INTERNET
The Votes and Proceedings for the House of Representatives are available at:
Proof and Official Hansards for the House of Representatives,
the Senate and committee hearings are available at:

SITTING DAYS—2001

<table>
<thead>
<tr>
<th>Month</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>February</td>
<td>6, 7, 8, 26, 27, 28</td>
</tr>
<tr>
<td>March</td>
<td>1, 5, 6, 7, 8, 26, 27, 28, 29</td>
</tr>
<tr>
<td>April</td>
<td>2, 3, 4, 5</td>
</tr>
<tr>
<td>May</td>
<td>22, 23, 24</td>
</tr>
<tr>
<td>June</td>
<td>18, 19, 20, 21, 25, 26, 27, 28</td>
</tr>
<tr>
<td>August</td>
<td>6, 7, 8, 9, 20, 21, 22, 23, 27, 28, 29, 30</td>
</tr>
<tr>
<td>September</td>
<td>17, 18, 19, 20, 24, 25, 26, 27</td>
</tr>
<tr>
<td>October</td>
<td>15, 16, 17, 18, 22, 23, 24, 25</td>
</tr>
<tr>
<td>November</td>
<td>12, 13, 19, 20, 21, 22</td>
</tr>
<tr>
<td>December</td>
<td>3, 4, 5, 6, 10, 11, 12, 13</td>
</tr>
</tbody>
</table>

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
CONTENTS

TUESDAY, 27 FEBRUARY

Questions Without Notice—
- Goods and Services Tax: Diesel Tax ........................................................... 22053
- Australian Car Industry ............................................................................... 22054
- Goods and Services Tax: Pay-As-You-Go System ...................................... 22054
- Rural Transaction Centres ........................................................................... 22055
- Goods and Services Tax: Business Activity Statement ............................... 22056
- Tax Reform: Trusts ...................................................................................... 22057
- Goods and Services Tax: Business Activity Statement ............................... 22058
- Lucas Heights: Nuclear Reactor .................................................................. 22060
- Lindsay Electorate: AFP Investigation........................................................ 22061
- Rural and Regional Australia: Telecommunications ................................... 22061
- Goods and Services Tax: Pensions .............................................................. 22062
- Regional Forest Agreement: Victoria .......................................................... 22063

Answers To Questions Without Notice—
- Goods and Services Tax: Pensions .............................................................. 22064
- Tax Reform: Trusts ...................................................................................... 22069

Privilege........................................................................................................... 22070

Petitions—
- Petrol Prices................................................................................................. 22072
- Goods and Services Tax: Sanitary Products ................................................ 22072
- Australian Broadcasting Corporation: Independence and Funding............. 22072

Notices—
- Presentation .................................................................................................. 22073
- Withdrawal .................................................................................................. 22073
- Postponement .............................................................................................. 22073

Parliamentary zone—
- Approval of Work........................................................................................ 22073
- Centenary of First Sitting of Commonwealth Parliament............................. 22074
- Australian Broadcasting Corporation: Heywire ............................................. 22074

Committees—
- National Crime Authority Committee—Meeting........................................ 22074
- Roads: Albury-Wodonga Bypass ................................................................. 22074

Committees—
- Environment, Communications, Information Technology and the
  Arts References Committee—Meeting.......................................................... 22075
- Nuclear Fuel Shipments.................................................................................... 22075
- Bradman, Sir Donald, Ac.................................................................................. 22075
- Western Sahara ................................................................................................. 22075

Committees—
- Legal and Constitutional Legislation Committee—Meeting...................... 22075

Ministerial Statements—
- Immigration Detention Procedures.............................................................. 22076
- Medicare Levy Amendment (Cpi Indexation) Bill (No. 2) 2000—
  First Reading .................................................................................................. 22083
- Second Reading .............................................................................................. 22083
- Sex Discrimination Amendment Bill (No. 1) 2000—

Report of Legal and Constitutional Legislation Committee......................... 22083

Broadcasting Legislation Amendment Bill 2000 [2001]—
- Second Reading.............................................................................................. 22083
CONTENTS—continued

In Committee ........................................................................................................ 22091
Classification (Publications, Films and Computer Games) Amendment Bill
(No. 2) 2000—
    Second Reading .......................................................................................... 22118
Notices—
    Presentation ............................................................................................... 22123
Sex Discrimination Amendment Bill (No. 1) 2000—
    Report of the Legal and Constitutional Legislation Committee .......... 22123
Documents—
    Report on Section 18 of the Stevedoring Levy (Collection) Act 1998..... 22124
    Defence Housing Authority ...................................................................... 22125
    2000 Redistribution of the Northern Territory into Electoral Divisions...... 22126
Adjudgement—
    Bradman, Sir Donald George, AC ............................................................. 22127
    Queensland: Election .............................................................................. 22128
    Victims Compensation Board ................................................................. 22130
    Robertson Electorate .............................................................................. 22130
    Bradley, Mr Fraser .................................................................................. 22132
Documents—
    Tabling ...................................................................................................... 22132
    Questions on Notice—
        Australian Taxation Office: Unauthorised Release of Taxation Records—
            (Question No. 2870) ...................................................................... 22134
        Fuel Excise—(Question No. 3114) .......................................................... 22134
        Australian Taxation Office: Unauthorised Release of Taxation Records—
            (Question No. 3147) ...................................................................... 22138
        Australian Taxation Office: Unauthorised Release of Taxation Records—
            (Question No. 3148) ...................................................................... 22139
        Australian Taxation Office: Unauthorised Release of Taxation Records—
            (Question No. 3149) ...................................................................... 22139
        Australian Taxation Office: Unauthorised Release of Taxation Records—
            (Question No. 3150) ...................................................................... 22140
        Australian Taxation Office: Unauthorised Release of Taxation Records—
            (Question No. 3151) ...................................................................... 22141
        Australian Taxation Office: Unauthorised Release of Taxation Records—
            (Question No. 3152) ...................................................................... 22141
        Australian Taxation Office: Unauthorised Release of Taxation Records—
            (Question No. 3153) ...................................................................... 22142
        Cocos (Keeling) Islands: Oceania House—(Question No. 3169) .......... 22143
        Australian Broadcasting Corporation: Managing Director—
            (Question No. 3170) ...................................................................... 22144
        Mallacoota Arts Council: Funding—(Question No. 3187) ................... 22145
        Bovine Spongiform Encephalopathy—(Question No. 3195) ................ 22145
        Indigenous Land Corporation: Chairperson—(Question No. 3205) ....... 22146
        Department of the Prime Minister and Cabinet: Programs and Grants
to the Gwydir Electorate—(Question No. 3212) ....................................... 22147
        Department of Communications, Information Technology and the Arts:
            Programs and Grants to the Gwydir Electorate—(Question No. 3217) . 22148
        Aviation: Sydney Basin Airspace Management—(Question No. 3235) .. 22149
CONTENTS—continued

Department of Communications, Information Technology and the Arts:
Contracts to Deloitte Touche Tohmatsu—(Question No. 3256) .................. 22150
Department of Family and Community Services: Contracts to Deloitte
Touche Tohmatsu—(Question No. 3258) .................................................. 22150
Department of Communications, Information Technology and the Arts:
Contracts to KPMG—(Question No. 3273) .............................................. 22151
Department of Family and Community Services: Contracts to KPMG—
(Question No. 3275) ............................................................................. 22152
Department of Communications, Information Technology and the Arts:
Contracts to PricewaterhouseCoopers—(Question No. 3290) ............... 22153
Department of Family and Community Services: Contracts to Price
Waterhouse Coopers—(Question No. 3292) ........................................... 22153
Department of Communications, Information Technology and the Arts:
Contracts to Ernst and Young—(Question No. 3307) ............................. 22154
Department of Family and Community Services: Contracts to Ernst
and Young—(Question No. 3309) ................................................................ 22154
Department of Communications, Information Technology and the Arts:
Contracts to Arthur Andersen—(Question No. 3324) ............................. 22155
Department of Family and Community Services: Contracts to
Arthur Andersen—(Question No. 3326) .................................................. 22155
Department of Veterans’ Affairs: Contracts to Arthur Andersen—
(Question No. 3336) ............................................................................. 22156
Department of the Prime Minister and Cabinet: Legal Advice—
(Question No. 3366) ............................................................................. 22156
Department of the Environment and Heritage: Legal Advice—
(Question No. 3369) ............................................................................. 22156
Department of Veterans’ Affairs: External Legal Advice—
(Question No. 3381) ............................................................................. 22157
Trade Portfolio: Executive Agencies—(Question No. 3402) .................... 22157
Veterans’ Affairs Portfolio: Executive Agencies—(Question No. 3415) .... 22157
Aboriginal and Torres Strait Islander Affairs Portfolio:
Executive Agencies—(Question No. 3416) ............................................ 22158
Tuesday, 27 February 2001

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

QUESTIONS WITHOUT NOTICE

Goods and Services Tax: Diesel Tax

Senator FORSHA W (2.00 p.m.)—My question is directed to Senator Kemp, the Assistant Treasurer. Is Mr Ian Donges of the NFF correct in claiming that the government’s Diesel Fuel Rebate Scheme does not provide a full 100 per cent rebate, as was promised by the Prime Minister as part of the GST package? Isn’t it the case that the February 2001 excise on diesel was 39.643c per litre, whereas the rebate was just 38.118c per litre, a difference of 1.525c per litre? Hasn’t this shortfall on the excise rebate resulted in Australian farmers losing $1 million over the past seven months, as has been claimed by the National Farmers Federation?

Senator KEMP—Let me make the point, firstly, that we noted Mr Donges’s extremely positive comments in relation to the changes to the BAS, and we welcomed those comments from the National Farmers Federation. Let me say also, just as some background to your question, that if you look back at the basis of what we have done in tax reform, you notice that the farmers and farming interests have played a very important role. One of the things that the farmers were particularly concerned about was getting the embedded taxes out of exports. Much of our farming produce, as everyone knows, is exported with embedded taxes, and the old taxation scheme which we inherited from the Labor Party included embedded taxes. One of the very big things we have done with the tax reform is to remove those embedded taxes from exports.

In relation to the specific question that was raised, the truth of the matter is that this government has delivered on its promises. We have delivered on our promises to the farmers. In relation to rural Australia, very important changes were made which have particularly cut the cost of road transport. As everybody knows, as a result of our negotiations with the Democrats, there were some changes which did affect the entitlement of some off-road users, but the fact of the matter is that we delivered as far as we could the promises to the farmers. The arrangements for the repayment of the diesel fuel rebate have been in place for quite a long time. I am not sure whether Labor proposes to change those arrangements; if so, I would welcome that to be clarified in the supplementary question from Senator Forshaw.

Senator FORSHA W—I do have a supplementary question, Minister. I note that in your answer you have rejected the claims by the NFF, and I am sure Mr Donges will note with interest your statement that he is wrong. As I indicated, the figures do show a less than 100 per cent rebate. I ask as a supplementary: when will the Prime Minister honour his promise to Australian motorists that the GST will not push up the price of petrol? When will the Prime Minister honour his promise to Australian farmers that they will get a full 100 per cent diesel fuel rebate? When will the Prime Minister realise that whatever political credibility he had in his tank has run completely dry through his habit of breaking promises time and time again?

Senator KEMP—The first point I would make is this: try to stay away from the clever lines, Senator Forshaw. I do not think they suit you very much. If I were you, I would stay away from those.

Opposition senators interjecting—

The PRESIDENT—Order! I need to be able to hear the answer.

Senator Forshaw interjecting—

The PRESIDENT—Order! I have just called the Senate to order. It is disorderly in the extreme for you to shout immediately I cease speaking.

Senator KEMP—I think the record will show that I have constantly pleaded with this Senate to allow the government to keep its promises. I well remember across a wide range of areas—such as industrial relations, Telstra and tax reform—that it has been the Senate which has attempted to force the government to break its promises.

Senator Hill—The Labor Party.
Senator KEMP—The fact of the matter is that the Labor Party has attempted right from the day the Senate first resumed after the last election to force the government to break the solemn commitments that it made to the people. *(Time expired)*

Australian Car Industry

Senator CHAPMAN (2.06 p.m.)—My question is directed to the Minister for Industry, Science and Resources. Will the minister advise the Senate how the government’s economic policies are assisting the strong export performance of the Australian car industry? Is the minister aware of any alternative policies?

Senator MINCHIN—I thank Senator Chapman for his question. He is well known for his strong support for this great industry. I think the car industry probably is our most important manufacturing industry and, under our government, this industry is enjoying extraordinary success. The year 2000 was actually the second best year this industry has ever had in terms of total sales, and sales since the introduction of the GST have been at absolutely record levels.

Yesterday saw a further demonstration of the great success this industry is enjoying. The trade minister and I announced record exports for this industry for the year 2000: automotive exports reached a record level of $4.2 billion—no less than a 30 per cent increase on 1999. Automotive exports are now greater than wheat, beef or wool. The industry exported 94,000 vehicles, worth $2.4 billion—an increase of 38 per cent—and component exports increased by 20 per cent to $1.8 billion. Toyota was our leading exporter, with 45,000 vehicles; and Saudi Arabia was our principal export market, taking $900 million of Australia’s automotive exports. This great export success story will be enhanced with Holden’s recent decision to build a new generation engine plant in Melbourne which will export engines all over the world and, of course, substitute for current imports.

This great success has not happened by accident; it is a result of strong management by the companies and a result of good policy from our government. Under our government, the Australian car industry has enjoyed low interest rates, low inflation, more flexible workplace relations and substantial tax reform. Removing Labor’s 22 per cent wholesale sales tax has been essential to ensuring this industry’s future. Under Labor, our vehicle exports bore the burden of Labor’s 22 per cent wholesale sales tax; of course, under our GST, these vehicles are exported tax free—they are tax free under our policy. Labor basically had a 22 per cent tax on exports, which we have abolished and which they voted in this place to retain.

Australia consumers are the principal beneficiaries; they are enjoying much lower prices as a result of our tax reform. Indeed, six of the last seven months since the introduction of the GST have seen record car sales in Australia. Under Labor, car prices rose 22 per cent in their last five years—up 22 per cent. In our five years in office, car prices have fallen 14 per cent, giving Australian consumers much cheaper cars. Of course, our $2 billion ACIS scheme has already demonstrated its value to the industry with Holden’s tremendous decision to invest in the new engine plant, and that really is a great vote of confidence by the industry in our policy settings. We have also given this industry certainty in relation to the importation of second-hand cars—something the industry has warmly welcomed.

We are determined to continue to support this great Australian industry. The election of a spendthrift, union-dominated Labor government would put all this success very much at risk. Labor’s industrial relations policy alone—a policy which is quite incompatible with a free trade approach that Senator Cook advocates—would be a huge threat to future investment in this great industry. I congratulate Australia’s car industry on its great export performance, and I look forward to its continued success.

Goods and Services Tax: Pay-As-You-Go System

Senator COOK (2.11 p.m.)—My question is addressed to the Assistant Treasurer, Senator Kemp. Can the minister confirm that the Treasurer described the PAYG tax system on 14 August 1998 as ‘one form, one payment date, a much simpler system and much
lower compliance costs’ and ‘provisional tax is abolished’? Is the minister also aware of the most recent statements by the Treasurer on 22 February this year regarding the PAYG system, where he said:

The quarterly instalment payment will be calculated by the Tax Office from the previous available year’s income adjusted by a GDP factor.

Isn’t this just the reintroduction of a re-badged provisional tax complete with a GDP uplift?

Senator KEMP—Thank you to Senator Cook for that question. If I heard correctly, Senator Cook, at the Senate estimates, I understood that you were very supportive of the government’s change in this area. Yes, you said that you would go further—in fact, when we looked closely at what the Labor Party was proposing, you would go backwards. But, nonetheless, I think that provides important background to the question.

Senator Cook asks me: haven’t we just restored the old provisional tax system? I think that is the nub of the question. Let me now respond to that. The short answer, Senator Cook, is: certainly not. First of all, the new system allows taxpayers to base their payments on their actual income. This could not be done under the old provisional tax system, whereby a taxpayer may not derive much income till the final quarter but would have to pay instalments throughout the year on the estimated annual income. Further, as Senator Cook mentioned to us, the old provisional tax system had an automatic provisional uplift factor. If you recall, Senator Cook—and you may correct me if I am wrong—this was at eight per cent when the Labor Party was proposing, you would go backwards. But, nonetheless, I think that provides important background to the question.

Senator Cook asks me: haven’t we just restored the old provisional tax system? I think that is the nub of the question. Let me now respond to that. The short answer, Senator Cook, is: certainly not. First of all, the new system allows taxpayers to base their payments on their actual income. This could not be done under the old provisional tax system, whereby a taxpayer may not derive much income till the final quarter but would have to pay instalments throughout the year on the estimated annual income. Further, as Senator Cook mentioned to us, the old provisional tax system had an automatic provisional uplift factor. If you recall, Senator Cook—and you may correct me if I am wrong—this was at eight per cent when the Labor Party was proposing, you would go backwards. But, nonetheless, I think that provides important background to the question.

Senator Cook asks me: haven’t we just restored the old provisional tax system? I think that is the nub of the question. Let me now respond to that. The short answer, Senator Cook, is: certainly not. First of all, the new system allows taxpayers to base their payments on their actual income. This could not be done under the old provisional tax system, whereby a taxpayer may not derive much income till the final quarter but would have to pay instalments throughout the year on the estimated annual income. Further, as Senator Cook mentioned to us, the old provisional tax system had an automatic provisional uplift factor. If you recall, Senator Cook—and you may correct me if I am wrong—this was at eight per cent when the Labor Party was proposing, you would go backwards. But, nonetheless, I think that provides important background to the question.

Senator COOK—I said that the BAS hurts small business and, if you had adopted the Labor Party policy, it would have been a lot better. My supplementary question is: given that the PAYG has been such a failure for self-funded retirees and small businesses, why has the Treasurer performed yet another backflip by reintroducing provisional tax?

Senator KEMP—I think the record would show that the quotes I gave about Senator Cook in the Senate accurately portrayed the thrust of what Senator Cook was on about in Senate estimates.

Senator Cook—It would be the first time ever!

Senator KEMP—The record is there, Senator, and people are able to judge. The second point I would make is that, Senator, I do not think you listened to my answer. I pointed out to you how this system was different from the provisional tax system. That was the whole nub of my answer to your question. You do not listen to the question, you talk to your neighbours, and you then get up and blithely go on as though no answer had been given to that fundamental point. The underlying proposition of the supplementary question is wrong, as Senator Cook would have understood if he had listened to my answer to the first part of his question.

Rural Transaction Centres

Senator TIERNEY (2.15 p.m.)—My question is to the Minister for Regional Services, Territories and Local Government, Senator Ian Macdonald. Will the minister advise the Senate on further progress on the coalition government’s successful Rural Transaction Centres Program? How does this program complement other federal initiatives for Australians living in regional and remote Australia?

Senator IAN MACDONALD—I thank Senator Tierney not only for the question but also for announcing the rural transaction centre funding for Murrurundi, which he did for me last week. While I am at it, I thank Senator Tchen for announcing the rural transaction centre funding for Dunolly in Victoria. I am pleased to tell Senator Tierney that the program is going very well, and this is exemplified by the letter by recently re-
received from the Council of the Shire of Cairn:

The federal government should be proud of its initiatives that it has introduced to return and, where possible, expand services in rural Australia and country towns.

There are now 52 rural transaction centre applications approved for funding. Over 350 communities have now taken part in this program, investigating ways that they can get services returned to their community. Within the next couple of months, eight new rural transaction centres will be opened—at Surat and Agnes Waters in Queensland, at Ulong, Mendooran, Ashford, and Gulargambone in New South Wales, at Mataranka in the Northern Territory, and at Nubeena near Port Arthur in Tasmania. The Rural Transaction Centres Advisory Panel met recently, and I have been told that another 12 projects are being recommended for funding and I will be announcing them shortly.

As an add-on to the Rural Transaction Centres Program, we have recently announced the appointment, through a consultant, of some 15 field officers who will work through all parts of rural and regional Australia to help rural communities progress their applications for rural transaction centres, to help them establish them, and also to help them to mentor them once they are up and running. Those field officers, as well as doing rural transaction centres, will also help with other federal government programs in rural and regional Australia and will be able to help communities with filling in their applications for, for example, the Regional Solutions Program, a program that has gone extremely well. They will help in the area of Networking the Nation, they will help with some of our new rural health initiatives in rural and regional Australia, and so they will work around in conjunction with members of parliament in state and federal governments to help in these areas.

These rural transaction centres are very well recognised wherever they are established. I do often regret that the Labor Party have been so negative on these. Apart from Senator Ludwig attending one, I do not think any member of the Labor Party has shown any support for these initiatives for rural and regional Australia, and that is fairly tragic. A lot of things need to be done in rural and regional Australia to compensate for the 277 post offices that were shut in rural and regional Australia during the Labor years. There is a lot of work to be done, and we are doing it; but unfortunately all you get from Labor is negative carping, nitpicking and criticism.

As far as I know, the Labor Party still oppose these rural transaction centres. They have no other solutions of their own, no solutions at all, and no policies. They are simply policy lazy, in that there are simply no initiatives on the table. I say to the Labor Party, ‘If you can’t do it yourself, at least come on board and join us with some of these fabulous programs that are doing so much for rural and regional Australia.’

Goods and Services Tax: Business Activity Statement

Senator CONROY (2.20 p.m.)—My question is to Senator Kemp, the Assistant Treasurer. Does the minister recall the tax office’s GST Deputy Commissioner being unable last week to rule out the possibility that small businesses will be able to make just one quarterly GST payment, provided it accounts for a minimum of 85 per cent of that year’s actual GST liability? Can Senator Kemp now confirmed that the BAS backflip leaves open the possibility that a business could vary their GST payments to zero per cent for each of the first three quarters, while ensuring that 85 per cent of their actual GST liability is paid in the fourth payment?

Senator KEMP—I think that was a most unfortunate quote by the senator. I thought that the evidence that was given by Mr Rick Matthews at the estimates was overall—

Senator Conroy interjecting—

Senator KEMP—No. Mr Rick Matthews—under constant hectoring, I might say, from Senator Conroy and his colleagues—performed extremely well. So, Senator Conroy, again you should very closely examine the way you conduct yourself before those estimates. If you think that speaking to public servants in the way you...
do advances the cause of Labor, you are dead, dead wrong.

Let me respond to the question. Senator Conroy claims that the variation in arrangements for the GST would lead only to annual payments. That is completely false: let me make that clear to you, Senator Conroy. Variations are made by estimating annual GST and then paying an adjusted instalment each quarter. By the end of the first quarter, 25 per cent of the estimated annual amount is paid; by the second quarter, 50 per cent of the estimated annual amount is paid; by the third quarter, 75 per cent of the estimated annual amount is paid; and, by the fourth quarter, of course, 100 percent is paid. The estimate needs to be at least 85 per cent of the actual GST. This critical aspect goes to the nub of Senator Conroy’s question: the estimate needs to be at least 85 per cent of the actual GST payable for the year to avoid a general interest charge.

Senator Conroy is dead wrong again. And I would urge him again, in conclusion, to look very closely at the way that he conducts himself at those estimates. I think attempts to hector senior people from the tax office are really most unfortunate.

Senator Conroy—Sit down!

Senator KEMP—You asked me a question, Senator Conroy, and I am going to finish it.

The PRESIDENT—Senator, your answer should be addressed to the chair.

Senator KEMP—Thank you, Madam President. I am concluding. Senator Conroy raised the name in this chamber of Mr Rick Matthews, and I am responding on this basis about the behaviour and the hectoring that occurred with Senator Conroy.

Senator CONROY—I ask a supplementary question. If, as the minister asserts, this is not possible, why couldn’t Mr Matthews—and that is the first time I have mentioned his name—or the minister himself confirm this fact on Friday, or is this just another example of policy panic? When will the parliament see the legislation giving effect to this change?

Senator KEMP—Senator Conroy, because, I suspect, you made contact with the press on Friday and argued this case, in fact the situation was stated by Mr Rick Matthews on Friday.

Senator Conroy interjecting—

Senator KEMP—It was. There was a press statement, if I recall correctly, put out by Mr Matthews on Friday. You asked me why it was not made clear on Friday. I am saying it was made clear on Friday. There was a press statement put out by Mr Matthews and a press statement put out by me. On that basis, Senator Conroy, you again are wrong.

Tax Reform: Trusts

Senator MURRAY (2.24 p.m.)—My question without notice is to the Assistant Treasurer. Minister, do you recall that one of the major revenue and equity proposals in the ANTS package was to tax trusts in the same manner as companies? Do you recall that this proposal was regarded as an integral part of fair business tax reform? Do you recall that, when Labor did its deal with the coalition on business tax, the shadow treasurer said that if the coalition failed to deliver its promises, he would be after the government ‘like a rat up a drainpipe’? Since the government is now reneging on its promise, have you seen the rat yet?

Senator KEMP—I think it is probably well true, Senator, that I do not use that type of language in politics, as you know.

Senator Vanstone interjecting—

Senator KEMP—My colleague says that my comment does not apply to her! I think I am well known for my courtesy and restraint in the use of language. And I might say, Madam President, I thought up to the time of that question that those principles applied to you as well. If you want to find some rats, Senator, you do not have to look too far on your right.

Opposition senators interjecting—

Senator KEMP—And your left! But, if I can now respond to the question, what the Labor Party do is something that I never attempt to predict, except to say that they will never have a clear policy position on any issue of any fundamental importance at all. I will go to the nub of your question, Senator.
Murray. You did recall in your question that the government released an exposure draft on legislation providing for the taxation of trusts like companies. As I said last week, and as was said by a number of people—the Treasurer and others—the technical application of the law is very complicated. So what this government does, because it is a consultative government, is that it consults with the community and listens to people. We are not like the former arrogant ministers of the Keating government; we are a consultative government. As I said, the exposure draft legislation was put out and we have received many submissions on this issue. Those submissions showed a number of technical problems which the legislation would have imposed.

Opposition senators interjecting—

Senator KEMP—This is the point. Someone jeers on the other side, but the point of the matter is that you put out an exposure draft of legislation because you genuinely want people to give you their views. When we listened to their views—I make the point to Senator Murray and to others—some of those submissions showed that there were serious technical problems in some areas which the legislation would have imposed. The compliance issues which would have arisen, particularly in relation to distinguishing the source of different distributions and evaluation issues arising as part of that, meant that the legislation was not workable.

Senator Sherry—You drew it up!

The PRESIDENT—Senator Sherry, you have been shouting a great deal during question time.

Senator KEMP—Madam President, Senator Sherry does not understand how this government works because Senator Sherry—

Senator Sherry—It’s your policy, so if it doesn’t work it is your fault!

The PRESIDENT—Senator Sherry, you have been shouting continuously and I ask you to abide by the standing orders.

Senator KEMP—Madam President, I appreciate your asking Senator Sherry to behave himself. Senator, you do not understand how the government work because your government did not work in this way. You did not consult the community. We do consult the community. And not only do we consult the community but we actually listen to the community. Where appropriate points are made on technical legislation, the government will respond. The government are withdrawing the current draft and the government will consult with business to ensure that trusts being used for tax avoidance does not occur.

Senator MURRAY—Madam President, I ask a supplementary question. Minister, do you accept that tax reform is unbalanced and unfinished because the business income tax side has been deferred or not attended to? Isn’t the deferral of the crackdown on trusts for the second time a clear signal to tax avoiders that this government is no longer serious about tax rorting? Isn’t it a green light for ripping off the public purse? When will you fulfil your promises?

Senator KEMP—Let me again make the point that the government have a very proud record in cracking down on tax avoidance. When we came into office we had a tax system which, for many rich people, made the paying of tax optional. Even Senator Murray will remember that when we tried to bring in legislation the Labor Party sometimes opposed it—I refer to Senator Cook’s behaviour on the R&D syndicates. Senator Murray, can I just draw your attention to the last part of the answer that I gave to your question. Let me make it clear that the government will consult with business to ensure that, when trusts are used for tax avoidance purposes, this does not occur.

Goods and Services Tax: Business Activity Statement

Senator SCHACHT—My question is to Senator Kemp, the Assistant Treasurer. Will the Howard government consider compensating small businesses for their needless expenditure on new computer systems, software and legal and accounting advice—not to mention millions of unpaid hours—complying with the original BAS requirements? When will the Treasurer be joining Minister Macfarlane in taking responsibility for the BAS debacle?
Senator KEMP—There is huge confusion in the Labor Party policy position again. This is not the first time. The Labor Party welcome the changes that the government has made to the BAS. Then someone hands a question to Senator Schacht, who mindlessly gets up and reads it, which conveys a totally different impression. I make this plea to the Labor Party: could they kindly try to get a consistent line in relation to any policy issue at all. In relation to the changes—

The PRESIDENT—Senator Schacht, you can have a supplementary question.

Senator KEMP—that the government made, as I mentioned earlier, this government is a consultative government. It has listened to community concerns, and it has responded to those concerns. What annoys the Labor Party is the fact that those changes that the government has brought down have been very widely welcomed. That is what concerns the Labor Party. So where are we? We have made some changes which the Labor Party itself has welcomed—

Honourable senators interjecting—

The PRESIDENT—Order! There is too much noise.

