10 also provides that the ART Bill, in relation to applications for review of decisions made under the Social Security (Administration) Act, is subject to the modifications set out in the Schedule to that Act, which is to be inserted by Schedule 11 of the Bill.

Schedule 11 replaces Schedule 3 of the Social Security (Administration) Act, to provide for the modified application of the ART Bill to the review of decisions made under that Act. Most of the modifications involve changing references to ‘decision-maker’ in the ART Bill to ‘Secretary’. This is to take account of the fact that decision-making powers under the social security legislation are vested in the Secretary of the Department of Family and Community Services and then delegated.

Schedule 12 makes similar amendments to those made by Schedule 10 to empower the ART to deal with the review of decisions regarding family assistance payments. Schedule 12 will provide for applications for first-tier review to be made to the ART, in the Income Support Division, after which second-tier review can be sought on the grounds set out in the ART Bill. Schedule 12 also provides that the ART Bill, in relation to applications for review of decisions made under A New Tax System (Family Assistance) (Administration) Act 1999, is subject to the modifications set out in the Schedule to that Act, which is to be inserted by Schedule 13 of this Bill.

Schedule 13 adds a Schedule to the A New Tax System (Family Assistance) (Administration) Act to provide for the modified application of the ART Bill to the review of decisions made under that Act. Most of the modifications involve changing references to ‘decision-maker’ in the ART Bill to ‘Secretary’. This is to take account of the fact that decision making powers under the family assistance legislation, as with the social security legislation, are vested in the Secretary and then delegated.

Part 1 of Schedule 14 amends the Migration Act 1958. These amendments will have the effect of creating a self-contained code for the conduct of immigration and refugee reviews, most of which will be reviewed in the Immigration Review Division of the ART. This code will effectively replace Parts 4 to 10 of the ART Bill.

Overall, the effect of the amendments will be to retain the general structure of review presently conducted by the MRT and the RRT. Currently, most decisions are reviewable by either the MRT (for most visa decisions made under the Migration Act) or the RRT (regarding protection visas). These types of decisions will be covered by the regime established under new Part 5 of the Migration Act.

A small number of decisions made under the Migration Act are currently reviewable by the AAT, namely, those relating to business skills visa cancellations, criminal deportation and the refusal or cancellation of a visa on character grounds. Schedule 14 will bring those decisions within the scope of Part 5.

Decisions relating to the registration of migration agents, currently not subject to Part 5 of the Migration Act, will remain outside Part 5. They will be reviewable in the Commercial and General Division of the ART under the procedures established by and under the ART Bill.

The amendments made to Part 5, and in particular proposed section 353A, adopt the mechanism in the ART Bill requiring the Tribunal to comply with practice and procedure directions made by the Minister, the President or the executive member of the Immigration Review Division.

The Tribunal’s failure to comply with directions will not, in itself, invalidate a decision. This is the current position in relation to non-compliance with directions issued in respect of the MRT and RRT. Subject to significant exceptions, a participant will not be entitled to seek review of the Tribunal’s decision by the Federal Court under Part 8 of the Migration Act on the basis of the Tribunal’s non-compliance with directions. The exceptions include the following: directions in subsection 353A(4) of the Migration Act: directions regarding a decision to undertake a ‘review on the papers’, the control of appearances, the making of submissions by a representative of the applicant or the Department, and the control of examination and cross-examination. The proposed subsection also allows for regulations to be made prescribing additional classes of directions falling within the exceptions.

Proposed sections 362B, 362C and 362D of the Migration Act will allow the ART to end a review without making a decision where the applicant fails to provide information as requested, fails to
appear, or fails to comply with a direction. These provisions will allow the ART to dispose more readily of cases where the applicant does not actively pursue his or her case, and are consistent with the provisions in the ART Bill applying to the other Divisions. The applicant must be notified that the review has been terminated. However, the applicant’s rights are not lost. He or she is then entitled to apply for reinstatement of the review. This amendment is designed to improve the efficiency and effectiveness of decision-making in the Immigration Review Division and is consistent with the objectives of the ART reforms and the provisions of the ART Bill applicable to other Divisions.

A decision by the Tribunal to end a review on this basis will not be judicially reviewable, but a decision not to reinstate the review will be reviewable. Therefore the onus is on an applicant first to apply for reinstatement before seeking judicial review.

Part 2 of Schedule 14 amends the Australian Citizenship Act 1948, and Part 3 amends the Immigration (Guardianship of Children) Act 1946, to take account of the fact that the review functions under those Acts will be undertaken by the ART. Reviews of decisions made under the Australian Citizenship Act and the Immigration (Guardianship of Children) Act will take place in the Commercial and General Division of the ART, reflecting the fact that such reviews have been conducted by the AAT and not the MRT or RRT.

Schedule 15 provides for the transitional provisions required as a result of the abolition of the AAT and the establishment of the ART.

Part 2 preserves the existing entitlements of retired and serving Deputy Presidents of the AAT to pensions under the Judges’ Pensions Act 1968. It also gives an entitlement to a pension to Deputy Presidents of the AAT who elected to be covered by the Judges’ Pensions Act scheme but who would not have qualified for a pension under that scheme by the time the AAT is abolished.

Part 3 deals with the transfer of records and documents between the AAT, ART, Federal Court and Federal Magistrates Service and Part 4 makes provision for the final annual report of the AAT.

Part 5, among other things, preserves a person’s right to receive notice of certain decisions made before the AAT is abolished and notice of review rights in relation to them and to apply for statements of reasons for such decisions.

Part 6 deals with applications for first-tier review by the ART of decisions made before the abolition of the AAT.

Part 7 provides that the ART is to conduct reviews that were before the AAT and were not completed at its abolition. Part 8 ensures that the ART can finish exercising certain other powers or performing certain other functions being exercised or performed by the AAT before its abolition.

Part 9 preserves the effect of decisions made by the AAT and preserves rights to appeal to the Federal Court in respect of AAT decisions and AAT matters that were not exercised before the abolition of the AAT. It also preserves appeals in the Federal Court or the Federal Magistrates Service from the AAT which are in progress at the time the AAT is abolished. Current applications under the Administrative Decisions (Judicial Review) Act 1977 or other review rights regarding decisions made by the AAT, for example, under section 75(v) of the Constitution or section 39B of the Judiciary Act 1903, will also be preserved.

Part 10 contains a specific provision dealing with the continuing effect, after the AAT is abolished, of a certificate issued by the Attorney-General under subsection 38(2) of the Australian Security Intelligence Organisation Act 1979.

Part 11 ensures the continuing effectiveness of appointments to the Administrative Review Council, and certain other matters, after the repeal of the provisions of the AAT Act providing for the establishment and operations of the Council. The ART Bill makes provision for the re-establishment and continuing operations of the Council.

Schedule 16 makes similar provision, in relation to the review of migration decisions by the MRT or RRT, to that made in Schedule 15 in relation to other classes of decisions that were reviewed or reviewable by the AAT. In summary, existing review rights are preserved, reviews under way in the MRT or RRT at the time the existing tribunals are abolished are to be completed by the ART, and appeal rights regarding MRT or RRT decisions are preserved.

Schedule 17 makes similar provision, in relation to the review of social security and family assistance decisions by the SSAT or AAT, to that made by Schedule 15 in relation to other classes of decisions that were reviewed or reviewable by the AAT.

Schedule 18 amends section 20 of the Federal Court of Australia Act 1976. Subsection 20(2)
currently provides that where a matter comes before the Federal Court from a tribunal or authority the members of which included a judge, it must be heard by a Full Federal Court. The amendments made by Schedule 18 will allow certain interlocutory and procedural matters in such cases to be dealt with by a single judge, rather than having to be dealt with by the Full Court.

This Bill, together with the main ART Bill, represents a major reform of the federal civil justice system. The new Tribunal will retain the independence and effectiveness of the existing tribunals, while improving accessibility, flexibility and user-friendliness.

Debate (on motion by Senator Carr) adjourned.

COMMITTEES

Procedure Committee
Report

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (6.24 p.m.)—I declare an interest. I also move:

That the recommendations of the Procedure Committee in its second report of 2000, presented on 2 December 2000, be adopted as follows:

(a) standing order 26(9), relating to supplementary meetings of legislation committees considering estimates, be amended as set out in the report with immediate effect; and

(b) the continuing order relating to the powers of parliamentary secretaries, be amended as set out in the report with effect from 1 January 2002.

Question resolved in the affirmative.

SYDNEY HARBOUR FEDERATION TRUST BILL 2000 [2001]
Consideration of House of Representatives Message
Consideration resumed from 7 December 2000.

House of Representatives message—
Schedule of amendments made by the House of Representatives:

(1) Page 1 (after line 10), after the title, insert:

Preamble

The Parliament intends to conserve and preserve land in the Sydney Harbour region for the benefit of present and future generations of Australians. The land is being vacated by the Department of Defence and includes land at North Head, Middle Head, Georges Heights, Woolwich and Cockatoo Island. Suitable land with significant environmental and heritage values will be returned to the people of Australia.

The Parliament intends to establish the Sydney Harbour Federation Trust as a transitional body to manage the land and facilitate its return in good order. The Trust will transfer suitable land to New South Wales for inclusion in the national parks and reserves system.

(2) Clause 2A, page 2 (lines 5 to 19), to be opposed.

(3) Clause 3, page 2 (line 20) to page 4 (line 19), omit the clause, substitute:

3 Definitions

In this Act, unless the contrary intention appears:

affected council means a council, established under the Local Government Act 1993 of New South Wales, of the area in which:

(a) land mentioned in Schedule 1 or 2; or

(b) any other Trust land; is situated.

Chair means the Chair of the Trust.

Commonwealth body includes a Department of State, or authority, of the Commonwealth.

Commonwealth member means a member who was appointed by the Minister under section 12, other than on the recommendation of New South Wales.

Commonwealth place means a place referred to in paragraph 52(i) of the Constitution, other than the seat of government.

Executive Director means the Executive Director of the Trust.

Harbour land means land in the Sydney Harbour region and includes Sydney Harbour’s river systems, catchment area and North and South Head.

interest, in relation to land, means:
(a) a legal or equitable estate or interest in the land; or
(b) a right, power or privilege over, or in relation to, the land.

interim Trust means the advisory body known as the interim Trust and established by the Commonwealth to commence planning and public consultation in respect of certain Harbour land.

land includes buildings and improvements on the land.

member includes the Chair.

plan means a plan prepared under Part 5 of this Act.

plan area means the land covered by a plan under section 27.

public employee means a person who is a full-time member, officer or employee of:
(a) the Australian Public Service; or
(b) the Public Service of a State or a Territory; or
(c) an authority of the Commonwealth or a State or a Territory; or
(d) local government.

public notice means a notice published:
(a) in the Gazette; and
(b) in a daily newspaper circulating in the Sydney region; and
(c) in a local newspaper circulating in the area concerned.

repeal time means the time at which this Act is repealed under section 66.

suitable person, in respect of a member, means a person with qualifications or experience relevant to one or more of the following fields:
(a) environmental and heritage conservation;
(b) indigenous culture;
(c) land planning and management;
(d) business management;
and any other field relevant to the Trust’s functions.

Trust means the Sydney Harbour Federation Trust established by section 5.

Trust land means any land that:
(a) vests in the Trust; and
(b) is held by the Trust from time to time for and on behalf of the Commonwealth; under section 22.

Trust land site means:
(a) the sites mentioned in Schedules 1 and 2; or
(b) land specified in a notice published in the Gazette under subsection 21(2).

(4) Part 2, clauses 5 to 9, page 5 (line 2) to page 8 (line 9), omit the Part, substitute:

PART 2—ESTABLISHMENT OF THE TRUST

5 Establishment
(1) The Sydney Harbour Federation Trust is established by this section.

(2) The Trust:
(a) is a body corporate with perpetual succession; and
(b) may have a common seal; and
(c) may sue and be sued in its corporate name.

Note: The Commonwealth Authorities and Companies Act 1997 applies to the Trust. That Act deals with matters relating to Commonwealth authorities, including reporting and accountability, banking and investment, and conduct of officers.

(3) All courts, judges and persons acting judicially must:
(a) take notice of the imprint of the common seal of the Trust appearing on a document; and
(b) presume that the document was duly sealed.

6 Objects
The objects of the Trust are the following:
(a) to ensure that management of Trust land contributes to preserving the amenity of the Sydney Harbour region;
(b) to protect, conserve and interpret the environmental and heritage values of Trust land;
(c) to maximise public access to Trust land;
(d) to establish and manage suitable Trust land as a park on behalf of the Commonwealth as the national government;
(e) to co-operate with other Commonwealth bodies that have a connection with any Harbour land in managing that land;
(f) to co-operate with New South Wales and affected councils in furthering the above objects.

7 Functions
The functions of the Trust are the following:
(a) to hold Trust land for and on behalf of the Commonwealth;
(b) to undertake community consultation on the management and conservation of Trust land;
(c) to do the things referred to in section 38A before plans take effect for an area of Trust land;
(d) to develop draft plans in respect of Trust land and any other Harbour land in furthering the objects, and performing other functions, of the Trust;
(e) to rehabilitate, remediate, develop, enhance and manage Trust land, by itself or in co-operation with other institutions or persons, in accordance with the plans;
(f) to make recommendations to the Minister on:
   (i) plans; and
   (ii) the proposed transfer of any Trust land;
(g) to promote appreciation of Trust land, in particular its environmental and heritage values;
(h) to provide services and funding to other Commonwealth bodies in furthering the objects, and performing other functions, of the Trust;
(i) anything incidental to or conducive to the performance of its other functions.

8 Powers
(1) The Trust has power to do all things necessary or convenient to be done for or in connection with the performance of its functions.
(2) The Trust’s powers include, but are not limited to, the following powers:
   (a) negotiate with other Commonwealth bodies and with New South Wales and affected councils;
   (b) acquire, hold and dispose of real and personal property;
   (c) enter into agreements with New South Wales and affected councils;
   (d) accept gifts, grants, bequests and devises made to it;
   (e) enter into contracts and agreements;
   (f) form, or participate in the formation of, companies;
   (g) enter into partnerships;
   (h) participate in joint ventures;
   (i) raise money, by borrowing or otherwise, in accordance with section 63.

9 Minister may give directions
(1) The Minister may give written directions to the Trust in relation to the performance of its functions and the exercise of its powers.
(2) The Minister must give the Trust written reasons for the directions.
(3) The Trust must perform its functions and exercise its powers in a manner consistent with any directions given by the Minister under subsection (1).

5 Part 3, clauses 10 to 20, page 9 (line 2) to page 11 (line 24), omit the Part, substitute:

PART 3—CONSTITUTION OF THE TRUST

10 Membership of the Trust
The Trust consists of:
(a) the Chair; and
(b) 6 other members.

11 Invitations to NSW to recommend members
(1) Before initially appointing members to the Trust, the Minister must invite New South Wales to recommend persons to be appointed to 2 membership positions.
(2) If New South Wales does so, then one of the persons recommended must be an elected member of an affected council.

(3) If:
   (a) a vacancy arises in the membership of the Trust; and
   (b) there are not 2 other membership positions held by persons recommended by New South Wales;
then the Minister must invite New South Wales to recommend persons to be appointed to the vacant membership position.

(4) Within 2 months of receiving the invitation, New South Wales may recommend suitable persons. If New South Wales does so, at least one of its 2 membership positions must be held by a person who is an elected member of an affected council.

(5) If New South Wales fails to recommend a person under this section, then the Minister must instead ensure that one of the members he or she appoints is an elected member of an affected council.

12 Appointment of members

(1) The members of the Trust are to be appointed by the Minister by written instrument.

(2) The Minister must not appoint a person as a member unless the Minister is satisfied that the person is a suitable person.

(3) One of the members must, in the Minister’s opinion, represent the interests of indigenous people.

(4) The Minister must not appoint a person as a member if, immediately after the appointment of the person, more than one-half of the members of the Trust would be public employees.

(5) The appointment of a member is not invalid because of a defect or irregularity in connection with the member’s appointment.

13 Terms of office of members

(1) A member is to be appointed on a part-time basis.

(2) A member holds office for the period specified in the instrument of appointment. The period must not exceed 3 years.

14 Acting appointments

(1) The Minister may appoint a member to act as the Chair:
   (a) during a vacancy in the office of Chair (whether or not an appointment has previously been made to the office); or
   (b) during any period, or during all periods, when the Chair is absent from duty or from Australia, or is, for any reason, unable to perform the duties of the office.

(2) Anything done by or in relation to a person purporting to act under an appointment is not invalid merely because:
   (a) the occasion for the appointment had not arisen; or
   (b) there was a defect or irregularity in connection with the appointment; or
   (c) the appointment had ceased to have effect; or
   (d) the occasion to act had not arisen or had ceased.