Senator KEMP—and Senator Schacht then gets up and asks a critical question about it. Senator Schacht raised the issue of apologies. I rather thought that that question was answered by me on a number of occasions yesterday. When we contrast the performance of this government with the previous government, I think our record on small business is particularly good. Let me instance the catastrophe that the recession we had to have wrought on small business. Senator Schacht, how many people were forced out of business because of the economic policies followed by the Keating government?

Senator Vanstone interjecting—

Senator KEMP—The fact of the matter is—as my colleague says—it was tens of thousands of people. How many people were thrown out of work as a result of the recession we had to have? That was a disaster.

I wonder if Senator Schacht could help refresh my memory and the memories of others around the chamber. Senator Schacht was a minister in the government which delivered the recession we had to have. I cannot recall you ever apologising to this chamber. I may be wrong—maybe Senator Schacht has done that. If Senator Schacht has, as a minister of the former government, got up and apologised for the recession we had to have, could he make that clear in his supplementary question.

Senator SCHACHT—Madam President, thank you for the invitation, I do have a supplementary question to the boofhead minister. Can the Assistant Treasurer advise just how much taxpayers’ money—

Senator Alston—Madam President, I rise on a point of order. Senator Schacht used the words ‘boofhead minister’. It is preposterous to think that this clown—who will not be with us for much longer—can actually get up here and talk in that manner.

The PRESIDENT—I did not hear the words said, but if you did preface your remark with that word you should withdraw it, Senator Schacht.

Senator Alston—After making such a monumental fool of himself at estimates, I am amazed he could even turn up in the chamber.

Senator Cook—Madam President, I rise on a further point of order. It is preposterous that this clown here should get up and call a point of order. I was sitting one down from Senator Schacht, and I did not hear the alleged comment.

The PRESIDENT—Order! The Senate will come to order. The calling of names and sledging that has been going on is unacceptable on both sides, and those sorts of words are not acceptable from any senator. If you used that word, Senator, I ask you to withdraw.

Senator SCHACHT—I withdraw the word ‘boofhead’. Can the Assistant Treasurer—Senator B1—advise just how much taxpayers’ money was wasted by the Australian Taxation Office in designing, printing and market testing the original BAS forms? Hasn’t the ATO spent a fortune on this pa-
perwork, now scrapped by a panicking Howard government? Give that a go, B1—or is it B2?

Senator KEMP—There are many names one could call Senator Schacht. As I said to Senator Murray, I am not one to call names—as you know, Senator Schacht. The one thing I can say with absolute certainty is that I will be back in this chamber after the next election, and you will not be, Senator Schacht. That is my prediction. Senator Schacht should understand that this government listens to people’s concerns and acts on those concerns, and that is what is so vexing the Labor Party today.

Lucas Heights: Nuclear Reactor

Senator BROWN (2.38 p.m.)—My question is to Senator Minchin, the Minister for Industry, Science and Resources, and it and relates to the Argentinian reactor to be built at Lucas Heights. What consideration has been given to flying the nuclear waste stored at, or produced by, that reactor from Bankstown airport—six kilometres away from the reactor—to the Woomera storage facility? With whom has the government held discussions on this matter?

Senator MINCHIN—I think Senator Brown may be somewhat confused in relation to radioactive waste. The first objective of the federal government is to implement a Keating government policy of establishing a low level waste repository for Australia’s total inventory of low level waste, and the preferred site is in the Woomera prohibited area. The greatest volume of waste that will go into that repository is waste that has been at Woomera for some six years—since all CSIRO’s radioactive soil was moved there in the dead of night, in a big convoy, by the Keating Labor government, without any consultation with anyone. That is the primary role of that repository. It will get Australia’s low level radioactive waste out of the hospitals and universities, where it is scandalously lying at the moment, into a purpose-built, below ground repository. That will be a great thing for Australia.

The second objective of this government is to establish an intermediate level waste facility for the national inventory of intermediate level waste. Part of that inventory will be the waste that results from the reprocessing of spent fuel rods from the existing reactor and, in the future, from the new reactor. We as a government made the decision that spent fuel rods should not just sit around at Lucas Heights, as they did under the previous government, but should be reprocessed and the waste returned to Australia and stored in a purpose-built facility—the search for which we have now commenced. It will be located on Commonwealth land at the best site in Australia, recommended to us by an independent scientific committee.

The ultimate transport arrangements for waste will be a matter for ANSTO to establish, in consultation with ARPANSA and all relevant safety authorities. The method by which waste will be transported from wherever it currently is, whether it is in a hospital on North Terrace in Adelaide, or in Tasmania, or at ANSTO, will be a matter for the relevant authorities at the appropriate time.

Senator BROWN—Madam President, I ask a supplementary question. I read into that that the minister is saying that air transport of the waste from the Lucas Heights reactor is an option that the government is considering. In view of that admission from the minister, could the minister tell the Senate what reply he gave to Associate Professor John Patterson of the University of Adelaide when he wrote to the minister about this matter last year? Who in this government will make the decision about whether air transport will be used to fly this dangerous waste from Bankstown to wherever that facility is? Will it be him, or is there some other process? When will that announcement be made?

Senator MINCHIN—Through you, Madam President, I ask Senator Brown not to put words into my mouth. No admission has been made by me. It is not for the government per se to decide these matters. It is a matter for the relevant creators of waste to determine the most appropriate methods of transport to the relevant facilities, in accordance with the relevant authorities. That will involve ARPANSA, the police and everybody. It is not for us to determine the safest method of transport. You might ask the former Keating Labor government how they
They had a convoy of 120 trucks in the dead of night transporting waste to Woomera, without any consultation with anybody. I also point out to Senator Brown that, in terms of spent fuel rods, the first waste does not return to Australia until 2015, and I am sure that more than adequate and safe arrangements will be made, in accordance with the highest standards which this government pursues.

**Lindsay Electorate: AFP Investigation**

Senator FAULKNER (2.43 p.m.)—My question is directed to Senator Ellison, the Minister for Justice and Customs. Can the minister confirm whether the Australian Federal Police have reopened their investigation into allegations of electoral rorting in the electorate of Lindsay in relation to the 1999 Penrith City Council Election?

Senator ELLISON—I do not have instructions on that; I will take it on notice. I will say that I cannot comment on any investigation or otherwise in relation to the police.

Senator FAULKNER—Madam President, I ask a supplementary question. I note the minister’s comment that he will not make any comment publicly on operational matters. I accept that; it has been a principle that the opposition also accepts. However, in relation to the commitment the minister has given the Senate, will he report back to the Senate as soon as possible at the end of question time today, if he can?

Senator ELLISON—I said I would take the matter up, and I will treat it with the due expedition with which I normally treat these matters.

**Rural and Regional Australia: Telecommunications**

Senator EGGLESTON (2.44 p.m.)—My question is to the Minister for Communications, Information Technology and the Arts, Senator Alston. Will the minister inform the Senate about how the government is improving phone services in regional Australia and, in particular, for rural and remote areas? Is the minister aware of any alternative policy approaches? What would be the impact if these policy approaches were implemented?

Senator ALSTON—I thank Senator Eggleston for his question. He, of course, comes from Port Hedland, where the policies of this government are very much appreciated. In fact, I think most Australians living in capital cities would have been very surprised indeed to know that 80 per cent of Australia’s landmass is occupied by people who have never had the benefit of untimed local calls. This has been a matter of constant concern. It has become increasingly apparent that people in rural and remote areas have wondered why, with new technologies, they were not able to get access to these sorts of services and why they could not get an untimed local call connection to the Internet.

As a result of the $150 million tender that we let out last year, which resulted in Telstra being declared the preferred tenderer, we are now in a position to proceed down a track which is truly historic. It means that, for the first time, some 40,000 households will have the benefit of not only untimed local phone calls but also untimed call connections to the Internet. Indeed, for those who have to make connection to community service towns, they will have the preferred rate of 27c a minute. And I think one can reasonably expect that, as the Telstra network is upgraded, those calls to community service towns will also become untimed. This is a massive breakthrough, and it has only been—

Senator Boswell—It is 27c for 12 minutes.

Senator ALSTON—Thank you, Senator Boswell—it is 27c for 12 minutes. Did I say one minute? Well, under Labor it would probably be that. It is very important to understand that these people had been neglected for decades. Of course, when you have grandstanders like that Hilary Clinton clone, Mr Beazley, travelling around in a bus in regional Australia, trying to pretend that somehow stunts are better than policies—

The PRESIDENT—Senator Alston, I would ask you not to use those sorts of adjectives and not to call people names. I think it is unhelpful.

Senator ALSTON—Madam President, this is a direct steal. This is not only a policy lazy opposition; it is a stunt lazy opposition. Clearly, the opposition think that you can make up for lack of policies by putting on
little performances like this. When Mr Beazley gets off the bus, he really ought to explain to those people why it is—

Senator Schacht—Madam President, I rise on a point of order. Did you ask the senator to withdraw a remark?

The President—No, I asked him not to use those expressions when referring to people other than their correct names.

Senator ALSTON—When Mr Beazley gets off his bus, he ought to explain to regional Australia why it is that Labor hates the bush, why Labor was never interested in lifting a finger during its 13 years and why over the last five years Labor has been so violently opposed to our initiatives. Regional Australia well remembers, Senator Schacht, how you went out there and said you would rip up Networking the Nation—you would put the money in your back pocket. I presume that is still the policy. I have never heard anything to the contrary, so the position remains that Labor is adamantly opposed to all those initiatives that will benefit a whole raft of small towns and people living in outback western New South Wales, western Queensland and Western Australia. These are people who deserve to be taken seriously, who do have telecommunications needs and who were treated with contempt by the Labor Party.

This is the latest in a long line of initiatives to benefit regional and rural Australia—with extended SBS coverage, improved television reception, cheaper Internet access and improved mobile phone coverage. These are policies that really count. So when you ask Mr Beazley about policies and he says, ‘We’re putting out a load of policy and every time we put it out it is being pinched,’ what he is really saying is, ‘We don’t have any policies at all, because we agree with the government.’ So if you go to his web site, what do you find? It says, ‘The ALP is currently reviewing policy in all areas. As policy positions are refined, they will be published.’ It is pathetic. No wonder Laurie Oakes said he was waffling. (Time expired).

Senator EGGLESTON—Madam President, I ask a supplementary question. Could the minister advise of other policy decisions regarding improved telephone services in regional Australia, particularly the improvements to fault identification and repair?

Senator ALSTON—We introduced the customer service guarantee, which again for the first time provides a benchmark to ensure that people get much faster phone connections and fault repairs undertaken. That is something they have been crying out for a long time. Never ever has Labor indicated any interest in providing those sorts of services. We have almost $1 billion in the process of being rolled out under our social bonus package. Never ever have you seen a press release from the Labor Party welcoming these sorts of initiatives or saying that it would fund them by some other means. No, the Labor Party just bags them. Senator Mackay is supposed to be representing or having an interest in regional Australia. Do you ever hear her saying that these things were long overdue, that somehow these are important to people in regional Australia? No, of course you do not; you just hear the ideological stuff from the union movement saying, ‘Get out there and oppose all this stuff. We don’t like it. We have our own way of doing things.’ (Time expired)

Goods and Services Tax: Pensions

Senator CHRIS EVANS (2.51 p.m.)—My question is to Senator Vanstone, the Minister for Family and Community Services. I ask the minister whether she recalls her answer to me yesterday in relation to the government’s clawback of pensioners’ GST compensation when she said:

The Council on the Ageing were on top of this in July 1999, Senator. It is now nearly March 2001 and I wonder when you are going to catch up.

Does the minister therefore continue to accept the authority of the most recent comments on this issue from the Council on the Ageing, who said in their press release yesterday:

The government was loose with the truth by telling older people they were getting a four per cent pension increase with a view to maximising the acceptability of the GST to this crucial part of the electorate.

Does the minister stand by her comments of yesterday that COTA is on top of the GST compensation issue?
Senator VANSTONE—I have seen the press release from the Council on the Ageing which was conveniently, I assume by accident, sent to my office at 3 p.m. yesterday. I am not suggesting any collusion with you, of course! The facts are, as I told you yesterday, Senator, that the Council on the Ageing were on top of this issue back in 1999. They understood that the four per cent increase paid in July last year was made up of a one-off two per cent increase and a two per cent advance. If you still do not understand that, perhaps you might understand this: if I owe you $10 at the end of March and I give you $5 today, do you really think that at the end of March I would give you $10? Wouldn’t I give you the remaining $5? It is as simple as that. What is important here is that you understand this, Senator, I do not think much of your politics, but I know that you are not an idiot.

Opposition senators interjecting—

Senator VANSTONE—I was being generous. I do not always judge you to be a stupid person; I know you care about this issue. But, if you did understand the facts at the time, why have you and your colleagues gone around and scared pensioners and elderly Australians and made them feel that they have been given less than that to which they are entitled when all along you have known the truth? When you can tell me why you go around scaring grannies you will deserve better respect in this place.

Senator CHRIS EVANS—Madam President, I ask a supplementary question. I am not sure which one of us scares grannies the most, but I think grannies are concerned by the fact that they are going to have their pensions reduced by the amount they had expected to get in March. The question is: what is COTA’s view? COTA went on to say in its press release that the government’s spin was just ‘too strong’ and that it ‘touted the four per cent total rise’. Isn’t COTA absolutely right that the Howard government spun the clawback out of sight, hoping to trick older voters into believing that the GST compensation would be maintained? Minister, what is your view of ACOS’s comment that your 20 March pension clawback would ‘blow a hole in the budget of pensioners’? Isn’t it true that pensioners will get less than they otherwise would have got because of your clawback in March?

Senator VANSTONE—Senator, you and your friends can continue to run the line to pensioners and elderly Australians that their government is giving them less than they were promised if you want to make them feel less of themselves. But if you want to tell the truth, you will follow what was clearly understood at the time: what the Council on the Ageing understood at the time and what Mr Crean understood at the time—that is, that pensioners were getting a four per cent increase, two per cent of which was a permanent, one-off increase and two per cent of which was an advance. You are not clawing back an advance when you do not pay it twice. I will just remind you: if I owe you $10 and I give you $5, when the deadline comes to pay the $10 I will give you the remaining $5. For you to say to pensioners that because they are not getting the whole $10 it is being clawed back, when they have already got the first $5 in advance, is deceitful in the extreme, and you will pay for it. You will pay in the electorate for that kind of deceit. No matter how many press releases your friends put out, you will cover that deceit in the electorate. Scaring grannies is not a good political trick. And just for the record, Senator, the grannies I know think I am a sweetie. (Time expired)

Regional Forest Agreement: Victoria

Senator BARTLETT—My question is to the Minister for the Environment and Heritage. Is the minister aware of reports in the Age newspaper, both today and yesterday, that detail extensive overlogging of Victoria’s native forests, leading to the loss of thousands of jobs in the timber and related industries and the permanent loss of huge areas of irreplaceable native forests? Is the minister also aware that these findings are consistent with previous analysis by the Wombat Forest Society, which also detailed massive overcutting? Minister, why is the taxpayer continuing to subsidise logging practices that destroy jobs and native forests? Will the federal government now scrap its failed regional forest agreement with the Victorian government and acknowledge the
growing community demand to save our old-growth forests?

Senator HILL—The regional forest agreement process was designed to achieve both good conservation outcomes and support for a sustainable forest industry, industry that is sustainable in both ecological terms and economic terms. In relation to that part of the forest that is to be harvested on that basis, the Commonwealth examined and recognised state based forest management programs. I have seen the report in the Age which would seem to suggest that the department itself is now saying that the forest management plan of Victoria is unsustainable. If that is the case, that would be inconsistent with the evidence that was put before the Commonwealth. However, the last advice that I have suggests now that the document referred to in the paper is not in fact a briefing paper of the Victorian Department of Natural Resources and Environment.

I understand that the Victorian Minister for Environment and Conservation, the Hon. Sherryl Garbutt, has issued a media release indicating that the Victorian government has begun the process of renewed hardwood licences and that, while volumes would be reduced in some regions consistent with the regional forest outcomes, the majority of regions would see licence renewals at current levels. What the Victorian minister is doing is not inconsistent with a forest management plan that is ecologically sustainable. Therefore, the answer is that I think we should explore the basis of the allegation that appeared in the Age and determine its substance. If it is a substantial document, we need to find out how it is apparently inconsistent with the forest management plan that has been endorsed as sustainable.

Senator BARTLETT—Madam President, I ask a supplementary question. I draw the minister’s attention to quotes by people who are workers in the timber industry itself refuting the claims by the Victorian environment minister. Timber industry workers say that the problem is getting worse, that it is not going to go away and that it is time the government did something about it. The managing director of Daylesford Fine Timbers, whose family closed its sawmill, said:

They (the Government) are continuing to deny anything is wrong ... (But) you only have to see what is going on in some of the areas with the better logs going to woodchips. It is an absolute mess.

Minister, if the people who are working on the ground in the industry are saying that it is an absolute mess, that the best logs are going to woodchips and that more logs are being taken than is sustainable, clearly isn’t it the case that operations are not sustainable and that forest management is not sustainable now? Why doesn’t the minister act now to cancel this regional forest agreement before the damage is irreversible?

Senator HILL—As I said, I think we need to explore the allegations that have been made and determine exactly what the facts are. I remind the honourable senator that the RFA was in fact based on the best available sustainable yield estimates at that time, with provision to review that sustainability yield in regions as further data become available. That can be consistent with a sound forest management plan. What may be happening, in effect, is simply the review in accord with the plan that was agreed. But, as I said to the honourable senator, I think the best thing we can do is ascertain the facts and then come back with a considered response. Madam President, I ask that further questions be placed on the Notice Paper.

ANSWERS TO QUESTIONS WITHOUT NOTICE

Goods and Services Tax: Pensions

Senator CHRIS EVANS (Western Australia) (3.02 p.m.)—I move:

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

In moving this, I want to make it clear that this is not about scaring grannies, which is how the minister likes to refer to it, but about responding to the genuine concerns of pensioners that they will not get the full indexation they would normally have got in March when the government deducts two per cent from the increase that should have been paid.
When they should have got four per cent, they will get two per cent.

The minister tries to say that we are misleading on this, because she does not like the impact that this is having out there with pensioners who are going to get less than they thought they might otherwise get. But yesterday she sought to rely on third-party views to endorse her approach. She was very keen to quote the Council on the Ageing, because she said they supported her position. Today when I quoted to her the press release they put out yesterday talking about this issue, she wanted to attack them about when she got their press release rather than debate the merits of the issue. The Council on the Ageing said that the government was loose with the truth. They claim this, as does the opposition. Third-party groups, accountancy groups and aged care advocacy groups are making it clear that the government has been misleading on this issue, that pensioners do not understand they are going to have this money clawed back from them, that they do not understand they are not going to get the full increase in March and that they are going to be most concerned that their relative standard of living will fall because they will not get the full indexation in March.

As I asked the minister yesterday, what amount of the $485 million the government spent on the tax package was actually spent explaining this to pensioners? There was basically nothing. There were a couple of lines under taxation headings in pensioner newsletters, which most people did not read or would not have understood. None of that $485 million was spent explaining the reality to pensioners. They have received no special advice about it and, as I found out in the estimates process, they are not going to receive any special advice about it. The government is not going to make it clear to them what is happening. Pensioners are just going to get less money than they would otherwise have got.

The key point which the minister tries to skate over is that pensioners will get less money in the March adjustment than they otherwise would have received. Instead of getting a four per cent increase, they will get a two per cent increase. I accept that the government says it paid them more in the previous adjustment, but the point is that they are not going to get the full indexation in March; they are going to get half. That says to pensioners, ‘You’re not entitled to the indexation because we think you’re living high on the hog now. You’ve got life easy. You’re doing it okay. Why would you get full indexation?’ That is the government’s message to them. It is saying that pensioners do not deserve the full indexation because the government views them as doing it easy, as having a comfortable lifestyle. The key question is: why aren’t you paying them the full indexation that they are entitled to on that date?

Of course, the reality for people on pensions, like the reality for most people on fixed incomes, is that the cost of the GST has been much higher than the averages calculated by the government. They have not been adequately compensated. Those on fixed incomes have much more of their income going on basic services, which have all incurred the GST, and they are large consumers of other services. A lot of elderly people on pensions employ people to do lawnmowing and other service tasks, which of course now have the GST applied to them. All the modelling on people with disabilities and age pensioners shows that they have been hit much worse than the averages the government has been using. So, when the government tries to hide behind the CPI increase, the reality is that pensioners’ lives have been badly hit by the GST. They have not been fully compensated, and now they find out that they are not going to get the full indexation in March.

As I said, there are two issues. One is the misleading information or lack of information provided to pensioners for them to understand what is going on—the fact that the government did not give priority to explaining this and, as the COTA says, was a bit loose with the truth. Secondly and more importantly, they are going to be relatively worse off. They are going to have less relative disposable income come March than they had previously, because they are not going to be fully compensated for the movement in the CPI.
Those are the things they know. That is what they will focus on. They know the government ripped them off on the savings bonus. So many of them did not get the $1,000 they were promised. They were promised a four per cent increase in compensation for the GST. Now they find out that they are going to get that for only nine months and the government are going to rip it back from them. They understand that. They understand that they will have less money as a result of the changes made by the government in March than they should have had and that they will be relatively worse off than they should have been. That is what they understand. That is not about scaring grannies; that is the reality. As COTA and every other independent organisation has made clear, the government have misled pensioners. (Time expired)

Senator PATTERSON (Victoria— Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs and Parliamentary Secretary to the Minister for Foreign Affairs) (3.07 p.m.)—I am very sad to have to rise and speak in this debate because I think that I can claim to have taken, over 13 years in this chamber, an enormous interest in issues affecting older people. But maybe we did something wrong by giving that four per cent up-front payment after the GST came in, because we did not know—although we should have predicted it—that the Labor Party would lie about it and scare older people. It was very clear in all the documentation that there was a four per cent increase which consisted of an up-front advance of two per cent and a real increase of two per cent. It was clear in Age Pension News and in all the documentation on the new tax system—it was in the tax booklet—that we were increasing the pension by two per cent and advancing two per cent. But we did not know that the Labor Party would go around lying like they did about the nursing homes policy. I was so foolish when I was in opposition: I used to look at the Labor Party’s press releases and try and make sure I did not misrepresent their policies. How idiotic of me.

But what did Labor do for older people when they were in government? In 1992, they treated unrealised capital gains as income for the purposes of assessing the pension. They had pensioners’ incomes going up and down, and pensioners listening out there now will remember that. They will remember too that in the 1993 election they were told that all pensioners would be taken out of the tax system. What happened? Three days after the election, Neal Blewett came out and said, ‘We made a mistake. We did not mean to say that. We did not mean to say that we would take them out of the tax system.’ Those sorts of things went on and on. So I hope that older people remember how badly they were treated by Labor and how badly they are being treated by Labor now as they are being spun furphies and told lies about how we are not giving them the full increase for the impact of the GST. They were given a real two per cent increase. They were given a two per cent increase in advance. Not only that, we again see Senator Evans peddling misinformation about people not getting the $1,000 bonus. It was quite clear that it would be up to $1,000, based on their savings.

The Labor Party do not talk about the fact that we have increased the pharmaceutical allowance and mobility allowance by four per cent and increased rent assistance by 10 per cent, nor has there been any comment by the Labor Party that there has been a 2.5 per cent increase in the income and asset test free areas for social security and service pensions. The Labor Party also does not talk about the fact that we have eased the pension means test, which means that about 50,000 additional people will be eligible to receive a part pension and a pensioner concession card, nor do they talk about the pensioner rebate amount being adjusted to ensure that maximum rate pensioners continue to pay no personal income tax. In addition, the maximum rebate has been increased by $250 a year for single pensioners and $175 a year for each member of a pensioner couple. The Labor Party do not talk about the fact that some pensioners who have incomes have benefited from the personal income tax cuts. They do not talk about the private health insurance rebate. I had people coming in day after day telling me that they could not afford to have private health insurance. More and more pensioners—
Senator Gibbs—Most pensioners do not pay tax.

Senator PATTERSON—Somebody is shouting across the chamber that most pensioners do not pay tax. Some pensioners pay tax and they are the ones—

Senator Gibbs—You said that most pensioners paid tax.

Senator PATTERSON—I did not say that most pensioners paid tax. I said that those that do have benefited. Let the Labor Party tell the truth about our policies. Let the Labor Party for once not scare older people. Let them go out and say what the truth is: that pensioners got a two per cent up-front increase and a two per cent advance on the first effect of the GST on inflation. I ask the Labor Party to tell the truth for once in their lives.

Senator CONROY (Victoria) (3.11 p.m.)—Like the last speaker, I am very sad to rise to talk on this today. I am very sad at the Scrooge mentality that is coming from the other side of the chamber. I am very sad at the deceit that the Howard government perpetrated on Australians before the last election when they issued their ANTS package five weeks late so that no-one could have a good read of it and not enough copies were available. It was hundreds of pages long and there were hundreds of pages of supporting documentation but no-one got a chance to have a good look at it. I am very sad at the Scrooge mentality that is coming from the other side of the chamber.

The first of the cruel attacks on the pensioner community was the $1,000 rebate. The lie the government told to pensioners was that they were all going to get $1,000. John Howard went on radio and said, ‘Everybody is going to get $1,000,’ and then after the election he said, ‘Didn’t you read the fine print? Didn’t you go and look at the 180-page document, in which on page 142 in the footnote it said that there was some conditions on the $1,000?’ That is what the government have done again. They came up with some dodgy figures which were confirmed by Chris Murphy, whose wife works—funnily enough—in the Prime Minister’s office. So what we saw was a so-called independent economic commentator verify the Treasury figures. What have we seen? We have examples in the weekend paper. Mr Bill Osborne of Nepean has kept a detailed diary of everything that he has had to spend money on—every item. It shows that he and his wife paid $720 GST on goods and services from July to December last year. The four per cent compensation that they were given was only worth $375 extra. Mr Osborne said that he was shocked to find out that he was to lose his two per cent. He said:

Even 4pc would not go anywhere near what we paid out on the GST.

The previous speaker, Senator Evans, made the point that the income profiles that were done by Treasury did not apply in this area. Treasury actually said, ‘We cannot find enough people to verify these figures at the bottom end, those that are going to be the hardest hit.’ And the lies are starting to catch up with you now. The people have woken up to you. They know exactly what has happened to them. They know the rubbery figures from Chris Murphy. They know the dodgy figures from Treasury. They know that when Senator Patterson and Senator Vanstone want to stand up and say, ‘It is a big Labor lie,’ they just get their wallets or their purses out and they open them and they have a look and they know who are telling the big lies. They know that they have been conned and they are waiting for the next
election and, as one of my other colleagues said, they have their baseball bats out.

But there is something much worse than this. David Cousins from the ACCC, the GST price czar in charge of these issues, has actually been quoted as saying that it does appear that businesses took the opportunity to raise their prices before the GST came in—the very thing that the Treasury said would not and could not happen and that the ACCC said would not and could not happen. When they did their calculations on taking back the four per cent, they did not cover the fact that, as everybody knows in this country, businesses put up their prices before the GST came in. (Time expired)

Senator KNOWLES (Western Australia) (3.16 p.m.)—Every time in taking note of answers I seem to stand up here and say incredulously that I cannot believe the lies and the untruths that we are confronted with every day of the week. Sadly, today is no different. For the opposition to come in here today as a party and complain about pension increases and promises that have been kept to the letter of the law is just one pale too far, given the fact that when the opposition was in government they never increased pensions until after the CPI and then only according to the CPI. Let any member of the opposition come in here and deny that fact. They cannot deny that fact. That is the principle under which they operated: pensioners would have to pay the price increases, then the CPI would be calculated, and then the pension would go up according to the CPI. Quite unfair. And yet it seems that Mr Crean came out and said that pensioners would be better off. He knew and understood how it was all going to run as well. For the opposition to come in here and say that those who represent the elderly in the community did not understand this and did not know could not be further from the truth.

I hope that Senator Gibbs does not repeat the absolute and utter untruths that have been promoted here in this place today and yesterday and on previous days via the media because she has been on the community affairs committee and has sat through the estimates process and knows the answers and has heard the answers categorically. I want to refer to the Age Pension News. Let Senator Gibbs come into this place and say that the information that was handed out in the Age Pension News is wrong. The Age Pension News, the June-July edition 1999, says that a supplement that will be indexed to the CPI and paid on top of the basic pension will provide an ongoing increase of at least two per cent after account is taken of the impact of tax reform on prices—a two per cent advance increase in rates to offset the anticipated first-year effect of the GST on the CPI.

Heavens above, the March 2001 increase will be adjusted to take into account the two per cent advance already provided in July 2000, and the March 2001 index relates to the price increases in the six months after the introduction of the GST. I cannot believe that people on the other side are so stupid that they cannot understand that you have—as Senator Vanstone said in question time—an allocation of money that is going to be paid and if you get half of that in advance then you will get the other half by the deadline. How on earth can they not understand that? Why do they want to go out and simply lie about this whole process? What they are saying is quite untruthful.

Equally, why would Senator Evans want to come in here and quote COTA, the Council on the Ageing? The COTA press statement in 1999 quite clearly said that the government has taken on some of the COTA concerns and brought the compensation up to an ongoing pension increase of two per cent in addition to the cost of living adjustments for the GST. They said that the new offer
consists of an ongoing increase of two per cent in the pension instead of 1.5 per cent in the original offer. And there they have admitted that that was what was going to happen. Over time the four per cent is adjusted so that the effect of the increase on top of the cost of living adjustment is two per cent. Therefore, COTA understand it, why can’t Labor?

(Time expired)

Senator GIBBS (Queensland) (3.21 p.m.)—I cannot quite believe what I have been hearing from the other side. Two speakers have said, ‘Really you weren’t getting four per cent. You’re only getting two per cent, so now we’ve got to take two per cent away from you in March.’ When this government introduced the GST, the Prime Minister and all of his ministers went all over the countryside telling pensioners they were getting a four per cent increase in their pensions to offset the GST—four per cent. These people live on a budget. They have budgeted for four per cent, and since the GST has been introduced the four per cent has absolutely eroded. The official ABS statistics show that inflation from June 2000 to December 2000 was four per cent. Inflation is going up to four per cent; by rights, when they get their increase in March a single pensioner should be getting $15.80, but instead they are only getting $7.90, which is $7.90 less per fortnight. That is a lot to a pensioner. A pensioner couple should be getting $26.40 per fortnight, but they are only going to get $13.20 per fortnight. That is a decrease of $13.20 per fortnight. To a pensioner couple, that is a lot of money per fortnight.

The other side have been saying that we have been telling lies. Quite frankly, it is the government who has been telling lies—lie after lie after lie. It was just like this with the $1,000 bonus that the pensioners were supposed to have—the aged person savings bonus. Everybody over 60 was going to get $1,000. What a diabolical disaster that was. Most people got $1. Very few people actually got $1,000. When it was discovered that it was such a disaster, the government did a backflip on it, but of course it was too late—absolutely too late. I had pensioners ringing me up in my office saying, ‘I’m supposed to get $1,000. I have a cheque here for $50.’ It was absolutely outrageous—just another lie to old people and another way of bashing aged people and people on low incomes in our society.

I concur with everything that Senator Evans and Senator Conroy have said today. I have done a summary of what this government has done to people since they have been in government. First of all, we had John Howard saying that no-one would be worse off under the GST. Since then, the groups falling into the pit of disadvantage have been falling like dominoes. We have had increased petrol prices for motorists, and increased grocery, transport and essential services prices for consumers. And the government promised a bonus to all pensioners over 60, which we now know was nothing more than a disgraceful stunt to woo pensioners—the more vulnerable in our society—into believing the Howard government. There was the failure to adequately compensate in the pension increase for the increase in the CPI, and now pensioners are facing a loss of more than $13 per fortnight. The Howard government has a well-established record of bashing pensioners and easy targets in our society. Pensioners buy petrol. They put petrol in their car; the price of that has increased. Pensioners buy food, and food costs have increased.

Senator Calvert interjecting—

At the next election, you people are going to pay the price of this just like you paid the price in Western Australia and just like you paid the price in Queensland when your party was annihilated. When it comes to the federal election, you are going to be annihilated.

Question resolved in the affirmative.

Tax Reform: Trusts

Senator MURRAY (Western Australia) (3.27 p.m.)—I move:

That the Senate take note of the answer given by the Assistant Treasurer (Senator Kemp) to a question without notice asked by Senator Murray today relating to the taxation of trusts.

My question concerned trusts. The minister was asked whether he recalled that one of the major revenue and equity proposals in the ANTS package, the new tax system package,
was to tax trusts in the same manner as companies. He was asked whether he remembered that the proposal was regarded as an integral part of fair business tax reform. Now that the government have deferred it, tax reform is unbalanced and unfinished because the business income tax side of tax reform has been deferred. The consequence of this deferral is that those people whom this measure was expected to address—and let us use the words ‘tax avoiders’ for that purpose—are no longer going to be cracked down on. The other consequence is that there is about a billion dollar revenue loss in the government’s projections. So it is a very serious matter. On 30 March 1998, the Prime Minister announced in the House of Representatives:

... one of the central elements of our tax reform package will be the elimination of tax avoidance practices, whether they occur in relation to family trusts or in relation to other aspects of the taxation system.

That was three years ago. On 24 June 1999 he said:

... I can assure you that the resolution of the government to stamp out tax avoidance is evidenced in the proposals in ANTS ...

On 5 December last year he said:

The government remains strongly committed to eliminating tax avoidance through the use of trusts.

The government had already deferred this legislation by a year, having had at least three years to consider it. Now, under pressure from the National Party, it has been deferred again, almost certainly never to return under this government.

Let us contrast Mr Howard’s statements with those of some of his National Party backbenchers this morning. Mr St Clair said, ‘It is permanently off the agenda. That is even better.’ Mr Neville, from one of the government’s most marginal seats said, ‘Anything that will make trusts better will go down well with our membership.’ The National Party is delighted. It does not matter whether it is a trust that is dodging tax or not—and I would hope most are not. The National Party still want the whole lot protected so that their supporters who are not doing the right thing can carry on rearranging their financial affairs and thereby avoid paying tax. That really is atrocious. The government has broken a fundamental commitment to PAYE taxpayers that the pressure will be taken off them by cracking down on those not paying their fair share.

The Labor Party must share in this problem. The Labor Party ticked off the entire business tax package, with its $1 billion cut in capital gains tax for speculative investors on high income. They ticked off the whole thing, including unseen entities taxation, without a single amendment, saying in the process that if the coalition failed to deliver their promises they would be after the government like a rat up a drainpipe. That is no substitution for a properly constituted arrangement signed off between the two of them which would have guaranteed that this legislation would come through. The Labor Party ticked off the whole package sight unseen on a promise that the crackdown on trusts would proceed. They have been let down and let down badly, we have been let down badly and let down badly, and they have been dudged by the government on this issue, whose tax reform credentials are now under suspicion.

Not only did Labor do nothing on the abuse of trusts during their 13 years of government but, given this chance to hold this government to its election commitments, failed to do so. I therefore call on Labor to urgently reaffirm their support for the principle of taxing trusts as companies and to announce that it will be a policy proposal they will take to the next election. In the meantime, knowing that tax dodgers in trusts have gotten away with it again, I think the Prime Minister, the Deputy Prime Minister and the shadow Treasurer should hang their heads in shame.

Question resolved in the affirmative.

PRIVILEGE

The PRESIDENT (3.32 p.m.)—Senator Collins has raised a matter of privilege under standing order 81. For the reasons which I set out in a statement, I determined that a motion to refer the matter to the Privileges Committee may have precedence. With the concurrence of the Senate, the statement will
be incorporated in *Hansard* if it is the wish of the Senate and leave is granted for that purpose.

 Leave granted.

*The statement read as follows—*

Matter of privilege raised by Senator Collins

**Statement by Madam President**

Senator Collins, by letter dated 7 February 2001, has raised a matter of privilege under standing order 81.

The matter she has raised relates to evidence given at estimates hearings, and consists of two elements:

- whether false or misleading evidence was given in relation to a change of evidence on the part of the Employment Advocate
- whether there was improper interference with witnesses, namely the Employment Advocate and the Acting Employment Advocate, in respect of their evidence.

The essence of the first aspect of the matter is that a false impression was given about the change of the Employment Advocate’s evidence, the part played by a legal opinion and the origin of that legal opinion. The essence of the second aspect of the matter is that the Employment Advocate and/or the Acting Employment Advocate were influenced to change the evidence in a manner that was improper, having regard to their status as independent statutory officers.

I am required by standing order 81 and Senate Privilege Resolution 4 to determine whether a motion to refer the matter to the Privileges Committee should have precedence, having regard to the following criteria:

(a) the principle that the Senate's power to adjudge and deal with contempts should be used only where it is necessary to provide reasonable protection for the Senate and its committees and for senators against improper acts tending substantially to obstruct them in the performance of their functions, and should not be used in respect of matters which appear to be of a trivial nature or unworthy of the attention of the Senate; and

(b) the existence of any remedy other than that power for any act which may be held to be a contempt.

Since these criteria were adopted, Presidents’ determinations have been based on the principle that a matter should be given precedence if it is capable of being held by the Senate to meet criterion (a) and there is no other readily-available remedy.

The criteria do not provide for me to assess the strength of the case, but only the nature of the matter raised.

In relation to the false or misleading evidence aspect of the matter, it is the same in principle as other matters which have been referred by the Senate to the Privileges Committee, investigated by the committee and made the subject of its findings.

In these precedents, both the Senate and the committee have made it clear that false or misleading evidence covers not only cases in which statements are made which are shown to be false, but also cases in which a committee is given a misleading impression of a matter, even where answers are technically correct.

This indicates that this aspect of the matter raised by Senator Collins is capable of being held by the Senate to meet criterion (a). As with all of the other matters, there is no other remedy apart from the examination of the matter by the Privileges Committee.

In relation to the improper influence aspect of the matter raised, this turns on the status of the Employment Advocate as an independent statutory officer. Senator Collins concedes that it may be permissible for a departmental officer to change evidence at the instigation of a minister or senior officers, but suggests that the special statutory status of the Employment Advocate makes any such influence on him to change his evidence improper. She also suggests that evasive and misleading answers were given partly for the purpose of concealing exactly how the Employment Advocate was influenced.

The Senate has also referred to the Privileges Committee many cases of alleged improper influence of witnesses.

The reference of these matters to the committee and the investigations by the committee have indicated that the Senate and the committee have taken very seriously any suggestion that a witness has been improperly influenced. In particular, the Senate and the committee have taken seriously any suggestion that a person exercising statutory functions has been influenced as to the parliamentary evidence they should give.

This aspect of the matter is therefore also capable of being held by the Senate to meet the criteria.

I therefore determine that a motion to refer the matter to the Privileges Committee may have precedence.

I table the letter and attachments from Senator Collins.

Senator Collins may now give a notice of motion.
The PRESIDENT—I table the letter and attachments from Senator Collins. Senator Collins may now give a notice of motion.

Senator JACINTA COLLINS (Victoria) (3.32 p.m.)—I give notice that, on the next day of sitting, I shall move:

That the following matter be referred to the Committee of Privileges:

In relation to evidence provided to the Employment, Workplace Relations, Small Business and Education Legislation Committee in the course of its estimates hearings:

(a) whether false or misleading evidence was given in relation to the proposed provision of copies of Australian Workplace Agreements by the Employment Advocate; and

(b) whether there was improper interference with witnesses, namely the Employment Advocate and the Acting Employment Advocate, in respect of their evidence.

PETITIONS

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

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 three citizens)

Goods and Services Tax: Sanitary Products

We the undersigned Australians request that the Senate reject the Government’s proposed plan to impose GST on tampons and sanitary pads.

We find it absurd that sunscreen, condoms, personal lubricants for men and women and incontinence pads are all to be GST free, on the basis that if one did not use them, one would suffer a ‘disability’, yet menstruation products will not.

We think that women not using tampons or pads would cause more than a ‘disability’ it would cause a furore!

Women already carry the burden of paying for menstration products. We do not believe that women should carry an additional burden of a 10% GST on a product that women have no choice but to purchase, and for which men have no equivalent.

It is discriminatory and unfair.

by Senator O’Brien (from 18 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 On-line 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 O’Brien (from 10 citizens)

Petitions received.

NOTICES

Presentation

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

That the time for the presentation of the second report of the Foreign Affairs, Defence and Trade References Committee on the examination of developments in contemporary Japan and the implications for Australia be extended to 24 May 2001.

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

That the Senate—

(a) notes the failure of the New South Wales Carr Government to implement sufficient problem gambling reforms by offering optional self-exclusion programs for the state’s hotels and clubs;

(b) condemns the Carr Government’s ‘Clayton’s’ approach to reducing the number of problem gamblers in New South Wales and questions the ability of such a problem to reduce the number of compulsive gamblers when the program is voluntary;

(c) notes the difficulty in reducing problem gambling, when the number of poker machines in the state has risen from 62,000 in 1995 to 101,000 in 2000, according to figures from the Department of Gaming and Racing; and

(d) calls on the Carr Government to reduce the number of poker machines in the state to at least 1995 levels and to inject funds from gaming taxes back into the industry and to come up with responsible problem gambling initiatives.

Withdrawal

Senator CALVERT (Tasmania) (3.33 p.m.)—On behalf of Senator Coonan, pursuant to notice given at the last day of sitting on behalf of the Regulations and Ordinances Committee, I now withdraw business of the Senate notice of motion No. 1 standing in her name for four sitting days after today.

Postponement

Items of business were postponed as follows:

Business of the Senate notice of motion no. 1 standing in the name of Senator Brown for today, relating to the disallowance of regulation 8 of the Renewable Energy (Electricity) Regulations 2001, postponed till 6 March 2001.

General business notice of motion no. 717 standing in the name of the Leader of the Australian Democrats (Senator Lees) for today, relating to the introduction of the Australian Bill of Rights Bill 2000, postponed till 28 March 2001.

General business notice of motion no. 786 standing in the name of Senators Bourne and Allison for today, relating to nuclear weapons, postponed till 28 February 2001.

General business notice of motion no. 813 standing in the name of Senator Allison for today, relating to the nuclear-free Kobe Formula, postponed till 28 February 2001.

General business notice of motion no. 819 standing in the name of Senator Cook for today, relating to the development and deployment of a national missile defence system, postponed till 1 March 2001.

PARLIAMENTARY ZONE

Approval of Work

Motion (by Senator Ian Campbell) agreed to:
That, in accordance with section 5 of the Parliament Act 1974, the Senate approves the proposal by the National Capital Authority for work within the Parliamentary Zone, being work related to the planting of the International Tree of Peace in Peace Park.

CENTENARY OF FIRST SITTING OF COMMONWEALTH PARLIAMENT

Motion (by The Deputy President, at the request of The President) agreed to:

That, pursuant to the acceptance by the Senate on 26 June 2000 of the invitation of 10 May 2000 of the Houses of the Parliament of Victoria to meet in Melbourne on 9 and 10 May 2001 to mark the centenary of the first meetings of the Houses of the Commonwealth Parliament in 1901:

1(a) The Senate meet with the House of Representatives at 2 pm on 9 May 2001 in the Royal Exhibition Buildings, Melbourne.

(b) The only business transacted at that meeting be:

(i) introductory address by the President;
(ii) address by the Governor-General;
(iii) addresses by the Prime Minister and the Leader of the Opposition; and
(iv) concluding address by the Speaker of the House of Representatives.

(c) At the conclusion of that business, the Senate stand adjourned till 10 am on 10 May 2001.

2(a) The Senate meet at 10 am on 10 May 2001 in the Legislative Council Chamber, Parliament House, Melbourne.

(b) The only business transacted at that meeting be:

(i) introductory address by the President;
(ii) addresses by the Leader of the Government in the Senate, the Leader of the Opposition in the Senate, and the Leader of the Australian Democrats; and
(iii) concluding address by the President.

(c) At the conclusion of that business, the Senate stand adjourned till the next day of sitting.

AUSTRALIAN BROADCASTING CORPORATION: HEYWIRE

Motion (by Senator Bourne) agreed to:

That the Senate—

(a) notes:

(i) the third anniversary of the Australian Broadcasting Corporation (ABC) radio program, Heywire, an award scheme for regional and rural young people,
(ii) the scheme awards young people from the 40 ABC regional radio locations across Australia who submit a three-minute radio story about their experiences of living in regional Australia, the winning stories being carried on local radio and Triple J, while all stories are carried on ABC Online, and
(iii) the importance of giving young people living in rural and regional Australia a voice which provides a link between urban and regional young people and acts to close the gap between Australians living in different parts of Australia; and
(b) congratulates the ABC on this broadcasting initiative.

COMMITTEES

National Crime Authority Committee

Meeting

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

That the Parliamentary Joint Committee on the National Crime Authority be authorised to hold a public meeting during the sitting of the Senate on 28 February 2001, from 6 pm to 8 pm, to take evidence for the committee’s examination of the annual report for 1999-2000 of the National Crime Authority.

ROADS: ALBURY-WODONGA BYPASS

Motion (by Senator Allison)—as amended, by leave—agreed to:

That the Senate—

(a) notes that:

(i) in the week beginning 18 February 2001, the Government reversed its decision to fund the highly unpopular internal freeway bypass for Albury-Wodonga, and
(ii) the Government has also agreed to contribute $70 million to fund a second river crossing, the subject of an Australian Democrats motion dated 10 May 2000; and
(b) congratulates the Save Our City group on finally persuading the Federal
Government that the external bypass route was shorter, safer and cheaper than the internal route being proposed; and

(c) calls on the Victorian and New South Wales state governments to share the cost of the second river crossing boulevard.

COMMITTEES

Environment, Communications, Information Technology and the Arts References Committee

Meeting

Motion (by Senator Allison) agreed to:

That the Environment, Communications, Information Technology and the Arts References Committee be authorised to hold public meetings during the sittings of the Senate on 28 February 2001 and 7 March 2001, from 6 pm, to take evidence for the committee’s inquiry into the Environment and Heritage Legislation Amendment Bill (No. 2) 2000 and two related bills.

NUCLEAR FUEL SHIPMENTS

Motion (by Senator Brown) agreed to:

That the Senate, aware of the imminent passage between Australia and New Zealand of two more ships carrying highly radioactive mixed-oxide nuclear fuel, including plutonium, calls on:

(a) the Australian Government to commission an independent international environmental and safety assessment of such shipments;
(b) the Government to join New Zealand and the Pacific Island countries in opposing these shipments; and
(c) the companies involved in the shipments to carry complete liability insurance for a worst-case accident scenario.

BRADMAN, SIR DONALD, AC

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

That the Senate—

(a) notes:

(i) the passing of Sir Donald Bradman, AC, not only the greatest cricketer in the history of the sport, but a very great Australian, and

(ii) that, as both a sportsperson and a citizen, Sir Donald provided a very fine example to all Australians of how one should conduct oneself, despite being famous;

(b) in particular, recognises Sir Donald’s significance to the South Australian community in which he lived most of his life and contributed greatly to its civic affairs; and

(c) expresses its sincere condolences to the Bradman family at the passing of a truly great Australian.

Senator Brown—Madam Deputy President, I should point out that that motion was passed unanimously.

WESTERN SAHARA

Motion (by Senator Allison) agreed to:

That the Senate—

(a) notes that:

(i) 27 February 2001 is the 25th anniversary of the declaration of the Saharawi State, following Morocco’s invasion and occupation of Western Sahara in 1975,

(ii) 180 000 Western Saharans live in exile in the desert of Algeria,

(iii) the United Nations (UN) has still not conducted the referendum agreed in the 1991 peace plan,

(iv) it has been claimed the Morocco-backed Paris to Dakar car rally violated the ceasefire agreement, and

(v) the British Government has approved an application by Royal Ordnance, owned by BAE Systems, formerly British Aerospace, to restore thirty 105mm guns for the Moroccan army; and

(b) calls on the Commonwealth Government to make representations to:

(i) the UN and the Moroccan Government, urging them to proceed to the fair conduct of a referendum, in accordance with the 1991 peace plan, as soon as possible; and

(ii) the British Government, warning of the consequences of engaging in arms trading in the region.

COMMITTEES

Legal and Constitutional Legislation Committee

Meeting

Motion (by Senator Calvert, at the request of Senator Payne) agreed to:
That the Legal and Constitutional Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on 5 March 2001, from 7.30 pm, to take evidence for the committee’s inquiry into the Freedom of Information Amendment (Open Government) Bill 2000.

MINISTERIAL STATEMENTS

Immigration Detention Procedures

Senator IAN CAMPBELL (Western Australia)—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (3.40 p.m.)—I table a statement on immigration detention procedures, together with an annex to the statement and the report of the inquiry into immigration detention procedures by Philip Flood, AO. I seek leave to incorporate the statement and the annex in Hansard, and to take note of the documents.

Leave granted.

The documents read as follows—

Statement by the Minister for Immigration and Multicultural Affairs, The Hon Philip Ruddock MP

Immigration Detention Procedures
27 February 2001

Mr Speaker

Members will recall that in November last year the Government’s detention policy and conditions in detention centres came under attack by some advocacy groups and sections of the media. Whilst I have always defended the policy of mandatory detention as part of an overall policy designed to protect the integrity of our borders, I have also always asserted that detention must be humane. In this context, of major concern to me were the many allegations of child abuse and generally of the treatment of detainees.

I was sufficiently concerned about the nature of some of the allegations, particularly those relating to alleged child abuse, that I decided to set up an independent Inquiry. I wanted to know whether the procedures for reporting were adequate and whether processes were in place to investigate allegations of abuse. If defects were found, I wanted to know how we could go about remedying them.

I asked Mr Philip Flood AO to investigate, examine and report on the processes in place for identifying, dealing with, reporting on and following up allegations, instances, or situations where there is reasonable suspicion, of child abuse in immigration detention centres. I asked him to report on how well these processes had been followed in cases during the past year. I particularly asked him to focus on any area where he believed processes and procedures needed to be improved.

Mr Speaker, I am tabling Mr Flood’s report today. He has identified areas where things could have been done better and where I am determined they will be done better. I would like to thank him for his thorough and balanced examination of many complex issues involved in immigration detention and for his constructive assessment of what can usefully be done to improve management and conditions. I endorse the overall thrust of his 16 recommendations.

I can say today that my Department has acted on some, and will quickly implement the vast majority. In doing so, some aspects will need further examination by my Department, including resolution of legal contractual issues, and I have asked that this be done quickly.

ACM, the contracted service provider, is revising policy instructions on managing child protection issues. Training for detention staff is being reviewed. Cross-cultural training modules are a component of ACM’s standard training package. Negotiation of protocols with state authorities involved with immigration detention is a priority for my Department. My Department’s management arrangements in the Woomera, Port Hedland and Curtin centres are being strengthened by the appointment of Assistant DIMA Business Managers. Attention is being focussed on refinements to case management of detainees and performance management of the contract with ACM. There have been significant improvements at the Woomera centre during the last year and plans for further improvements are well advanced. There has also been significant re-engineering of protection visa application processing to expedite the process as far as possible. I table a detailed commentary on the recommendations.

I will come back later to Mr Flood’s examination of the many allegations of child abuse that surfaced late last year.

Mr Speaker, an important feature of Mr Flood’s report is his conclusion that, and I quote: “There also needs to be greater understanding of the values and concerns which underlie the policies being managed. The policies give expression to Australia’s long-standing and proven compassion and welcome for genuine refugees. Policies also reflect the conviction that Australia has the right to decide who enters Australia. They also reflect other concerns including maintenance of Australia’s high health standards, prudence about the escalating cost of providing accommodation and
facilities for unlawful entrants, disapproval of smugglers duping people about entry to Australia and concerns about the attempted manipulation of our compassion by criminals and terrorists. This report also reflects another deeply held Australian value, the abhorrence of abuse of children, indeed of anyone, who is held in a detention centre”.

Mr Flood is in a unique position to make such an assessment. He has had a long and distinguished career, including as a former Secretary of the Department of Foreign Affairs and Trade, and as a former High Commissioner in London. He is very familiar with the complexities of public policy and administration.

His report also recognises the complexities of the international phenomenon confronting the Government and my Department. We are faced with a global issue - people smuggling. Populations around the world are on the move. Sophisticated, highly organised criminal networks ply this lucrative and relatively low risk trade. People trafficking is estimated to be worth many billions of dollars a year.

Between 1 December 1999 and 3 January 2001, 3,796 people arrived unlawfully by boat from a number of Middle Eastern countries - more than the combined total of illegal boat arrivals in the previous three years.

Who are these clandestine arrivals? Many are genuine refugees – that is a fact. In per capita terms, Australia is one of the most generous refugee and humanitarian settlement countries. We have settled around 600,000 refugees and humanitarian entrants over the last 50 years.

But, Mr Flood notes that amongst those who have arrived unlawfully there are also former terrorists; former senior officials in repressive regimes; people suspected of crimes against humanity; people with criminal records; organisers of people smuggling rackets; people who have ignored or abandoned protection already available to them elsewhere; and those who have been refused migrant visas and then attempted to enter Australia unlawfully. Some destroy their documents to avoid being identified or arrive with fraudulent ones. Some claim a different nationality or to be part of a more vulnerable ethnic group. Some arrive with pre-existing health problems. Some have no legitimate protection claims.

Mr Flood also notes that many people openly told him that they had paid smugglers $10,000 to $25,000 each to get to Australia.

The Government’s overriding objective in these complex circumstances is to guard the safety and well being of the Australian community, while fulfilling our international obligations by an appropriate response to refugees. Despite what some say, we cannot tow boats back to sea.

Mr Speaker, Australia is spending close to $200 million this financial year locating, detaining, processing and where necessary removing people who arrive unlawfully or work here illegally. From arrival to departure, an unauthorised arrival costs taxpayers an average of $50,000. A day in detention costs an average of $105.

And we are not alone - developed countries spend many billions of dollars assessing the claims of asylum seekers many of whom arrive illegally.

This Government has significantly strengthened Australia's response to the record levels of people arriving illegally.

New detention centres will be established in Darwin and Brisbane and older centres, in particular Villawood, will be upgraded.

We have improved coastal surveillance capabilities and dramatically increased funding for overseas fraud detection, intelligence and compliance activities. People smugglers are prosecuted, their boats seized and destroyed, and they face penalties of up to 20 years in prison and fines of up to $220,000. Overseas information campaigns reinforce the message.

Unauthorised arrivals determined to be in need of our protection are granted a three-year temporary protection visa and during that time they cannot sponsor their families to Australia.

Has it worked? We cannot afford to be complacent, but there are some hopeful signs. The number of unauthorised boat arrivals in July-December 2000 is down by 40% from the same period in 1999.

As well as dissuading unauthorised arrivals, prompt return of those not requiring protection disrupts the activities of people smugglers and maintains the integrity of the asylum process.

Efforts are ongoing to achieve co-operation on the voluntary and involuntary return of unauthorised arrivals to their country of origin; on readmission of third country nationals to countries of first asylum where they have previously enjoyed protection; and on transit arrangements.

Mr Speaker, it was the Labor Government in 1992 which introduced mandatory detention for unauthorised arrivals. They had bipartisan support and bipartisan support has continued. I am acutely aware that mandatory detention is tough public policy but it is an essential element in dealing with the complex dilemmas and challenges confronting us from unauthorised arrivals organised by people smugglers. It is sound policy and, indeed, some other countries also facing this
issue are strengthening their approach to detention of unlawful arrivals.

The length of time people spend in detention is often portrayed simplistically as being a result of processing delays by my Department.

The complexity of this issue should not be understated. The wellbeing of the Australian public is a critical factor in managing this process. That’s why detailed character, medical and identity checking must be undertaken. The recent detention and treatment of six detainees suffering from typhoid in detention centres reinforces the need for Australia’s detention policy. Remember also that some destroy their documents and we don’t know who they are.

Mr Flood acknowledges the complex range of factors outside my Department’s control and, notwithstanding this, the significant improvements in processing times and hence reduced periods in detention. This has come about by considerable extra resources and very substantial re-engineering of protection visa processing – without compromising the integrity of the process. He notes that 80% of protection claims made by boat arrivals in late 1999 received a decision within 32 weeks and that this had reduced to less than 15 weeks for applications made in late 2000.

I must stress that the Government expects integrity of the decision making process. Sometimes that may entail extended periods in detention. Mr Flood says, ‘The range of individual circumstances means that there is a wide variation in the periods of detention’. Nonetheless, since 1 July 2000, over 3000 people have been released from detention on temporary protection visas.

Mr Speaker, the size and complexity of the task of course does not obviate our obligation to ensure humane treatment of those in detention. In this respect, the Woomera centre continues to attract much comment and has also been a focus of Mr Flood’s investigation. Let me set the context.

The Woomera Immigration Reception and Processing Centre was established in direct response to unprecedented numbers of boat arrivals in Australia in late 1999. The 1245 arrivals in November 1999 - 355 on one boat - and the sustained high numbers in subsequent months were a new phenomenon – unpredicted and unpredictable.

Contrast this to 1997-98 when there were only 157 unauthorised boat arrivals. The Port Hedland centre was close to beingmothballed in late 1998.

Why the Woomera site? It is a Commonwealth site and could be developed fast. It had available infrastructure and expansion capacity. There was a fully functioning hospital and an international standard runway nearby. It was an appropriate response to an emergency situation. It opened in late November 1999, less than a month after its announcement.

Could it have been done faster, better, differently? Mr Flood says that ‘The Centre began from almost nothing in November 1999 and held over 1400 people from February to June 2000. The immediate requirements were establishing accommodation, providing meals and setting up basic facilities and amenities’, ‘It was a significant management achievement’, he says, ‘for the IRPC at Woomera to have been established so quickly’.

Let’s look at the facts. By June 2000, an additional 2250 beds had been provided at the Woomera and Curtin centres to cope with the unprecedented increase in unauthorised arrivals. The statutory requirement that they be detained until granted a visa or removed from Australia was fulfilled by my Department - simultaneously with the management of two Safe Haven exercises, Y2K preparations and Olympics planning - and also with ensuring efficient use of taxpayers’ funds.

Once basic infrastructure was in place, attention turned more directly to improving amenity and security at the Woomera centre. Most accommodation at the Woomera centre is air-conditioned security at the Woomera centre. Most accommodation at the Woomera centre is air-conditioned and there are a range of services including: English classes; education for children; medical and counselling services and a range of recreational facilities. All detainees may practise their religion. There are culturally appropriate menus and detainees participate in menu design and food preparation.

Much has been said of the hostile physical environment in Woomera. Shade structures have already been erected throughout the centre and landscaping is planned with a particular emphasis on screening the centre and improving the overall appearance.