15 Additional terms and conditions of appointment of members

A member holds office on the terms and conditions (if any) in relation to matters not covered by this Act that are determined by the Minister.

16 Outside employment of members

A member must not engage in any paid employment that, in the Minister’s opinion, conflicts or may conflict with the proper performance of the member’s duties.

17 Remuneration and allowances of members

(1) A member 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.

18 Leave of absence
The Chair may grant leave of absence to any other member on the terms and conditions that the Chair determines.

19 Resignation
A member may resign his or her appointment by giving the Minister a written resignation.

20 Termination of appointment of members
(1) The Minister may terminate a member’s appointment for misbehaviour or physical or mental incapacity.
(2) The Minister may terminate a member’s appointment if:
   (a) the member:
      (i) becomes bankrupt; or
      (ii) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
      (iii) compounds with his or her creditors; or
      (iv) makes an assignment of his or her remuneration for the benefit of his or her creditors; or
   (b) the member is absent, except on leave of absence, from 3 consecutive meetings of the Trust; or
   (c) the member engages in paid employment that, in the Minister’s opinion, conflicts or could conflict with the proper performance of the duties of his or her office; or
   (d) the member fails, without reasonable excuse, to comply with Subdivision B of Division 4 of Part 3 of the Commonwealth Authorities and Companies Act 1997.

21 Vesting by Minister of land in the Trust
(1) The Minister administering the Naval Defence Act 1910 must, within 4 years of this Act commencing, by notice or notices published in the Gazette, specify that each Trust land site mentioned in Schedules 1 and 2 that is a Commonwealth place is to vest in the Trust in accordance with section 22. A notice may deal with a part only of a Trust land site.
(2) The Minister may, by notice published in the Gazette, specify that a part of any other Harbour land that is a Commonwealth place is to vest in the Trust in accordance with section 22.
(3) The notice must specify the day from which the land is to vest.

22 Vesting of Trust land
(1) From the beginning of the day specified in the notice, all right, title and interest that the Commonwealth holds in the land vests in the Trust without any conveyance, transfer or assignment.
(2) The Trust holds the land for and on behalf of the Commonwealth.

23 Minister may make arrangements
(1) If:
   (a) the Minister specifies land under section 21; and
   (b) immediately before the land vests in the Trust under section 22, the Commonwealth is a party to an agreement or instrument that relates to the land;
   then the Minister may specify, in writing, the agreement or instrument for the purposes of this section.
(2) An agreement or instrument specified under this section has effect, after the land vests in the Trust, as if:
   (a) the Trust were substituted for the Commonwealth as a party to the agreement or instrument; and
   (b) any reference in the agreement or instrument to the Commonwealth were (except in relation to matters that occurred before the land vested) a reference to the Trust.

24 Transfer of Trust land
(1) The Trust must not sell or otherwise transfer the freehold interest of:
(a) any land mentioned in Schedule 1; or
(b) land identified in a plan as having significant environmental and heritage values;

other than to the Commonwealth, New South Wales or an affected council.

(2) If the Trust agrees to sell or otherwise transfer the freehold interest of any Trust land, then the Trust must seek the Minister’s approval, in writing, of:
(a) the terms and conditions of the agreement; and
(b) the transferee.

25 Lands Acquisition Act not to apply
Part X of the Lands Acquisition Act 1989 does not apply to the disposal by the Trust of Trust land or an interest in Trust land.

(7) Part 5, clauses 26 to 38B, page 14 (line 2) to page 21 (line 25), omit the Part, substitute:

PART 5—PLANS

26 Trust to prepare plans
(1) Within 2 years of this Act commencing, the Trust must prepare a draft plan in respect of each Trust land site mentioned in Schedules 1 and 2.

(2) Within 2 years of any other land vesting in the Trust under section 22, the Trust must prepare a draft plan in respect of that land.

(3) The Minister may extend the period mentioned in subsections (1) and (2) on application, in writing, by the Trust.

27 Plan areas
(1) A plan must cover at least one Trust land site and must not cover only a part of a site.

(2) A plan may cover any Harbour land that has not vested in the Trust under section 22. However, the plan takes effect in respect of that land only when:
(a) the plan is approved and notified under this Part; and
(b) the land vests in the Trust.

Note: If the plan has been approved and notified under this Part before the land vests in the Trust, then the plan does not require further notification under section 34 when the land eventually vests in the Trust.

28 Content of plans
(1) A plan must accord with the objects of the Trust.

(2) The plan must accord with principles of ecologically sustainable development.

(3) The plan must contain the following:
(a) a history and description of the plan area, including an identification of current land uses of the area or parts of the area;

(b) an assessment of the environmental and heritage values of the area;

(c) an assessment of the interrelationship between the plan area and the surrounding region, including other public land in the Sydney Harbour region and other Trust land;

(d) objectives for the conservation and management of the area;

(e) policies in respect of the conservation and management of the area;

(f) an identification of proposed land uses in the area or parts of the area;

(g) an identification of the nature of possible future owners of the area or parts of the area;

(h) guidelines, options (if necessary) and recommendations for the implementation of the plan;

(i) detailed estimates of costs that may be incurred in respect of the area, including costs for remediation, rehabilitation and conservation of the area;

(j) anything else required by the regulations.

29 Consultation on proposal to prepare draft plan
(1) Before preparing a draft plan, the Trust must, by public notice:
(a) state that it proposes to prepare a draft plan in respect of a specified plan area; and

(b) invite interested persons to make representations in connection with the proposal by a specified date that is at least one month after the date of publication of the notice; and
(c) specify an address to which representations may be sent.

(2) A person may make written submissions to the Trust in connection with the proposal not later than the date stated in the notice.

(3) The Trust:
(a) must take into account any submissions made to it in accordance with subsection (2); and
(b) must take into account any advice or recommendations received from an advisory committee established under Part 8; and
(c) may take into account any other submissions.

30 Consultation on draft plan

(1) The Trust must make a draft plan, that it has prepared, publicly available by electronic or other means.

Note: The Trust can also charge a reasonable fee for copies of draft plans: see section 70A.

(2) The Trust must also, by public notice:
(a) state that the draft plan has been prepared in respect of a specified plan area; and
(b) state where the draft plan is made available to the public; and
(c) invite interested persons to make representations in connection with the draft plan by a specified date that is at least one month after the date of publication of the notice; and
(d) specify an address to which representations may be sent.

(3) A person may make written submissions to the Trust in connection with the draft plan not later than the date stated in the notice.

(4) The Trust:
(a) must take into account any submissions made to it in accordance with subsection (3); and
(b) must take into account any advice or recommendations received from an advisory committee established under Part 8; and
(c) may take into account any other submissions.

31 Minister to approve plans

(1) The Trust must submit a draft plan, together with a written report on:
(a) its consultations under sections 29 and 30; and
(b) consultations (if any) with advisory committees established under Part 8; to the Minister (the Commonwealth Minister).

(2) Before considering the draft plan, the Commonwealth Minister must:
(a) provide a copy of it, together with any relevant material, to a relevant Minister (the State Minister) of New South Wales; and
(b) invite the State Minister to provide comments on the draft plan within 2 months.

(3) In considering the draft plan, the Minister must take into account any comments or alterations suggested, within the 2 months, by the State Minister.

(4) The Commonwealth Minister may:
(a) approve the draft plan without alteration; or
(b) refer the draft plan to the Trust with either or both of the following:
(i) directions to conduct a public hearing or any other consultations;
(ii) suggested alterations; or
(c) reject the draft plan, giving reasons.

32 Action on referral by Minister

(1) If the Minister refers a draft plan to the Trust, then the Trust must do the following:
(a) reconsider the draft plan;
(b) undertake the consultations directed by the Minister;
(c) undertake any other consultations as the Trust thinks necessary;
(d) consider any suggestions made by the Minister;
(e) if it thinks fit, alter the draft plan.

(2) The Trust must then submit:
(a) the draft plan; and
(b) a written report on additional consultations (if any) undertaken under this section; to the Minister for approval.
This Part (other than section 26) applies to a draft plan submitted under this section in the same way as it applies to a draft plan submitted under section 31.

33 Rejection of draft plan

(1) If the Minister rejects the draft plan, then the Trust must:
   (a) consider the Minister’s reasons; and
   (b) prepare a new draft plan.

(2) This Part (other than section 26) applies to a new draft plan in the same way as it applies to a draft plan submitted under section 31.

34 Notification of plan

If a plan is approved by the Minister, then the Trust must, by notice published in the Gazette:
   (a) state that a plan, in respect of a specified plan area or a part of a plan area, has been prepared; and
   (b) specify the day on which the plan takes effect for the area or the part of the area; and
   (c) state where the plan is made available to the public.

Note: The Trust can also charge a reasonable fee for copies of plans: see section 70A.

35 Commencement and implementation of plans

(1) A plan takes effect for the plan area, or the part of the plan area, specified in a notice under section 34, from the beginning of the day specified in the notice.

Note: Section 27 contains an exception to this rule for land that has not vested in the Trust.

(2) The Trust must begin to implement a plan as soon as practicable after it has taken effect for the plan area or the part of the plan area.

36 Amendment to plans

(1) The Trust may, in writing, prepare an amendment to a plan.

(2) Sections 28 to 35 apply in relation to the preparation of an amendment to a plan in the same way as they apply in relation to the preparation of a draft plan.

36A Submissions to be publicly available

The Trust must make publicly available, by electronic or other means, submissions made under Part 5 on:
   (a) proposals to prepare draft plans; and
   (b) draft plans; and
   (c) amendments to draft plans.

Note: The Trust can also charge a reasonable fee for copies of submissions: see section 70A.

37 Commonwealth etc. to act in accordance with plans

(1) If a plan has been approved and notified for a plan area (even if the plan or a part of the plan has not taken effect in respect of that area), then the Commonwealth, the Trust and other Commonwealth bodies must act in accordance with the plan in carrying out activities in that area.

(2) However, this section does not authorise or require the Commonwealth, the Trust or the Commonwealth body to carry out an activity that it is not otherwise legally able to carry out.

38 Transitional—interim Trust actions

Anything done, before this Act commences, by the Commonwealth on behalf of the interim Trust in relation to a plan is taken, for the purposes of this Act, to have been done by the Trust.

38A Transitional—activities before plans take effect

(1) Before a plan takes effect for an area of Trust land, the Trust may:
   (a) determine the way in which the area may be used before the relevant plan takes effect; and
   (b) use the area in that way; and
   (c) grant leases and licences over the area in accordance with section 38B; and
   (d) carry out maintenance and repair work in the area; and
   (e) carry out other work in the area to protect the health and safety of persons present there.

(2) The Trust must not carry out, or allow to be carried out, any work other than the work mentioned in paragraphs (1)(d) and (e).
(3) The Trust must not cause significant damage, or allow significant damage to be caused, by doing things under subsection (1).

(4) The Trust must not take into account things done under subsection (1) when determining the content of draft plans.

38B Transitional—leases and licences granted before plans take effect

(1) This section applies to leases and licences granted under section 38A before a plan takes effect for an area.

(2) A lease or licence for a fixed term over an area of Trust land:
   (a) must not be for a term of more than 12 months; and
   (b) must expire within 18 months after the vesting of the land in the Trust.

(3) A period under a lease for a periodic tenancy:
   (a) must not extend for more than one month; and
   (b) must not begin after a plan takes effect for any of the area over which the lease is granted.

(4) A licence that is not for a fixed term must be revoked before a plan takes effect for any of the area over which the licence is granted.

(5) If a lease or fixed-term licence is in force for an area when a plan takes effect, then the plan takes effect except to the extent that it interferes with the operation of the lease or licence in that area.

(6) A lease or licence that contravenes this section or subsection 38A(2) or (3) is void.

(8) Part 7, clauses 50 to 56A, page 25 (line 2) to page 27 (line 19), omit the Part, substitute:

PART 7—MEETINGS OF THE TRUST

50 Times and places of meetings

(1) The Trust is to hold such meetings as are necessary for the efficient performance of its functions.

(2) Meetings are to be held at such times and places as the Trust determines.

(3) The Chair may call a meeting at any time if, in his or her opinion, it is in the public interest for the Trust to consider matters urgently.

(4) The Chair must ensure that at least 4 meetings are held each year.

50A Meetings to be public

Meetings of the Trust must be open to the public unless the Trust determines that it is in the public interest to meet in private.

51 Notice of meetings

(1) Each member is entitled to receive at least:
   (a) 24 hours’ notice of an urgent meeting called by the Chair under subsection 50(3); and
   (b) 7 days’ written notice of any other meeting of the Trust.

(2) The Trust must also give at least 7 days’ notice to the public of a meeting of the Trust, unless the meeting is an urgent meeting or a private meeting.

52 Presiding at meetings

(1) The Chair presides at all meetings at which he or she is present.

(2) If the Chair is not present at a meeting, the members present are to appoint a Commonwealth member to preside.

53 Quorum

A majority of the members for the time being holding office constitutes a quorum.

54 Voting at meetings

(1) A question is decided by a majority of the votes of the members present and voting.

(2) The person presiding at a meeting has a deliberative vote and, if necessary, also a casting vote.

Note: Subdivision B of Division 4 of Part 3 of the Commonwealth Authorities and Companies Act 1997 has rules for “directors” about disclosing, and voting on matters involving, material personal interests.

54A Minutes of meetings

(1) The Trust must keep minutes of its meetings.
(2) The reasons why the Chair called an urgent meeting under subsection 50(3) must be recorded in the minutes.

(3) The name of each person who moves or seconds a motion must be recorded in the minutes.

(4) The minutes must be made publicly available:
   (a) by electronic means; and
   (b) for inspection at an office of the Trust.

55 **Conduct of meetings**

The Trust may, subject to this Part, conduct proceedings at its meetings in accordance with a written code of meeting practice.

56 **Resolutions without meetings**

If the Trust so determines, a resolution is taken to have been passed at a meeting of the Trust if:

(a) without meeting, a majority of the members indicate agreement with the resolution in accordance with the method determined by the Trust; and

(b) that majority would have constituted a quorum at a meeting of the Trust.

(9) Clause 57, page 28 (lines 4 to 32), omit the clause, substitute:

57 **Community advisory committees**

(1) The Trust must, by writing, establish a community advisory committee in respect of each plan area.

(2) The function of each committee is to provide advice or recommendations to the Trust on issues relating to the relevant plan area.

(3) In providing that advice or making those recommendations, each committee must consider:
   (a) the relevant plan area in the context of the Sydney Harbour region; and
   (b) the objects of the Trust and the other provisions of this Act.

(4) Each committee consists of:
   (a) one or more representatives, appointed by the Trust, of the local community and of affected councils; and
   (b) any other person appointed by the Trust.

(5) A member holds office for the period specified by the Trust. The period must not exceed 3 years.

(6) The Trust must, after consulting a committee, give written directions to the committee on:
   (a) procedures to be followed in relation to the meetings of the committee; and
   (b) the way in which the committee is to carry out its functions.

57A **The Trust’s obligations to community advisory committees**

(1) The Trust must provide relevant documents and information to community advisory committees.

(2) In making decisions or taking action in respect of a plan area, the Trust must consider any advice or recommendation of the relevant committee.

(10) Clause 58, page 29 (lines 2 to 10), omit subclauses (1) and (2), substitute:

(1) The Trust must establish one or more technical advisory committees.

(2) The function of a committee is to provide advice and recommendations on any or all of the following matters:
   (a) environmental and heritage matters relating to plan areas;
   (b) rehabilitation and decontamination of plan areas;
   (c) planning and management of plan areas;
   (d) financial arrangements for plan areas.

(11) Clause 58, page 29 (line 16), omit “paragraphs (2)(a), (b) or (c)”, substitute “subsection (2)”.

(12) Clause 58, page 29 (line 17), omit “reasonable”.

(13) Part 9, clauses 59 to 65, page 30 (line 2) to page 31 (line 18), omit the Part, substitute:

PART 9—FINANCE

59 ** Appropriation of money**

(1) There is payable to the Trust such money as is appropriated by the Parliament.
(2) The Minister for Finance and Administration may give directions as to the amounts in which, and the times at which, money referred to in subsection (1) is to be paid to the Trust.

60 Application of money

(1) The Trust’s money is to be applied only:

(a) in payment or discharge of the expenses, charges, obligations and liabilities incurred or undertaken by the Trust in the performance of its functions and the exercise of its powers; and

(b) in payment or discharge of the liability imposed under section 61; and

(c) in payment of remuneration and allowances payable under this Act.

(2) Subsection (1) does not prevent investment of surplus money of the Trust under section 18 of the Commonwealth Authorities and Companies Act 1997.