Nonetheless, I acknowledge that improvements at Woomera have taken time. As Mr Flood recognised, the Woomera centre has been ‘both an operational facility and a construction site on a parallel basis for much of its life’. He notes that it took time for ACM to set up an adequate management team and that the centre was handi-capped last year by the higher proportion of ACM staff on short term contracts. I also note with concern that administrative procedures at the Woomera centre could have been better – an issue which both ACM and my Department are addressing.
He refers to a small number of detention officers who have treated detainees inappropriately. Regrettably, there have been some occasions when ACM staff have demonstrated inappropriate attitudes and behaviour. I have made it clear this will not be condoned. I expect unacceptable behaviour or misconduct to be dealt with promptly and firmly. Where there is evidence to bring charges, I expect this to be done also.

These are all serious matters for ACM and my Department and I am pleased that Mr Flood has concluded that issues of concern have been recognised and steps taken to address them.

At the same time, we cannot ignore the behaviour of the detainees themselves. The safety of people working in detention centres and of the broader Australian community must also be assured. Criminal actions by detainees - assaults, arson, riots and escapes - cannot and will not be tolerated.

Mr Speaker, claims that a ‘veil of secrecy’ surrounds immigration detention are simply not true. There are multiple avenues of independent inquiry - the Human Rights and Equal Opportunity Commission, the Commonwealth Ombudsman and the Joint Standing Committee on Migration. The media has visited the Woomera and Port Hedland centres.

Mr Flood’s was yet another avenue of independent inquiry. He has made extensive and independent inquiries, focusing particularly on allegations or situations where there was a reasonable suspicion of child abuse during the 12 months to November 2000. I asked him specifically to look at the allegations concerning a 12 year old boy at Woomera which was of major concern to me and which has received a great deal of media coverage.

Allegations of abuse against children - anywhere - are serious. It is essential that they be investigated by competent authorities. The South Australian Family and Youth Services and the South Australian Police found no evidence to substantiate the allegations involving the 12 year old boy.

Mr Flood’s inquiry was to ascertain whether such incidents and suspicions were handled appropriately. He has dealt with allegations in a thorough, even forensic, manner. He did not accept allegations at face value; he spoke at length to people concerned; examined files; visited all centres and Woomera twice. This, dare I say, stands in stark contrast with much of the public debate, the freely made allegations and gratuitous comments based on hearsay and an unsubstantiated body of so called “evidence”.

Mr Flood examined 35 cases. He has concluded that in all but one case, allegations or incidents involving a reasonable suspicion of child abuse were handled in accordance with relevant legislation and departmental procedures.

At Woomera, though, he says, “a serious incident of possible child abuse and the broad question of policy on child abuse were not properly handled”. He found the case of the 12 year old boy “a clear situation where the processes set down in legislation and the administrative requirements of DIMA and of ACM instructions were not followed. In large part the problems were not with the formal agreed processes but that these were not followed”. He states that “ACM agrees with this conclusion”.

Child abuse issues and their handling are of major concern to me – they have been and continue to be addressed as a top priority. I agree with Mr Flood in his view that the way in which these incidents are handled is nearly as important as preventing them in the first place.

Mr Speaker, today I am announcing two initiatives.

Mr Flood rightly concludes that alternative arrangements for women and children detainees is another highly complex matter.

I asked my Department to examine this matter in detail. While there are significant legal and practical issues still to be finally resolved, I am going to trial some different detention arrangements than those which currently exist for women and children with a view to implementing such arrangements on a larger scale if they prove effective. I envisage a small scale trial based on voluntary participation. Before proceeding further, my immediate priority is to seek the views of the Woomera town community.

Completion of upgrades to facilities at Villawood and Woomera over the next two to three months will provide further flexibility to respond to the needs of women and children. We will establish an area within the Port Hedland centre for recreational use by women and children only.

Secondly, to assist me in the consideration of these and other detention matters, I am also announcing the establishment of an Immigration Detention Advisory Group. Members will have unfettered access to all centres. They will visit centres regularly, obtain first-hand information and advise me on the appropriateness and adequacy of accommodation, facilities and services at immigration detention centres.

I am pleased that the Group will be chaired by the Hon John Hodges, a former Minister for Immigration and Ethnic Affairs. Membership of the
I conclude in again thanking Mr Flood for his valuable contribution to the continuous improvement of immigration detention processes in Australia.


FLOOD REPORT - INQUIRY INTO IMMIGRATION DETENTION PROCEDURES
February 2001

ANNEXE TO STATEMENT BY THE MINISTER FOR IMMIGRATION AND MULTICULTURAL AFFAIRS

<table>
<thead>
<tr>
<th>No.</th>
<th>Recommendation</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>ACM should be asked to issue revised policy instructions to staff to incorporate the requirements of relevant State legislation on child welfare and sexual assault. The draft currently being prepared by ACM should be completed as quickly as possible and issued in all centres.</td>
<td>Supported ACM advises that revised policy instructions incorporating these requirements are close to finalisation.</td>
</tr>
<tr>
<td>2</td>
<td>ACM should be obliged to ensure there is in place adequate induction briefing and orientation before any staff commence duty at a detention centre. In particular staff should be carefully briefed on the Immigration Detention Standards. ACM should reinforce existing guidelines to its Centre Managers that unacceptable behaviour by detention officers will not be tolerated. Staff must receive comprehensive training in cultural awareness and guidance to deal with issues of racism, sexism and religious intolerance.</td>
<td>Supported Selection and training of ACM staff is a key component of the detention services contract. Cross-cultural training modules are included in ACM's standard training package. The training program for detention staff is being reviewed to ensure comprehensiveness in the areas Mr Flood has focussed on.</td>
</tr>
<tr>
<td>3</td>
<td>DIMA should conclude quickly the negotiation of a memorandum of understanding with the South Australian Police and with the police forces of other states in which detention centres are located, to articulate clearly and unambiguously the role of the state police in any incidents that occur at Commonwealth detention facilities which may require police involvement.</td>
<td>Supported Negotiations with South Australian police are in progress with a view to prompt finalisation. Development of protocols with other state police services is being given priority.</td>
</tr>
<tr>
<td>4</td>
<td>DIMA should clarify quickly the role of State authorities in removal of a child from a detention centre and conclude appropriate protocols with State child welfare authorities.</td>
<td>Supported Negotiations with child welfare authorities in South Australia are in progress with a view to prompt finalisation. Development of MOUs with other state child welfare authorities is being given priority.</td>
</tr>
<tr>
<td>5</td>
<td>DIMA should introduce more systematic procedures for assessment of incident reports and take steps to address the current variation in the quality and substance of matters being reported across immigration detention centres and the cover-</td>
<td>Supported Increased resourcing and restructuring of functions within DIMA's Detention Operations area will ensure enhanced focus on improved monitoring of incidents and on assessment of the performance of the</td>
</tr>
<tr>
<td>No.</td>
<td>Recommendation</td>
<td>Comments</td>
</tr>
<tr>
<td>-----</td>
<td>----------------</td>
<td>----------</td>
</tr>
<tr>
<td>6</td>
<td>DIMA should strengthen its management arrangements at the Woomera centre by the appointment of an additional DIMA officer to assist the DIMA Business Manager, and should review the need for similar appointments at Curtin and Port Hedland. DIMA should also expedite production of its proposed Business Manager’s Handbook.</td>
<td>Supported Deuty DIMA Business Managers for the Woomera, Curtin and Port Hedland IRPCs are being recruited. A DIMA Business Manager’s Handbook is in preparation.</td>
</tr>
<tr>
<td>7</td>
<td>The Detention Operations area in DIMA Central Office should be appropriately resourced to enable it to better manage the substantially increased workload that has been generated by the increase in unauthorised arrivals, both in the case management of detainees and the performance management of the contract with ACM.</td>
<td>Supported There are now additional resources in the restructured Detention Operations area in DIMA Central Office.</td>
</tr>
<tr>
<td>8</td>
<td>ACM should be asked to ensure that fewer of its staff at the Woomera centre are on short term six week contracts and that more are employed on long term contracts.</td>
<td>Supported ACM advises that employees on long term contracts have recently been engaged at Woomera. Increased numbers of employees will be engaged on this basis.</td>
</tr>
<tr>
<td>9</td>
<td>ACM should urgently review security of detainee data and personal files at the Woomera centre and put in place clear policies and procedures covering authorised removal of documents, classification of documents and transmission, copying and storage of documents.</td>
<td>Supported DIMA will ensure that ACM has more accountable records management procedures in place in detention facilities.</td>
</tr>
<tr>
<td>10</td>
<td>DIMA and ACM should make urgent efforts to improve the physical environment of the Woomera centre with improved landscaping, trees, more garden areas and the installation of playground equipment and shade areas.</td>
<td>Supported Once basic infrastructure was in place, attention turned more directly to improving amenity at the Woomera centre. Shade structures have already been erected throughout the centre and landscaping is planned with a particular emphasis on screening the centre and improving the overall appearance.</td>
</tr>
<tr>
<td>11</td>
<td>While acknowledging there may be situations where detainees themselves request that their names not be used, sometimes because they do not wish their detention services provider. This includes the preparation of a monthly summary of incidents for consideration by the Minister and senior DIMA and ACM management. Review of the current Immigration Detention Standards in advance of the renegotiation of the service provider contracts will be undertaken with appropriate legal advice.</td>
<td>Supported It is no longer practice in detention centres for ACM or DIMA staff to refer to detainees by registration numbers.</td>
</tr>
<tr>
<td>No.</td>
<td>Recommendation</td>
<td>Comments</td>
</tr>
<tr>
<td>-----</td>
<td>----------------</td>
<td>----------</td>
</tr>
<tr>
<td>12</td>
<td>DIMA should expedite its examination of the scope for women and children in certain circumstances to live outside of detention centres, while respecting the fact many women and children, especially but not only from an Islamic background, will be opposed to being separated from other members of their families.</td>
<td>A separate announcement is being made on this matter.</td>
</tr>
<tr>
<td>13</td>
<td>In its management of long-term detainees DIMA should seek to ensure children are not obliged to spend very long periods in detention at the Woomera centre.</td>
<td>Supported Subject to changes in the composition of the caseload, best efforts will be made to ensure that children do not spend very long periods in detention in the Woomera centre.</td>
</tr>
<tr>
<td>14</td>
<td>The Contract with ACM should be amended to make it explicit that the reporting as such of allegations, instances or suspicion of child abuse has no impact whatsoever on performance payments. Performance payments should be affected by failure to report, failure to report in a timely way and of course by poor management of an allegation, instance or suspicion of child abuse.</td>
<td>Sanctions already exist in the contract for failing to report incidents within prescribed timeframes. Contract issues will require further consideration including legal advice.</td>
</tr>
<tr>
<td>15</td>
<td>DIMA should expedite its processes for quarterly assessment of ACM performance. In general there should be a more pro-active review by DIMA of ACM management of detention centres, with spot audits of specific issues, including welfare of children, health, hygiene, food, etc.</td>
<td>Supported Additional resources already assigned will ensure that appropriate timeframes are met as well as facilitate a more pro-active approach to contract management and monitoring, including spot audits of specific issues.</td>
</tr>
<tr>
<td>16</td>
<td>DIMA should continue its efforts to reduce the average processing time for people receiving primary decisions on applications for Temporary Protection Visas.</td>
<td>Supported DIMA has significantly re-engineered protection visa processing and processing times have been significantly reduced. Many factors which delay visa decisions are, however, outside DIMA's control.</td>
</tr>
</tbody>
</table>

Senator IAN CAMPBELL—I move:
That the Senate take note of the documents.

Senator HARRADINE (Tasmania) (3.40 p.m.)—This is a report of an inquiry into immigration detention procedures by Philip Flood AO. Mr Flood had been appointed by the Minister for Immigration and Multicultural Affairs, Mr Ruddock, to undertake this inquiry, I suppose you could call it, into immigration detention procedures. In particular, there was a good deal of concern expressed to the minister about the number of allegations of child abuse and generally about the treatment of detainees.

The report has been in our hands only for a very short time, and so really I am not able to express my views in detail about the report, page by page. The report will be forwarded, no doubt, to the Human Rights Subcommittee of the Joint Committee on Foreign Affairs, Defence and Trade, of which I am a member. I will be looking forward to reading thoroughly the report at that time. We have, as a subcommittee of the parliament, visited a number of detention centres, including the Woomera detention centre, which gets fairly extensive coverage in the Flood report.

The conclusions and recommendations contained on page 36 and following of the report have been responded to by the minister. An annexure to the statement by the Minister for Immigration and Multicultural Affairs has been provided to us. I am not going to delay the Senate any further, since honourable senators have not had a real chance to examine this report. We will do so, but I seek leave to continue my remarks.

Leave granted; debate adjourned.

MEDICARE LEVY AMENDMENT (CPI INDEXATION) BILL (No. 2) 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) (3.45 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—
This Bill amends the Medicare Levy Act 1986 and the A New Tax System (Medicare Levy Surcharge-Fringe Benefits) Act 1999 to increase the Medicare levy low income thresholds in line with increases in the Consumer Price Index.

The amendment to the Medicare levy low income thresholds will apply to the 2000-2001 year of income and later years of income.

Full details of the measures in the Bill are contained in the explanatory memorandum.
I commend the Bill.

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

SEX DISCRIMINATION AMENDMENT BILL (No. 1) 2000

Report of Legal and Constitutional Legislation Committee

Senator CAL VERT (Tasmania) (3.46 p.m.)—On behalf of Senator Payne, I present the report of the Legal and Constitutional Legislation Committee on the provisions of the Sex Discrimination Amendment Bill (No. 1) 2000, together with the Hansard record of the committee’s proceedings and documents presented to the committee.

Ordered that the report be printed.

BROADCASTING LEGISLATION AMENDMENT BILL 2000 [2001]

Second Reading

Debate resumed from 8 February, on motion by Senator Alston:
That this bill be now read a second time, upon which Senator Mark Bishop had moved by way of an amendment:
At the end of the motion, add:
“but the Senate calls on the Government:
(a) to suspend the auction of datacasting spectrum until the Parliament has completed its consideration of the bill while still allowing the auction process to be completed this financial year; and

(b) to rectify its failure to adequately resource the ABC to effect the national public broadcaster’s transition to the digital world”.

Senator BOURNE (New South Wales) (3.47 p.m.)—The Broadcasting Legislation Amendment Bill 2000 [2001], as we all know, addresses a couple of small technical and typographical errors in the Broadcasting Services Act which have come to the Senate’s notice since the passing of the digital legislation last year. Also, it provides two other very important amendments to both the ABC and SBS acts. Those amendments relate to the way in which the datacasting regimes of the ABC and SBS are determined. Rather than the Australian Broadcasting Authority having the power to determine the datacasting services of the ABC and SBS, that power is transferred in this bill to the ABC and SBS boards respectively. It is important to create consistency within the ABC and SBS acts. The national broadcasters already have the statutory power to determine their other broadcasting services for radio, for television and for the Internet, and the provision of datacasting and additional digital terrestrial television services should be no different to that. So I am very pleased to see that these amendments have been put up by the government, and I certainly support them.

The government’s additional amendments which it has moved to its own amendment bill allow rightfully the ABC and SBS to develop their own codes of practice and complaints handling mechanisms in relation to datacasting services and then to notify the ABA of those. That approach is consistent with the way in which codes of practice and complaints handling have been developed for radio and television programs within the ABC and the SBS, and we welcome and support those government amendments.

These amendments in this bill by the government are extremely important to both the ABC and the SBS, and they should be passed without delay. They are before us today because the minister—and I give him his due in this—in answering one of my questions during the datacasting debate last year, gave an undertaking to amend the ABC and SBS acts so that the ABC and SBS boards could determine their own datacasting services. I thank the minister for being honourable in upholding that undertaking.

I am also pleased that the ALP has reconsidered its position on this issue. It voted against my amendments in relation to this issue during the debate last year, but it is supporting these amendments because it supports the principle ‘that the ABC and SBS should be governed by reference to their own respective acts’—and I quite agree. So I am very pleased that both the government and the opposition finally agree with my approach taken last year, and that will go through.

In his speech in the second reading debate, Senator Bishop flagged that he would be moving several amendments to this bill—and I would love to go back to that speech of his and make a few comments on it, but I will probably do that at the end. Senator Bishop said that he would be moving amendments to ensure that the provision of datacasting and online services are recognised within the ABC’s charter. But I am not really quite sure why these amendments are being moved now. Senator Bishop may not recall—indeed, most senators probably do not recall—that there is actually a Senate committee inquiring into that very matter, and it is being done at the behest of the ALP as well as the Democrats. The committee tabled a draft report in April last year on the first two of three terms of reference dealing with the proposed content deal between Telstra and the ABC for online content. But the Senate committee has not reported on the final term of reference, the most relevant to this amendment, about whether the ABC Act requires amendment to acknowledge online services. Given that the ALP was instrumental, as I said, in getting this inquiry established, I am surprised that it has moved these amendments before the committee has actually tabled that report.
I even question whether the charter is actually the appropriate place for the inclusion of online Internet or digital services to be located. The charter does not specify radio or television services, as it is; rather, it describes the impact of programs, the desirability of programs and the meaning these programs will have for the Australian and overseas audiences who consume them. The ABC charter is not technology specific and, while the Democrats believe the ABC Act probably requires amendment to acknowledge technological advances, I would prefer to wait for the Senate committee before considering these amendments. I also note that the opposition’s amendments do not amend the SBS Act similarly to provide for new technological services to be placed within the SBS charter. I would have thought that it would be the view of the Senate that both national broadcasters should be treated equally in this regard. So I think waiting a bit further on that and refining it, taking our time and getting it right, would be the best way to deal with that one.

Secondly, the opposition will table amendments designed to ensure that the ABC and SBS have unrestricted multichannelling services, a very interesting point for the Senate. I absolutely and fully endorse those amendments. I do not have the stuff from June last with me but, if I am right, they are the same as my amendments and those of last year that the ALP did not vote for. I must make the point that I am extremely disappointed that the opposition did not see fit to support the amendments to allow the national broadcasters to provide unrestricted multichannelling and datacasting services when we debated the digital legislation package in June of last year.

I hope I am wrong about this, but it appears to me that this is just a case of the opposition belatedly trying to pick up on the community concerns about the ABC by presenting these amendments now when they could have supported the amendments last year, when pressure on the government to pass the rest of the bill would have ensured the amendments’ passage. There is no such pressure at all on the government with this bill aside from the pressure that this chamber can put on them. There is no outside pressure. There was last year. It was huge; it was mammoth. It would have meant that these amendments would have gone through. Now there is no pressure. That means that these amendments will not go through. They might go through the Senate but whether they go through the House of Representatives is another question. I can tell you the answer to that question right now, and I am sure the opposition can too.

The ABC and SBS could have been free—and it should have been the case—from the ABA’s genre and other content rules for multichannelling and datacasting. Under the digital package, the ABC and SBS will, for the first time, have their services defined not by their boards but by the ABA. This undermines their independence and means that these services may not be consistent with their charters. Because the ALP apparently did not recognise the importance of the national broadcaster’s editorial independence until last month—and I am glad they have done so, but it is a bit late—they will not have unrestricted datacasting or multichannelling services.

Thirdly, the ALP will move amendments that they say will ensure that the ABC and SBS will be exempt from payment of a datacasting licence fee. I must say that I am a bit bemused by this amendment. I moved amendments to achieve this last year and they were passed. Absolutely everyone who I have spoken to about this, except the opposition, agrees that the ABC and SBS are now exempt from the datacasting licence fee. All the industry players, the public broadcasters and the commercial broadcasters, have told me that is exactly what they understood. They cannot understand why the opposition has moved it either. I ask the minister now if he will confirm that the ABC and SBS are exempt from the payment of the datacasting licence fee under the current legislation.

Lastly, there is the ALP’s proposed amendment to the datacasting regime. I have been through those amendments. They are almost exactly the same as those the ALP put up last time as amendments to the datacasting regime when we were debating this in June. There was extremely lengthy and
heated debate at the time; there has been heated debate since about these rules. I must say that I am very surprised that the ALP have put these rules up again completely unamended. The Democrats still believe, as we believed in June last year, that there is a fatal flaw in this datacasting regime of the opposition. None of those arguments have changed at all; the arguments are still exactly as they were. We still believe that, under the opposition’s regime, there is one tiny little piece that, if passed, would possibly allow another free-to-air broadcast on Australian television that would go under the guise of datacasting.

We all know the arguments. We have been through them enough in here and outside. The main argument is that in general it is believed by industry players that there is probably room in Australia—with our current level of population and the current advertising and broadcasting regime—for three commercial broadcasters. If a new commercial broadcaster came into the market either that broadcaster would fail because there is not enough advertising revenue available or, if they did not fail, one of the current broadcasters would fail. We are all aware of the players in the broadcasting industry who have content and money available to them. These are players who currently are already major players in the Australian media market.

If the fatal flaw were taken away and those current players were not able to take over a smaller player and start up their own broadcasting channel—to the detriment of someone with less of a say already in the media market—we would be happy with those amendments. But that is not the case. The opposition have not amended their datacasting regime at all, that is, that there is one tiny little piece that, if passed, would possibly allow another free-to-air broadcast on Australian television that would go under the guise of datacasting.

We all know the arguments. We have been through them enough in here and outside. The main argument is that in general it is believed by industry players that there is probably room in Australia—with our current level of population and the current advertising and broadcasting regime—for three commercial broadcasters. If a new commercial broadcaster came into the market either that broadcaster would fail because there is not enough advertising revenue available or, if they did not fail, one of the current broadcasters would fail. We are all aware of the players in the broadcasting industry who have content and money available to them. These are players who currently are already major players in the Australian media market.

If the fatal flaw were taken away and those current players were not able to take over a smaller player and start up their own broadcasting channel—to the detriment of someone with less of a say already in the media market—we would be happy with those amendments. But that is not the case. The opposition have not amended their datacasting regime at all, as far as I can see. The opposition’s regime, there is one tiny little piece that, if passed, would possibly allow another free-to-air broadcast on Australian television that would go under the guise of datacasting.

I would urge the opposition to go away and think about it again. If they can find an amendment that will achieve that, I will vote for it. I think it is a very good regime apart from that one small thing that they have not amended. If they are not prepared to amend it, and they do not have any ideas that they think are better than mine, then I cannot vote for it. I could not vote for it then, and I still cannot vote for it for exactly the same reasons.

I should mention also that I have just flagged the fact that I have one amendment to this bill that I intend to put up on behalf of the Democrats. We are all aware that there is a small part of the bill that the government has put in—it is in the original bill—that says the multichannelling regime will be changed for SBS in that SBS will now be allowed to broadcast international news on their second channel. I see the minister asking for advice. I hope I have that correct, but I am sure he will tell me if I do not.

One of my main complaints about the restriction on the use by the ABC and SBS of multichannelling—I thought it was quite absurd at the time; I still think it is quite absurd—was that the ABC was not allowed to broadcast domestic news on their second channel and that SBS was not allowed to broadcast international news. It seemed to me that it was obvious that the ABC is very good at domestic and that SBS is very good at international, besides the fact that both are good at the other as well. It seemed a ridiculous anomaly. I am very pleased to see that the government have apparently seen the light as far as SBS is concerned and are, according to this amendment, allowing SBS to broadcast international news on its second channel. I think it is a great pity, though, that they have not done the same for the ABC. It looks as though—I hope I am wrong in this—the government are just bashing up the ABC again. I am glad that SBS is getting something that it very much wants. I think it is a great pity, though, that the ABC is not getting the same thing. I will move an amendment—it was circulated before question time, I understand—that would include
the ABC being able to broadcast both domestic and international news, including analysis of items of domestic or international news. I will move that amendment when we get to the committee stage of this bill.

In closing, I would like to say that I sat with great amusement through Senator Bishop’s speech on this bill when he spoke last time. I am so sorry that I did not get to speak immediately after him, because it does lose some of its impact when you cannot follow on with a few items. I recall—I do not have my notes in front of me; I am very sorry about that—that Senator Bishop did mention how the opposition is absolutely committed to the ABC having a really good multichanneling regime. I am really pleased to hear that. He also said they are absolutely committed to editorial independence. I think that is fabulous. The ALP is also, I think he said, committed to proper funding for the ABC. I think that is brilliant. Somebody has to be committed to proper funding for the ABC besides me because, although it is not impossible, I am unlikely to be the minister for communications after the next election.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (4.05 p.m.)—I suppose I should start by expressing gratitude to Senator Bourne for her complimentary remarks. I am grateful that at least someone understands that there is a difference between fact and the reality as perceived by Friends of the ABC who, I have to say, long ago ceased to be interested in constructive debate on these issues; they simply run political campaigns. The only point I would make—which is as much for Senator Bourne’s benefit as it is for theirs—is that the critical issue is to ensure that the ABC is able to continue to deliver high quality content. Judgments have to be made by the parliament about the amount that is necessary in order for that to happen; it is not simply a matter of responding to any claimant’s wish list. As far as the government is concerned,
the test that I think ought to be applied is to look at the quality of programming and to ask whether there has been any noticeable diminution.

We all know that programs change from time to time but, as far as the government can observe, apart from the perhaps at times ferocious political debate that might surround some of the ABC's actions and activities, as far as viewers and listeners are concerned they still are receiving the programs that they expect to receive and that they have been receiving for many years. The test is not simply how much Quentin Dempster thinks we should give the ABC or how much the Friends of the ABC think we should give the ABC—I have never deigned to enter that debate. They never want to quantify it; they simply effectively say, 'I don't care what it is. Give them more.'

I am grateful to Senator Bourne for her as always constructive approach to these issues. I am very pleased to say that we are honouring the commitment given last year, and I can also inform Senator Bourne that the position is as she says in relation to datacasting charges. The Datacasting Charge (Imposition) Act 1998 was amended by the Broadcasting Services Amendment (Digital Television and Datacasting) Act 2000 to limit the application of the datacasting charge to commercial television broadcasting licensees. These amendments were given royal assent on 3 August 2000 and came into effect by proclamation on 1 January 2001. Therefore, datacasting charges will not be applied to the ABC or SBS. Amendment 14 of the amendments circulated by the opposition is therefore quite unnecessary.

I think it is appropriate at this point to respond to the second reading amendment, which I understand has been circulated in Senator Bishop’s name. The government’s position is quite firm on calls for the suspension of the auction of datacasting spectrum. There is no need to suspend the auction pending debate on this bill. If the opposition amendments were passed by the parliament, it is likely that the auction process would need to be aborted and recommence once the policy was finalised. The nature of the product on offer would have changed; therefore the documentation for the auction would need to be revised and republished, and new applications would need to be called for. In addition, consideration would need to be given as to whether the ABA determination process proposed would need to take place before the auction. It is highly unlikely that, under this scenario, the auction could be completed this financial year. In any case, the government does not support the proposed amendments.

It has been only eight months since the parliament considered these issues and rejected the model proposed by the opposition. Senator Bourne is as acutely aware as I am of the wholly false and phoney nature of the proposal that was put forward by the opposition at that time. Whenever Mr Smith was asked by any stakeholder, be it parliamentary or industry, to elaborate on that proposal, his stock answer was, 'There is no need to worry about that. That will not become an issue. Let me explain where we are on other matters.' That made it absolutely transparent to all the players—and I mean all those who have a keen interest in the debate, including print and other media—that the opposition has never been serious about pursuing its option B or plan A or whatever it was called. It was simply a shoddy attempt at grandstanding—a very transparent smokescreen to disguise the fact that they were not prepared to disagree with the government’s fundamental proposition, which was that there should not be any backdoor broadcasting.

As Senator Bourne rightly said, if the amendment had got up, you would have been able to drive a coach and four through that legislation. They were absolutely terrified that they might actually get there. I can just imagine that Mr Smith was as pale as a ghost for 24 hours until he saw what happened in the chamber. The last thing on his mind was to encourage anyone to think that this was a serious suggestion. It was simply designed to appear—to one or more interested parties—that the ALP might perhaps do something if they ever came to government. As we know, they would not have the numbers to do it in this chamber, so any private commitment they might have given then, or might be giving now, would meet the same fate. It was
simply a transparent exercise in pretending that they wanted to go a bit further. They were locked in, as were other parties in this chamber, to the proposition that there should not be additional free-to-air broadcasting.

Just the other night, I was looking at remarks made by Rupert Murdoch when he addressed the National Association of Broadcasters back in April 1996. He said words to this effect: ‘There are those in the bureaucracy who think that the free-to-air networks— in the US, and of course Fox is one of those—‘could well afford to make this transition painlessly.’ In other words, they would have to pay for the spectrum that was being put on offer. That is simply not the case. The costs are terrifying. ‘Terrifying’ was his word. If the costs are terrifying there, they are just as terrifying here. The quid pro quo has always been that if there is $1 billion to be incurred by the free-to-air networks over a period, with no obvious increase in advertising or audience share, then they should at least have that period of time before any further licensees are admitted to the game. That, of course, has always been the case. The number of licensees has been strictly controlled since 1956, when television first came to Australia. The opposition knows that as well as anyone else.

The opposition understood the cost burden on the free-to-air networks and they understood the logic behind the proposition we were putting; they simply put up a form of words and hoped on bended knee that no-one would be silly enough to hold them to it. And of course, as it transpired, they were able to sleep in peace that night. They clearly thought that there was a bit of mileage in an election year in running the kite up the flagpole again and pretending that they were more serious than they were last time, or equally serious. As Senator Bourne says, we know it is game over and they do too. It is just not a serious approach.

Having said all that, these Labor Party amendments to suspend the auction process now on the chance that the opposition amendments are passed by both houses would waste valuable time in getting the datacasting spectrum auction under way. I note with interest that there are seven applicants, with all the usual suspects—directly or indirectly. We believe that process should be able to get up and running as soon as possible, and therefore the government would clearly not agree to the amendments in the other place. We should work to ensure the speedy consideration of this bill to provide certainty to potential applicants.

In terms of funding the ABC’s transition to digital broadcasting, which is part (b) of the second reading amendment, the government rejects outright the opposition’s allegation that we have inadequately funded the ABC’s move to digital broadcasting. The facts need to be placed on the public record, as there have been widespread claims in the media that there have been funding cuts to the ABC. I think Senator Bourne acknowledges that the funding that has been provided for the ABC in relation to digital—not just content but equipment, distribution and transmission—has been very much in line with their needs. In relation to that, the ABC has advised the government that it regards that as an adequate arrangement.

In terms of the costs of additional multichannel services—for which it is now suggested in some quarters that the ABC should get substantially increased funding—the ABC advised the government by way of a submission that it could provide a range of multichannel services itself for minimal additional costs, based on efficiencies derived from its radio content, co-location and low cost digital equipment. As I recall, the submission said, ‘We’re not just saying this; we have our own longstanding experience to justify what we think will be involved.’ For reasons that have never been explained by the ABC, in its triennial funding submission, the ABC sought funding for a range of digital content proposals, including one relating to multichannel services, for a total estimated cost of $124 million over three years.

There were a range of competing priorities in the budget context, including the digital capital, distribution and transmission funding requirements of the ABC and SBS. For this triennium, the ABC’s funding was maintained in real terms. In the 2000-01 budget the ABC received $642.4 million for operating and non-digital capital expenses. The
government’s priority in the last budget, however, was to ensure that all Australians will have access to digital television, particularly in rural and regional Australia where access to the media is so important. To ensure this, the government has committed to fund the actual cost of the ABC’s digital transmission. The ABC’s digital services, when fully rolled out, will match the current analog coverage. The government has thus approved up to $1.2 billion over the next 10 years to fund the ABC and SBS digital transmission and distribution services. This will fully fund all distribution and transmission costs.

As identified by the Mansfield report, the ABC has utilised some of the proceeds from property sales to fund its phase 1 capital costs. It also received a $20 million contribution from the government. The ABC also received $36.8 million over four years from the government in the 2000-01 budget towards its phase 2 capital costs. This is a significant commitment that has not been appreciated or acknowledged in the debate over the ABC’s budget.

Australia is a vast country and the cost of ensuring that most Australians in regional and remote areas have access to the services that metropolitan viewers take for granted is enormous. This kind of coverage can only be achieved through the use of satellites, and many transmission towers are in remote areas which are expensive to service. This commitment to regional viewers echoes that shown by the government’s funding of extensions of SBS’s analog television services at a further $70 million and the current black spot program addressing reception issues in regional areas. Despite the budgetary pressures of recent years, the record shows that the government has made a very significant commitment to additional funding for ABC and SBS digital services. At this early stage of delivery of digital services, the government has made access the priority rather than the provision of additional content funding.

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

The Senate divided. [4.22 p.m.]
In Committee

The bill.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (4.26 p.m.)—I table a supplementary explanatory memorandum relating to the government’s amendments to be moved to this bill. The memorandum was circulated in the chamber on 8 February 2001.

Senator BROWN (Tasmania) (4.26 p.m.)—The minister in his second reading speech said that the government has funded the ABC and SBS to the amount of $1.2 billion over the next 10 years.

Senator Alston—Up to, I said.

Senator BROWN—Yes. I think that is for digital content equipment, transmission and distribution, amongst other things, Minister, is that amount sufficient to cover the scale of digital activities that those broadcasters would be involved in if this legislation were to pass as amended by the opposition’s amendment? While the minister is getting that information, I want to clarify this. The point I am going to get to is to try to assess how much will be required by the ABC and SBS to enable them to carry out the full range of broadcasting services, which is the aim of the opposition amendment. The opposition is calling for funding for the broadcasters to enable them to carry out that full range of services. I am going to ask the opposition how much that would be, and I want to know what they have done to cover that.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (4.29 p.m.)—I will repeat what I said previously—that is, the government has approved up $1.2 billion over the next 10 years to fund the digital transmission and distribution costs of the ABC and SBS. That figure arises out of a report we commissioned from McCurley and Associates into the needs of the national broadcasters for transmission and distribution. My understanding is that they both agree with the arrangements that are in place. So the argument becomes content, and the ALP amendment does not distinguish content from transmission and distribution. It simply says, ‘to rectify its failure to adequately resource the ABC to effect the national public broadcaster’s transition to the digital world.’ Whatever that might mean.

We say that we have dealt with it quite specifically on the basis of expert advice in relation to digital transmission and distribution, so that has been squared away. As I said to you, in relation to content, the ABC’s original submission to us was that they would not require any more than minimal additional costs. They changed their mind subsequently, but obviously in considering what was appropriate we did take very much into account the fact that their starting position was that, based on their own experience and judgment, they would not need any significant costs for content. Presumably that means they had plenty in the archives and that they had plenty of capacity—

Senator Bourne—You have not given them the money to change the archives.

Senator ALSTON—To change them? I am just saying that they made this statement, so presumably they are taking all these matters into account. They assess what they will be able to put onto the second channel. Their formal submission to the government was that they could provide a range of multi-channel services for minimal additional costs. That being the case, we took the view that, within the overall funding envelope, there is always a bit of scope for rebalancing. In fact, that is what is currently being undertaken by the managing director—of his own volition, not from any actions inspired by us. They get an amount of money. They then do with it what they will in accordance with priorities determined by the board. Given that there was that degree of flexibility, we took the view that they did not need additional funding for content at this point in time.

Senator BROWN (Tasmania) (4.31 p.m.)—Except for minimal additional cost. I wonder if the minister could put a figure on what the minimal additional cost is. As I understand it, the opposition wants the ABC and SBS under the legislation and charter to have the ability to cover datacasting and on-
line services in a way which is currently not available. The point I am getting to is: how much will this cost if it is done in the way in which the amendments would envisage? That means if they are not restricted, whereas currently they are restricted.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (4.32 p.m.)—I do not think it is for us to say what ‘minimal’ means. If the ABC had wanted to quantify it, they would have. I think we are entitled to assume that it means: ‘In all the circumstances, even if you do not give us anything, we can go ahead.’ Minimal means minimal. It means ‘insignificant in the scheme of things’.

As Senator Bourne rightly pointed out, the ALP’s weasel words are such that you would have no confidence at all. Mr Beazley’s whole approach to any policy proposal these days is: ‘It depends on the budgetary circumstances at the time. We’ll have to take account of where we are at.’ Then he pours scorn on the charter of budget honesty and says that is going to complicate matters. There is nothing there at all that would enable you to make any judgment about what you think the ALP thinks the ABC need. The ABC have not put forward a figure in that submission, and I do not think it is incumbent on us to volunteer a number for them.

They would probably disagree anyway, because it is put forward in such a way that I think it is reasonably meant to be interpreted as saying it is not crucial to the outcome. They say, ‘As long as we get funding for distribution and transmission, we can do it with minimal additional cost.’ To me, that means we can go ahead with it.

I think they may have included some provision for datacasting in the $124 million. But, in some ways, the presentations I have seen in the ABC’s business case over the last 12 months, as they have developed content alternatives, have essentially been datacasting offerings. So I do not think you would say that they do not already have the capability to provide those when datacasting services become available.

Senator BROWN (Tasmania) (4.34 p.m.)—The minister is saying that minimal cost effectively does not mean any additional costs. He reads it as meaning that the ABC can make do with the current budgeting. I do not read it that way, but he does. I am asking the minister in another way—and I will ask the opposition similar questions—if the legislation is brought faithfully into effect, whether he sees the change, as envisaged by the opposition, as costing nothing? If so, why is he opposed to it?

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (4.35 p.m.)—You are asking me whether it would be cost free if we were to implement the second reading amendment. I do not know what ‘to rectify its failure to adequately resource the ABC’ means. We would not concede the pass at that point anyway. The rest of the opposition’s amendment is superfluous where it says ‘to effect the national public broadcaster’s transition to the digital world’. We say that we have provided all the necessary funds.

I do not take that as putting the weights on us for any particular amount. I said earlier that anyone who puts up a proposition that does not nominate an amount but simply says that we can do something for minimal additional cost is not saying that it will cost nothing, but they run a very serious risk, which is real in this case, that the person they are putting the submission to will say at the end of the day, ‘You can actually afford to go ahead, even if you don’t get the minimal additional cost.’ That is the position we take and, as I understand it, that is a position the ABC accepts, because it is indeed going ahead with multichannelling. It has the funding for transmission and distribution, it is absorbing the content costs and it will be providing multichannelling services in due course.

Senator BROWN (Tasmania) (4.37 p.m.)—It is doing that. But the ALP is opening up an opportunity for the ABC and SBS to extend datacasting and online services to the Australian public without restriction, whereas my understanding is that currently, for example, there will not be sporting and entertainment offered under the legislation which the parliament passed last year. You will remember, Mr Temporary Chair-
man, that the ALP and the Democrats knocked each other out in the voting here to put this restriction on the services that were available to the Australian public. I am bemused by the idea that giving back to the ABC and SBS the untrammelled ability to provide datacasting services and online services to the Australian public is not going to cost anything. If it is not going to cost anything, as the minister is tending to imply, then what is his trouble with it?

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (4.38 p.m.)—I may have misunderstood Senator Brown earlier, but I think he is now putting to me the question: if you were to have a regime that allowed unrestricted datacasting and, effectively, unrestricted multichannelling, would that involve a significant additional cost over and above the current regime? I do not know, and in some ways it is academic, because it is not the regime that the parliament endorsed. It is not a regime that we are proposing to move to. Whilst you might be able to have an interesting academic discussion and, as I said earlier, you might get the ABC itself to put a wish list figure on that, I suppose any broadcaster would say, ‘The amount of quality program we can put on depends on the budget that is made available to us. If we want the highest production values, if we want world-class performers, if we want to make it uniquely for our own markets, it could cost an arm and a leg. If someone is going to be silly enough to give us all that money, we will ask for top dollar.’

You really cannot just respond to what someone says they would like. I have never heard the ALP suggest for a moment how much they think would be appropriate. That is why you fall back on these silly forms of words, such as ‘to rectify failure to adequately resource the ABC’. As we know, if they were in government, they would find all sorts of ‘fiscally irresponsible environments’ to justify their inability to find additional resources. There is a regime in place. The ABC itself is clearly of the view that it can provide multichannelling offerings and— one would expect—datacasting, when that comes online, within its current budget envelope.

As we know, the managing director has already given online activity a high priority. To me, that is a pretty sensible recognition of where the future for the ABC lies. If you have a budget of $642 million—plus, presumably, $100 million or more from commercial activities—you have a fair bit of scope for deciding where you want to spend your resources. All the signs are that the ABC will be able to measure up to what the parliament has put in place.

Senator BROWN (Tasmania) (4.40 p.m.)—I think it is a fairly simple equation: no extra money, no extra services. I ask Senator Bishop from the opposition: is it the case that the opposition amendments aim to extend to the ABC and SBS the ability to cover datacasting and online services, or to open up datacasting and online services beyond that of the current legislation, including, for example, entertainment and sports? If so, what restrictions would be left on datacasting and online services for the ABC and SBS, were the opposition amendments to come into force?

Senator MARK BISHOP (Western Australia) (4.41 p.m.)—In response to Senator Brown, the ALP obviously acknowledge that the ABC already work in the online world and the datacast world. They can do it already. We do not seek to interfere with that. When the amendments come up for discussion later on in the committee stage, our purpose is simply to recognise that in the act of parliament that governs their activities. In terms of the second point you raised about extending the types of material that the ABC can broadcast if they are allowed to multichannel in an unrestricted fashion—that is, if sport, entertainment, movies and those sorts of matters can be broadcast on their second channel—that may involve additional cost. It is our intent to give effect to our longstanding policy position as a party to allow the ABC to be unrestricted in the types of material they choose to broadcast on secondary and other channels.

As to your final point on the cost or the additional cost if the ABC should choose to go down that path, we do not propose—to-day or in this forum—to be making any statements as to the cost or the additional
cost, but we will be making specific state-
ments or commitments, sometime between
now and election day, that address this issue.
We will not be doing that now. It is a matter
that is under review within the forums of our
party. At the appropriate time, prior to the
election, we will address that issue which
you have raised here.

Senator BROWN (Tasmania) (4.43
p.m.)—That raises a question about the proc-
est that we are engaged in. The ALP
amendments—while attractive to me, and I
will be supporting them—must be brought
forward with the knowledge that the real
opportunity to amend this legislation was
lost last year when the ALP and the Demo-
crats knocked each other out in the voting
pattern. The reality is that the amendments
that the ALP are bringing forward now to
rectify that mistake made last year simply
will not get through the House of Represen-
tatives because the government has the num-
bers there. Unless the government supports
them here, I doubt it is going to support them
there.

I hear the minister saying that the gov-
ernment is opposed to the amendments. I
wonder why that is. I guess it is politics. The
opposition are saying, ‘W e are going to put
up the amendments to the legislation now
which we fouled up last year. We’ll put out
as policy, in the run-up to the election, how
much money we will give to the ABC and
SBS to be able to implement the services—
that is, such things as sporting and movie op-
tions through online services—which our
amendments here aim to enable the ABC and
SBS to give to the Australian public.’ The
Greens supported that option last year when
it had a real opportunity of getting through; I
will support it now when it has no opportu-
nity of getting through. But I would much
have preferred for the Labor Party to have
their policy on this and their ability to fund
this presented to the chamber now. It would
mean at least a more serious attempt, as far
as I can see, to say to the public that they
have an option. I think the debate in here is a
bit fatuous, and it would be better if the ALP
kept the whole thing until they announce
their policy, frankly. But we are having this
debate and it is an opportunity to seek out
information about what the opportunities for
the ABC and SBS will be under the opposi-
tion, even though there is not a funding com-
ponent.

I am interested in one other component to
this that I want to ask Senator Bishop about.
I presume that these amendments will pre-
vent the ABC and SBS from going into an
arrangement with a commercial operator to
provide these services down the line because
they are in fact saying that these services will
be provided under the charter of the ABC
and SBS, which does not allow for commer-
cial entities to be involved. I ask: is that so
and is this not, therefore, a means of locking
out that option in the future? I would not
want to see that option, but I am just explor-
ing this because I am well aware that that
does close down on one option. If the oppo-
sition is closing down on that option we
should know that. We know that with pay
TV the ABC did not get a commercial part-
ner and that that possibility of a commercial
sum ABC nexus for pay TV fell through. I
just want to make sure that the opposition is
saying here that that option is not going to be
available to the ABC and SBS under a future
Labor government.

Senator MARK BISHOP (Western Aus-
tralia) (4.48 p.m.)—by leave—I move oppos-
tion amendments Nos 3 and 5 on sheet
2107:

(3) Schedule 1, item 4, page 3 (lines 11 and 12),
omit the item, substitute:

4 Part 1 of Schedule 6
Repeal the Part, substitute:

• This Schedule sets up a system for regulating
  the provision of datacasting services.
• Datacasting service providers must hold da-
tacasting licences.
• A datacasting service cannot be a broadcast-
ing service.
• The distinction between datacasting and
  broadcasting services is based on the attrib-
utes of the service.
• The ABA will be empowered to determine
  additional criteria or clarify existing criteria
  about what constitutes a datacasting service
  or a broadcasting service.
• The ABA may give advisory opinions, on
  request, about whether a proposed service is
  a datacasting service or a broadcasting serv-
  ice.
The ABA will be empowered to make determinations about whether particular services are datacasting services or broadcasting services.

A group that represents datacasting licensees may develop codes of practice.

The ABA has a reserve power to make a standard if there are no codes of practice or if a code of practice is deficient.

PART 1—INTRODUCTION

1 Simplified outline

The following is a simplified outline of this Schedule:

2 Definitions

Classification Board means the Classification Board established by the Classification (Publications, Films and Computer Games) Act 1995.

interactive, in relation to a datacasting service, means a capacity for a user to request specific responses, make choices or engage in digital transactions or communications.

Internet carriage services has the same meaning as in Schedule 5, but does not include a service that transmits content that has been copied from the Internet, where the content is selected by the datacasting licensee concerned, unless the same content is available simultaneously on the Internet.

nominated datacaster declaration means a declaration under clause 45.

non-contemporaneous, in relation to a datacasting service, means that users of the service do not view the same content simultaneously.

non-linear, in relation to a datacasting service, means that content is designed to be selected or accessed at irregular intervals in accordance with user-defined requests and not as a single, continuous stream of data to users.

ordinary electronic mail does not include a posting to a newsgroup.

qualified entity means:

(a) a company that:
   (i) is formed in Australia or in an external Territory; and
   (ii) has a share capital; or
(b) the Commonwealth, a State or a Territory; or
(c) the Australian Broadcasting Corporation; or
(d) the Special Broadcasting Service Corporation; or
(e) any other body corporate established for a public purpose by a law of the Commonwealth or of a State or Territory.

related body corporate has the same meaning as in the Corporations Law.

static graphic interface, in relation to a datacasting service, means a method of providing interactivity to a user through menu systems or other control mechanisms common to digital services and applications.

transmitter licence has the same meaning as in the Radiocommunications Act 1992.

3 Datacasting services

For the purposes of this Schedule, a datacasting service means a service (other than a broadcasting service) that delivers information (whether in the form of data, text, speech, images or in any other form) to persons having equipment appropriate for receiving that information, where the service has the following attributes:

(a) it uses the broadcasting services bands; and
(b) it is interactive; and
(c) it is non-contemporaneous; and
(d) it is non-linear; and
(e) it offers frequent user-defined choices; and
(f) it makes frequent use of static graphic interfaces; and
(g) it complies with any determinations or clarifications under clause 4 in relation to datacasting services.

4 ABA may determine additional criteria or clarify existing criteria

(1) The ABA may, by notice in the Gazette:

(a) determine additional criteria to those specified in clause 3; or
(b) clarify the criteria specified in clause 3;

for the purpose of distinguishing between datacasting services and broadcasting services.
(2) The Minister may give specified directions to the ABA as to the making of determinations and clarifications, and the ABA must observe those directions.

(3) Determinations and clarifications under subclause (1) are disallowable instruments for the purposes of section 46A of the Acts Interpretation Act 1901.

5 Requests to ABA for an advisory opinion on whether a service is a datacasting service or a broadcasting service

A person may apply to the ABA for a determination as to whether a service is a datacasting service or a broadcasting service.

(2) An application must be in accordance with a form approved in writing by the ABA, and must state the applicant’s opinion as to whether the proposed service is a datacasting service or a broadcasting service.

(3) If the ABA considers that additional information is required before a determination can be given, the ABA may, by notice in writing given to the applicant within 14 days after receiving the application, request the applicant to provide that information.

(4) The ABA must, as soon as practicable after:

(a) receiving the application; or

(b) if the ABA has requested further information—receiving that further information:

give the applicant, in writing, its determination as to whether the service is a datacasting service or a broadcasting service.

(5) If the ABA does not, within 28 days after:

(a) receiving the application; or

(b) if the ABA has requested further information—receiving that further information:

give the applicant, in writing, its determination as to whether the service is a datacasting service or a broadcasting service.

(6) If the ABA has given a determination under this clause to the provider of a datacasting service, neither the ABA nor any other Government agency may, while the circumstances relating to the datacasting service remain substantially the same as those advised to the ABA in relation to the application for the determination:

(a) take any action against the provider of the service for the period of 5 years commencing on the day on which the determination is given on the basis that the service is not a datacasting service; or

(b) unless the ABA has made a determination or clarification under clause 4 after that determination was given that places the service outside the definition of a datacasting service—take any action against the provider of the service after the end of that period on the basis that the service is not a datacasting service.
If the ABA does not, within 45 days after:
(a) receiving the application; or
(b) if the ABA has requested further information—receiving that further information;
give the applicant, in writing, its determination as to whether the service is a datacasting service, the ABA is taken to have given a determination at the end of that period that accords with the applicant’s opinion.

The ABA may charge a fee for providing a determination under this clause.

7 Matters to be considered by ABA
In making determinations under clause 4 or clause 6 in relation to datacasting services, and in giving advisory opinions under clause 5 in relation to proposed datacasting services, the ABA is to have regard to:
(a) the attributes of the service and its mode of delivery; and
(b) the dominant purpose of the service; and
(c) such other matters as the ABA thinks fit.

4A Division 1 of Part 3 of Schedule 6
Repeal the Division, substitute:

13 Primary condition—datacasting service not to be a broadcasting service

(1) Each datacasting licence is subject to the primary condition that the licensee will not transmit matter that, if it were broadcast on commercial television or radio, would be a broadcasting service.

(2) The condition set out in subclause (1) does not prevent the licensee from transmitting live matter that consists of:
(a) the proceedings of, or the proceedings of a committee of, a Parliament; or
(b) the proceedings of a court or tribunal in Australia; or
(c) the proceedings of an official inquiry or Royal Commission in Australia; or
(d) a hearing conducted by a body established for a public purpose by a law of the Commonwealth or of a State or Territory.

(3) The condition set out in subclause (1) does not prevent a datacasting licensee from transmitting matter that consists of no more than:
(a) text; or
(b) text accompanied by associated sounds; or
(c) still visual images; or
(d) still visual images accompanied by associated sounds; or
(e) any combination of matter covered by the above paragraphs; or
(f) any combination of:
   (i) matter that is covered by any of the above paragraphs (the basic matter); and
   (ii) animated images (with or without associated sounds); where:
   (iii) having regard to the substance of the animated images, it would be concluded that the animated images are ancillary or incidental to the basic matter; or
   (iv) the animated images consist of advertising or sponsorship material.

(4) The condition set out in subclause (1) does not prevent a datacasting licensee from providing an interactive computer game.

(5) The condition set out in subclause (1) does not apply to the transmission of ordinary electronic mail.

(6) In determining the meaning of the expressions television or television program, when used in a provision of this Act, subclauses (3), (4), and (5) are to be disregarded.

4B Divisions 2 and 2A of Part 3 of Schedule 6
Repeal the Divisions.

4C Paragraph 26(3)(a) of Schedule 6
Repeal the paragraph, substitute:
(a) clause 13; or

4D Paragraphs 26(3)(b) and (c) of Schedule 6
Repeal the paragraphs.

4E After paragraph 27A(1)(c) of Schedule 6
Omit “and”.

4F Paragraph 27A(1)(d) of Schedule 6
Repeal the paragraph.
Schedule 1, page 3 (after line 19), at the end of the Schedule, add:

7 Paragraph 52(1)(c) of Schedule 6
Repeal the paragraph, substitute:
(c) the person’s conduct breaches a condition of the licence set out in clause 13, 20B or 24.

8 Subclause 54(2) of Schedule 6
Omit “clause 14, 16, 20B or 21”, substitute “clause 13 or 20B”.

9 Subclause 54(3) of Schedule 6
Omit “clause 14, 16, 20B or 21”, substitute “clause 13 or 20B”.

10 Clause 58 (table item 2A)
Repeal the table item.

These two amendments go to the central issue of this whole debate, which was visited in a significant fashion last May and June, and that is: what sort of regime should apply to the newly emerging datacasting industry? The opposition want to revisit that entire debate and we are taking the opportunity to do so in the context of this bill. When the debate on this issue was concluding last June, we expressed our dissatisfaction with the outcomes—not unnaturally—and we foreshadowed that at an appropriate time in the future we would attempt to revisit the various policy matters that we had lost during the Senate process. The opposition proposed this alternative to the government’s genre specific datacasting regime last year during the Senate’s consideration of the bill and the Senate then rejected our proposal. We have decided to propose our regime once again in view of the failure of the government’s digital TV policy to inspire Australians and in view of the lack of interest in datacasting trials last year and, apparently, in the datacasting spectrum auctions in the not too distant future.

Schedule 6 of the Broadcasting Services Act 1992 sets out the framework for datacasting. It imposes significant and specific limitations in the scope of datacasting services which are enumerated as datacasting licence conditions in the act. The licence conditions limit the type of content datacasters are allowed to provide, as was said last year, according to genre. Both at the time and, significantly, in the popular press and the industry journals, the government’s datacasting framework has been widely criticised for being—as the opposition suggested at the time—too restrictive, complicated, highly prescriptive and going beyond restricting datacasting to services that do not constitute broadcasting. Potential datacasters withdrew from datacasting trials last year and have indicated they are not interested in the datacasting spectrum auction this year as a result of the regulatory regime established since last June.

The ALP’s policy position, and the motive that drives us in this debate, is that we strongly support the development of a new general definition of datacasting. This involves replacing the government’s framework in schedule 6 of the act with an entirely new framework which incorporates a general definition of datacasting, but which does not—to pick up Senator Alston’s point—allow datacasters to become or to be de facto broadcasters. Widespread concerns have been expressed that the definition of datacasting in the act unreasonably confines datacasting so as to stifle competition and innovation, be costly to Australian consumers and businesses alike, delay consumer adoption of digital TV or digital technology and deprive businesses of opportunities to develop new products and services for world and Australian markets. These concerns have gained credibility with the failure of Australians to embrace the government’s digital television policy.

The alternative datacasting regime proposed by the opposition, as I said last year and as proposed by the amendments before the chair now, favour flexibility, minimise barriers to entry and allow new services to develop over time. The opposition believes the best way to give effect to those policy objects is to amend the bill before us so that the definition of datacasting is not based on the existing genre based distinctions. This requires an entirely new framework for the definition of datacasting, which was discussed last year, is again before the chair today and has been widely circulated.

The proposed alternative framework is to replace the provisions of schedule 6 of the Broadcasting Services Act, defining data-
casting for the new framework by using the datacasting definition in the 1998 act as its foundation and maintaining the distinction between broadcasting and datacasting services. Like the government’s existing framework, the amendments proposed are based on the premise that datacasting will be largely subject to the regulatory conditions of the existing broadcasting framework. Labor’s general definition builds on the definition of datacasting incorporated in a 1998 amendment to the Broadcasting Services Act, namely:

**datacasting service** means a service (other than a broadcasting service) that delivers information (whether in the form of data, text, speech, images or in any other form) to persons having equipment appropriate for receiving that information, where:

(a) the delivery of the service uses the broadcasting services bands;

The new framework achieves the following objectives. It confirms that datacasting services may not be broadcasting services and allows the Australian Broadcasting Authority to determine whether a service is a broadcasting service or a datacasting service. It maintains a distinction between broadcasting and datacasting services by recognising the attributes of datacasting services while remaining technologically neutral. It recognises that common elements exist between datacasting services and broadcasting services and allows the Australian Broadcasting Authority to consider the relative dominance and intent of these attributes in determining whether a service is a broadcasting service or a datacasting service.

This proposed framework confirms the 1998 legislative position that datacasting services cannot be broadcasting services. Similarly, the proposed framework provides that those matters allowed without constraint in the bill remain unconstrained in the model affected by these amendments—for example, programs such as live court or parliamentary proceedings, information transmitted in the form of text and still pictures, interactive computer games, Internet carriage services and electronic mail. This framework considers both the physical attributes of emerging digital services and the intent of services provided, in order to make a distinction between broadcasting and datacasting services.

The following attributes will be a guide for the ABA and datacasters. The first is that datacasting is non-contemporaneous. Not all users of the service view exactly the same contents simultaneously. While the amount of content offered at any given time may be finite, the interactivity and user defined choices mean that different users or viewers will have different viewing experiences. It is non-linear. While content may be provided in a uniform manner, it is not delivered to users and viewers in a steady, single continuous stream; rather it is delivered in discrete quantities according to user defined requests at user defined intervals. It is interactive. Datacasting services offer interactivity for users to request specific material linked to the Internet or engaged in digital transactions and communications. It offers frequent user defined choices. This reflects the use of interactive menu systems and control mechanisms. Finally, the frequent use of static graphic interfaces also reflects the use of the interactive menu systems and control mechanisms.

Consistent with the powers conferred upon the ABA by the Broadcasting Services Act 1992, this framework will allow the ABA to determine whether a particular service constitutes a broadcasting service, a datacasting service or any form of applicable service. To do this, the ABA must consider both the physical attributes and the dominant purpose of the service. This, however, places no limitation on the ABA’s power to consider any other relevant attribute or matter related to a service in making a determination on the nature of that service. The framework also confers on the ABA the ability to provide a non-binding preliminary determination as to the nature of a particular service when requested to do so by the holder of a broadcasting licence or the holder of a datacasting licence. This framework will offer Australians much more interesting and viable datacasting services than possible under the current regime.