61 Interim Trust costs etc.

(1) If, whether before or after the commencement of this Act, the Commonwealth incurs costs or liabilities in respect of the interim Trust, then the Sydney Harbour Federation Trust must pay to the Commonwealth an amount equal to those costs or liabilities.

(2) The amount may be recovered by the Commonwealth as a debt due to the Commonwealth in a court of competent jurisdiction.

62 Borrowing

The Trust may, with the approval of the Minister for Finance and Administration, borrow money from the Commonwealth or persons other than the Commonwealth on terms and conditions that are specified in, or are consistent with, the approval.

63 Trust may give security

(1) The Trust must not give security over any land mentioned in Schedule 1.

(2) However, the Trust may give security over:

(a) the whole or any part of any other Trust land that is identified as suitable for sale in a plan approved under Part 5; or

(b) any other assets;

for:

(c) the repayment by the Trust of money borrowed by the Trust under section 62 and the payment by the Trust of interest (including any compound interest) on that money; or

(d) the payment by the Trust of amounts (including any interest) that the Trust is liable to pay with respect to money raised by the Trust under paragraph 8(2)(i).

64 Contracts

(1) The Trust must not, except with the Minister’s written approval:

(a) enter into a contract involving the payment or receipt by the Trust of an amount exceeding $1,000,000; or

(b) enter into a lease or licence of Trust land for a period that ends after the end of 10 years from the commencement of this Act.

(2) Paragraph (1)(a) does not apply to the investment of money by the Trust in accordance with section 18 of the Commonwealth Authorities and Companies Act 1997.

64A Leases over 25 years

(1) Before entering into a lease or licence over Trust land for a period of longer than 25 years, the Trust must determine, in writing, the proposed terms and conditions of the lease or licence.

(2) The determination is a disallowable instrument for the purposes of section 46A of the Acts Interpretation Act 1901.

(3) The terms and conditions of the lease or licence must accord with the determination.

65 Liability to taxation

The Trust is not subject to taxation under a law of the Commonwealth or of a State or a Territory.

(14) Part 10, clauses 66 to 68, page 32 (line 2) to page 33 (line 10), omit the Part, substitute:

PART 10—REPEAL OF THIS ACT
66 **Repeal of this Act**

(1) As soon as practicable after the end of 10 years from the commencement of this Act, the Minister must, by notice published in the *Gazette*, specify a day on which this Act is to be repealed.

(2) This Act is repealed at the beginning of that day.

67 **Transfer of assets**

(1) The Minister may, by writing, make any or all of the following declarations:

(a) a declaration that a specified asset vests in a specified person immediately before the repeal time without any conveyance, transfer or assignment;

(b) a declaration that a specified instrument relating to a specified asset continues to have effect after the asset vests in the specified person as if a reference in the instrument to the Trust were a reference to the person;

(c) a declaration that the specified person becomes the Trust’s successor in law in relation to a specified asset immediately after the asset vests in the person.

Note: An asset or instrument may be specified by name, by inclusion in a specified class or in any other way.

(2) A declaration under subsection (1) has effect accordingly.

(3) A copy of a declaration under subsection (1) is to be published in the *Gazette* within 14 days after the making of the declaration.

(4) Subsection (1) does not prevent the Trust from transferring an asset to a person otherwise than under that subsection.

68 **Transfer of liabilities**

(1) The Minister may, by writing, make any or all of the following declarations:

(a) a declaration that a specified liability ceases to be a liability of the Trust and becomes a liability of the specified person immediately before the repeal time;

(b) a declaration that a specified instrument relating to a specified liability continues to have effect after the liability becomes a liability of the specified person as if a reference in the instrument to the Trust were a reference to the person;

(c) a declaration that the specified person becomes the Trust’s successor in law in relation to a specified liability immediately after the liability becomes a liability of the person.

Note: A liability or instrument may be specified by name, by inclusion in a specified class or in any other way.

(2) A declaration under subsection (1) has effect accordingly.

(3) A copy of a declaration under subsection (1) is to be published in the *Gazette* within 14 days after the making of the declaration.

(4) Subsection (1) does not prevent the Trust from transferring a liability to a person otherwise than under that subsection.

69 **Residual assets and liabilities**

(1) Immediately before the repeal time, any residual assets and liabilities that have not been covered by a declaration under section 67 or 68 vest in the Commonwealth.

(2) Any instrument relating to such an asset or liability continues to have effect after the asset or liability vests in the Commonwealth as if a reference in the instrument to the Trust were a reference to the Commonwealth.

(15) Part 11, clauses 70 to 73, page 34 (line 2) to page 36 (line 13), omit the Part, substitute:

**PART II—MISCELLANEOUS**

70 **Annual report**

The annual report on the Trust under section 9 of the *Commonwealth Authorities and Companies Act 1997* must also include:

(a) a description of the condition of plan areas at the end of the period to which the report relates; and

(b) the text of all directions, and reasons for directions, given by the Minister to the Trust under section 9 during
the period to which the report relates.

70A Fees for documents
The Trust may charge a reasonable fee for copies of the following documents:
(a) draft plans and plans approved under Part 5;
(b) submissions made under Part 5 on:
   (i) proposals to prepare draft plans; and
   (ii) draft plans; and
   (iii) amendments to draft plans;
(c) any other documents made available by the Trust.

71 Exemption from certain State laws
(1) An excluded State law does not apply, and is taken never to have applied, in relation to:
   (a) the Trust; or
   (b) the property (including Trust land) or transactions of the Trust; or
   (c) anything done by or on behalf of the Trust.
(2) In this section:
   excluded State law means a law of a State, including a law of a State that is applied to a Commonwealth place by virtue of the Commonwealth Places (Application of Laws) Act 1970, that relates to any of the following matters:
   (a) town planning;
   (b) the use of land;
   (c) tenancy;
   (d) powers and functions of local councils;
   (e) standards applicable to the design, or manner of construction, of a building, structure or facility;
   (f) approval of the construction, occupancy, use of or provision of services to, a building, structure or facility;
   (g) alteration or demolition of a building, structure or facility;
   (h) the protection of the environment or of the natural and cultural heritage;
   (i) dangerous goods;
   (j) licensing in relation to:
   (i) carrying on a particular kind of business or undertaking; or
   (ii) conducting a particular kind of operation.

law means a written law, and includes:
(a) subordinate legislation; and
(b) a provision of a law.

72 Delegation
(1) The Trust may, by writing, delegate to:
   (a) the Executive Director; or
   (b) an SES employee of the Department; or
   (c) a person employed under section 48; all or any of the functions and powers conferred on the Trust by this Act.
(2) The Executive Director must report at least once every 6 months on the exercise of delegated functions and powers.

73 Regulations
(1) The Governor-General may make regulations prescribing matters:
   (a) required or permitted by this Act to be prescribed; or
   (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
(2) In particular, the regulations may make provision relating to any of the following:
   (a) conferring functions on the Trust for the purposes of the regulations;
   (b) the content of plans;
   (c) giving effect to, and enforcing the observance of, plans;
   (d) the way in which proposed land uses are identified in draft plans;
   (e) services and facilities in, or in connection with, Trust land;
   (f) charging of fees by the Trust in respect of services or facilities provided by the Trust in or in connection with Trust land;
   (g) protecting and conserving the environmental and heritage values of Trust land;
   (h) removing persons unlawfully on Trust land or committing offences against regulations on Trust land;
(i) regulating conduct of persons on Trust land;
(j) regulating or prohibiting carrying on any trade or commerce on Trust land;
(k) removing unauthorised structures from Trust land;
(l) granting or issuing licences, permissions, permits and authorities in respect of Trust land;
(m) the conditions subject to which licences, permissions, permits and authorities are granted or issued;
(n) charging of fees by the Trust in respect of such licences, permissions, permits and authorities;
(o) penalties for offences against the regulations by way of fines of no more than 10 penalty units;
(p) functions and powers of wardens and rangers for Trust land;
(q) the appointment of wardens and rangers;
(r) arrangements with the Commonwealth, New South Wales and affected councils for the performance of functions and the exercise of powers of wardens and rangers;
(s) any matter incidental to or connected with any of the above.

(16) Schedule 1, page 37 (lines 2 to 9), omit the Schedule, substitute:

SCHEDULE 1—DEFENCE LAND TO BE VESTED IN THE TRUST AND REMAIN IN PUBLIC OWNERSHIP

Note: See subsections 21(1) and 24(1) and section 63.

<table>
<thead>
<tr>
<th>Item</th>
<th>Title of Trust land site</th>
<th>Site description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Middle Head and Georges Heights in the Parish of Willoughby, County of Cumberland</td>
<td>Lot 1 in Deposited Plan 831153; Lots 202 and 203 in Lot 2 in Deposited Plan 831153; Lot 2 in Deposited Plan 541799; Lot 1 in Deposited Plan 233157</td>
</tr>
<tr>
<td>2</td>
<td>Woolwich in the Parish of Hunters Hill, County of Cumberland</td>
<td>Lot 4 in Deposited Plan 573213 (“Horse Paddock”) and Lot 1 in Deposited Plan 223852 (“Goat Paddock”)</td>
</tr>
<tr>
<td>3</td>
<td>Cockatoo Island</td>
<td>The island situated in the Harbour of Port Jackson in the State of New South Wales and known as Cockatoo Island, vested in the Commonwealth under section 5 of the Cockatoo and Schnapper Islands Act 1949</td>
</tr>
</tbody>
</table>

(17) Page 37 (after line 9), at the end of the Bill, add:

SCHEDULE 2—OTHER LAND TO BE VESTED IN THE TRUST

Note: See subsection 21(1).
Other land to be vested in the Trust

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<tr>
<td>Middle Head and Georges Heights in the Parish of Willoughby, County of Cumberland</td>
<td>Lots 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18 and 19 in Deposited Plan 233157</td>
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Senator HILL (South Australia—Leader of the Government in the Senate) (6.25 p.m.)—I table supplementary explanatory memoranda relating to the amendments to the bill agreed to in the House of Representatives and amendments to be moved by the government to the House amendments. The memoranda were circulated on 6 February 2001. I move:

That the committee agrees to amendment No.1 made by the House of Representatives to the bill.

Senator BOLKUS (South Australia) (6.26 p.m.)—I think now is an appropriate time to make two comments about this debate and to indicate the opposition’s attitude to House of Representatives amendment No.1. This is the last stage of a long-drawn-out process. Though the opposition are supporting House amendment No.1, I indicate that we are extremely disappointed with the way this debate has turned in recent days. What we have before us is basically another deal between the government and the Australian Democrats. In the context of all similar deals in the past, we have the environment being the loser.

Here we go again in 2001. You would have thought that in the break they might have gone back to the electorate and had a bit of a principle recharge. You would have thought that they would have had a signal from the electorate to try and keep this government honest on the environment. They have been giving out some signals during the break. There have been some statements that would have raised some hope in the broader community that the Australian Democrats would stick to some principles when it came to issues such as this. But on day one of the new millennium we start off with the Australian Democrats selling out again. Senator Bartlett, we remember the rhetoric of your predecessors. The principal cause of the Democrats was to keep the bastards honest. They were the self-proclaimed guardian angels of the system. They were purer than the main parties. They would not engage in these private, secret deals; they would stand on principle.

Those were the stated objectives and the raison d’etre of the Democrats in the past. What we have here, once again, is a junking of all those principles. You have gone and done another deal. In doing another deal, you have sold out the Sydney Harbour lands. You will be letting this fundamentally flawed bill through and selling out on basic principles. What I think really upsets people is that you have devalued the currency of dealing. You have sold out in an enormously amateurish way. It was your leader who said over the break: ‘Labor and Liberal are getting too close together. We are there providing an alternative.’ You are not providing an alternative. On day one in this Senate, in this year, in the last session before we go to an election, you have signalled to the electorate very strongly that you do not provide an alternative. At least Senator Brown does; you do not. You provide to the electorate a definition of the Australian Democrats as the sidekicks of the coalition—the third arm of the coalition. From keeping the bastards honest, we now have the ‘Meg the cheat’ party selling out, as we saw last year and the year before, on basic, fundamental issues like the GST and the environment legislation. You are selling out again on an issue like this when you do not have to.
Let us go to the issues in this legislation before us. We got such statements from Senator Bartlett towards the end of last year:

Sydney Harbour is NOT—

with ‘not’ in capitals—

for sale. The Democrats are willing to pass the amended Sydney Harbour Federation Trust Bill on the condition that all former defence lands in and around the harbour remain in public ownership with adequate public access to all.

He went on to say:

The sale of public harbour foreshore lands is non-negotiable. The passage of the bill is contingent on the ‘no-sale’ clauses we have insisted on and the bill, hopefully, will pass early in the Centenary of Federation year.

Quite tellingly, he said in his press statement:

Sydney Harbour is an Australian icon ...

Indeed it is. But he went on to say:

... the Australian Democrats have insisted all along that the foreshore lands and islands must not be sold and that public access must be maximised.

What you have done in your most recent deal and arrangement with the government is to ensure the capacity for sale without parliamentary scrutiny. I will go to that point later on. You started from a position of no sale, then you jumped to a position of sale with some parliamentary scrutiny and now the latest instalment of the deal between you and the government is ‘forget the parliamentary scrutiny altogether’.

It would have been good to have started this year with a strong stand on an environmental issue, particularly in respect of the legislation before us today. It would have been good to have forced the government to have accepted a lot more in terms of protection of the land that we are talking about. Given the historical and environmental values of the lands that we are talking about, it would have been great to have forced the Prime Minister to meet one of the commitments he made before the last election, and that was to ensure that this land was not sold and was transferred to the New South Wales regime in trust for the people of New South Wales—in trust for the people of Australia. It would have been good, but in a private, secret deal—the reasons for which we cannot understand—you have basically said to Senator Hill, ‘Just do us over again.’ And in doing so, you have made mockery of your own leader. A spokesman for Democrats leader Meg Lees, on 30 June last year, said:

Open space is an increasingly precious resource and this a one-off opportunity to protect it. Once it’s gone, it’s gone.

‘Once it’s gone, it’s gone.’ That is what you are doing here. I will not go through the other quotes. It would be a bit laborious to go through them. But what you have done here has been to flick off the capacity for sale of this land to the minister. Your first set of amendments that we saw were bad enough, because in those amendments you had a clause—and it is repeated here in the circulated amendments today—that allows the ‘transfer of the freehold interest of any land mentioned in schedule 2 without the written approval of the minister’. Now you are allowing for a schedule 2 and unlike the previous set of amendments you are not insisting that the decision to include land in schedule 2 be made a disallowable decision by either house of parliament. You are allowing the minister to embark upon a process to allow for the sale of land in the subject areas that we are talking about—land that has been identified over the years, and confirmed by the Senate environment committee, as land that should be maintained in public hands. Just as a continuing sign of the inconsistency the Democrats show in this area, what they are saying by their amendments is that the minister may be able to start a process to sell the land without public scrutiny but if the minister or the trust was to decide that leases could be granted over the land subject to this legislation, then those leases would be disallowable by the parliament. You are implanting in your legislative prescription for this land an incentive to sell rather than lease. You might shake your head but they are the amendments that have been circulated to us, Senator Bartlett. Under those amendments, leases can be subject to parliamentary scrutiny and disallowance; sale cannot be. So not only is it a sell-out but it is one that provides in your package with
the government an incentive to government and the trust to sell rather than to lease.

I suppose for me there is a certain degree of regret in that this is also a missed opportunity again—a missed opportunity to implant in this legislation a statement of vision, foresight and objective that really reflects the true environmental and heritage nature of this land and its true significance. But what we have finished up with, instead of a statement of vision and foresight, is the sort of statement that you would expect from the sort of suburban lawyer that John Howard used to be—a statement from the sort of suburban lawyer that he was and could have been at Wollstonecraft before he came into parliament. We go backwards. We do not show the vision and we do not show the foresight. Once again, we miss the opportunity to celebrate where Australia has come from and where it is going to. In this deal, you basically give the tick to a broken promise and you also give a tick to flawed legislation. We have enormous problems with the deal that the Australian Democrats have done with the coalition government, not merely because of what it does to this legislation but also in that it signals that, on another issue of the environment, the Australian Democrats—no matter how much they try to con their constituents and no matter how much they claim to be a real alternative to the major parties—have sold out once again.

Senator Hill (South Australia—Minister for the Environment and Heritage) (6.36 p.m.)—I think I also, under the heading of the preamble, should make a few preliminary comments as unfortunately we are not going to get far tonight. That was, unfortunately, the usual disappointing, carping contribution that fails to appreciate the historical significance of what we have before us in the Senate tonight. And it is from a background of the ALP’s intention to develop significant parts of this land—the land that we intend to give to the people of Australia in posterity for its natural values and its cultural values—for housing. They intended to sell it off for short-term economic gain. In contrast, we are ensuring that future governments of Australia cannot do that. We are offering a new protection for this land for future generations of Australians, something the ALP was not prepared to do. That is the point that Senator Bolkus seems to have totally overlooked.