It is important to Australia’s technological advancement that an inappropriate regulatory framework not suppress a potentially viable
The opposition is of the view that the regime established last June, following the extensive discussion and debates that we had on this topic, has proven and is proving to be deficient. There has been a very remarkably slow—somewhere between slow and nonexistent—take-up of digital TV. A number of major-league datacasters are expressing public disinterest in the entire system. They express their disinterest on the basis of current government policy. The opposition is of the view that the regime that we advocated last year was superior then and is superior now to the regime that has been established by the government. We believe that in this rapidly changing world it is an appropriate time to revisit past mistakes. For those reasons, we argue again now the case that we argued last year. We believe it is appropriate that the act be revised, that the deficiencies that are emerging not be ignored, and that the deficiencies that are there and are comprehended by consumers, industry and government alike be remedied as a matter of priority.

Senator BOURNE (New South Wales)

(4.58 p.m.)—The Democrats would actually probably agree with almost everything Senator Bishop said. The datacasting regime as it stands is inadequate. It needs changing. I think that, substantially, the ALP’s datacasting regime is better. It was in June; it is now. But, as in June, I have one problem with it: that problem is that I do not want somebody who already owns many of the newspapers—it may be News Ltd; it may be Fairfax; it may be any large player who has access to content and who has access to money—to take up those two datacasting licences and just put one or possibly two other free-to-air television stations on the air, not do any of the stuff that your datacasting regime would allow them to do but just put those on the air. We would then have one more or two more, depending on who bought up the licences, commercial free-to-air broadcasters doing exactly what we have now with commercial free-to-air broadcasters. We would have diminishing ownership and control of media organisations in Australia. That could be fixed by one amendment—and you won’t move it. You won’t do it. You have not even looked at it. You did not talk to us before you put this up again. I find it quite remarkable. If you changed that one small thing, I would agree with you. Mind you, it is too late now, really, because, as we all know, it is not going to go through because there is no imperative on the government. It should have been done before.

I substantially agree with you. But I can see that there is a very distinct possibility that, if by some absolute miracle this were to go through, then at least one of the two licences available throughout Australia would be bought up—I have absolutely no doubt whatsoever in my mind—by a current media player, a current powerful and rich media player, who would not do anything interesting or innovative but instead in the guise of datacasting would put a free-to-air commercial channel on the air. That would knock off one of the ones that is already there—one of the smaller ones of course—and that would diminish diversity of ownership and control of media in Australia. I am more than happy to talk to you about this. I am more than happy to look again at my amendments, which I thought worked. You said at the time that you did not think they worked, so I said, ‘Go away and find some that do and we’ll talk again.’ Well, you have not. I do not think you are interested in it. I do not think you care. I hope I am wrong.

It really seems to me that the most likely outcome, if this by some miracle went into the legislation, would not be that we would have huge, amazing, innovative datacasting. That could be the case if you actually put that one amendment in and stopped that forward storing and all the rest of it that I think can happen and I have had advice can happen. We could have a new, innovative, exciting regime, but from the advice I have been given we will not have it under this amendment. My advice is that, if this amendment by some miracle goes through, gets into the legislation and becomes the datacasting regime, the two licences that will be available around the country will be bought by the people with the most money. I honestly believe that would happen. It is not an unlikely scenario.

What would happen then? Would they do all this innovative stuff? No, of course they
would not. They would do what they said they wanted to do—that is, put commercial television on the air. We would just have another two commercial television stations, or maybe one station and some innovation. We would certainly increase the power of somebody who already has huge power in the Australian media scene—that is an absolute certainty—and we would almost certainly take one of the small to medium players out of the Australian media scene. That is exactly what I do not want.

If you would like to look at those amendments and find one that would stop forward storing and all of the things we are worried about, please do, but the opposition has shown no interest whatsoever, zero interest, in doing that since June last year. It has certainly showed no interest in discussing this with anybody before you announced to a wide-eyed world a couple of weeks ago that you were doing it again. It was announced then that you had no intention of making it watertight, as far as I was concerned, or even looking at amendments. Senator Bishop, I know you did not announce that, but that was announced on behalf of the opposition. The opposition also announced at that time—and I know this was not you also, Senator Bishop—that it was not really serious but just a demonstration that, if you wanted to change the datacasting regime, you had to make sure the ALP got into office next time. I do not know that even that is going to work, and I do not think it is a very sensible way to go about it.

Let me say again: I have exactly the same problem with this now as I did last June. Nobody has come to talk to me, and I do not imagine they have come to talk to anybody else about this. If you come up with an amendment that will stop forward storing and all the other things that I believe are allowable under your datacasting regime, if you come up with a small amendment that will mean you would have to use this for innovative, interesting and exciting datacasting—and I think that is possible with your regime but not with that one flaw in it—I will agree with you. I do not think it will go through the House of Representatives anyway because it is too late, but I will agree with you. That is what I want and what I have always wanted. That is what I agree with. What I have always not wanted and what I still do not want—nothing has changed—is for the ownership and control of media in Australia to be diminished: that is, to have fewer media players in this country. We have far too few as it is, and that is the almost inevitable consequence of this.

So if you come up with that amendment and change your datacasting regime—and it would only be a small change, because my amendment that you did not like very much was only small; it does not take much—I will agree with you. If you do not do that, I will not agree with you. The cold, hard fact is that you need a few people to agree with you to get it through, and I am just not going to do it until it comes to the point where your regime would actually create what you say you want to create. I want to create it, too. I think it is a really good idea, but I do not think your regime as it stands is going to do it, and I cannot vote for that.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (5.06 p.m.)—I say again that Senator Bourne is right on the money here. She exposes the hypocrisy of this whole exercise. Stephen Smith deserves an Oscar for ham acting, but you would have thought if he—

Senator O’Brien interjecting—

Senator ALSTON—Maybe he only gets a bronze medal. If he was a serious contender for gold, he would have actually gone through the motions with the Democrats. He would have gone to them and said, ‘We apologise profusely. We see the error of our ways. We now recognise the virtues of the regime that we didn’t want to have a bar of six or nine months ago, and we’d like you to humbly support us.’ But not having done any of that, Senator Bourne is quite entitled to be highly suspicious, and so is the Australian public.

As I say, the only concern that the Labor Party would have is that this might actually get up. They would be absolutely terrified because they know that you could drive a
coach through all of this. There are a number of things that I am not sure you would call ‘unintended consequences’ because I do not think they know what they intend. If, for example, datacasting is defined to be interactive, there is a great deal that would not be interactive that would be ruled out. There is a lot of material there at the moment which we think would be new and innovative but would simply not get to first base.

Senator Bishop I think unwittingly betrays the Labor Party’s real position on this. They are trying to capitalise on what they see as concern expressed about the regime, clearly by very highly interested parties. If one were to take at face value some of the criticisms made a few months back, you might have been forgiven for thinking that when we held an auction party no-one would turn up—because there we were reading that people had withdrawn from trials, that there was very little interest, and that this was a dead duck and, therefore, you could not seriously expect anyone to come along. The fact is that all the usual suspects turned up for the auction; all registered: Telstra; Fairfax; OpenTV, in which News Ltd has a stake; NTL. There was no-one who was not there.

Senator Mark Bishop interjecting—

Senator ALSTON—OpenTV. Read Michelle Gilchrist in the Australian: she would know, wouldn’t she? She said that News Ltd has a stake in OpenTV.

Senator Mark Bishop—You should read the corrections she made the next day.

Senator ALSTON—I did not read any correction the next day. But the fact is that OpenTV has—

Senator Mark Bishop interjecting—

Senator ALSTON—There may be more tenuous links than she understood on day one, but the fact is that OpenTV has always been very much a preferred customer of News Ltd. In any event, the idea that somehow no-one was going to be interested in the current regime has been proven wrong by those who have registered. That being the case, I think we are entitled to assume that people do see an opportunity down the track. In terms of the take-up rate of digital television, it is very interesting to look at progress to date in the UK, where they have had it for more than two years.

Senator Mark Bishop interjecting—

Senator ALSTON—Well, they have. They got it two years last November, I think it came on stream.

Senator Mark Bishop—It’s a different regime.

Senator ALSTON—It is essentially a pay television regime; it is a competitive pay TV arrangement. It has nothing to do with free-to-air. What we are talking about here is free-to-air. The number of set-top boxes that have been sold for free-to-air only in the UK is minuscule; it is all driven by free set-top box for those in the pay regime. What has driven it? Essentially it is multichannelling, a bit of games, a bit of email; and the games have prizes attached. If you call that new and innovative, I think we have a different definition.

Certainly you will expect an evolutionary approach; that is what will develop here over time. What we want to see are in fact the new and innovative services that Senator Bourne longs for. The way you can get them is by adopting, as the parliament already has, the regime that we gave very careful consideration to. We took the view that a genre based approach would give people maximum certainty; they would know—with the greatest level of precision that one could hope for—what would enable them to undertake datacasting: in other words, the most effective and practical means. It would ensure that datacasting was different from traditional broadcasting.

We have not heard why this suddenly appeared out of a clear blue sky, and why Mr Smith suddenly thought that it was time to somehow pretend that the ALP had rediscovered an interest in a different regime. The fact is that there is no guidance at all in their proposals. It would simply maximise uncertainty. It would be a nightmare of adhockery. You would have no-one really knowing in advance. You would have to go off and get some sort of authorisation for a particular regime and then maybe you would have to go back and get a further clearance if you modified it to an extent. There would be total
and ongoing uncertainty, apart from anything else. Anyway, I do not think we need to worry anymore about that. We know that it is a charade. It is not a very clearly constructed one. It is something that I think everyone in the community understands is simply put up for the purpose of trying to pretend that the ALP has a different view to that which it adopted in June last year.

Senator BROWN (Tasmania) (5.12 p.m.)—I ask the minister: in view of his optimistic assessment of what is happening in the UK, how many digital TV sets have been purchased in Australia since 1 January, and what does he see as the phase-out date in reality for the current analog technology, to bring in exclusively digital technology?

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (5.12 p.m.)—The arrangement with the free-to-air networks was that there would be 10,000 boxes available in Australia. That was being done on a staged basis. But certainly a number have been brought in, and not just by Thomson Multimedia but, as I understand it, also made available on a rental basis. So you are not just talking about hiring; rental is probably the soft entry strategy for many people and will enable them to be able to convert, as second generation set-top boxes become available.

You asked me when I think we will be able to phase out analog. It will be something you will have to assess as we go along. There will be a number of formal opportunities to assess progress, because of all the reviews that we have set in legislation. But it depends very much, for example, on whether people get free set-top boxes. If you had the great bulk of the community being given free set-top boxes, the changeover would be fairly painless because you would only need to give set-top boxes to the remainder.

But these things are all some years away, I think the date we put was 2008 for the phase-out. As you know, in America they have been a lot less committed than we have, because it has to be an 85 per cent substitution or take-up rate for digital in households before it is phased out there. The UK have been having periodic discussions about whether they should be trying to bring forward the phase-out date. As I say, in the course of those reviews, there may be a number of proposals that could result in a speedier process. In the US, for example, they are proposing to sell off the spectrum some years before it is actually freed up, and so the people who buy it may therefore have some proposals of their own about how to achieve spectrum clearance earlier than might otherwise be the case.

Senator BROWN (Tasmania) (5.15 p.m.)—The Australian culture is not for rental of TVs and receiving mechanisms. Can the minister put a figure on the number of digital TV sets that have been purchased in Australia in the first six weeks of this year, and what does he see as being the projection for the rest of the calendar year?

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (5.15 p.m.)—Again, it is not really a matter for us to be making predictions about how the market will react. I imagine that wide-screen sets will have their attractions. People who have hearing impediments will appreciate captioning. There will be a number of reasons why this will become increasingly of interest to consumers. But we cannot do much to expedite that or to affect the outcome. What we have done to date is to ensure that there will be a sufficient quantity available in most retail stores for consumers to get a bit of a sense of it. In many respects, it will probably be judged by word of mouth rather than direct advertising. I know that Channel 10, for example, are very keen to promote it. As sports events come along that offer separate enhancements on the additional channels, then you may well find spurts in the same way you would with pay TV.

I do not have a figure on the take-up to the present time. But, as I say, I do not think anyone expects significant overnight changeovers because people will need to adapt to the new technologies. The virtue of rental—even though you say there is no great rental culture in this country—is that it depends very much upon whether you have open platforms in the set-top boxes and the extent to which people will need to replace
their set-top boxes. A rental option will remove that risk from the consumer—that you might buy a set-top box which becomes obsolete within one or two years. So, even though rental might not normally have the attraction in Australia that it has always had in the UK, there may be very good reasons here why people would like to go down that path in the first instance.

Senator BROWN (Tasmania) (5.17 p.m.)—Isn’t another reason that it is just too expensive to purchase the equipment anyway? There were projections put forward in this chamber last year that it would cost a citizen up to $10,000—

Senator Alston—No; that is the set, not the boxes.

Senator BROWN—Yes, I know; but that is what I began with and that is what I am coming back to—to purchase a digital TV set. Can the minister say that is the figure that the market has come to? What is the minister’s assessment of the market as far as concerns the cost of buying a digital TV set, now that we are in the period of this act being in place?

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (5.18 p.m.)—I am only going on my own memory, but I think the figure for a standard definition wide-screen set is around $3,000 to $5,000, and set-top boxes are retailing for around $699. That is pretty much in line with what we had been led to believe by the manufacturers a couple of years ago. So, in that sense, you would certainly expect there to be more interest in set-top boxes. HD sets would probably be north of $10,000. But we would not expect that to be where the take-up rate will be significant; it is much more likely to be in the set-top box end of the market.

Senator BROWN (Tasmania) (5.19 p.m.)—Finally—and I will not keep this going—I ask: is the government not monitoring this at all? Does it have no figures on the uptake of set-top boxes and the various television set alternatives? If the minister does have figures on it, can he tell the chamber what they are? I would just say that the government ought to be monitoring this. It was widely criticised for closing down options which would have given a much cheaper alternative to the Australian public. The legislation that went through restricted the options available to the Australian public; it was seen as being expensive and restrictive. I would have thought that the government would have been monitoring the uptake of this technology, or the receptors for this technology, to be able to demonstrate the effectiveness of its legislation. I think the fact that there are not figures available demonstrates the reverse.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (5.20 p.m.)—We are certainly monitoring overall progress. If there are problems that arise, we want to know about them. If there are any blockages, we want to hear about them. Interference problems are a matter of ongoing concern in the adjustment process. But I do not know of any cheaper alternative that you refer to that might otherwise have been available. You would always presumably have had the choice of a set-top box or a new set. A set-top box is always going to be dramatically cheaper because you are using it on top of your existing analog set. As I say, the retail figure for set-top boxes is pretty much in line with what we have been led to believe. But we do not set the market prices. I think that, as with all technologies, as competition builds up, you will find fairly significant price falls, and people may well wait for that to occur. But it is not our job to drive the market. Our job is to put an environment in place and see what the response is. In terms of the accompanying datacasting regime, auctioning off the spectrum and enabling new players to come in and offer new services that are complementary, that seems to us to be about as much as you could expect of the government. We are not in the business; we are simply putting the rules in place.

Senator BROWN (Tasmania) (5.22 p.m.)—This has been truncated by the legislation. If the government is monitoring the uptake of this technology by the Australian public, can you give the chamber the figures?

Senator ALSTON (Victoria—Minister for Communications, Information Technol-
ogy and the Arts) (5.22 p.m.)—I do not have the figures in front of me, but I told you that there was a commitment to bring in 10,000 sets by the end of February. In terms of competition, bear in mind that there are only about two other places in the world that would be nominally ahead of Australia. I would argue that the US is hardly a place to compare ourselves with in terms of the take-up because it has been so laissez-faire about it that it really has been pretty much stillborn to date. In the UK, where it has been a pay TV model, the take-up rate obviously has been much quicker. But we could have that here today if pay TV operators chose to digitise their HFC networks, for example. There is nothing to stop that level of competition. Here we are talking about having a new regime for free to air which has not really been done in the UK where they have spectrum shortages and they have limited their opportunities to standard definition. We have kept our options open. A lot of people are saying that HD is ultimately the way of the future. If that turns out to be the case, we can have our choices all along the way.

Senator BROWN (Tasmania) (5.23 p.m.)—I asked the opposition a little earlier whether the amendments being put forward were meant to cut out any future arrangements between the ABC, the SBS and a commercial operator to get these services going.

Senator MARK BISHOP (Western Australia) (5.23 p.m.)—That is not the specific intent of the amendments, Senator Brown. If the ABC and the SBS want to engage in a range of co-productions with either commercial houses or other public or community broadcasters right around world, they can currently do so. As you would be aware, we do not seek to interfere with any of those sorts of arrangements by the regime we are establishing. If your point is to address advertising, on-line services and datacasting—assuming that is the point that you are driving at—our intent is to have those forms of delivery regulated in the same way as the ABC currently is in terms of broadcasting.

Senator BROWN (Tasmania) (5.25 p.m.)—So the effect is that these amendments, if they go through, are going to close the possibility of there being an arrangement for the infrastructure and delivery of services—a contractual arrangement for the delivery of whole services as against specific items between the ABC and the SBS and a commercial operator.

Senator MARK BISHOP (Western Australia) (5.25 p.m.)—If the amendments go through we would not see any change in the current regimes, Senator Brown. The same would apply.

Senator BROWN (Tasmania) (5.25 p.m.)—That is the point I was making.

Amendments not agreed to.

Senator MARK BISHOP (Western Australia) (5.26 p.m.)—I move opposition amendment (2) on sheet 2107:

(2) Schedule 1, item 1, page 3 (lines 5 and 6), omit the item, substitute:

1 Paragraph 5A(1)(d) of Schedule 4

Repeal the paragraph

1A Subclauses 5A(2) and (3) of Schedule 4

Repeal the subclauses.

This deals with the issue that Senator Bourne addressed in some detail and passion in her speech on the second reading. It goes to the issue of whether the ABC and the SBS should be restricted in the content that they choose to broadcast on multichannels when they go to multichannelling in due course. This amendment seeks to remove the content restrictions on multichannelling for the national broadcasters, ABC and SBS, by repealing the provision in section 5A of schedule 4 of the Broadcasting Services Act that currently contains those restrictions. The opposition is moving this amendment because we are—as we were some time ago—concerned to see that the ABC and the SBS are not restricted in the multichannelling services they choose to offer. The failure of Australians to embrace digital television means that it is even more important now to remove the restrictions on the national broadcasters’ ability to engage in multichannelled digital programming as this could be a significant driver in the take-up of digital technology.
As was said last year in the debates, commercial stations indicated in the inquiry into the digital television bill that they did not oppose multichannelling by the ABC and the SBS provided that multichannelling is, as they said in their submission:

... very definitely within their charters and provided that the focus was very much on complementary programming, rather than quasi commercial programming or programming that is likely to compete in a serious sense with commercial television.

The opposition believed last year—and believes now—that multichannelling complements the charters of the national broadcasters and sees no valid justification for retaining the denial to the national broadcasters of the ability to multichannel in an unrestricted way within the constraints of their charters. This is particularly so in those arguments re-addressed and balanced against the benefits. For this reason this amendment seeks to remove the limitations that the government insisted on as a condition for permitting the ABC and the SBS to multichannel when the digital television act was passed last year. The opposition made it clear during the debate last year, and I quote my remarks at the conclusion of that debate:

... our policy position remains that the national broadcasters should be able to multichannel in an unencumbered way within their charters.

The ALP and Democrat amendment to last year’s bill which allowed the ABC to multichannel was restricted by government amendments enumerating items which the national broadcasters would be able to multichannel. The ABC and the SBS indicated to the opposition at that time that they accepted the government amendments and that it would not restrict them in multichannelling activities. The government urged upon the opposition acceptance of that position. I stated during the debate that we would have preferred to have remained with the ‘carte blanche approach’ in the original amendment to the bill. At that time, however, the opposition was acutely aware that the multichannelling issue required resolution. The ABC and the SBS advised us that they were prepared to accept the limited restrictions contained in the government amendments. Furthermore, the opposition had to take into account the possible implications of rejecting the government amendments and the consequent impasse between the two houses.

Bearing in mind the importance of the enactment of that legislation to the industry generally at that time, the opposition supported passage of the government amendments, as we all know. We did maintain our policy position that the national broadcasters should be able to multichannel in an unencumbered fashion, even though the national broadcasters indicated that those limited exceptions would not prevent either from engaging in the content and programming that they were then planning. It is now appropriate, given the opportunity to reflect upon last year’s legislation, that we seek to implement our continuing view that the national broadcasters should not be restricted in the content they are permitted to multichannel within the confines of their charters.

Labor has clearly stated our vision for the future of this country. We are committed to creating a knowledge nation, which is part of our commitment to bringing the fruits of economic reform into every home. Crucial elements in creating a knowledge nation include encouraging innovation to build new industries and modernise existing ones and taking advantage of the great opportunities presented by the converging technologies of communications and IT. It is obvious that an important part of creating a knowledge nation involves expanding accessibility of technology and that maximising digital take-up rates is critical to that process. As I mentioned before, the capacity of the ABC and the SBS to multichannel is likely to play a considerable role in the take-up of digital television. For this reason, the opposition consider it important that the ABC and the SBS be permitted to multichannel in an unrestricted fashion and therefore we move this amendment, which is consistent with our ongoing policy position.

I will summarise the opposition’s position on this issue. As long as I have been involved in communications, and for some years before that, my knowledge of our platform has been that we are committed to multichannelling and in no way restricting the type of content that the national broadcasters
might choose to broadcast on additional channels. Due to the critical element of time and the pressure that was upon the various representatives of the parties in this chamber as we discussed this critical bill last May and June, the opposition were persuaded by the SBS and the ABC that the restrictions sought by the government were not going to harm their position in terms of the additional product that they might choose to broadcast on the additional channel or channels. Nonetheless, as I stated at that time in our concluding remarks in this chamber, the opposition still retained their policy preference and position. We have given that matter consideration in the six or seven months since that bill was finally passed.

The ABC and the SBS put a position to us, and we acknowledged it at the time. We accepted the government’s preferred position of restricting the amount of different genres of material that the ABC and the SBS would not be able to broadcast. However, we have never departed from our position that they should be unrestricted or unencumbered and it is our view that the restrictions that were put into the act at that time should now be removed. People can try and make as much as they like of that but our position is on the record. The amendment, in purpose, seeks to remove the restrictions in clause 5A in the act. The effect will be to allow the two national broadcasters to broadcast content within their charters of any type that they choose to broadcast. That has been the longstanding position of our party and we seek to give effect to it now.

Senator BOURNE (New South Wales) (5.34 p.m.)—Meanwhile, we are back to my very favourite amendment! I am sure Senator Bishop just loves justifying it, the poor man. It is a bit cruel to get up after him and respond but I think I will do it anyway. I thought that response was pretty good, to tell you the truth. I thought you did a lot better than Mr Smith did the other day. You have thought about it a lot more. That is good. However, there are a few holes in it and I might just point them out.

Senator Bishop mentioned—and I was writing furiously, so I have not got his exact words—that the ALP was acutely aware that this required resolution. It did. I agree with him. He then jumped to the point that the ABC and the SBS told the opposition that they could live with the restrictions as they were. I do not recall the ABC and the SBS saying that. They did not tell me that they preferred it with restrictions: they told me that they preferred it without. I do not think that it follows that it required resolution and therefore had to be restricted, so I think that is a little unfortunate. The ABC and the SBS told me that they wanted no restriction. I do not know if they told the opposition something different. I doubt it very much. I think the preferred resolution would have been the one in the opposition and Democrats amendments, which, if I recall, were exactly the same: unrestricted multichannelling.

He did mention—and this was the argument at the time and he is right when he quotes himself—that the opposition mentioned in June last year that they thought there was the possible implication of an impasse between the two houses. I guess if you need an argument as to why you did it that is probably the most believable, but I do not believe it. I do not believe it because I was here and I know how many people knocked down my door to talk to me about it. I know how much money, power and influence was at stake. I know how very much the commercial broadcasters wanted this bill to go through. I know how very little they cared about whether the ABC and the SBS had unrestricted multichannelling. They could not care less—maybe just a little tiny bit but not very much. In my opinion—and I am absolutely and utterly positive that it is right—if unrestricted multichannelling had been included in this bill along with everything else that the commercial broadcasters and indeed the government wanted, when the bill went back to the House of Representatives it would have gone straight through. There would have been no impasse. There would have been no constitutional crisis. Absolutely nothing like that would have happened.

The Senate may recall that we did all of this at the last possible second. It went on and on to the end of the session; I think it
was the last day—it was certainly the last week—of sitting in June. There was no further time to debate it before we got up for a big break, and the commercial broadcasters were not prepared to put up with that. You are telling me there was a time constraint? There was a huge time constraint. It was an immense and critical time constraint; you are absolutely right about that. But the time constraint was not on the ABC and SBS getting unrestricted multichannelling. The time constraint was on this bill passing, and that was one of the things of least interest to the people who had the most interest in the bill passing. There was very little interest in that from anybody who came knocking on my door. They had a lot of interest in a lot of other things, but that sure was not one of them. I can tell you that it absolutely would have gone through. There were interests who wanted it so much at that time that it would have gone through. There is absolutely no question in my mind whatsoever—zero.

Senator Alston—So why did they give in?

Senator BOURNE—That is a very good question, Minister: why did they give in? I have been asking myself that question over and over. I do not know what it was, but I found it absolutely remarkable. The opposition say they were persuaded by SBS and the ABC that the restriction would not harm what they want to do at the moment. That may be true, although the ABC did tell me they wanted to do domestic news, and SBS told me they wanted to do international news. In fact, after this bill goes through, I understand SBS will be able to do international. Unfortunately, they will not be able to do domestic, under the government’s amendments.

So what is the difference between June and now? The difference is that the government are under absolutely zero constraint to get this bill through. In fact, I would be surprised if the minister has this on the top of his list of what he wants to get through, and I would be surprised if it is not on the bottom of the list of several other people in cabinet, because it actually does things which give the ABC and SBS what they want in some ways. Both the ABC and SBS want this bill, but absolutely nobody else does. The commercial broadcasters do not, and the government do not particularly. In fact, I get the impression that the minister is only doing it to fulfil a promise. He is doing the right thing. Good on him—especially if nobody else particularly wants it. But, if this happens now, there is absolutely zero guarantee that it will go through the House of Representatives. In my mind there was an absolute guarantee that it would have gone through in June, but now there is no guarantee at all.

I am going to agree with this amendment. It is my own amendment, and it is Senator Bishop’s amendment too, if I recall, from last time. We put up the same amendment—a bloody good amendment. I really liked it then and I really like it now. I think it is an absolute disaster that it did not go through then, because it is not going to go through now. Unfortunately, this government have no interest in putting it through now. I will be voting for it, but I think, Senator Bishop, if you go back and have a really close look in that stable, you will notice that the horse has gone. It has bolted and it is too late to get it back.

Senator BROWN (Tasmania) (5.41 p.m.)—I would be interested to hear what the government’s view is on this amendment and why it would not be in support of ABC and SBS having the door opened up again, as this amendment would have it. Could I hear the government’s opinion on this, please?

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (5.41 p.m.)—I think it is fair to say that most people in this chamber regard the ABC as quite distinct and, as I have usually described it, ‘a quality alternative to the commercial sector’. That means that the ABC should be identifiably different. The ABC’s charter requires it to give emphasis to innovation, education and the arts. It does not actually require it to give priority to news and current affairs, children’s television or regional services; nonetheless, the purpose of the charter is to differentiate the product. If you were to say, ‘It is open slather, you can do whatever you like,’ the ABC would have an untrammelled right to get in there and compete directly with the free-to-air and
pay TV sectors in providing films, soaps and sports—most of which presumably would cost a lot of money, which they do not have at the present time because they are not being funded on that basis. It seems to us that what it has been allowed to do, what it was happy with, and what the ALP signed off on, gives it every chance in the world to provide a different product.

People do not look to the ABC for films, dramas, soaps and sports. It is education, history, science, health, art, culture, finance and business, court and parliamentary proceedings, children’s programming, international news, rural news, international documentaries, subtitled programs and occasional drama. Why isn’t that quintessentially what the ABC is on about? Why on earth would you want to turn it into a pale imitation of the commercial sector? Senator Brown has also, I suppose, invited me to comment on why the ALP were spooked on this. I think that, at the end of the day, they shared our view of the world. They are once again going through the motions for, I think, transparent political opportunism, but they are not going to fool anyone. We do not believe in dumbing down the ABC. We do not believe in providing it with very substantial additional funds so that it can provide sport in competition with the commercial sector or soaps in competition with pay TV. We think there are a number of very important areas of activity for the ABC which have been properly funded and which it can therefore extend into a multichannelling or a datacasting world.

So, if Senator Bourne is right, and I am sure she is, that the government does not propose to change its mind—the government always had a consistent view—and the ALP were fair dinkum, all you can say is: why did they throw away the leverage they had? Basically, it is a pretty good cameo of what you would get from an ALP government. They would be blown around in every little breeze that came along. They would not even exercise their political muscle when they had the chance.

**Senator BROWN (Tasmania) (5.45 p.m.)—**I would agree: the ALP stuffed up on this.

**Senator Alston—**They didn’t stuff up; they didn’t have the ticker.

**Senator BROWN—**It may have been deliberate, Minister, but one way or the other the Australian people lost out because the ALP did not vote last year to give the ABC, and the SBS, the opportunity to determine for itself what was going to go to its audience—as would now be allowed by this amendment which will not go through because it will be blocked by the government.

There is a vote of confidence in its director and board if ever I heard one! What an extraordinary statement from the minister! There is a vote of confidence in its director and board if ever I heard one! What an extraordinary statement from the minister!