We could carry out the functions that we are undertaking at the moment—planning, remediation and the like—without this legislation. What we cannot do without this legislation is to transfer the land to a body that will be restrained. We will not be able to sell it off for other objectives. We will have specific purposes and objectives for that land—to restore it, to conserve it and to prepare it for its ultimate transfer, principally to a state government authority, to be held in posterity. I would have thought that anyone who was at all objective would say what a great thing that is, not only for the people of Sydney but for all Australians. But, ever since we introduced this bill with those objectives, all the Labor Party has done is obstruct its passage. One can only speculate as to why. Presumably it is in part because Labor does not want to see the government recognised as the government that was prepared to transfer the Sydney Harbour land for this purpose. Perhaps it is in part because the New South Wales government wishes to control the planning of the processes in relation to this land and Mr Beazley feels he is beholden to the New South Wales government in some way. Goodness only knows what the full agenda of the ALP is, but it is certainly not consistent with the noble goal of this piece of legislation.

Madam Chair, since the bill was last before us—and you will recall it was substantially amended—the government have sought to make concessions that we believe are not inconsistent with the government’s purpose but would nevertheless improve the workings of the trust we have set up. These concessions would give the community a greater role in the planning process for each of the pieces of land, would improve the workings of the trust and would add some further areas of security as well. The requirement to establish a sustainable financial base has been dropped from the functions. This is something that other sides in this place have said
might distract the trust from its primary objective in relation to the land. We have met that requirement. We have provided for individual properties to be named in the preamble and for boundaries to be listed in the schedules.

Listing of the properties was something that the other sides in this place called for constantly. We have provided that all land on schedule 1—which is almost all of the land—will remain in public ownership so that the public, through the schedule process, knows which land can be disposed of and which land cannot be. Land on schedule 2 can be sold only when the approved plan has identified sale as the preferred option and the land has been identified as having significant environmental or heritage values. The same applies to any land not listed on either schedule. The trust must not give security over any land mentioned in schedule 1. The determination of a lease longer than 25 years is now a disallowable instrument. The membership of the trust has been expanded from six to eight, comprising two New South Wales nominees, which was always the case, a representative of indigenous interests, an elected member of an affected council—that is, someone who is a current elected member would be nominated to be on the council—plus the three Commonwealth members and the chairs.

Some meetings of the trust must now be open to the public. The minutes of meetings will be publicly available. Movers and seconds will be acknowledged in the minutes but how each member votes will not be. Trust members have to declare a pecuniary interest in particular matters at meetings and must not take part in any consideration of or vote on the matter. Management plans will now be called ‘plans’ and their content has been changed to pick up ideas from the Senate’s amendments. Plan areas will not require ministerial approval and must cover whole sites, one or more. Public notices have been broadened and plans, draft and final, will be available for inspection. Submissions on plans will be publicly available where appropriate. The minister must seek and consider comments on a draft plan from the New South Wales minister. The minister is required to consider comments from advisory committees. The composition of the community advisory committee is more closely defined to ensure that they include local community and local government. The role of these committees and the trust’s obligations to them are defined. The trust is to establish procedures for the committees following consultation with them.

We have made very significant changes since the bill was last before the Senate in an effort to accommodate the best of the changes that either came out of the Senate debate or were subsequently communicated to us by stakeholders. Since then, we have decided to go even further—thus our proposed amendments and the explanatory memorandum that I tabled a few minutes ago. These extra amendments to the bill are to further accommodate community concerns and to clarify certain clauses. Membership of the trust has increased by one to a total of eight members, including the chair. The Commonwealth will select an elected member of an affected council. The trust must include a condition of transfer of trust land mentioned in schedule 1 or land identified in a plan as having significant environmental or heritage values to ensure that it remains in public ownership.

In case you are not concentrating, Madam Chair, a condition of the transfer of that land to a state authority will be that they will not dispose of it—not that I do not trust New South Wales, but we nevertheless think it is an extra precaution that could be written into this legislation. The trust is not required to make publicly available submissions on draft plans where releases of a submission might significantly damage the environmental or heritage values of the land, which could be particularly important in relation to indigenous issues. Trust members are not personally liable to civil or criminal action in respect of the trust making a submission publicly available. The trust may undertake other work before a plan is developed but only as long as the work has a temporary impact on the area. The relationship between the trust and the community advisory committees and
the process for determining the matters in relation to which a committee is to give advice and recommendations is clarified. The trust will not be obliged to establish a technical advisory committee unless one is actually required. Amendments to the schedules are the result of clarification of land title details and a resurvey by Defence at Middle Harbour, Georges Heights. The other proposed amendments are simply minor corrections to the legal drafting or consequential amendments.

So you can see how far the government has gone in an effort to accommodate the wishes of the Senate and to accommodate the concerns of genuine community interest groups—which, I have always acknowledged, passionately believe in this land, and that is great to see—and the particular interests and concerns of the local government councils in the area. What we are putting to the Senate tonight is a bill that has been significantly improved by this process and I think it can provide all the reasonable safeguards that a reasonable person would expect. It will enable the land to be transferred to the trust, which is the major event that needs to take place, and for the trust to continue with its task. There are some exciting developments ahead of us in that area. I think it is only next month that the draft plans in relation to each of the sites are to be published. That is going to be an event of great interest to stakeholders. I understand there are some very exciting possibilities being foreshadowed through that process.

I urge the Senate tonight to allow the land to be transferred to this independent statutory trust, to support the trust in getting on with its job and to ensure that in this year of our Centenary of Federation this land is repaired, conserved and put in a state that can be enjoyed and appreciated not only by present but also future generations of Australians.

Senator BARTLETT (Queensland) (6.48 p.m.)—Senator Bolkus says it is a new year, but we are certainly hearing the same old tired rhetoric from the ALP. As Senator Bolkus has said, this is a one-off opportunity to protect these very important lands, and for that reason I find it all the more baffling that the ALP is willing to throw away that one-off opportunity. Let us remember what we actually face now. We now face the situation where the government do not have to do anything at all. They already have these lands in their possession. This legislation, as significantly amended, now provides—

Senator Brown—You’re caving in.

Senator BARTLETT—We are not caving in to anything at all. We have totally strengthened this whole trust. We are actually protecting these lands. Senator Bolkus said that we are now allowing it to be sold. This legislation prevents them being sold. They could be sold tomorrow unless this legislation is put in place.

Senator Brown interjecting—

Senator BARTLETT—They do. This legislation, as amended—

Senator Hill interjecting—

Senator Brown interjecting—

Senator BARTLETT—It prevents the sale. Virtually all the land is prevented from sale by these amendments. Read the amendments. The amendments that the government have put forward are the Democrat amendments, and they would not be in place if it were not for that role.

Progress reported.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Lightfoot)—Order! There being no consideration of government documents, I propose the question:

That the Senate do now adjourn.

Fuel Prices

Senator McGAURAN (Victoria) (6.51 p.m.)—In the adjournment debate I want to speak on the matter of petrol pricing. We saw today Mr Beazley claiming in the Daily Telegraph that he was going to out the coalition MPs with regard to petrol pricing. The question that has to be asked of the Labor Party is: what is your policy should you gain government? Given that this is an election year, it is not too much to ask the Labor Party for a policy on this issue. If you were
to gain government before the end of this year—there will be a federal election before the end of this year—would you reverse this government’s policy?

We are willing to stand and go to the election on this policy. It is a tough policy but it is a well-calculated policy. We simply believe that the funds gained by excise are better spent with regard to road funding. Therefore, that is our decision. What is yours? If you were to gain government would you reverse that part of the indexation? That is a policy that you introduced yourselves when you first entered government in 1983, which gained a 500 per cent tax increase in excise during your term of government. The clock is definitely ticking on a Labor government in this election year.

Senator Calvert interjecting—

Senator McGauran—I will sit down in a minute, Senator Calvert. You have to tell your people what will be your policy with regard to petrol excise and indexation. As I say, in an election year it is not too much to ask. Senator Bolkus, perhaps, given that there are not many people speaking in the adjournment debate, you can take the opportunity to articulate the possible policy that Labor will go to the election with, or are you simply policy lazy?

Woodside Petroleum: Proposed Takeover by Shell Australia

Senator Lightfoot (Western Australia) (6.53 p.m.)—I thank the Senate for its generosity in allowing me to speak tonight during the adjournment debate. I want to speak about the proposed takeover by Shell Australia of Woodside Petroleum—a most successful company that ranks alongside BHP, Mount Isa Mines and Western Mining, et cetera, in Australia. It is not as clear cut as one may think. Yes, it does look, superficially or at a cursory glance, as though an overseas company—74 times bigger in capital than Woodside—is taking out another company. But one must remember that Shell already holds a significant minority shareholding in Woodside and that it is proposed to increase that to 56 per cent, or thereabouts, by the transfer of assets into Woodside. But that in itself is not necessarily bad.

Woodside started in Victoria in 1954 in Gippsland. Its title then was Woodside (Lakes Entrance) Oil NL—the NL stands for ‘no liability’. In 1963 the Western Australian government in its usual acts of generosity to explorers gave some 367,000 square kilometres of potential gas and oil producing areas on the North West Shelf to Woodside. Subsequently, the company went on to conduct exploration not just in Western Australia and Victoria but also in the Timor Sea, Mauritania, Cambodia, the Gulf of Mexico and Papua New Guinea. But by far the greatest production and exciting areas that Woodside controls are in the North West Shelf. Early last month I read of the proposed takeover by Shell and, being a senator who represents the state of Western Australia in this chamber, I wrote to Mr Peter Duncan, the Chairman and Chief Executive Officer of Shell Australia, who subsequently sent me a letter. That letter outlined some very significant proposals by Woodside in Australia.

I am unsure as to whether the letter that the good Mr Duncan sent me was explicit enough. It was ambiguous with respect to the transfer of assets. What assets are they? I do not think we have had a chance to have a look at those. Are those assets immediately realisable with respect to production from them? Yes, the answer, in part at least, is that some of them are. But what are they worth? What are the reserves? What is the business that Shell proposes by, in the initial stages, paying out money to acquire the shares and then at some later stage being able to compulsorily acquire back those shares for a given amount? The shares closed tonight at about $14.58 on the Sydney Stock Exchange. They were down by some 40c. I am not sure why the price of the shares would have fallen, whether it is that the FIRB is not going to give its permission for the proposed takeover by Shell or whether in fact it is but that it is not such a good deal seeing that natural gas and petroleum gas have fallen significantly on world markets today.
I have some serious apprehensions. I have been in the mining industry for a great deal of my working life. I have seen Conzinc Rio Tinto of Australia, entitled CRA, which was controlled in effect because of its share issue by Rio Tinto Zinc, or RTZ, of the UK—certainly the biggest mining house in the world. But because of the recent relaxation in foreign ownership, the global village and FIRB allowing them to come into Australia and the need of Australia for foreign investment, RTZ ultimately took over CRA and swallowed it—the whale swallowed the minnow. It was its own minnow, in effect. But if Shell does the same thing—and I just want to stress again that I am not necessarily opposed to the takeover; I just want more of an idea or certainty about what is going to be of net benefit to Western Australians, not just the shareholders because the shareholders will take whatever they can see is a profit, particularly the boys of the top end of the street, and they will run. I must find out whether Shell is going to emulate RTZ, another company in the UK, which took over CRA, which is now delisted. Is Shell, in spite of its protestations that it is not going to appreciably alter the smaller company of Woodside—only 1/74th of the capitalisation of Woodside—going to let Woodside stay in Australia and stay listed in Australia what is more, as indeed the chairman and CEO of Shell said it would?

May I give the Senate some idea of the enterprise value, that is, the assets and investments that Shell proposes to put into the deal in order to take over Woodside—once they take back the cash with which they will buy the shares in order to control Woodside, in order to go to the special general meeting which will, as a result, be controlled by Shell and get the meeting to agree to the injection of assets into Woodside. The cash that Shell used to buy the Woodside shares and to control the meeting then goes back to Shell, and Shell injects its assets in the North West Shelf, and other areas. I understand those assets are significantly in the North West Shelf. The North West Shelf is, of course, Australia’s biggest producer of oil, gas and condensate—and has been since 1995 when it produced more than the Bass Strait in Victoria. So the enterprise value of the assets to be injected by Shell into Woodside is $7.5 billion or thereabouts. Woodside has $9.7 billion in assets, making a total value for the new project on the North West Shelf of $17.3 billion. The net debt that goes with that, if you aggregate that, gives a total net asset value, or equity value, of $15.5 billion. That takes the share value on the stock exchange per share from $12.97 per Woodside share currently up to $15.53 of net value. If that is the case, it would seem that the closure tonight of less than $14.50 is somewhat remiss, but I have dealt in the market long enough to know that the market is rarely wrong. I am going to ask the Shell Development CEO, Mr Duncan, if he could please explain that discrepancy.

Further, Shell Development tell me that the alliance agreement between Shell and Woodside, which was implemented in 1998, went some way towards achieving a goal of a takeover but did not secure the desired alignment of companies’ interests so that there could be some advantage of merging the synergies—cheaper operating costs or better utilisation of facilities. Mr Duncan, in his letter to me, said, ‘Bringing these strategic assets under a single management team in Woodside would result in a focus on optimised development strategies which would improve the chances for Australia to win new export markets in the Asia-Pacific region.’

My problem—and I do not have as much time tonight as I would like to go into it—is this: Shell is a giant of a company. It is the biggest producer of petroleum products, by far, in the world. It is the biggest producer of profits on its petroleum products in the world. Is Shell going to turn off the gas in Australia, or the petroleum, or the condensate that it produces in Australia—which Woodside currently produces and about which Woodside currently can make its own decisions as to whom it sells its production to—because it is strategically desirable for Shell? Shell can use its facilities in the Middle East, in the North Sea, in the northern part of South America or in Siberia, to the
detriment of Australia. We have political stability here and this is a very attractive country. The geology is very attractive here, and the strike rate of some of the exploration holes they put down is very attractive too.

I am not writing off the proposed merger with Shell, but I want the Senate to take note that we need to ask far more questions in this House before anyone should be able to agree to a merger of this magnitude with one of the greatest assets that Western Australia has.

Youth Safety: Big Day Out

Senator LUNDY (Australian Capital Territory) (7.03 p.m.)—Tonight I rise to talk about the very important issue of the safety and security of young people attending rock concerts and music festivals. Before I go to that, I wish to offer, on behalf of the federal parliament, deepest sympathy to the family and friends of 15-year-old Jessica Michalik. Jessica died tragically as a result of being involved in a crowd crush at the Sydney Big Day Out last month. It is extremely hard for all parents of children who attend concerts to comprehend this senseless loss of a young life. Equally, it is extremely hard for a young person to lose a good friend in such tragic circumstances.

It is a heartbreaking tragedy, and I believe the death of Jessica may have been preventable. This tragedy has raised many valid concerns about the safety and security of young people attending these large-scale music festivals in Australia. The staging of events, particularly those that attract crowds of 40,000 to 60,000 people, the majority of whom are aged between 15 and 25, places a legal and moral obligation on the promoters and organisers to ensure that every step is taken with respect to their security and safety.

The Big Day Out has become a cultural institution in Australia and, along with events like Homebake, it is a very important part of the music festival scene as well as being a launchpad for local music and talent. I do not want to see an end to these music festivals; in fact, the opposite: I totally support the continued staging of music festivals and events. I want to see more young people given the opportunity to see their favourite bands and to celebrate in youth orientated cultural events. That said, it is very important that the tragic death of Jessica Michalik not be dismissed as just an unfortunate accident. There are ways to ensure that crowds are safeguarded and the wellbeing and health of fans considered. The only positive outcome that may emerge from the Big Day Out tragedy is that there be an immediate reorganisation of crowd control and security at these concerts.

The principal complaint levelled at the organisers was the refusal of the Big Day Out organisers to use what is known as a T-barrier for crowd control. This issue was raised by the lead band, Limp Bizkit. This type of crowd management effectively segregates a massive crowd into smaller, more secure enclosures. I understand that this style of crowd management is commonly used in North America and in Europe, where large-scale music festivals are common. A T-barrier is just what it sounds like. It is a barrier that divides the audience closest to the stage into two separate groups by a protruding corridor that extends into the crowd. Importantly, this corridor allows for greater access for security and ambulance officers to help anyone in need.