**Senator Alston—**Mr Temporary Chairman, I rise on a point of order. I think everyone in the chamber heard me say ‘more money in order to provide soaps, dramas, films and sports’. I did not just say ‘more money’.

**The TEMPORARY CHAIRMAN (Senator Murphy)—**I am not sure that that is a point of order. You are just evading the matter.

**Senator BROWN—**Thank you, Mr Temporary Chairman. Of course, it was not a point of order—and the minister can respond in his own good time. The implication that, if the government adequately funds the ABC, it will drop the quality of ABC programs going to the Australian public is ludicrous. In fact, it is the effort to dumb down the ABC that has led the government to be cutting the budget for the ABC, the SBS and public broadcasts in general and clipping their wings and restricting their ability to act in the
good faith with which they have always acted.

Senator Alston—How much would you give the ABC? You’ve asked us; what would you give them?

Senator Brown—The minister is asking me for advice on financing the ABC. I am prepared to give that to him. I thought the government was confident in its position on that, but it obviously does not know. The government has been caught in the position where the minister has revealed today that its philosophy is that, if you give the ABC adequate funding, it will in some way or other reduce the quality of the service going to the Australian public and, if you cut funding for the ABC and SBS, then the public will get a better service out of it. What an extraordinary position to hold!

The fact is that the minister would like to dictate to the ABC directly and limit what it can broadcast and give to the Australian people—to be chief censor. He has done the best he can within what the Australian public and this parliament would allow, and he has met howls of protest about that. I could not help but hear the minister say that the opposition will be sensitive to every breeze that blows as far as broadcasting is concerned. The problem for the government is that it has been totally carried along by the gale from the big end of town. This government has become a government that interferes in public broadcasting. It is not game to do the direct censorship, but it has a series of indirect mechanisms: by appointing Mr Shier, by radically altering the staff make-up and by sacking people who have been the creative genius behind the ABC and SBS as Australians know and love them. There has been a great effort by this government to totally interfere with and cut across that delivery of services which Australians want, which Australians have faith in and which Australians have enjoyed. This is not only those people who happen to be tuned in to ABC at any given time; surveys show that right across the board Australians have faith in the ABC and SBS. Thank goodness that is the case, because otherwise we would have seen this government go much further and this minister go further in his self-taken role as censor.

But it gets to an extraordinary point when he says that, by giving the ABC more money, we are going to reduce the quality of the service and therefore the cutting of money to the ABC, ipso facto, will increase the quality of the service. What an extraordinary statement about the ABC and SBS from the minister. What a dumb statement that is. It is a political statement of the first order. If you carried it to its stupid conclusion, you would say that if you halved the amount of money going to the ABC you would double the quality of it. What a ridiculous thing for the minister to say. He does not know what he is doing in this portfolio. He has lost contact with the feelings of the Australian people about the ABC and SBS and the fantastic role they play in servicing all Australians and the complementary role they play to the commercial services. The Australian people do not have faith in this minister because of the way he has mishandled the ABC and SBS and tried to interfere in their time-honoured delivery of excellence to the Australian listening and viewing audiences. He would have some opportunity to recover a little were he to support this amendment and were the government of Prime Minister Howard to support this amendment now. But they are not going to give the ABC and SBS the same opportunities that the free-to-air broadcasters are getting.

This is censorship. The ABC did make a monumental mistake when it engaged in this last year. I think Senator Bourne is quite right in her analysis of what happened there. The ABC and SBS did not say, ‘We want a restriction put on that we’re happy to live with,’ or, ‘We would prefer a restriction put on what we can put to air through the services.’ That should have been left to them. This is not going to rectify that mistake now. We are going to be left to hope that the Labor Party, when it does come up with its policy announcements in the run to the next election, not only removes these impediments but also moves back towards giving the ABC and SBS control of their own services and adequate funding to go with it. But we are going to have to have a strong presence of
Greens and, hopefully, Democrats in this place to keep Labor honest on those commitments, if it does get into government after the next election.

Senator BOURNE (New South Wales)  
(5.53 p.m.)—I was not going to respond but, as in June, I cannot help myself. The minister has said a few things that I think need just a very short response. They are probably quite similar to what Senator Brown has said, but I just wish to expand on a couple of areas. First of all, the minister said that the government do not believe in dumbing down the ABC. I am glad to hear that. I had my suspicions. But, now that he has told me that they do not, I am very pleased to hear that. I can assure the minister that allowing the ABC to do anything it likes on the second channel would not dumb it down; that would not be the effect. In fact, I cannot quite work out why he thinks that would be the effect. I could not work it out in June and I cannot work it out now. That obviously would not be the effect.

He pointed out that he does not know why we would want the ABC to present sport and soaps in competition with the commercial sector. So I guess that means that the minister does not really like the ABC having sport or soaps on it. I cannot think of too many soaps that are on the ABC but, if they want to do them, I see no problem with that. I do not think they are really big on soaps, but if they want to have them I see no problem with that. I wish they showed more sport. An awful lot of Australians, particularly in rural and regional areas, also wish they had more sport. I would really like to see them have lots of sport all over the place, because that is what people want. It is not what I particularly want but it is what many people in Australia want.

The minister asked: ‘Why would you want to turn the ABC into a pale imitation of the commercial sector?’ Excuse me! Why would allowing the ABC to do what they like on their second channel turn them into a pale imitation of the commercial sector? I thought the minister’s argument was that the ABC should be totally independent and do really good innovative things. That is certainly my argument. How on earth do you get to the point where you think that and then you say, ‘If they are allowed to do what they like they’ll turn into a pale imitation of the commercial sector’? They will not. That is a nonsense; it is not an argument.

The other argument I put in June—I know that people think this is getting a bit tedious but I will put it just one more time—was that you have prescribed what the ABC can do; you have not prescribed what they cannot do. Why didn’t you prescribe soaps? Why didn’t you prescribe things that whomever you are looking after most did not want the ABC to have? Why didn’t you just write down that list and then say, ‘Anything else—go for it.’ But, no, you have not done that. What if the ABC discover something that we have not even thought of, that they have not thought of or that you have not thought of? Perhaps it might be some new way of doing something or some new program—what if that happens? They cannot show it because it is not on the prescribed list of what they can show.

The minister read out the list and he almost said, ‘What is on this list that the ABC would want to do that they can’t?’ Surely the most obvious is domestic news and current affairs and sport. I understand that there are a lot of other interests in Australian media who really care about themselves, and not the ABC, having sport, but I do not think we should be looking after them. I think the ABC should be able to show sport if they can afford it. The minister has not actually given them an awful lot of money. I do not think they have got enough money for their core business, so he can stop them showing sport. It is dead easy if that is what he wants to do; it does not have to be on the list. If he is the next minister, they can have lots of money—back up to the 1985 levels would be really good. But if whoever is the next minister is prepared to properly fund them on core levels—even if it is not to 1985 levels then at least decent funding in core levels—I think they ought to be able to do whatever they want to do on that second channel.

The minister is not trying to restrict what they can do on their first channel, and the first channel is not a pale imitation of the commercial sector. He has not stopped them from putting sport or soaps on their first
channel, so why should they not be able to do so on the second? Many rural and regional and city people would really like it. I would really like it. I will well and truly be voting in favour of this amendment, although I fear it may not go much further than here.

Amendment agreed to.

The TEMPORARY CHAIRMAN (Senator Murphy)—Senator Bourne, I assume you will not now be proceeding with your amendment in relation to multichanneling? Is that right?

Senator Bourne—Yes.

The TEMPORARY CHAIRMAN—We will turn to government amendments Nos 1 to 6 on sheet EQ221.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (5.58 p.m.)—by leave—I move government amendments Nos 1 to 6 on sheet EQ221:

(1) Schedule 1, page 3 (before line 5), before item 1, insert:

1A Division 2 of Part 11 (heading)

Repeal the heading, substitute:

Division 2—Complaints relating to national broadcasting services or datacasting services provided by the ABC or SBS

1B Paragraph 150(a)

Omit “that national broadcasting service has acted contrary to a code of practice developed by that national broadcasting service”, substitute “the Corporation has, in providing a national broadcasting service or a datacasting service, acted contrary to a code of practice developed by the Corporation”.

Note: The heading to section 150 is altered by adding at the end “or datacasting services provided by the ABC or SBS”.

1C Paragraph 151(2)(b)

Omit “that national broadcasting service”, substitute “the Corporation”.

(2) Schedule 1, page 3 (after line 12), after item 4, insert:

4A After clause 35 of Schedule 6

Insert:

35A This Part does not apply to the ABC or SBS

For the purposes of this Part, the Australian Broadcasting Corporation and the Special Broadcasting Service Corporation are taken not to be datacasting licensees.

Note: If the Australian Broadcasting Corporation or the Special Broadcasting Service Corporation is otherwise a datacasting licensee, it is a duty of the Board of the Corporation to develop a code of practice that relates to the service provided under the licence. See paragraph 8(1)(e) of the Australian Broadcasting Corporation Act 1983 and paragraph 10(1)(j) of the Special Broadcasting Service Act 1991.

4B At the end of clause 37 of Schedule 6

Add:

(3) Also, this clause does not apply if the datacasting licensee is the Australian Broadcasting Corporation or the Special Broadcasting Service Corporation.

Note: Sections 150 to 153 deal with complaints about a datacasting service provided by the Australian Broadcasting Corporation or the Special Broadcasting Service Corporation.

(3) Schedule 2, item 3, page 4 (after line 22), at the end of section 6A, add:

(2) However, subsection (1) is not intended to impose any obligation on the Corporation, in relation to the provision of such a service, beyond that imposed on the Corporation as holder of such a licence.

(4) Schedule 2, page 4, at the end of the Schedule, add:

4 Paragraph 8(1)(e)

Repeal the paragraph, substitute:

(e) to develop codes of practice relating to:

(i) programming matters; and

(ii) if the Corporation has the function of providing a datacasting service under section 6A—that service;

and to notify those codes to the Australian Broadcasting Authority.
(5) Schedule 3, item 3, page 5 (after line 22), at the end of section 6A, add:

(2) However, subsection (1) is not intended to impose any obligation on the SBS, in relation to the provision of such a service, beyond that imposed on the SBS as holder of such a licence.

(6) Schedule 3, page 5, at the end of the Schedule, add:

4 Paragraph 10(1)(j)

Repeal the paragraph, substitute:

(j) to develop codes of practice relating to:

(i) programming matters; and

(ii) if the SBS has the function of providing a datacasting service under section 6A—that service;

and to notify those codes to the Australian Broadcasting Authority.

These amendments will harmonise codes of practice and complaints handling procedures in relation to ABC and SBS broadcasting and datacasting. The Broadcasting Services Act as it currently stands requires the ABC and SBS, if they choose to undertake datacasting services, to participate in developing codes of practice with the commercial datacasting industry. Such codes may not be suitable for the kinds of datacasting services that the ABC and SBS will provide. In addition, there may be practical difficulties for the ABC and SBS when reversioning existing television, radio and online content for datacasting in ensuring the same material complies with multiple codes of practice. These amendments will enable the ABC and SBS to develop their own codes of practice for datacasting. The amendments will also extend the existing complaints handling provisions of the BSA relating to ABC and SBS broadcasting services to datacasting. The ABC and SBS will, however, remain subject to ABA licensing procedures and ABA oversight in relation to breaches of genre conditions. This will ensure that datacasting services provided by the ABC and SBS remain within the general regulatory framework for datacasting.

Senator BOURNE (New South Wales) (5.59 p.m.)—As I understand it, these amendments are good for the ABC and SBS and they want them. Therefore, the Democrats will agree to them.

Senator MARK BISHOP (Western Australia) (6.00 p.m.)—The opposition supports the amendments as outlined by the government.

Senator BROWN (Tasmania) (6.00 p.m.)—The Australian Greens also support the amendments.

Amendments agreed to.

Senator MARK BISHOP (Western Australia) (6.00 p.m.)—I withdraw opposition amendments Nos 1, 4, 8, 9, 12 and 13 on sheet 2107. They have been covered by the government amendments. I seek leave to move opposition amendments Nos 6, 7, 10 and 11 on sheet 2107 together.

Leave granted.

Senator MARK BISHOP—I move:

(6) Schedule 2, page 4 (after line 4), before item 1, insert:

1A Subsection 3(1) (definition of broadcasting service)

Omit "programs" (wherever occurring), substitute "content".

1B Subsection 3(1) (paragraph (a) of the definition of broadcasting service)

Repeal the paragraph.

1C Subsection 3(1)

Insert:

content means:

(a) a radio program; or
(b) a television program; or
(c) a transmission of data for the purposes of a datacasting service; or
(d) a publication on the Internet; or
(e) any other public transmission or publication by electronic means.

(7) Schedule 2, page 4 (after line 12), after item 2, insert:

2A Subsection 3(1) (definition of program)

Repeal the definition.

2B At the end of section 3

Add:

(3) A reference in this Act to broadcast or broadcasting includes a reference to:
(a) the transmission of data for the purposes of datacasting; and
(b) publication on the Internet; and
(c) any other public transmission or publication by electronic means.

2C Section 6
Omit “broadcasting programs” (whenever occurring), substitute “content”.

(10) Schedule 2, page 4 (after line 22), at the end of the Schedule, add:

5 Subsections 11(3) and (4)
Omit “broadcasting programs” (whenever occurring), substitute “content”.

6 Paragraphs 25(1)(da), (db) and (dc)
Omit “programs” (whenever occurring), substitute “content”.

7 Subsection 25(3)
Omit “program”, substitute “content”.

8 Sub-paragraph 25(5)(b)(i)(A)
Omit “broadcasting programs”, substitute “content”.

9 Subparagraph 25(5)(b)(ii)
Omit “program”, substitute “content”.

10 Paragraph 25(5)(e)
Omit “program”, substitute “content”.

11 At the end of subsection 27(5)
Add:

or (d) a second or subsequent digital channel; or
(e) a datacasting service; or
(f) publication on the Internet, or by other public means, of an electronic communication;

12 Sub-subparagraph 29(1)(b)(i)(A)
Omit “programs”, substitute “content”.

13 Subparagraph 29(1)(b)(ii)
Omit “program”, substitute “content”.

14 Section 29A
Omit “broadcasting facilities”, substitute “facilities”.

(11) Schedule 2, page 4 (after line 22), at the end of the Schedule, add:

15 Paragraphs 31(2)(a) and (b)
Omit “a program” (whenever occurring), substitute “content”.

16 Section 78(4)
Repeal the subsection, substitute:

(4) A direction under this section must be in writing to the Managing Director and may be sent by any means of electronic communication.

17 At the end of subsection 79A(2)
Add:

or (c) if the matter is:

(i) a transmission of data for the purposes of datacasting; or
(ii) a publication on the Internet; or
(iii) any other public transmission or publication by electronic means; cause all the required particulars to be transmitted in the form of images or words.

18 At the end of subsection 49B(1)
Add:

or (c) in the case of:

(i) a transmission of data for the purposes of datacasting; or
(ii) a publication on the Internet; or
(iii) any other public transmission or publication by electronic means; by retaining a physical or electronic copy of the data transmitted or matter published.

These amendments update the ABC and SBS charters. It has been apparent for some time now that the ABC’s role in the digital environment needs to be clarified and, in our view, expanded. The effect of the ABC’s act and charter needs to be extended to activities that the ABC conducts online in its digital environment or its activities when it moves to datacasting. These opposition amendments expand the ABC Act to incorporate within that act new activities and services that have already become available and will become available in the foreseeable future that are not covered by the provisions of the act. The government has not seized the opportunity that this bill presents to amend and update the ABC Act consistent with technological advancements. The opposition, on the other hand, seek to have the ABC’s role in online and other services, as well as datacasting services, incorporated into its act. The changes to the ABC Act need to go further than the government is proposing in schedules 2 and 3 of this bill.
These amendments address public concerns that the future commercialisation or even privatisation of these ABC services is being contemplated and is possible under existing legislation. We must ensure that this does not happen by bringing these services within the core functions of the national broadcasters in their enabling legislation. These amendments proposed by the opposition will go some way to ensuring the future independence of the ABC from commercial interests and influences. These amendments update the enabling act of the Australian Broadcasting Corporation consistent with its expanding role in the digital world.

In the second reading debate, Senator Bourne made some comments with respect to these opposition amendments. My memory is that she suggested it would not be appropriate for the opposition to proceed with these amendments at this stage because there was a Senate committee looking at this issue—that is, the updating or modernising of the ABC Act and charter in respect of new broadcast media that it might choose to enter into, specifically online and datacasting media.

Although Senator Bourne is not here, I might advise her of the progress of that Senate committee. As she correctly said, there were three terms of reference, (a), (b) and (c), going to the issues of commercialisation of products online by the ABC. Terms of reference (a) and (b) were addressed by a Senate report that was tabled last April or May in this place and were discussed at length at that time in the context of proposed deals with Telstra and the running of advertising on the ABC online services. Term of reference (c) was a wider term of reference and addressed the future of the ABC charter in the context of developments in the technological world.

I can advise Senator Bourne and put it on the record that there were in the order of 35 or 40 submissions received by that committee. Something like 85 or 90 per cent of those submissions addressed only terms of reference (a) and (b). From memory, when the committee looked at what it should do with term of reference (c), it found that, of the 35 submissions, only six submissions addressed term of reference (c). Senator Allison, Senator Bourne’s colleague, is the chair of that committee. When we came to revisit term of reference (c), the committee chose to advertise and call for additional and further submissions on term of reference (c). That was duly done, and no further submissions were received. So, in total, there are only six submissions on term of reference (c) from last April. At best they address only in passing term of reference (c), and it is my understanding that the committee is going to wind up that inquiry and not come down with any report of great significance that might add to knowledge in this area, because the range of submissions was limited and addressed that term of reference only in passing.

The comments I have made in my contribution to opposition amendments Nos 6, 7, 10 and 11 reflect the policy position of the Australian Labor Party. If there were a chair’s report, our report would essentially reflect the comments that I have made. The ABC is currently in the datacasting world and in the online world, and the issues of advertising and possibly privatisation have come up repeatedly in the last 12 months. They were raised at the committee. They have been repeatedly raised by me and by other opposition senators at estimates. We are of the view—and it is our policy position—that, as the ABC goes into these new worlds and these new fields of endeavour, its new activities under law should be regulated and comprehended by the act and the charter.

The intent of the amendments today is to put that on the record. If the Senate committee were to come down with a recommendation in two or three weeks time, as the representative of the opposition on that committee I can assure Senator Bourne that, upon mature reflection, the comments I made today in my introductory remarks would be reflected in any minority or dissenting report that the Australian Labor Party should choose to offer. Senator Bourne, that addresses the concerns that you have raised as to why the ALP was pressing at this time to cover the issues of online and datacasting activity in the ABC Act.

Senator BOURNE (New South Wales) (6.07 p.m.)—I do not have the ABC Act with
me. Could Senator Bishop or the minister tell me: do Senator Bishop’s amendments actually go to changing the charter or are they insertions within the act?

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (6.07 p.m.)—That is one of our many objections to these amendments. The amendments will significantly widen the meaning of broadcasting services in the ABC Act by inserting the new term ‘content’ into definitions in the act and therefore into the ABC’s charter. This pre-empts the outcome of the inquiry, and Senator Bishop is at great pains to say that we should take his word for it—that somehow he is in control of what the whole committee might come up with.

Senator Mark Bishop—No, ‘of our party’, I said.

Senator ALSTON—Sorry, what your view of the world might be. Is this the legislation committee?

Senator Mark Bishop—No, references.

Senator ALSTON—This is the references committee—on which you have the numbers.

Senator Mark Bishop—No, I am just stating what the position of the Australian Labor Party would be in any report. I am not suggesting what the chair might write in her report.

Senator ALSTON—But the most you can tell us is what the majority view emerging from that committee might be.

Senator Mark Bishop—All I can tell you is about our party.

Senator ALSTON—But you have the majority on it, haven’t you?

Senator Mark Bishop—No.

Senator ALSTON—You haven’t? On the references committee? Don’t you have the majority on that?

Senator Mackay—It is a references committee. The Democrats chair it.

Senator ALSTON—Well, there you go. I have not been invited to attend recently, so I am a bit out of touch. Whatever the composition and whatever the position, this would clearly pre-empt the outcome. At the very least, we should be awaiting that with bated breath. More importantly, these amendments would have damaging consequences for the ABC itself. I am sure Senator Bourne will sit bolt upright when I say that and take notes. It places all services under the definition of content: radio, television, online and datacasting would be on the same footing as ABC functions. This is a major change to the ABC charter and has been undertaken with no consultation with the broadcaster, the industry or the community.

By inserting datacasting and online activities into the charter, it creates a duty under section 8 for the ABC board to ensure that the ABC undertakes those activities. Effectively, the opposition amendment limits the flexibility for the ABC to decide how best to use its own spectrum in relation to high definition television, multichanneling or datacasting by requiring that the ABC must engage in datacasting. The proposed definition of content includes, under subparagraph (e), undefined and other electronic public transmission and publication services as well as television, radio, online and datacasting. The ABC will be burdened with the function of providing such services under its charter as they become technically feasible, whether it is sensible to provide such services or not.

I also have some technical problems which I could, perhaps, elaborate on. In drafting that amendment, the opposition have overlooked the effect of section 6 of schedule 6 of the BSA, which provides that for the purposes of any law of the Commonwealth, if a datacasting service is provided under a datacasting licence, this service is taken not to be a broadcasting service. This provision conflicts with the opposition’s attempt to include ‘transmission of data for the purposes of a datacasting service’ in paragraph (c) of the definition of content and thereby brings it within a modified definition of broadcasting service. Accordingly, there is a significant argument that the opposition amendments will not be effective in giving the ABC the function of providing licenced datacasting services.

The method the opposition has used to achieve its policy objective may have other unintended consequences. For example, re-
taining paragraphs (b) and (c) of the definition of broadcasting service may result in video and audio streaming being excluded from the concept of a broadcasting service in the opposition’s modified definition, meaning that they would be explicitly excluded from the ABC’s wider functions. The function of transmitting data for the purposes of a datacasting service, in paragraph (c) of the proposed definition of content, may be read very narrowly in the sense of transmitting computer programs or numerical tables. This is because those terms would be interpreted in the light of the definition of datacasting services in section 6 of the BSA, which uses the term ‘data’ in counterpoint to other terms such as ‘text’, ‘sounds’ and ‘visual images’.

For all those reasons, we think it would not only be dangerous but also pose obligations on the ABC which it clearly has not sought, which may well be not in its best interests and which would, presumably, force it to go down paths which no-one in the community has currently explored.

Senator MARK BISHOP (Western Australia) (6.12 p.m.)—In response to the minister’s comments in answering Senator Bourne’s previous question, the amendments moved on behalf of the opposition do, indeed, amend the act. They go to the charter responsibilities. I can advise the chamber that the opposition have consulted with the ABC. They have said to us that they have no substantive concerns with the amendments that have been moved and, in principle, support our amendments.

Senator BOURNE (New South Wales) (6.13 p.m.)—As far as the Democrats are concerned, there are two things that are particularly to the forefront of our minds in considering this. The first is that I understand what Senator Bishop is saying about the committee. It has not reported, but I think he is right in that there were six extra submissions to that committee. It has not been decided, as I understand, when it will report or whether, in fact, it is even worthwhile setting it in motion again or just stopping. Amending the ABC’s charter is a very significant thing to do; it is very significant for the ABC. While I agree that digital, Internet and online services need to be in there—and they need to look at it—we should do it in a little more considered way than this. We have had these amendments for only two weeks now, and I would rather get a lot more input from the ABC and SBS, although I note that your amendments do not mention SBS, just the ABC. I would rather get a lot more input from both the ABC and the SBS to make myself comfortable that we were doing the right thing.

If we were to go down the path of putting up any sort of bill or amendment that would do that—and I take Senator Bishop’s point that he is serious and does care about this, and I do too—it would be very worth while if we put it forward again to seek input from the public, the friends and ABC and SBS themselves into a legislative committee and get a report that way to get much more of a feel for what would be the best way to go about this. I had not heard the minister’s problems but they do sound like problems to me. I would like a bit more information on them before I agreed to something in case they were real problems. Because of that I think we will be voting against this. That is not to say I do not acknowledge that there does need to be some sort of input into the act—there does—I just am not sure that this is the right input.

Amendment not agreed to.

Senator MARK BISHOP (Western Australia) (6.16 p.m.)—I heard the minister’s comments in his second reading remark in response to some comments made by Senator Bourne. The opposition moves amendment No. 14:

(14) Page 5 (after line 22), at the end of the Bill, add:

Schedule 4—Amendment of the Data-casting Charge (Imposition) Act 1998

1 Paragraph 6(b)

Repeal the paragraph, substitute:

(b) the transmitter licence is held by the holder of a commercial television broadcasting licence; and

2 At the end of section 6

Add:

(2) To avoid doubt, this section does not apply to a national broadcaster.
We are of the view that the government has imposed the datacasting licence fee on the national broadcasters by virtue of its failure to exempt the national broadcasters from licence fees that it has imposed for datacasting licences. The minister in his remarks said that it was not the government’s position at this time, as I understand it, to impose or require that the ABC and the SBS pay licence fees to the government.

The opposition come at it from a different angle. We believe that it is appropriate to exempt the ABC and SBS from datacasting licence fees or other charges. The outcome on the part of both the government and the opposition is the same—that is, the ABC will not have to pay datacasting licence fees or other charges. The government seeks to achieve its purpose by putting its formal position on the record. The opposition seek to achieve the same purpose by having the force of law in the act so that if in future either this government or any other government or minister have a different view and seek to raise funds for a particular purpose within the ABC—or simply as an addition to general revenue—they can withdraw from any policy announcement, however heartfelt and honest and committed they might be to it at this time.

Our view is that it is a serious issue. It is nonsense that it could be addressed again in the future by way of a dictative government minister of either party. We believe it is appropriate for the government’s end position—which we agree with—to be enshrined in legislation and have the force of law. In that way, it is not possible for any future minister or government to do a backsliding job and seek to impose some form of datacasting licence fee or charge on the national broadcasters. If a future government should attempt to address that position, it will be forced into the public position of having to amend the act to achieve that purpose.

I have heard Senator Bourne’s comments and I accept the statement made by the minister in his concluding remarks. We say that it is proper at this stage to dot the i’s and cross the t’s to enshrine what is the intent in legislation of the government, the opposition and the Democrats, as I understand it, and the minor parties. In that way, there is no uncertainty on this issue into the future.

**Senator ALSTON** (Victoria—Minister for Communications, Information Technology and the Arts) (6.19 p.m.)—I just want to say there is no uncertainty. If you are serious about wanting to minimise red tape and avoid cluttering up acts with unnecessary provisions, then you would not take this any further. It is entirely superfluous and, therefore, we do not see any point in supporting it.

**Senator BOURNE** (New South Wales) (6.20 p.m.)—First of all, I believe that the intent of the parliament is something which is taken into account in any challenge. If, for instance, a future government of Callithumpian type decided to charge datacasting fees and the national broadcasters objected to that and took them to court, the intent of the parliament—as in the minister’s second reading speech—would be taken into account. I still believe that there is absolutely no need to do this. The intent was very clear when the amendments were moved at the time. I thought the minister said that he believed unequivocally there was no problem. I could be wrong; I would appreciate it if the minister would tell me. I believe the minister told the chamber that ABC and SBS could not be charged datacasting fees under the act as it is. I would appreciate his comments on that.

**Senator ALSTON** (Victoria—Minister for Communications, Information Technology and the Arts) (6.21 p.m.)—Section 6 of the act simply says—and I truncate it to get to the point—which we agree with—to be enshrined in legislation and have the force of law. In that way, it is not possible for any future minister or government to do a backsliding job and seek to impose some form of datacasting licence fee or charge on the national broadcasters. If a future government should attempt to address that position, it will be forced into the public position of having to amend the act to achieve that purpose.

Amendment not agreed to.
Progress reported.

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

Debate resumed from 30 October 2000, on motion by **Senator Ian Campbell**:

That this bill be now read a second time.
Tuesday, 27 February 2001

(Quorum formed)

**Senator BOLKUS (South Australia)** (6.25 p.m.)—I rise to speak on the Classification (Publications, Films and Computer Games) Amendment Bill (No. 2) 2000. I start off by saying that the system we have in Australia is a system which operates on the basis of a cooperative approach between ministers of the Commonwealth, state and territory governments responsible for censorship. It is very much in the public interest for there to be consistent treatment of material across this nation and for classification decisions to be made by a single, independent classification body. In this case we have the Office of Film and Literature Classification.

While it is appropriate for we in politics to take note of community concerns about the range of materials which should be available within each of the classifications, we believe that it is totally inappropriate that politicians be involved in particular decisions of interpretation. The system that we set up when we were last in government ensured that such decisions are best left to a specialist body, a body which can apply guidelines impartially and can do so in accordance with principles of due process. Under the national cooperative scheme, any changes to classification categories—the National Classification Code and the classification guidelines which are required to implement the modification of the X classification—must have the unanimous agreement of the Commonwealth, states and territories.