According to a web site I viewed on crowd management strategies, this T-barrier is effective because it reduces the lateral crowd surges and provides medical and security people with a better view of what is going on in the mosh pit. As crowdsafe.com point out on their web site, the first rule of crowd management is not to have a crowd larger than you can safely manage. It sounds pretty straightforward.

In Australia, the management of crowds is the responsibility of promoters and concert organisers, with some local government jurisdiction. The successful management of large crowds requires proper training of staff, well-prepared emergency strategies, adequate communication, alcohol and drug policies, and assessment of the types of acts performing. In the US, there is a code of practice, and it is time we considered a similar
approach. I note that Limp Bizkit, the American band that Jessica had gone to see, had been very critical of the manner in which crowd control was organised at the Big Day Out. Limp Bizkit are apparently known for their energetic stage antics, and therefore the promoters of the Big Day Out should have known that extra measures were needed in terms of crowd control. To their credit, Limp Bizkit quit the Big Day Out tour immediately after Jessica’s injuries became apparent. Their decisive action ensured that safety came to the forefront in the media treatment of Jessica’s death. I want to publicly acknowledge the sincere efforts of Triple J and the lengths they have gone to, both in terms of their condolences they have offered to Jessica’s family and their web site, which expresses their concern and sympathy.

What needs urgent revision is the way promoters and venue operators treat their patrons, many of whom are young, and many of whom are vulnerable in that regard. For example, I have heard that only two ambulances were on hand at the Sydney Big Day Out. If this is true, I call on Messrs West and Lees, the promoters, to urgently address their priorities. During this year’s Big Day Out festival, 30 young people were apparently injured and required some kind of medical assistance. Many of these were very young and were quite probably scared and frightened by the experience of being crushed, pushed, shoved and jostled in a large crowd on very hot days.

This brings me to another point that needs to be addressed by promoters, and that is the access to water. It is simply unacceptable to charge $4 or $5 for a container of water at such a concert, when temperatures are in the high 30s. The risk of dehydration, leading to cramps and loss of consciousness, is very real. I might add that the temperature does not have to be so high for a risk of dehydration to be present—remembering that many of the young people are dancing and working up a sweat, and dehydration can occur very quickly. It is unacceptable and downright dangerous not to have free and ample supplies of water easily and readily available. Simply spraying a crowd with water is not good enough. It comes nowhere near dealing with this issue. The health of young people is far more important than profit margins. Young people do not have a lot of money. With tickets to the Big Day Out and other similar concerts costing $80, many in the crowd would not have had the spare $20 or $30 that it would have required just to keep up an adequate intake of water for that afternoon and evening.

Let me conclude by urging all music venue and concert organisers to think carefully about their responsibilities and duty of care under the relevant state occupational health and safety legislation and associated public liabilities. I continue to welcome and encourage under-age concerts, youth festivals and music festivals of this type, but I do take this opportunity to caution organisers not to put their profit margins first but to make a priority the safety and security of the young people and, in fact, all people attending the concerts that are their responsibility. For so many young people, in particular, these concerts are a social highlight, a very special event in their lives, and there is absolutely no reason that they should be putting their health at risk by attending them.

Innovation

Senator STOTT DESPOJA (South Australia—Deputy Leader of the Australian Democrats) (7.11 p.m.)—Tonight I rise to address the issue of innovation. The government’s innovation statement argues, quite reasonably, that success in the 21st century for this nation, among others, will depend on the innovative capacity of nations, their industries, and their research and educational structures. Innovation, we are also told repeatedly, is the key to future prosperity, not only in high- or new-tech industries; innovation is also essential to the future of our traditional sectors, including manufacturing, agriculture and mining.

So how does the government’s proposal stack up against those claims? On research, the initiatives are welcome, although modest and long overdue. Research, the lifeblood of innovation, will benefit from the doubling of the ARC funding, and the increase to re-
search infrastructure is a reasonable start—but it is just a start. The increased investment in the CRC program and the extension of the R&D START program will help build and deepen linkages between research and business—although we do need to see more information as to how SMEs will be further encouraged to embrace the benefits of these programs.

The modest proposals in relation to education, however, pay little more than lip-service to the centrality of education in underpinning an innovation society. There was nothing that addressed what the Chief Scientist has described as the ‘significant strain’ on the higher education sector. There was nothing to reverse the at least $1.8 billion of cuts made in 1996 and beyond, let alone the $3 billion disinvestment since 1995, if taken as a percentage of GDP. No innovation strategy will be credible until the defunding of higher education is properly addressed and reversed.

Setting aside the education black hole of this government, the other acid test for the government will be the success or otherwise of their proposed incentives to reverse the significant decline in private investment in innovation and R&D. I hardly need remind the chamber of what has happened since the government reduced the R&D tax concession from 150 per cent to 125 per cent. But it is in relation to private investment in innovation and R&D that we see how limited the government’s understanding of innovation appears to be, and how limited the government’s commitment to encouraging private R&D appears to be.

Let us start with innovation. At the Royal Society’s inaugural lecture on innovation back in 1991, Mr Morita, the late chair of Sony, made the point succinctly when he said: ‘Science does not equal technology does not equal innovation.’ The reverse holds true as well: innovation does not equal technology does not equal science. But this also means that technology transfer does not equal innovation, and innovation does not necessarily involve significant or, indeed, any technological development. That is not to say that innovation cannot involve technological development and/or technology transfer; obviously it can and frequently does. Rather, it tells us that technological development and transfer should not be conflated with innovation.

The distinctions are crucial. They are crucial for researchers and research users in the enabling natural sciences, humanities, social sciences and arts, who are vulnerable to further defunding if innovation and technology are used interchangeably in funding agreements. They are crucial if we are to develop a reasonably sophisticated understanding of all the inputs, processes and linkages that contribute to innovation; and a reasonably sophisticated understanding is required to guide appropriate policy and funding settings.

The Innovation Summit Implementation Group report does not give a definition of innovation as such, and I can understand how innovation can mean many different things to different people. It does, though, distribute attributes of innovation throughout the report. Thus, it places much emphasis on culture, as in ‘the culture of innovation’; on creativity, and, in particular, graduates’ creativity; on the centrality of ideas, both creating and acting on ideas; and on valuing human capital, including, for instance, formal recognition in accounting practices. This is a broad but rich view of innovation. It does not confuse technological development or technology transfer with innovation. Nor does it simply reduce innovation to the process of turning an idea into something commercially useful, important as that of course manifestly is.

It is of deep concern that the government does not appear to have understood this, as the proposed changes to the R&D concession demonstrate. The government proposes to maintain the current R&D tax concession at 125 per cent. This is effectively a cut, however, as the value of the concession has declined with the falling of the corporate tax rate. Following the advice of the Innovation Summit Implementation Group report, it will introduce a 175 per cent R&D tax concession.
premium for the increment of R&D above a base rate. If this was all that was involved, it would be a perfectly defendable initiative, but the value is more than wiped out by the government’s intention to significantly change the definitions and eligibility criteria. The government intends to severely curtail the scope of the concession by, firstly, requiring all claims to meet both the innovation and high technical risk criteria, whereas claims need to meet only one of these currently; secondly, narrowing the definition of research and development activities; thirdly, extending the exclusion list in R&D supporting activities; and, lastly, only permitting labour costs to be eligible in the premium concession. Most projects that currently meet the innovation criteria will fail in the new arrangements because they do not involve high technical risk. And the Democrats are most concerned that possibly as many as 90 per cent of currently eligible projects will not meet the new criteria—that is extraordinary. Section 73B(2B)(b) makes it quite clear that to qualify as high technical risk projects requires ‘a systematic progression of work (based on principles of physical, biological, chemical, medical, engineering or computer science)’. This policy, therefore, explicitly conflates innovation with applied science. It will eliminate any projects that do not involve physical, computer, medical or biological science. It is a policy that actively discriminates against private R&D in social sciences, economics, humanities and management, including, for instance, resource management. The innovation group report highlights the significance of research in such areas. They enhance the organisational, management, economic, legal and marketing knowledge that is critical to the success of innovation. This policy flies in the face of that advice by denying that these areas are innovative in their own right and denies the place they play in technological innovation. The government’s intention to extend the exclusion list means a wide range of activities, including market research, quality control, prospecting, efficiency surveys, tooling-up and trial runs and commercial, legal and administrative aspects of patenting and licensing, will no longer be claimable. These activities are legitimate, indeed necessary, parts of the whole innovation process and may represent up to 90 per cent of the total costs of a typical R&D project. The very narrowness of the government’s understanding of innovation, combined with the considerable reduction in assessable activities, will effectively operate as a proxy picking winners policy, restricted to the development of international patents in biotechnology and ICT. I should emphasise that government encouragement of significant investments in these areas is welcome and, again, long overdue. I have often spoken in this place about how we need to vastly improve our commitment to developing knowledge based technologies. However, I am concerned that our traditional mining, manufacturing and agriculture industries are effectively denied access to these so-called incentives. Indeed, the proposal actually contradicts the government’s claim that ‘innovation is also essential to the future of our traditional sectors including agriculture, manufacturing and mining’. In these areas, a significant proportion of innovation is incremental in nature and may not be patentable. However, there are significant benefits from R&D in these areas, not least of all in more efficient use of energy and other resources, that is, there are major sustainability issues buried within these changes. The net result of the changes to the tax concession is likely to be a further reduction of private investment in innovation and R&D, which, of course, is the worst possible outcome. I fear that the government’s lack of commitment to a broad-based innovation drive may be the thin edge of the wedge and that the government will generalise this into other areas with, for instance, their power to determine the balance of basic and applied research in the ARC. If we are to become an innovative society and flourish in the global knowledge economy, then the government will need to go back and thoroughly reassess this strategy, but this time in consultation with business.
Neville, Mrs Joan
Tucker, Mr Robert Walter John
Webb, Mr Daniel

Senator IAN MACDONALD (Queensland—Minister for Regional Services, Territories and Local Government) (7.20 p.m.)—
On this first day of the sittings of the parliament for this year, I want to briefly mention three very different Queenslanders, but three Queenslanders who each in their own very different way are very significant Queenslanders. They have a common thread, perhaps, in that they all originated from regional Queensland.

Joan Neville passed away on 15 January this year. Joan would not be a household name across Australia, but she was very well known in the Burdekin, where I come from, and most people in the Burdekin would have known Joan. She was one of those unsung heroes of a country town. She had a number of involvements with various community groups, most recently, and perhaps most significantly, her involvement in the Neighbourhood Centre in Ayr looking after people less fortunate than herself. As well, she was a pillar of the Catholic Church. She was very heavily involved in the church and the Catholic Ladies Association. She was also a member of the Soroptimists and of the Forum Club. She was a Lions lady, and she was a past secretary of the Ayr Chamber of Commerce and a past secretary of the Mango Growers Association. She was also a very successful businesswoman, working with her husband in the partnership of the Delta Milk Supply—the milk suppliers to the Burdekin for many years.

She was married for 39 years to her husband, Pat. They had the children Michael Terrance, Kenneth William, Richard, Kathleen, Francis John and Valma Joan. They were a real regional country family. Joan was very involved in the Liberal Party and was very supportive of me in all the time that I have been involved in public life in Ayr. She was one of those people who make country towns work. She was a very astute person. She did, at times, have a very severe and determined public face—a countenance that frightened many who did not really know her all that well—but behind that severe countenance was a heart of gold and a selfless concern and love for her fellow human being. Joan will be sadly missed in the Burdekin.

The second significant Queenslander I want to briefly mention is Robert Walter John Tucker, better known to those of us in the Liberal Party as Bob Tucker. On Sunday Bob was selected as the Liberal Party candidate for the federal seat of Ryan. I am sure he will replace the Hon. John Moore and, I am sure, make a contribution to this parliament almost as good as that of John Moore. Things will be said about John Moore later. Bob Tucker was born in Rockhampton in regional Queensland. He is a family man, married to Greer, with several children. He was a retail pharmacist. He won a Commonwealth scholarship that the Menzies government provided to those who could not afford, and who had the ability, to complete tertiary education.

He achieved a Bachelor of Pharmacy from the University of Queensland and a Bachelor of Science. He worked as a retail pharmacist and a production microbiologist, and he established a pharmaceutical wholesale business servicing some 800 pharmacies in Queensland, northern New South Wales and the Northern Territory. In 1978 he established the Green Spot chemists chain, which is a franchise of some 130 pharmacies very well known up our way. In 1982 he established the Prime Development group of companies and since then he has built and operated a number of shopping centres, pioneered the development of the Brisbane retail showroom centres and rehabilitated large contaminated industrial sites to create high quality industrial, office and warehouse complexes.

Bob Tucker has a long and distinguished career in the Liberal Party and was for a period of time the State President of the Liberal Party, at a time when the Liberal Party achieved government both federally and in the state of Queensland. He is a very astute person with a good sense of politics. I look forward to him joining us here in Canberra. He is also typical of the sort of people in the
electorate he represents: self-made and tertiary educated but involved in community activities. He is the co-chairman of the organising committee of the World Scholar Games for 2002. He is involved in the Order of St John—fund raising for the Mater Children’s Intensive Care Unit—and a member of several other clubs.

He has been treasurer and fete convenor of the Indooroopilly State School P&C. He was involved in the Kenmore Bears Australian Football Club—not, I suspect, through his own endeavours but as a parent of sons who did play. Bob was involved very much in that club and in working with the community to build club facilities. He was also involved with the Sapphires Netball Club in a similar way. I look forward to working with Bob in this place, and I know the Australian nation will benefit from the contribution he will be able to make to this country.

The third significant Queenslander I want to mention is a 14-year-old boy from Cairns in Far North Queensland whom I first met at the Young Australian of the Year Awards held in the Great Hall in this building earlier this month. He is a singer. Madam President, I think you were there and enjoyed his presentation immensely. I mention young Daniel Webb because the song he sang, Kids From the Bush, is so typical of the thoughts and dreams of a lot of young people in country Australia. A lot of young people, because they live in country Australia—because they are born there or because their parents are there for work—do not always have the same sorts of opportunities that kids in the city areas have. He performed magnificently—as did many of the other performers specially brought there that day by Mary Lopez Productions and through the assistance of Qantas airlines.

Whilst a very talented young person, Daniel is very unassuming. His mother and father, who were with him, were overawed at the star status they received while they were here. I was very pleased to make their acquaintance and take them round the building. It was a delight for young Daniel, as we were walking past the Prime Minister’s office, for the Prime Minister to come out and invite them in, unrehearsed and unappointed. He went into the Prime Minister’s office and he thought that was great.

As a nine-year-old, Daniel cut his first CD. At the age of 14—which is what he is now—he has sung the John Williamson song Raining on the Rock, on the Qantas Spirit of Australia CD. Apparently that plays on all Qantas’s international flights around the world. The song Kids from the Bush—specifically written for him by Mark Mannock and put to music by his dad, Laurie Webb—tells of the special hardships faced by country kids when they have to leave their homes and families in search of education and employment. It also tells how they never forget their friends and the family who helped them along their way.

In the presentation that goes out with the videotape he has recorded, he mentions that famous Australian bush kids include Pat Rafter, Karrie Webb, Brad Bevan, Wendell Sailor and Greg Norman. He is obviously very keen on the sporting greats that have come from country Australia. I think the song that he sings so well and so enthusiastically deserves greater recognition. I would like to read the words of the song, but time will preclude me from doing that. Daniel is a great performer and a great little country Australian. The chorus words of his song typify the aspirations of so many young people from country Australia when they say:

Kids from the bush we’ve got dreams,
A little harder to touch, a little further to see,
We believe in tomorrow will be what will be,
Kids from the bush we’ve got dreams.

The three people I have mentioned in my speech tonight, all originally kids from the bush, deserve recognition on the first day of parliament this year. I seek leave to incorporate the words of Daniel’s song in the Hansard.

Leave granted.

The song read as follows—

Kids from the Bush (We’ve Got Dreams) Key G

Daniel Webb
Lyrics and Music By Mark Mannock and Laurie Webb.
c1999
Verse 1
My grandfather’s tears, have watered this land,
His sweat is the rivers, the soil in his hands,
He worked all his life his son by his side,
A young man’s dream, now an old man’s pride.
Chorus
Kids from the bush we’ve got dreams,
A little harder to touch a little further to see,
We believe in tomorrow will be what will be,
Kids from the bush we’ve got dreams.
Verse 2
I learnt from dad, ’bout working the farm,
Grandad looked on, with a smile and a yarn,
The land’s in our blood, but I’m moving on,
To follow my dreams, before they are gone
Chorus
Bridge.
Dream of wide open spaces,
Sunrise in the morning like you’ve never seen,
Dream of warm friendly faces
Telling stories of places I’ve been........
Solo....
Verse 3
Now I spend all my time, between country and city,
Life in the bush, is a song in the town,
Someday I’ll be back, but tomorrow is calling,
A new generation, breaking new ground.
Chorus....
Repeat Chorus (1st part unaccompanied)
2nd Repeat Chorus
Kids from the bush we’ve got dreams,’
A little harder to touch, a little further to see,
We believe in tomorrow will be what will be,
Kids from the bush we’ve got dreams
kids from the bush we’ve got dreams.
Senate adjourned at 7.31 p.m.
DOCUMENTS
Tabling
The following government document was tabled:
Tabling
The following documents were tabled by the Clerk:
Acts Interpretation Act—Statements pursuant to subsection 34C(7) relating to the delay in presentation of reports—
Australian Communications Authority Act—Radiocommunications (Charges) Determination 2000 (No. 1).
Australian Meat and Live-stock Industry Act—
Australian National University Act—Statute No. 268.
Australian Prudential Regulation Authority Act—Instrument under section 51—Instrument fixing charges to be paid to APRA, dated 14 December 2000.
Broadcasting Services Act—
Broadcasting Services (Events) Notice No. 1 of 1994 (Amendment No. 4 of 2000).
Commercial Television Conversion Scheme Variation 2000 (No. 1).
National Television Conversion Scheme Variation 2000 (No. 1).
Civil Aviation Act—Civil Aviation Regulations—
Civil Aviation Orders—
Civil Aviation Amendment Order (No. 21) 2000.
Civil Aviation Amendment Order (No. 22) 2000.
Civil Aviation Amendment Order (No. 23) 2000.
Directives—Part—
105, dated 5 [2], 6 [4], 7, 8 [2], 11 [4], 13, 19 and 22 December 2000; and 4, 10, 11 [5], 12 [4], 16 [4], 17, 18, 23 [4] and 31 January 2001.
Instruments Nos CASA 524/00, CASA 540/00, CASA 554/00-CASA 558/00, CASA 560/00, CASA 561/00, CASA 1001, CASA 2001, CASA 35/01, CASA 41/01 and CASA 47/01.
Commonwealth Authorities and Companies Act—Notice pursuant to paragraph—
45(1)(a) and (c)—Participation in formation and membership of Beyond Blue Limited.
45(1)(c)—Membership of the National Institute of Clinical Studies Australia Ltd.
Corporations Act—Accounting Standard AASB 1043—Changes to the Application of AASB and AAS Standards and Other Amendments.
Customs Act—
CEO Instruments of Approval Nos 57 and 58 of 2000.
Notice under subsection—
164(5A)—Notice No. 1 (2001).
164(5AAC)—Notice No. 1 (2001).
Defence Act—
Determination under section 58B—Defence Determination 2000/40.
Environment Protection and Biodiversity Conservation Act—Solitary Islands Marine Reserve (Commonwealth Waters)—
Management plan.
Excise Act—
Notice under subsection—
78A(5A)—Notice No. 1 (2001).
78A(5AAC)—Notice No. 1 (2001).
Export Control Act—Export Control (Orders) Regulations—Export Control (Fees) Amendment Orders 2000 (No. 3).
Farm Household Support Act—
Dairy Exit Program Scheme Amendment 2000 (No. 3).
Restart Advice Scheme Amendment 2000 (No. 1).
Restart Re-establishment Grant Scheme Amendment 2000 (No. 3).
Fisheries Management Act—
Goods and Services Tax—
Determinations GSTD 2000/12 and GSTD 2001/1.
Rulings GSTR 2000/37 and GSTR 2001/1.
Health Insurance Act—
Declaration—QAA No. 4/2000.
Health Insurance (Diagnostic Imaging—Continuing Medical Education and Quality Assurance Programs) Approval 2000.
Higher Education Funding Act—
Determination under section—
Home and Community Care Act—
Amending agreement in relation to the provision of financial assistance by the Commonwealth of Australia for Home and Community Care Program to Western Australia, dated 30 November 2000.
Lands Acquisition Act—Statements describing property acquired by agreement under sections 40 and 125 of the Act for specified public purposes [2].
Migration Act—
Direction under section 499—Direction—Student Visa Program—Use of Electronic Confirmation of Enrolment—No. 22.
Statement for period 1 July to 31 December 2000 under section—
48B [12].
345 [12].
351 [36].
417 [184].
Military Superannuation and Benefits Act—Military Superannuation and Benefits Amendment Trust Deed 2000 (No. 1).
Murray-Darling Basin Act—Murray-Darling Basin Agreement—Schedule F—Cap on Diversions.
National Health Act—
Declaration Nos PB 1 and PB 2 of 2001.
Determination—
No. PB 3 of 2001.
National Museum of Australia Act—
Native Title Act—
Recognition of Representative Aboriginal/Torres Strait Islander Body 2000 (No. 14).
Recognition of Representative Aboriginal/Torres Strait Islander Body 2001 (No. 1).
Recognition of Representative Aboriginal/Torres Strait Islander Body 2001 (No. 2).


Parliamentary Service Act—
Parliamentary (Consequential and Transitional) Determination 2000/3.


Public Service Act—
Public Service Commissioner's Amendment Directions 2000 (No. 1).

Radiocommunications Act—
Citizen Band Radio Stations Class Licence Variation 2000 (No. 1).


Remuneration Tribunal Act—
Determination—
2000/14: Remuneration and allowances for various public offices and Members of Parliament.
2000/15: Remuneration and allowances of the Solicitor-General and Director of Public Prosecutions.
2000/16: Remuneration for holders of public office.
2000/17: Travelling Allowance Rates.


Sydney Airport Curfew Act—Dispensations granted under section 20—Dispensations Nos 20/00, 22/00-24/00 and 1/01-3/01.

Taxation Determinations TD 98/22 (Addendum), TD 2000/53, TD 2000/54 and TD 2000/54 (Addendum) and TD 2001/1.

Taxation Ruling—
ST 2454 (Addendum).
TR 2000/List.

Telecommunications Act—
Determination under section—
51—Amendment No. 2 of 2000.
95—Amendment No. 2 of 2000.
Telecommunications Labelling (Customer Equipment and Cabling) Amendment Notice 2000 (No. 2).

Telecommunications (Carrier Licence Charges) Act—Determination under paragraph—


15(1)(b) No. 3 of 2000.


Trade Practices Act—Instrument under section—


10.03—Instrument No. 1 of 2000—Declaration of designated inwards peak shipper body.

Veterans’ Entitlements Act—Instrument under section—

88A—Instrument No.—


Proclamations by His Excellency the Governor-General were tabled, notifying that he had proclaimed the following provisions of Acts to come into operation on the dates specified:

Agriculture, Fisheries and Forestry Legislation Amendment Act (No. 1) 2000—Act (other than item 8 of Schedule 2) —5 December 2000 (Gazette No. S 612, 4 December 2000).

Proclamations by His Excellency the Governor-General were tabled, notifying that he had proclaimed the following provisions of Acts to come into operation on the dates specified:
Broadcasting Services Amendment (Digital Television and Datacasting) Act 2000—1 January 2001—
(a) items 1 to 74, 76 to 134, 135, 136, 136C, 137AA to 139, 139B, 139C, 140, 141, 144 and 145 of Schedule 1;
(b) Schedule 2;
(c) Schedule 3.
(Gazette No. GN 50, 20 December 2000).

Farm Household Support Amendment Act 2000—Section 3 and Schedules 1, 2 and 3—18 December 2000 (Gazette No. S 634, 15 December 2000).

QUESTIONS ON NOTICE

The following answers to questions were circulated:

Attorney-General’s Department: Grants and Payments to Employer Organisations
(Questions Nos 2791 and 2794)

Senator O’Brien asked the Minister representing the Attorney-General and the Minister for Justice and Customs, upon notice, on 24 August 2000:
(1) What grants or other payments were made to employer organisations by the department or any of its agencies in the 1996-97 financial year.
(2) In each case: (a) what was the purpose of the grant or other payment; (b) what was the actual value of the grant or other payment; and (c) was the grant or other payment made as a result of an application from the organisation.
(3) If the grant or other payment was made in response to an application from the organisation, in each case: (a) how was that application assessed; and (b) who approved the application.

Senator Vanstone—The Attorney-General has provided the following answer to the honourable senator’s questions:
(1) I have been advised by my Department and agencies within my portfolio that no grants or other payments were made to employer organisations in the 1996-1997 financial year.
(2) Not applicable.
(3) Not applicable.

Attorney-General’s Department: Grants and Payments to Employer Organisations
(Questions Nos 2810 and 2813)

Senator O’Brien asked the Minister representing the Attorney-General and the Minister for Justice and Customs, upon notice, on 24 August 2000:
(1) What grants or other payments were made to employer organisations by the department or any of its agencies in the 1997-98 financial year.
(2) In each case: (a) what was the purpose of the grant or other payment; (b) what was the actual value of the grant or other payment; and (c) was the grant or other payment made as a result of an application from the organisation.
(3) If the grant or other payment was made in response to an application from the organisation, in each case: (a) how was that application assessed; and (b) who approved the application.

Senator Vanstone—The Attorney-General has provided the following answer to the honourable senator’s questions:
(1) I have been advised by my Department and agencies within my portfolio that no grants or other payments were made to employer organisations in the 1997-1998 financial year.
(2) Not applicable.
(3) Not applicable.

Attorney-General’s Department: Grants and Payments to Employer Organisations
(Questions Nos 2829 and 2832)

Senator O’Brien asked the Minister representing the Attorney-General and the Minister for Justice and Customs, 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 Vanstone—The Attorney-General has provided the following answer to the honourable senator’s questions:

1. I have been advised by my Department and agencies within my portfolio that no grants or other payments were made to employer organisations in the 1998-1999 financial year.

2. Not applicable.

3. Not applicable.

Attorney-General’s Department: Grants and Payments to Employer Organisations
(Questions Nos 2848 and 2851)

Senator O’Brien asked the Minister representing the Attorney-General and the Minister for Justice and Customs, upon notice, on 24 August 2000:

1. What grants or other payments were made to employer organisations by the department or any of its agencies in the 1999-2000 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 Vanstone—The Attorney-General has provided the following answer to the honourable senator’s questions:

1. I have been advised by my Department and agencies within my portfolio that no grants or other payments were made to employer organisations in the 1999-2000 financial year.

2. Not applicable.

3. Not applicable.

Aviation: Radar Failures
(Question No. 2865)

Senator O’Brien asked the Minister for Transport and Regional Services, upon notice, on 29 August 2000:

1. How many radar screen failures have occurred with the Australian Advanced Air Traffic System since it was officially commissioned on 1 March 2000.

2. What action was taken by Airservices Australia in response to each of these failures.

3. In each case, was the radar screen failure reported to the Australian Transport Safety Bureau; if so: (a) what investigations followed that reporting of the radar failures; and (b) in each case, what was the result of that action.

Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

Airservices Australia has advised the following:

1. In the Australian Advanced Air Traffic System (TAAATS), radar data is presented on the Controllers Air Situation Display (ASD). There are approximately 150 of these displays in TAAATS. The loss of any one display is not usually a significant event. Air Traffic Controller training includes managing the loss of the ASD.

There were 35 Service Failure Notifications recording display failure in the period 1 March 2000 to 31 August 2000. This equates to one service failure per screen every 788 screen days.

Currently, there is a program of brief periodic removal from service of each ASD. This is a mitigating strategy adopted to manage short term software constraints. The timing of removal from service is discretionary and hence is not classed as a Service Failure.
(2) Airservices has systems in place to record and report each failure. Hardware failure is addressed by replacement of the faulty equipment with a spare. Software faults are captured and recorded. Each failure is analysed, priority determined, appropriate correction developed, tested and deployed.

(3) Not all screen failures lead to an occurrence. However where a failure was involved in an occurrence, even though it may not have caused the occurrence, Airservices reports it to the Australian Transport Safety Bureau (ATSB). In the period 1 March 2000 to 3 August 2000, 19 occurrences in which radar screen failures were identified were reported to the ATSB. These were all classified by the ATSB as category 5 occurrences, which are those occurrences classified as being primarily of statistical interest, and therefore not further investigated by the ATSB.

Department of Transport and Regional Services: Programs and Grants to the Richmond Electorate

(Questions Nos 2992 and 3001)

Senator Mackay asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 5 October 2000; and the Minister for Regional Services, Territories and Local Government, upon notice, on 5 October 2000:

(1) What programs and/or grants administered by the department provide assistance to people living in the electorate of Richmond.

(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 these programs and grants that has been appropriated for the 1999-2000 financial year.

Senator Ian Macdonald—The answers to the honourable senator’s questions are as follows:

(1) Local Government Financial Assistance Grants
   - Local Government Incentive Programme
   - Regional Flood Mitigation Programme
   - The Federal Road Safety Black Spot Program
   - Roads of National Importance

(2) Local Government Financial Assistance Grants

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<th>Council Name</th>
<th>Financial Year</th>
<th>General Purpose Funding ($)</th>
<th>Roads Funding ($)</th>
<th>Total ($)</th>
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<td>Ballina Shire</td>
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<td>1,553,600</td>
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<td>Byron Shire</td>
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<td>1997-1998</td>
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<td>Tweed Shire</td>
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<td>1998-1999</td>
<td>3,533,932</td>
<td>1,236,608</td>
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Local Government Incentive Programme

Regional Flood Mitigation Programme
Nil. The first year of funding for the Programme was 1999-2000.

The Federal Road Safety Black Spot Program
1998-1999 $1,120,000.

Roads of National Importance

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<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Bangalow bypass</td>
<td>1,390,000</td>
<td>960,000</td>
<td>30,000</td>
</tr>
<tr>
<td>Ewingsdale to Tyagerah</td>
<td>1,360,000</td>
<td>6,280,000</td>
<td>2,770,000</td>
</tr>
<tr>
<td>Ewingsdale Interchange,</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Byron Bay</td>
<td>-</td>
<td>-</td>
<td>2,250,000</td>
</tr>
<tr>
<td>Brunswick Heads bypass</td>
<td>2,890,000</td>
<td>3,630,000</td>
<td>190,000</td>
</tr>
<tr>
<td>Brunswick Heads to Yelgun</td>
<td>-</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>Yelgun to Chinderah</td>
<td>130,000</td>
<td>1,130,000</td>
<td>3,690,000</td>
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<tr>
<td>Chinderah bypass</td>
<td>6,400,000</td>
<td>310,000</td>
<td>120,000</td>
</tr>
<tr>
<td>TOTAL</td>
<td>12,170,000</td>
<td>12,310,000</td>
<td>9,050,000</td>
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</table>

(3) Local Government Financial Assistance Grants


<table>
<thead>
<tr>
<th>Council Name</th>
<th>General Purpose funding ($)</th>
<th>Roads funding ($)</th>
<th>Total ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ballina Shire p</td>
<td>1,581,400</td>
<td>650,424</td>
<td>2,231,824</td>
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<tr>
<td>Byron Shire</td>
<td>1,249,340</td>
<td>609,828</td>
<td>1,859,168</td>
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<td>Tweed Shire</td>
<td>3,709,388</td>
<td>1,303,124</td>
<td>5,012,512</td>
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</table>

p - Shire boundary falls in more than one electorate.

Local Government Incentive Programme
$626,000 was provided to the Local Government and Shires Associations of New South Wales to assist councils, including those in the Richmond electorate, to prepare for the Goods and Services Tax.

Regional Flood Mitigation Programme
Murwillumbah Voluntary Purchase - $30,000.

The Federal Road Safety Black Spot Program
$220,000.

Roads of National Importance

Pacific Highway Upgrade
Project | 1999-2000
--- | ---
Bangalow bypass | -
Ewingsdale to Tyagerah | $340,000
Ewingsdale Interchange, Byron Bay | $6,360,000
Brunswick Heads bypass | $40,000
Brunswick Heads to Yelgun | -
Yelgun to Chinderah | $26,360,000
Chinderah bypass | -
**TOTAL** | **$33,100,000**

**Department of Employment, Workplace Relations and Small Business: Programs and Grants to the Richmond Electorate**

*Question No. 3002*

Senator Mackay asked the Minister representing the Minister for Employment Services, 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 Richmond.

(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 Alston—The Minister for Employment Services has provided the following answer to the honourable senator’s question:

Please refer to the answer provided by the Minister for Employment, Workplace Relations and Small Business to Senate Question 2995.

**Department of Employment, Workplace Relations and Small Business: Programs and Grants to the Cowper Electorate**

*Question No. 3014*

Senator Mackay asked the Minister representing the Minister for Employment Services, 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 Cowper.

(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 Alston—The Minister for Employment Services has provided the following answer to the honourable senator’s question:

Please refer to the answer provided by the Minister for Employment, Workplace Relations and Small Business to Senate Question 3007.

**Department of Transport and Regional Services: Programs and Grants to the Page Electorate**

*Questions Nos 3016 and 3025*

Senator Mackay asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 5 October 2000; and the Minister for Regional Services, Territories and Local Government, upon notice, on 5 October 2000:

(1) What programs and/or grants administered by the department provide assistance to people living in the electorate of Page.
(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 these programs and grants that has been appropriated for the 1999-2000 financial year.

**Senator Ian Macdonald**—The answers to the honourable senator’s questions are as follows:

(1) Rural Communities Program and Rural Plan
- Local Government Financial Assistance Grants
- Local Government Incentive Programme
- Rural Domestic Violence Programme
- Regional Development Programme
- Regional Flood Mitigation Programme
- The Federal Road Safety Black Spot Program
- Roads of National Importance

(2) Rural Communities Program and Rural Plan

<table>
<thead>
<tr>
<th>Financial Year</th>
<th>General Purpose Funding ($)</th>
<th>Roads Funding ($)</th>
<th>Total ($)</th>
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<td>1996-1997</td>
<td>1,553,600</td>
<td>631,052</td>
<td>2,184,652</td>
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<td>608,144</td>
<td>2,127,344</td>
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<td>1998-1999</td>
<td>1,528,736</td>
<td>624,112</td>
<td>2,152,848</td>
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Local Government Financial Assistance Grants


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<th>Financial Year</th>
<th>General Purpose Funding ($)</th>
<th>Roads Funding ($)</th>
<th>Total ($)</th>
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<td>2,184,652</td>
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<td>608,144</td>
<td>2,127,344</td>
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<td>1,528,736</td>
<td>624,112</td>
<td>2,152,848</td>
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<td>Casino</td>
<td>1996-1997</td>
<td>1,014,668</td>
<td>163,572</td>
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<td>1,174,920</td>
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<td>1998-1999</td>
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<td>1,164,716</td>
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<td>752,500</td>
<td>497,192</td>
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<td>1998-1999</td>
<td>736,148</td>
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<td>1996-1997</td>
<td>1,277,516</td>
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<td>1,482,400</td>
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<td>Year</td>
<td>Kyogle</td>
<td>Lismore City</td>
<td>Maclean Shire p</td>
<td>Nymboida Shire</td>
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<td>------------</td>
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<td>-----------------</td>
<td>-----------------</td>
<td>----------------</td>
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<td>1996-1997</td>
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<td>2,639,512</td>
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<td>1998-1999</td>
<td>1,320,244</td>
<td>2,573,832</td>
<td>1,763,872</td>
<td>652,812</td>
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</table>

p - Shire boundary falls in more than one electorate.

Rural Transaction Centres Programme
Not Applicable.

Local Government Incentive Programme

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<tr>
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<th>Amount</th>
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</thead>
<tbody>
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<td>Nil</td>
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<tr>
<td>1997-1998</td>
<td>Nil</td>
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<tr>
<td>1998-1999</td>
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</table>

Rural Domestic Violence Programme

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount</th>
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<td>1996-1997</td>
<td>Nil</td>
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<tr>
<td>1997-1998</td>
<td>Nil</td>
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<tr>
<td>1998-1999</td>
<td>Nil</td>
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Regional Development Programme
Northern Rivers NSW Regional Development Organisation
Export Enhancement

<table>
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<tr>
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<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>1996-1997</td>
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</tr>
<tr>
<td>1997-1998</td>
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<tr>
<td>1998-1999</td>
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Norlink

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount</th>
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<tr>
<td>1996-1997</td>
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<tr>
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<td>Nil</td>
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### Summerland Way

<table>
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<tr>
<th>Year</th>
<th>Funding ($)</th>
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<td>1996-1997</td>
<td>$10,000</td>
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<tr>
<td>1997-1998</td>
<td>Nil</td>
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<tr>
<td>1998-1999</td>
<td>Nil</td>
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### Structure

<table>
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<tr>
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<th>Funding ($)</th>
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<tr>
<td>1997-1998</td>
<td>$68,399</td>
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<tr>
<td>1998-1999</td>
<td>Nil</td>
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### Richmond River Council

**Broadwater Bridge Project**

<table>
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<tr>
<th>Year</th>
<th>Funding ($)</th>
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</thead>
<tbody>
<tr>
<td>1996-1997</td>
<td>Nil</td>
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<tr>
<td>1997-1998</td>
<td>Nil</td>
</tr>
<tr>
<td>1998-1999</td>
<td>$754,200</td>
</tr>
</tbody>
</table>

**Regional Flood Mitigation Programme**

Nil. The first year of funding for the Programme was 1999-2000.

**The Federal Road Safety Black Spot Program**

<table>
<thead>
<tr>
<th>Year</th>
<th>Funding ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1996-1997</td>
<td>$800,000</td>
</tr>
<tr>
<td>1997-1998</td>
<td>$200,000</td>
</tr>
<tr>
<td>1998-1999</td>
<td>Nil</td>
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</tbody>
</table>

### Roads of National Importance

**Summerland Way**

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Cedar Point overtaking lane</td>
<td>-</td>
<td>-</td>
<td>$500,000</td>
</tr>
<tr>
<td>Newpark overtaking lane</td>
<td>-</td>
<td>-</td>
<td>$260,000</td>
</tr>
<tr>
<td>Grafton/Casino rehabilitation</td>
<td>-</td>
<td>-</td>
<td>$1,200,000</td>
</tr>
<tr>
<td>and widening</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Grafton/Casino overtaking lane</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Grafton/Casino rehabilitation</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>and widening</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>TOTAL</td>
<td>-</td>
<td>-</td>
<td>$1,960,000</td>
</tr>
</tbody>
</table>

(3) Rural Communities Program and Rural Plan

- Rural Communities Program = $180,459.
- Rural Plan = $77,691.

### Local Government Financial Assistance Grants

<table>
<thead>
<tr>
<th>Council Name</th>
<th>General Purpose Funding ($)</th>
<th>Roads Funding ($)</th>
<th>Total ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ballina Shire p</td>
<td>1,581,400</td>
<td>650,424</td>
<td>2,231,824</td>
</tr>
<tr>
<td>Casino</td>
<td>987,872</td>
<td>165,372</td>
<td>1,153,244</td>
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<tr>
<td>Copmanhurst Shire</td>
<td>740,792</td>
<td>384,944</td>
<td>1,125,736</td>
</tr>
<tr>
<td>Grafton City</td>
<td>1,233,880</td>
<td>248,180</td>
<td>1,482,060</td>
</tr>
<tr>
<td>Kyogle</td>
<td>1,316,548</td>
<td>815,396</td>
<td>2,131,944</td>
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<tr>
<td>Lismore City</td>
<td>2,683,876</td>
<td>1,076,016</td>
<td>3,759,892</td>
</tr>
</tbody>
</table>
Rural Transaction Centres Programme

In the 1999-2000 Financial Year, Coraki Progress Association Inc. received $14,970 to prepare a business plan to assess the feasibility of establishing a Rural Transaction Centre in Coraki.

Local Government Incentive Programme

$626,000 was provided to the Local Government and Shires Associations of New South Wales to assist councils, including those in the Page electorate, to prepare for the Goods and Services Tax.

Rural Domestic Violence Programme

$2,706.44.

Regional Development Programme

Nil.

Regional Flood Mitigation Programme

Palmers Island (Maclean) Voluntary Purchase Scheme - $60,000.

Lismore Voluntary Purchase Scheme - $112,500.

Lismore Levee - $200,000.

The Federal Road Safety Black Spot Program

Nil.

Roads of National Importance

Summerland Way

<table>
<thead>
<tr>
<th>Project</th>
<th>$</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cedar Point overtaking lane</td>
<td>20,000</td>
</tr>
<tr>
<td>Newpark overtaking lane</td>
<td>250,000</td>
</tr>
<tr>
<td>Grafton/Casino rehabilitation and widening</td>
<td>110,000</td>
</tr>
<tr>
<td>Grafton/Casino overtaking lane</td>
<td>510,000</td>
</tr>
<tr>
<td>Grafton/Casino rehabilitation and widening</td>
<td>530,000</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>1,420,000</strong></td>
</tr>
</tbody>
</table>

Department of Employment, Workplace Relations and Small Business: Programs and Grants to the Page Electorate

(Question No. 3026)

Senator Mackay asked the Minister representing the Minister for Employment Services, 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 Page.

(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 Alston—The Minister for Employment Services has provided the following answer to the honourable senator’s question:

Please refer to the answer provided by the Minister for Employment, Workplace Relations and Small Business to Senate Question 3019.
Department of Employment, Workplace Relations and Small Business: Programs and Grants to the Bass Electorate

(Question No. 3038)

Senator Mackay asked the Minister representing the Minister for Employment Services, 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 Bass.
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 Alston—The Minister for Employment Services has provided the following answer to the honourable senator’s question:

Please refer to the answer provided by the Minister for Employment, Workplace Relations and Small Business to Senate Question 3031.

Department of Transport and Regional Services: Programs and Grants to the Hinkler Electorate

(Questions Nos 3040 and 3049)

Senator Mackay asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 5 October 2000; and the Minister for Regional Services, Territories and Local Government, upon notice, on 5 October 2000:

1. What programs and/or grants administered by the department provide assistance to people living in the electorate of Hinkler.
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 these programs and grants that has been appropriated for the 1999-2000 financial year.

Senator Ian Macdonald—The answers to the honourable senator’s questions are as follows:

1. Rural Communities Program and Rural Plan
   - Local Government Financial Assistance Grants
   - Local Government Incentive Programme
   - Rural Transaction Centres Programme
   - Regional Development Programme
   - The Federal Road Safety Black Spot Program
   - National Highway Program

2. Rural Communities Program and Rural Plan
   - 1996-1997 Not applicable.
   - 1997-1998 Not applicable.
   - 1998-1999 Rural Communities Program = $41,047.
   - Local Government Financial Assistance Grants
<table>
<thead>
<tr>
<th>Council Name</th>
<th>Financial Year</th>
<th>General Purpose Funding ($)</th>
<th>Roads Funding ($)</th>
<th>Total ($)</th>
</tr>
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<tbody>
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<td>536,896</td>
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<td>895,433</td>
<td>561,088</td>
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<td>1997-1998</td>
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<td>Mount Morgan</td>
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<td>1997-1998</td>
<td>743,274</td>
<td>101,957</td>
<td>845,231</td>
</tr>
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<td></td>
<td>1998-1999</td>
<td>815,952</td>
<td>75,865</td>
<td>891,817</td>
</tr>
</tbody>
</table>

- Shire boundary falls in more than one electorate.

Local Government Incentive Programme
Tuesday, 6 February 2001

Rural Transaction Centres Programme

Regional Development Programme
Central Queensland Regional Development Organisation
Structure

International Business Exchange
1996-1997 $130,000.
1997-1998 $45,000.
1998-1999 $25,000.

The Federal Road Safety Black Spot Program
1996-1997 $510,000.
1997-1998 $1,399,000.
1998-1999 $512,000.

National Highway Program

<table>
<thead>
<tr>
<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td>Gympie-Rockhampton Pavement Widening and Rehabilitation</td>
<td>2,021,000</td>
<td>6,166,000</td>
<td></td>
</tr>
<tr>
<td>Gympie-Rockhampton Pavement Resurfacing</td>
<td>1,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wallaville Bridge</td>
<td>700,000</td>
<td>6,096,521</td>
<td>20,034,362</td>
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<tr>
<td>Realignment Bororen-Daisy Bell</td>
<td>1,726,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>TOTAL</td>
<td>4,448,000</td>
<td>12,262,521</td>
<td>20,034,362</td>
</tr>
</tbody>
</table>

The Commonwealth also funds maintenance and minor works on the National Highway and a proportion of the funds allocated for these purposes would have been spent on the National Highway in Hinkler. However, it is not possible to identify what level of funding was provided in a specific electorate.

(3) Rural Communities Program and Rural Plan

Rural Communities Program = $37,435.
Rural Plan = $75,000.

Local Government Financial Assistance Grants

<table>
<thead>
<tr>
<th>Council Name</th>
<th>General Purpose funding ($)</th>
<th>Roads funding ($)</th>
<th>Total ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bundaberg</td>
<td>1,518,850</td>
<td>462,187</td>
<td>1,981,037</td>
</tr>
<tr>
<td>Burnett p</td>
<td>803,572</td>
<td>582,888</td>
<td>1,386,460</td>
</tr>
<tr>
<td>---------------</td>
<td>------------</td>
<td>------------</td>
<td>------------</td>
</tr>
<tr>
<td>Calliope</td>
<td>1,353,449</td>
<td>483,888</td>
<td>1,836,667</td>
</tr>
<tr>
<td>Fitzroy</td>
<td>956,595</td>
<td>499,477</td>
<td>1,456,072</td>
</tr>
<tr>
<td>Gladstone</td>
<td>1,032,644</td>
<td>281,082</td>
<td>1,313,726</td>
</tr>
<tr>
<td>Isis</td>
<td>682,501</td>
<td>263,474</td>
<td>945,975</td>
</tr>
<tr>
<td>Miriam Vale</td>
<td>1,459,001</td>
<td>265,742</td>
<td>1,724,743</td>
</tr>
<tr>
<td>Mount Morgan</td>
<td>817,229</td>
<td>77,494</td>
<td>894,723</td>
</tr>
</tbody>
</table>

p - Shire boundary falls in more than one electorate.

- **Rural Transaction Centres Programme**
  - Miriam Vale Shire Council received $15,000 to prepare a business plan to assess the feasibility of establishing a Rural Transaction Centre in Agnes Waters and Miriam Vale.

- **Local Government Incentive Programme**
  - $535,000 was provided to the Local Government Association of Queensland to assist councils, including those in the Hinkler electorate, to prepare for the Goods and Services Tax.

- **Regional Development Programme**
  - Nil.

- **The Federal Road Safety Black Spot Program**
  - Rehabilitation north of Benarby at St Arnould's Creek: $150,000
  - Rehabilitation north of Boyne River: $460,000
  - House Creek Bridge: $175,000
  - Three Mile Creek Bridge: $2,250,000
  - Colosseum Creek-8 Mile Creek Bridge: $1,550,000

**TOTAL**: $6,411,000

The Commonwealth also funds maintenance and minor works on the National Highway and a proportion of the funds allocated for these purposes would have been spent on the National Highway in Hinkler. However, it is not possible to identify what level of funding was provided in a specific electorate.

**Department of Employment, Workplace Relations and Small Business: Programs and Grants to the Hinkler Electorate**

(Question No. 3050)

**Senator Mackay** asked the Minister representing the Minister for Employment Services, 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 Hinkler.
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 Alston—The Minister for Employment Services has provided the following answer to the honourable senator’s question:

Please refer to the answer provided by the Minister for Employment, Workplace Relations and Small Business to Senate Question 3043.

Department of Employment, Workplace Relations and Small Business: Programs and Grants to the Gwydir Electorate

(Question No. 3062)

Senator Mackay asked the Minister representing the Minister for Employment Services, 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 Alston—The Minister for Employment Services has provided the following answer to the honourable senator’s question:

Please refer to the answer provided by the Minister for Employment, Workplace Relations and Small Business to Senate Question 3055.

Department of Employment, Workplace Relations and Small Business: Programs and Grants to the Eden-Monaro Electorate

(Question No. 3074)

Senator Mackay asked the Minister representing the Minister for Employment Services, 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 Eden-Monaro.
(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 Alston—The Minister for Employment Services has provided the following answer to the honourable senator’s question:

Please refer to the answer provided by the Minister for Employment, Workplace Relations and Small Business to Senate Question 3055.

Long Day Care Centres: Accreditation

(Question No. 3133)

Senator Chris Evans asked the Minister for Family and Community Services, upon notice, on 30 October 2000:

With reference to the most recent accreditation status under the Quality Improvement and Accreditation System for long day care centres, can the following data be provided for the Commonwealth, with sub-totals for each state and territory, and sub-totals for community-based and private centres: what number and proportion of long day care centres are: (a) accredited for: (i) 1 year between reviews, (ii) 2 years between reviews, and (iii) 3 years between reviews; (b) unaccredited but working through a plan of action; and (c) in self-study, in review, in moderation or awaiting council decision.

Senator Newman—The answer to the honourable senator’s question is as follows:

Long Day Care Centres participating in the Quality Improvement and Accreditation System (QIAS) as at 2 November 2000:
<table>
<thead>
<tr>
<th>Total Australia</th>
<th>Community Based</th>
<th>Private</th>
<th>Not specified</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accredited for 1 year</td>
<td>81 (2%)</td>
<td>300 (7.5%)</td>
<td>38 (1%)</td>
<td>419 (10.5%)</td>
</tr>
<tr>
<td>Accredited for 2 years</td>
<td>38 (1%)</td>
<td>127 (3.2%)</td>
<td>12 (.3%)</td>
<td>177 (4.4%)</td>
</tr>
<tr>
<td>Accredited for 3 years</td>
<td>855 (21.5%)</td>
<td>2065 (51.8%)</td>
<td>143 (3.6%)</td>
<td>3063 (76.9%)</td>
</tr>
<tr>
<td>Unaccredited, working on a Plan of Action</td>
<td>20 (.5%)</td>
<td>150 (3.8%)</td>
<td>4 (.1%)</td>
<td>191 (4.8%)</td>
</tr>
<tr>
<td>In self-study, review, moderation or awaiting Council decision.</td>
<td></td>
<td></td>
<td>129 (3.2%)</td>
<td>133 (3.3%)</td>
</tr>
<tr>
<td>TOTAL</td>
<td>994 (25%)</td>
<td>2646 (66.4%)</td>
<td>343 (8.6%)</td>
<td>3983 (100%)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>New South Wales</th>
<th>Community Based</th>
<th>Private</th>
<th>Not specified</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accredited for 1 year</td>
<td>30</td>
<td>116</td>
<td>10</td>
<td>156</td>
</tr>
<tr>
<td>Accredited for 2 years</td>
<td>13</td>
<td>53</td>
<td>6</td>
<td>72</td>
</tr>
<tr>
<td>Accredited for 3 years</td>
<td>324</td>
<td>870</td>
<td>58</td>
<td>1252</td>
</tr>
<tr>
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<td>56</td>
<td>10</td>
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<td></td>
<td>61</td>
<td>61</td>
</tr>
<tr>
<td>TOTAL</td>
<td>375</td>
<td>1095</td>
<td>145</td>
<td>1615</td>
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<table>
<thead>
<tr>
<th>Victoria</th>
<th>Community Based</th>
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<th>Not specified</th>
<th>TOTAL</th>
</tr>
</thead>
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<tr>
<td>Accredited for 1 year</td>
<td>14</td>
<td>72</td>
<td>9</td>
<td>95</td>
</tr>
<tr>
<td>Accredited for 2 years</td>
<td>11</td>
<td>35</td>
<td>2</td>
<td>48</td>
</tr>
<tr>
<td>Accredited for 3 years</td>
<td>219</td>
<td>353</td>
<td>33</td>
<td>605</td>
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<tr>
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<td>3</td>
<td>22</td>
<td>2</td>
<td>27</td>
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<td>18</td>
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<tr>
<td>TOTAL VIC</td>
<td>247</td>
<td>482</td>
<td>64</td>
<td>793</td>
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<th>TOTAL</th>
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<tbody>
<tr>
<td>Accredited for 1 year</td>
<td>14</td>
<td>49</td>
<td>12</td>
<td>75</td>
</tr>
<tr>
<td>Accredited for 2 years</td>
<td>3</td>
<td>21</td>
<td>2</td>
<td>26</td>
</tr>
<tr>
<td>Accredited for 3 years</td>
<td>109</td>
<td>560</td>
<td>34</td>
<td>703</td>
</tr>
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<td>Unaccredited, working on a Plan of Action</td>
<td>5</td>
<td>42</td>
<td>2</td>
<td>49</td>
</tr>
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<td></td>
<td>32</td>
<td>33</td>
</tr>
<tr>
<td>TOTAL</td>
<td>131</td>
<td>673</td>
<td>82</td>
<td>886</td>
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<tr>
<td></td>
<td>Community Based</td>
<td>Private</td>
<td>Not specified</td>
<td>TOTAL</td>
</tr>
<tr>
<td>--------------------------</td>
<td>-----------------</td>
<td>---------</td>
<td>---------------</td>
<td>-------</td>
</tr>
<tr>
<td><strong>South Australia</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Accredited for 1 year</td>
<td>6</td>
<td>9</td>
<td>1</td>
<td>16</td>
</tr>
<tr>
<td>Accredited for 2 years</td>
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<td>2</td>
<td>2</td>
<td>5</td>
</tr>
<tr>
<td>Accredited for 3 years</td>
<td>78</td>
<td>70</td>
<td>7</td>
<td>155</td>
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<tr>
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<td>3</td>
<td>1</td>
<td>4</td>
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<tr>
<td>In self-study, review, moderation or awaiting Council decision.</td>
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<tr>
<td>TOTAL</td>
<td>85</td>
<td>84</td>
<td>17</td>
<td>186</td>
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<tr>
<td><strong>Western Australia</strong></td>
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<tr>
<td>Accredited for 1 year</td>
<td>9</td>
<td>47</td>
<td>6</td>
<td>62</td>
</tr>
<tr>
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<td>10</td>
<td>13</td>
<td></td>
</tr>
<tr>
<td>Accredited for 3 years</td>
<td>60</td>
<td>149</td>
<td>5</td>
<td>214</td>
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<td>4</td>
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<tr>
<td>TOTAL</td>
<td>75</td>
<td>235</td>
<td>21</td>
<td>331</td>
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<tr>
<td><strong>Tasmania</strong></td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Accredited for 1 year</td>
<td>1</td>
<td>1</td>
<td></td>
<td>2</td>
</tr>
<tr>
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<td>Accredited for 3 years</td>
<td>26</td>
<td>19</td>
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<td>46</td>
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<td>2</td>
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<td>In self-study, review, moderation or awaiting Council decision.</td>
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<td></td>
</tr>
<tr>
<td>TOTAL TAS</td>
<td>27</td>
<td>20</td>
<td>5</td>
<td>52</td>
</tr>
<tr>
<td><strong>Australian Capital Territory</strong></td>
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<tr>
<td>Accredited for 2 years</td>
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<tr>
<td>Accredited for 3 years</td>
<td>27</td>
<td>38</td>
<td>4</td>
<td>69</td>
</tr>
<tr>
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<td>0</td>
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<tr>
<td>In self-study, review, moderation or awaiting Council decision.</td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>TOTAL</td>
<td>29</td>
<td>42</td>
<td>6</td>
<td>77</td>
</tr>
<tr>
<td><strong>Northern Territory</strong></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Accredited for 1 year</td>
<td>5</td>
<td>6</td>
<td></td>
<td>11</td>
</tr>
<tr>
<td>Accredited for 2 years</td>
<td>7</td>
<td>2</td>
<td></td>
<td>9</td>
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<tr>
<td>Accredited for 3 years</td>
<td>12</td>
<td>6</td>
<td>1</td>
<td>19</td>
</tr>
<tr>
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<td></td>
<td>1</td>
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<tr>
<td>In self-study, review, moderation or awaiting Council decision.</td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>TOTAL</td>
<td>25</td>
<td>15</td>
<td>3</td>
<td>43</td>
</tr>
</tbody>
</table>

Note: Statistics regarding the current accreditation status of centres (excluding Private/Community-based information) are available on the NCAC’s website: www.ncac.gov.au.
Shipping: Sulteng I Sinking
(Question No. 3160)

Senator Brown asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 6 October 2000:

With reference to the answer to question on notice no. 2960:
(1) What is the evidence that the ship was not overloaded when it was at, or after it left, Christmas Island and who provided this evidence.
(2) When, after loading, was the ballast released and, immediately before this release, was the ship not overloaded.

Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:
(1) The Harbour Master at Christmas Island, who also provided pilotage services at the departure of Sulteng I from Christmas Island, advises that the ship was not overloaded when it left Christmas Island.
(2) The Harbour Master at Christmas Island advises that, after completion of loading of Sulteng I, no ballast was released but the ship did discharge an amount of fresh water to ensure it was not overloaded before it departed from Christmas Island.

Very Fast Train: Consultancies
(Question No. 3176)

Senator Brown asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 29 November 2000:

(a) how many consultancies has the Federal Government commissioned to evaluate the proposal for a very fast train between Sydney and Canberra;
(b) what is the cost of those consultancies; and
(c) can copies of each of the consultant’s studies and reports be provided.

Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:
(a) The Commonwealth, ACT and NSW Governments have accessed specialist expertise from 10 private sector consultancies to assist in the evaluation of Speedrail’s Proved-Up bid.
(b) $1,547,724.20 had been expended under the contracts for these consultancies as at 12 December 2000.
(c) No. The studies are part of a broader project evaluation and will not be made public.

Lucas Heights: New Reactor
(Question No. 3181)

Senator Sherry asked the Minister representing the Minister for Finance and Administration, upon notice, on 30 November 2000:

(1) What amounts have been included in each forward year for the agreement to build a new nuclear reactor at Lucas Heights
(2) Is the agreement legally binding; if so, what action does the department intend to take to vary the forward estimates to take account of the risk that the agreement is void, or at significant risk of being found to be void as reported on page 1 of the Australian, of 10 October 2000 and in other media outlets.
(3) (a) If the agreement is not legally binding, when will the department be incorporating amounts for contractual payments flowing from the agreement into the forward estimates; and (b) what are the estimates or indicative projections, or what are they likely to be, included in each of the forward years.
(4) (a) What risk assessments has the department undertaken on the agreement and what work has been done on assessing the costs and benefits of alternatives should the agreement not be pursued; and (b) what amounts and overall assessments will be included in the Statement of Budget Risks.

(5) (a) What are the financial penalties for the Commonwealth for pulling out of the agreement; and (b) what are the details of any graded penalties under the agreement.

(6) Have these amounts been included in the forward estimates; if so, what are the amounts for each forward year; if not: (a) why not; and (b) when will this occur or will the amounts simply be identified in the Statement of Budget Risks.

Senator Ellison—The Minister for Finance and Administration has supplied the following answer to the honourable senator’s question:

Under the budgeting and legislative framework, individual agencies are responsible for their own financial management and budget and forward estimates.

As such, the Australian Nuclear Science and Technology Organisation, with which responsibility for the agreement to build a new nuclear reactor at Lucas Heights rests, is responsible for managing its own budget and forward estimates.

The estimates have been published and are available in the Department of Industry, Science and Resources Portfolio Budget Statement 2000-01 and updated in the Portfolio Additional Estimates Statements 2000-01.

The Department of Finance and Administration is not privy to the details of the agreement negotiated by the Australian Nuclear Science and Technology Organisation and the supplier. Information relating to the agreement may be obtained from the Australian Nuclear Science and Technology Organisation.

Lakes Entrance Health Centre: Funding
(Question No. 3188)

Senator O’Brien asked the Minister for Family and Community Services, upon notice, on 30 November 2000:

(1) What was the level of funding provided through youth programs to the Lakes Entrance Health Centre in the 1998-1999 and 1999-2000 financial years.

(2) What other funding has the department provided to the centre in the 1998-99 and 1999-2000 financial year.

(3) Under what programs were these funds provided.

Senator Newman—The answer to the honourable senator’s question is as follows:

(1) 1998-99 $54,222 and 1999-00 $55,320

(2) 1998-99 $140,187 and 1999-00 $89,598

(3) Funds under (1) are Supported Accommodation Assistance Program (SAAP). Funds under (2) are SAAP and Emergency Relief. Note: SAAP funding is provided jointly by the Commonwealth and State Governments.

Basslink: EMF Field Strengths
(Question No. 3197)

Senator Brown asked the Minister for the Environment and Heritage, upon notice, on 4 December 2000:

With reference to the proposed Basslink undersea cable:

(1) (a) What are the expected EMF field strengths in the vicinity of the cable; and (b) how far will they extend beyond the cable.

(2) How much extra would it cost to install a bi-pole cable instead of the proposed mono-pole cable.
(3) What reasons were given by the proponents for choosing to install a mono-pole cable, given the potentially damaging effects of such cables including corrosion, chlorine gas emission, and effects on marine life and the fishing industry.

Senator Hill—The answer to the honourable senator’s question is as follows:

1. (a and b) My department does not yet have this information. However, the Final Scope Guidelines for the Integrated Impact Assessment Statement (IIAS) direct the proponent to estimate the electric and magnetic fields associated with the Basslink project and assess the potential impacts posed by these fields on human health and fauna and flora.

2. (2) and (3) The proponent has indicated that it has chosen a mono-pole system rather than a bi-pole system as a mono-pole system is the most cost efficient. The Final Scope Guidelines for IIAS direct the proponent to provide justification of the technology chosen for Basslink. It is anticipated that the proponent will elaborate on the cost differential between these two systems in the draft IIAS. The proponents will also be required to describe the potential impacts of a mono-pole system, including the potential for the production of chlorine gas, the effects on marine life and the fishing industry.

Shipping: Australian Maritime College
(Question No. 3208)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 18 December 2000:

What assessment has been made of the impact of the Government’s policy of significantly increasing the number of continuing voyage permits issued to foreign vessels and its refusal to apply the provisions of section 23AG of the Income Tax Assessment Act to the incomes of Australia’s international shipping fleet on the future viability of the Australian Maritime College; if no such assessment has been made, why not.

Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Australian Maritime College (AMC) provides seafarer training for both Australians and foreign seafarers.

AMC provides training for Australians who wish to go to sea and, on completion of their pre-sea course, AMC facilitates their employment as cadets. Australians are finding employment on international flag ships [where they are highly regarded].

The AMC strategic planning processes take into account external factors in evaluating courses. Some 3-4 years ago the seafarer training programs were reworked to take into account factors likely to affect the Australian fleet, consequently any effect from these impacts on student demand has been minimal.

Refugees: Boat Sinkings
(Question No. 3241)

Senator Brown asked the Minister representing the Minister for Immigration and Multicultural Affairs, upon notice, on 21 December 2000:

With reference to the alleged loss of life following two refugee boats returning into Cyclone Sam between Indonesia and Australia:

1. When were the Australian authorities, in any way, first informed of the tragedy and who was informed.

2. When was the Minister first informed.

3. What is now known of the tragedy.

4. What has been the Minister’s response and when

5. What is the calendar of events for the Australian Government’s response

6. Were four survivors picked up by a Japanese vessel: if so (a) who were they; (b) where are they now; and (c) what have they revealed.

7. Can details be provided of the cost of Australia’s at-sea or in-the-air response.
Senator Vanstone—The Minister for Immigration and Multicultural Affairs has provided the following answers to the honourable senator’s question:

(1) Reports of possible boat sinkings were first received from community sources in Indonesia by officers of the Australian Embassy in Jakarta overnight on 11 December. These reports were first received by DIMA and AFP in Canberra on Tuesday 12 December.

(2) The Minister was first informed of these reports on 12 December 2000.

(3) It has now been ascertained from interviews concluded this week with recent boat arrivals that all missing and overdue vessels have now arrived safely. Two vessels feared sunk in a cyclone had run into severe difficulties at sea and had to return to port for repairs. The passengers subsequently sailed successfully to Australia. A third vessel had crashed into a reef off a remote Indonesian island. All passengers were subsequently rescued. A fourth vessel ran aground on remote Lagrange Island in the Admiralty Gulf, where it remained unaccounted for over a week. The passengers from this vessel reported that three persons were washed out to sea: they have not been located despite an air and sea search of the area.

(4) Upon receiving reports from Indonesia the Minister tasked the Australian Embassy in Jakarta and Tokyo to check with local authorities and with community contacts to be able to confirm any sinkings. The Australian, Japanese and Indonesian maritime safety authorities were requested to track down any reports of the rescue of the 4 immigrants by a Japanese tanker. All reports from the Australian community of missing persons were followed through, with names then checked off against the nominal rolls of incoming boats, until all names were accounted for. Daily flights of the Australian territorial zone and the Ashmore Reef area were conducted by Coastwatch aircraft. Coastal Surveillance did not detect any illegal immigration vessel movements in the area until December 16.

(5) December 12 – three reports received from Indonesia of two boats missing presumed sunk
December 12 – Minister’s press release, providing information on the reported sinking of one boat and that another was missing
December 13 – more reports of missing vessels received from people smugglers in Indonesia and from community sources in Australia
December 15 – more reports of boats missing en route to Australia
December 16 – arrival of the first two December boats at Ashmore and Torres Strait
December 17 – arrival of a third boat, Ashmore Reef area
December 18 – arrival of two more vessels, Ashmore Reef
December 21 – discovery of a vessel at Lagrange Island which had been missing for over a week, two more arrivals at Ashmore Reef
December 27 – arrival of another vessel at Ashmore Reef
January 2 – interviews with recent arrivals concluded, with known passengers from missing boats finally accounted for

(6) The original reports from Indonesia that 4 survivors had been picked up by a Japanese tanker have not been able to be verified.

(7) The search for the vessels was conducted through routine daily Coastwatch flights of the Ashmore Reef area as the reports of sinkings were insufficiently detailed to allow for the dedicated tasking of any search effort to be conducted. The additional specific cost for air and sea searches was therefore nil.