In the lead-up to this particular legislation, the government initially proposed a new non-violent erotica classification to replace the current X classification. The NVE category was to have considerable overlap with the X classification it was proposed to replace. Many of us are aware of the long battle that Senator Harradine had, both in this chamber and also in the Senate’s committees, in which he demonstrated that it was not just considerable overlap; I think it is fair to say that what Senator Harradine demonstrated was that it was almost an identical category which was being set up by the Attorney-General to replace the X classification. However, it has been the government’s contention that some material previously permissible within the X classification would not be permitted within the NVE classification. They have argued that this includes ‘mild fetish’ material, the depiction of any violence whatsoever, the use of sexually aggressive language and also the portrayal of persons over 18 as minors.

On 30 May 2000, the Attorney-General unilaterally announced the decision to abandon the NVE classification and to retain the X classification. This was largely in response to concerns expressed by, particularly, a small group of National Party backbenchers. We can all remember that infamous ‘video night’, the ‘blue movie night’ during which three movies were screened, two of them X rated and one which had previously been refused classification.

**Senator McGauran interjecting**—

**Senator BOLKUS**—Senator McGauran is chuckling away because on that particular night he did not have to go to Fyshwick to get his videos; he could actually see them within the comfort of the house! The member for Dawson, De-Anne Kelly, was subsequently questioned by the AFP over her involvement in organising a public screening of unclassified material. However, after a brief investigation the Australian Federal Police announced that no further action would be taken against her.

Under the changes announced, X will now remain as the designator for sexually explicit material, while the scope of material that falls within that classification will be reduced as per the original NVE proposal. The government has subsequently moved amendments in the House of Representatives to implement this decision. The abandonment of the non-violent erotica video classification was to many people extremely disappointing, as it further delayed the implementation of classification reform restricting the availability of violent and demeaning material currently permitted within the X classification. Australia’s system of classification, as I said earlier, depends on a national approach agreed to between the federal government in consultation with censorship ministers from each state and territory jurisdiction. In this instance, the Attorney-General’s unilateral decision to shelve the NVE classification,
and then to present that decision to state and territory censorship ministers as a fait accompli, placed an enormous amount of pressure on the integrity of that national approach. It was the action, once again, of a bungling, incompetent and insecure government captured by arch-conservatives of the coalition parties who not only impeded but also created the potential for derailment of the national approach. It was another instance of dogma and ignorance prevailing over balance and reason.

When the state and territory attorneys met with the Commonwealth Attorney in early July to discuss their response to the federal government’s announcement, it is fair to say that, though they were not happy, at that meeting a cooperative spirit continued to prevail and the attorneys did not raise objection to the approach unilaterally announced by the A-G. So we have here a situation where the government’s handling of the issue has been incompetent, inept and not up to the standards of good administration. We have had the government going in all directions with respect to the fundamental provision of this legislation, the X-rated category. As I said, though a lot of people have been upset by the process and there was capacity for the process to derail a national system, it is fair to say that at the end of the day both the state and territory attorneys and now the opposition in this place are prepared to retain the proposed classification.

The bill also contains a number of other minor amendments to the classification legislation, including expansion of the current range of films exempt from classification, which are typically those of limited market appeal and on specialist subjects, which will reduce the cost of classification for some film producers; allowing for revocation of classifications for interactive films or computer games which contain material not brought to the attention of the censors in the initial review; and streamlining of the classification processes by allowing the board to issue and revoke serial classifications for certain publications. It is appropriate, we believe, that the way in which the act is operating is reviewed from time to time and amendments are made to close loopholes, clarify the operation of the scheme or introduce small but nevertheless useful reforms to improve its effectiveness. So we generally are supportive of these provisions in the bill.

Finally, I would like to place on record an issue of concern raised by distributors of computer games. This is an ongoing concern and one that should be mentioned in this debate. The Australian Visual Software Distributors Association approached the opposition late last year to raise industry specific concerns with the bill that arise as a result of the practice of simultaneously releasing computer games and DVDs throughout the world. This practice, which is known as the ‘day and date’ release, has developed to combat illegal piracy. Concerns were expressed that, under the provisions of the bill, classification of computer games and DVDs would be delayed as a result of inflexible provisions in the legislation, resulting in a lost opportunity for Australian consumers of computer games and DVD products and a greater window of opportunity for pirate manufacturers. We have referred these concerns to the A-G for examination and, as a result, the Director of the Office of Film and Literature Classification has provided an assurance that he would explore opportunities to streamline the processing of applications for the classification of this material. We welcome that commitment and put that on the record in order to ensure that it is met. So, as I said, the opposition will support this legislation.

Senator GREIG (Western Australia) (6.33 p.m.)—The Classification (Publications, Films and Computer Games) Amendment Bill (No. 2) 2000 before us this evening represents quite a triumph of dishonest tactics to the detriment of sensible public policy and the appropriate balancing of rights and responsibilities in a democratic society. Erotica has provoked and, I suspect, always will provoke public debate and speculation. The proper role for government, however, is to ensure that those extreme elements on both sides of the debate do not assert their particular agenda to the detriment of all other opinions and points of view. In his second reading speech to the original classifications
The bill, the Attorney-General had the following to say:

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

The Attorney went on:

The government’s decision—that is, their approach on the X classification—should be seen as a genuine and reasoned attempt to balance conflicting views and to arrive at an acceptable solution to a difficult issue. In this regard I am pleased to note that the government’s approach was also supported by the opposition in the policy which it took to the last election. In other words, the Attorney, with support, cooperation and coordination from all other parties at both state and federal level, had reached the point where, to his credit, he was prepared to sensibly review and amend the existing classifications system. How utterly embarrassing, therefore, for the Attorney-General that his work and balanced consideration could so simply be disregarded, largely to placate the views of people, many of whom have a strong association with what I would call lunatic religious organisations and fringe groups with vilification motives towards minority groups. That is what happened here with regard to this bill currently before the Senate.

I remind the Senate that, in its original form, this bill was intended to eradicate sexual violence in the X classification system, not that sexual violence has been permitted for some time. Rightly, the Australian community does not accept that violence and sex should be an appropriate genre of entertainment. Neither do I. The new and proposed NVE, or non-violent erotica, classification was intended to make this point and to do so unambiguously. In my view and the view of the Australian Democrats, it did that admirably. In text and through its understanding, it could not have been clearer—non-violent erotica.

The reason this aspect of the bill no longer appears here tonight is because of a series of dishonest, deceitful and, I would argue, illegal activities by the member for Dawson, Mrs De-Anne Kelly. So let us recap for a moment what had happened there. On the day that this bill was originally introduced into the Senate, and with the support of the Democrats, the opposition and the government, Senator Harradine sought to have the debate delayed by requesting a committee inquiry into the subject matter of the bill. Now, in the ordinary course of events, a committee would be appropriate. However, in this instance the issue of NVE had already been before at least two committees, coupled with at least two rounds within the cabinet. This bill and this issue—that of NVE—had been thoroughly inquired into.

But that was not good enough for Senator Harradine. I submit that Senator Harradine’s intention to delay the bill was purely political in nature, not academic, and was designed to hijack the cabinet in the process. Due to a failure of communication between the office of Mr Williams, the Attorney-General, and the office of Senator Hill, the Leader of the Government in the Senate, the message to deny the committee inquiry and the delay that Senator Harradine was seeking did not arrive. What followed was an extraordinarily dishonest activity, and one which I am sorry to recount that Senator Harradine participated in. As has now been widely reported, Mrs Kelly attempted to usurp the proper parliamentary process by soliciting unclassified material from the Commonwealth Attorney-General. When she was refused, she went to the next best source of illicit material, Senator Harradine.

Let it be on the record that the reason the Australian government, the Liberal-National coalition, reversed a well-established and almost universally supported policy decision was through a single act of dishonesty: the viewing not of just unclassified material but of refused classification material. It raises the question of why Senator Harradine or Mrs Kelly had knowledge and possession of such illegal material. We must seriously question
why materials that were illegal and had been refused classification had been passed off by Mrs Kelly and, it seems, Senator Harradine as being materials that would have been permitted under the proposed NVE category. It was utterly dishonest. It was tantamount to claiming that heroin would soon be available at the chemist if the Therapeutic Goods Bill were amended.

It is also worth taking note of the selection of video titles taken by Mrs Kelly from Senator Harradine and reportedly screened to a gaggle of National Party MPs—who no doubt feigned shock and horror—and the way in which the vast majority of these videos concentrated on anal sexual activity, transsexuality and interracial intercourse. Clearly, the plan by Mrs Kelly was not simply to shock MPs into thinking that such videos—

Senator Patterson—Mr Acting Deputy President, I raise a point of order. The senator is relatively new on these issues, and I ask that you draw his attention to the fact that he should not be casting aspersions on people in another chamber. I do not know that he intended to do it, but I would ask you to call him to order.

The ACTING DEPUTY PRESIDENT (Senator Watson)—Senator Greig, you must not impute improper motives to a person in another chamber—or even here.

Senator GREIG—Thank you, Chair. I had no desire to do so explicitly. I will rephrase it by saying that it is my belief that Mrs Kelly was attempting not simply to shock MPs into thinking that such videos would be available at the corner store but also to tap into homophobia and sexual discomfort.

Senator Patterson—Mr Acting Deputy President, I raise a point of order. That is not satisfactory. I do not think that is appropriate: that change of words actually does not change the intent. I ask you to call him to order that he should not be imputing motives.

The ACTING DEPUTY PRESIDENT—I accept the point of order, and I ask you to take greater care, Senator.

Senator GREIG—I am taking as much care as I can, Chair, but at the same time I am attempting to get across the message.

The ACTING DEPUTY PRESIDENT—No, you cannot impute improper motives. The words that you have chosen are not acceptable. Please continue.

Senator GREIG—I make the point that the choice by Mrs Kelly of videos, which were screened to a collection of National Party MPs, concentrated largely on materials that many would consider were shown in such a way as to relate to homophobia and the discomfort that many people feel towards sexual difference and perhaps also towards interracial relationships. Amongst these videos also was one entitled Max Goes South, which was allowed as a X-rated film but which would have been banned under the NVE proposal. For that reason, there had been repeated calls by the adult industry to have it reclassified, and it was a strong argument in favour of the NVE proposal. Yet this was the very material that Mrs Kelly and her colleagues showed to each other, misrepresenting it with the claim that such material would be considered benign and accessible under the NVE proposals.

As a member of the committee that inquired into this issue, I was appalled by the lack of reasonable and substantive evidence that was presented by representatives of what I would call the religious right. Of note were the people from a well-known organisation in Melbourne called Salt Shakers, using—or, I would argue, abusing—Christian doctrine, ably abetted by that other well-known organisation the Australian Family Association, which takes much time in vilifying gay and lesbian citizens.

The Senate Legal and Constitutional Legislation Committee was assaulted with half-truths and moral judgment dressed up as argument. It is important for the Senate to note that both the Australian Family Association and Salt Shakers have opposed every move to extend human rights to minorities in this country, particularly to those of the sexual minorities and the gay and lesbian, transgender and bisexual communities. Their mantra has always been the protection of the family. The reality, however, is that their ac-
tivity nurtures the attitudes and laws that lead to violence and discrimination against people who do not reflect their very limited and unrepresentative view of society. Yet these are the very sorts of people who have come to define the final shape of this bill. Australian author David Marr summarised it this way in his book *The High Price of Heaven*:

Ours is a very secular country but the Churches remain the most resilient, most respected and the best-connected lobby in the nation. Sin is their business. Heaven is their aim. Government is their partner. There’s a certain instinctive generosity in wanting to keep all us sinners on the train, but there’s also a bullying indifference to those who count on living only one life—this one. For those who have no faith in the after life, the price we are expected to pay for getting us all to Heaven is too high. Too much waste. Too much cruelty, too much pain. We’ve inherited a tough strain of Christianity in this country. From the moment the first priest and missionaries were rowed ashore watched by assembled felons—with godless savages hovering at the edge of the timber—these men of God felt called on to perform particularly urgent work for the Lord. They still think that way. One quality we’ve never lost from those early times is larrikin distrust for authority. Another is Christianity still geared to the task of ministering to human beings at their worst. The churches brought a simplified faith to build a simple society; they worked hand in hand with the governors men to achieve a little civilisation of Sydney cove; and they developed a particular fear that the work of the lord in this new land could so easily be sabotaged by pleasure—by sun, surf, sensuality and prosperity. Without the mercy and humanity of some of these early Christians, Australia would not be the place it is today. But the inheritance of that time is still felt in the mood of today’s churches. Catholic and Protestant, old and new, they love authority and suspect pleasure. Nothing much changes with the churches. That’s their boast. Each claims to be the authentic expression of values going back a couple of millennia. So as we start into the next one, its perhaps no surprise Christians are engaged—

**Senator Harradine**—Mr Acting Deputy President, I raise a point of order. I regret that unfortunately I was not here because of other pressing business. But I have been informed that I have been impugned by Senator Greig, saying that I had acted in a dishonourable fashion. That accusation has never, ever been directed towards me in all of my 25 years in this chamber, nor in the years that I spent in public life beforehand. I have been scrupulous in ensuring that I have acted with honour. For the accusation to be made that I have been acting dishonourably by providing material which was not X material is a disgrace. I am prepared to table in this chamber the material and the videos that were in fact given to Mrs Kelly. I am not suggesting that we should view these in the chamber, but I am prepared to provide the material to members and senators who are interested in its nature. I am sorry to hear what Senator Greig has said. I would ask him to reflect on what he has said. For an accusation to be made like that, on information presumably supplied to him by the Democrats’ ex-chief adviser, who now works for the X-rated video outfits—

**The ACTING DEPUTY PRESIDENT**—Senator Harradine, I think we may have to stop the point of order. You might like to seek leave, Senator Greig, if you would not mind, to continue your remarks. There is some government business to attend to, and I understand you also have some business, Senator Harradine.

**Senator GREIG**—I am not entirely sure of the proceedings, Chair, but I seek leave to continue my remarks later.

Leave granted; debate adjourned.

**NOTICES**

**Presentation**

**Senator Alston** to move, on the next day of sitting:

That, in accordance with section 5 of the *Parliament Act 1974*, the Senate approves the proposal by the Joint House Department to construct a permanent crowd safety rail at Parliament Drive, in front of Parliament House.

**SEX DISCRIMINATION AMENDMENT BILL (No. 1) 2000**

**Report of the Legal and Constitutional Legislation Committee**

**Senator HARRADINE** (Tasmania) (6.49 p.m.)—I seek leave to table my dissenting report to that of the Legal and Constitutional Legislation Committee, which was tabled at around 4 p.m. today. This is the actual document I am seeking leave to table.

Leave granted.
Ordered that the report be printed.

DOCUMENTS

The ACTING DEPUTY PRESIDENT (Senator Watson)—It being 6.50 p.m., the Senate will now proceed to the consideration of government documents.

Report on Section 18 of the Stevedoring Levy (Collection) Act 1998

Senator O’BRIEN (Tasmania) (6.51 p.m.)—I move:

That the Senate take note of the document.

This outlines an aspect of the government’s so-called maritime reform program and particularly reports to the parliament the details of expenditure through the Stevedoring Levy Authority, particularly to finance redundancies through the Maritime Industry Finance Company. It is noted in the report that that organisation received $39,561,783 from the Commonwealth, under section 18 of the Stevedoring Levy (Collection) Act in this reporting period and drew down $1 million from its loan facility.

It reports by company on numbers of redundant employees and amounts paid. It is interesting to note that, for 821 redundancies, an amount of $102,192,291.40 has been paid for redundancies to the Patrick group of companies, and a total of $62,975,723.02 for the P&O group of companies covering 552 redundancies. It can be seen that over $165 million of the total of $178,394,473.60 has been paid to those two companies and well over 50 per cent of that money went to the Patrick group of companies for 821 redundancies. The shippers in this country are paying levies per container to repay the amount.

While I touch upon the maritime reform issue that is dealt with in that report, I also want to relate another matter that relates to the maritime industry. On 30 May last year I asked the Assistant Treasurer through a question on notice whether Australian seafarers in ships trading internationally qualified for concessional tax treatment under section 23AG of the Income Tax Assessment Act. In response Senator Kemp advised that Australian seafarers are not entitled to this tax concession. He referred me to a ruling by the Administrative Appeals Tribunal which he said confirmed the ATO ruling. On 18 December last year I asked a further question on notice on the same matter. I referred the minister to the fact that the AAT case to which he referred had not been settled. I asked whether he was aware that the AAT decision was to be appealed by the taxpayer in the Federal Court. In response the minister said:

The Commissioner of Taxation informs me that this case is considered to be settled as AAT handed down its decision on 29 April 1998 and the taxpayer had not lodged an appeal within the required 28 days.

That answer appears to be wrong and therefore Senator Kemp appears to have provided the Senate with misleading information. It appears that Senator Kemp and the Treasurer were unaware that there was an order made by the Federal Court on 6 October last year granting the taxpayer an extension of time in which to lodge his notice of appeal against the AAT decision. That order said:

By 4 p.m. on 16 October 2000 the applicant may file and serve on the respondent a notice of appeal from the Administrative Appeals Tribunal constituted by Deputy President Gerber given on the 29th April 1998 at Brisbane.

It appears that neither Senator Kemp nor Mr Costello were aware that the notice of appeal was filed on 6 October. It is No. 805 of 2000. Neither Senator Kemp nor Mr Costello were aware that a notice of appearance was filed on the matter on 23 October by the Commissioner of Taxation, the same Commissioner of Taxation, apparently, that told Senator Kemp that the matter had been settled in 1998. This documentation represents formal acknowledgment by the Commissioner of Taxation of the intention to appear in the appeal. It appears that neither Senator Kemp nor Mr Costello were aware of a letter indicating that the matter would be heard by the full court of the Federal Court.

There is growing evidence that the administration of government is breaking down, whether it is the failure of the Minister for Transport and Regional Services to properly report to the parliament on road funding or to report to the parliament on corporate plans of the Civil Aviation Safety Authority, or the failure of the Treasurer to declare...
Sydney airport as a leviable airport in terms required by the Aircraft Noise Levy Act and thereby illegally taxing travellers. They are just a few examples. It is becoming obvious that we are observing a government in decline. *(Time expired)*

Question resolved in the affirmative.

**Defence Housing Authority**

Senator MURPHY *(Tasmania)* (6.56 p.m.)—I move:

That the Senate take note of the document.

I want to take note of the statement of corporate intent by the Defence Housing Authority for a particular reason. The statement gives an overview of the structure and management responsibilities of the Defence Housing Authority on behalf of the Department of Defence. An organisation that provides some 20,000 houses throughout the states and territories in this country for defence personnel has a very significant responsibility. One of the concerns I have is with regard to cost. The Defence Housing Authority acts very much on a commercial basis and I note that it is proposed that it receive a further $100 million to put it on a more commercial footing.

I have been somewhat critical of the Defence Housing Authority on its provision of housing for defence personnel. Whilst it is an arm of the Department of Defence, there seems to be some lack of communication between the two bodies with regard to one in an advisory role telling the other how many people are going where, how many houses they might or might not need and what would be the best, most appropriate and cost-effective way of meeting those housing needs. My view is that the defence personnel of this country deserve good community standard housing. That goes without saying—it ought to be a case. But I do have cause for some concern when I see the Defence Housing Authority proposing to construct multi-storey apartment buildings in places like Frances Bay in Darwin at a cost of almost $30 million to house single personnel.

Robertson, one of the major barracks and defence facilities in the Northern Territory, is some 20 minutes away from these apartments. But it is not only the question of distance; these apartments will attract a rent in excess of $300, with some up to $400 and $500, week per week. That is a cost to the Defence budget. Defence personnel do make a contribution towards the rental cost of their accommodation. But in the Defence budget last year, rental subsidies alone cost the Department of Defence in the order of $170 million.

I note in this statement of corporate intent that as a result of the introduction of the services agreement, which gives the Defence Housing Authority the responsibility now of not only providing houses but determining how, where and to whom they be allocated, it says:

... fees and charges for the services provided are anticipated increase by $69 million per annum.

I was in Darwin last year, I think it was, with the Labor Party national security and trade caucus committee. We had a meeting with some of the reserve Defence personnel and they were saying to us, ‘We cannot get $40,000 to buy an amphibious craft to enable us to carry out our operations over a longer period of the year, taking account of the wet season in the Northern Territory.’ Here we have the Defence Housing Authority constructing very expensive accommodation in terms of the rental costs that come back to the Department of Defence, yet we have people at the sharp end who cannot get a few thousand dollars to buy the equipment that they need to do their job.

As I said at the outset, it is important that Defence personnel have very good accommodation. But I challenge the Defence Housing Authority—and I have done this—and the Department of Defence to get their act together and provide good, cost-effective housing around this country for Defence personnel, because they are not doing it at the moment. It is an issue that must be addressed; otherwise these costs will continue to blow out and they will become unacceptable at some point.

Question resolved in the affirmative.
2000 Redistribution of the Northern Territory into Electoral Divisions

Senator CROSSIN (Northern Territory) (7.02 p.m.)—I move:

That the Senate take note of the document.

I rise this evening to speak to the tabling of this report by the Australian Electoral Commission on the basis that this is a fairly historical day for the Northern Territory. The Northern Territory has always had one federal seat. The result of this work by the Australian Electoral Commission means that at the next federal election we will have in fact two federal seats coming out of the Northern Territory. The history of that is that in December 1999, in accordance with sections 46 and 48 of the act, there was a review of the seat of the House of Representatives in the Northern Territory, as is the wont after each general election. The Electoral Commission determined that the Northern Territory would be entitled to two members of the House of Representatives at the next election. The work that has since occurred has shown that when that determination was made in December 1999, the number of electors enrolled for the Territory was 109,977, making it at the time the largest House of Representatives seat, not only in number but also in size. The quota that has now been determined for the Territory is 54,989 voters with an allowance of 10 per cent either below or above that quota, which would make around 49,000 to 60,000 electors respectively in each electorate.

I want to talk to tonight about the geographical location of these seats. The Australian Labor Party argued long and hard during the review process and the instigation of these two seats that the Northern Territory’s interests would be best served—and in fact the community interest that is specified under the Electoral Act would be best served—if we had two seats that were identical in nature in terms of their economic, cultural and geographic bases. We put up a proposal that the ideal way around this would be to split the Northern Territory down the middle—with the Stuart Highway, roughly, as the dividing line—with an electorate stretching from the Tiwi Islands to the South Australian border on one side and an electorate with a similar geographical make-up on the other side. But, as a result of lobbying by those people who gave submissions to the Electoral Commission and predominantly by the Country Liberal Party in the Northern Territory, we find that we have now a situation which is not equitable, which will be divisive, which fails to recognise the unique nature of the Northern Territory’s identity and aspirations, and which ignores significant factors, such as economic, social and political dependency.

We now have an electorate that will be based solely on the Darwin and Palmerston region. I think the boundaries are just beyond 15 miles, at the lights around the Howard Springs area. Yet the other electorate will encompass the rest of the Northern Territory—nearly 1 1/2 million square kilometres versus about 50 square kilometres. The second seat in the Northern Territory takes in the other four regional centres and the Tiwi Islands. We have one seat in the Northern Territory that now has no remote Aboriginal communities at all while the other seat has all 190 remote communities. This is not a situation that we believe is in the community interests of the Northern Territory.

I also want to make mention of the names of those seats: the seat of Solomon for Darwin and Palmerston—and there have been many aspersions cast upon this person in history and the role he played with Aboriginal people; and the seat of Lingiari, which is named after the famous father of land rights—a name that is probably quite significantly chosen. It is an important time for the Territory and I may seek to make further comments about this document at a later stage. I think this document will have a negative impact in that the Territory will now be representative in a divisive way rather than in a divided way because of the boundaries of these electorates. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Murphy)—Order! There being no further consideration of government documents, I propose the question:
That the Senate do now adjourn.

Bradman, Sir Donald George, AC

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (7.08 p.m.)—I rise to speak on the occasion of the passing of Sir Donald Bradman. It is not often that one is moved to speak on the adjournment on the passing of a sportsman, but I am motivated because Sir Donald Bradman achieved such a remarkable place in the affections of Australians—and, indeed, of many people around the world. He was very much more than a sportsman.

It is interesting to look at his first seasons—he was playing test cricket by the time he was 20 and making a powerful lot of runs at that age—and then go to the end of his career and look at the last three series—England and Australia, India and Australia and the Ashes series in England—when he was still making runs at a phenomenal rate. If he had had the opportunity to play through the war years or with the frequency that is now available to test cricketers, it is almost beyond comprehension to think about how well he would have done. He was clearly a sportsman who would have dominated any era. One could say that, with an average just a shade under 100, he was almost twice as good as any other test cricketer. There are probably a dozen cricketers who played regularly who would have had averages in excess of 50. I think Graeme Pollock might have had an average of 60, but essentially if you got over 50 you were in the elite. And for someone to almost double those averages speaks for itself. Sir Donald was clearly one of a kind when it came to sporting ability.

There are many other cricketers one could point to as star performers, but what singles Bradman out, and the reason I felt moved to speak tonight, is the character, values and virtues that he possessed. They made him a very admirable person and a role model—perhaps especially today when people are looking for someone who has principles and does not compromise them. He was a very private man who never sought to cash in on his own celebrity. He understood the obligations of leadership, he had an intense will to win, and he had a determination to succeed, but, at the same time, he appreciated the responsibilities that go with those roles. Both on and off the field, he gave as much for his country and to his community as he possibly could. To have served as an administrator for so many years at the highest level after retiring from the sporting field is clear evidence of his lifelong determination to put something back rather than simply taking something out of the game.

He wrote very movingly and effectively on cricket. I can certainly remember reading The Art of Cricket, wistfully wishing that it was all so easy. For someone like Sir Donald Bradman, it clearly was not a matter of following a script. In many respects, it was a matter of playing shots that others would not even think of playing in the circumstances. To have a bodyline series which was essentially a brutal ‘get Bradman’ exercise is in itself testimony to the fact that this man was of such high calibre that he had to be got at all costs by his opponents. Whilst that is a very regrettable period in sporting history, it demonstrates to what heights he soared and to what extent some people felt that they had to bring him down at any cost. Yet he was never embittered by that experience. He was always very understated.

Sir Donald was no-nonsense and very clear-eyed in his approach to life. I know that he was famous for answering every letter he received, and he must have received many hundreds of thousands of letters over the years. I would like to recount the time, about 10 years ago, when my father was approaching his 80th birthday. I thought it would be a very nice thing if my father could receive a card from Donald Bradman, whom he had always admired tremendously both as a cricketer and as a human being. I wrote to Sir Donald and asked him whether he would be prepared to write something to my father. His response struck me as typically feisty but also very appropriate. He effectively said, ‘It was very kind of you to write to me in those terms, but I did not know your father and I therefore could not write directly to him, because that would be putting more on paper than would be justified. But I am more than happy for you to pass on my best wishes to him, and I enclose a card which I have
signed. I thought that was probably typical of the man. He was not just going to do what someone asked of him. He was always trying to find the most appropriate response, and he was always very willing to respond positively to all those who had such a great admiration and affection for him.

There are aspects of the lives of others that we all admire, but I have to say that, through all the years that I have been interested in cricket, there has never been anyone to compare with Bradman, particularly off the field. We can all be obsessed with statistics at times, and I remember a fair number of them about Sir Donald Bradman, but I come back to the fact that, to him, character was everything. He lived a life beyond reproach—one I think we should all strive to emulate. Not only the cricket world but society and humanity are very much the poorer for his passing.

Queensland: Election

Senator McLUCAS (Queensland) (7.15 p.m.)—At the outset this evening I wish to congratulate Peter Beattie and all the newly elected members of the Queensland Legislative Assembly who were elected on Saturday, 17 February. For the record, there are 89 seats in the Queensland Legislative Assembly and currently, at last count, 65 seats are held by Labor, 11 are held by the National Party of Australia, three are held by the Liberal Party, five are held by Independents and three by One Nation members. There are two seats that are yet too close to call. Forty-four of the 89 seats have been won to date on primary votes—44 out of 89—and the Labor primary vote is sitting at 47.86 per cent. This result has provided Queensland with a clear direction and a government committed to deliver to all Queenslanders, irrespective of where they live.

On 17 February, voters sent a resounding message through the ballot box, and the message included a very strong message to the federal government. But senators do not have to take my word for this: we have the word of the former National Party candidate for the seat of Cairns. Senators here will remember the National Party candidate for the seat of Cairns. It was Mrs Naomi Wilson, who began the demise of the coalition with her defiance of Rob Borbidge’s principled stand about preference deals with One Nation. Mrs Wilson was moved from the seat of Mulgrave, just to the south, where she had formerly stood for the last two elections and actually been a member. She was touted as their star candidate, the person who would win the seat, for the first time ever, from Labor. However, the reality is that it was Mrs Wilson who almost single-handedly brought about the annihilation of the Liberal Party by putting her own personal aspirations above those of her community by promoting, through her preference deal, a party of division and fear. A report in the Cairns Sun on Wednesday, 21 February said:

Mrs Wilson attributed her failure to win the seat largely to Federal issues, such as petrol prices, BAS and the GST.

This flies in the face of the Prime Minister’s comments on the Sunday program following the election when he said that federal issues did not feature in the result. I can assure the Prime Minister that Mrs Wilson got that one right. Mrs Wilson was further quoted as saying:

The Federal Coalition has to listen to the message voters are giving us.

Federal issues definitely counted, and the price of petrol was clearly one of them. That was the clear message that anyone working on the booths on election day would have heard. There are four Liberal senators in this place and one National Party senator who should be advising their leadership of the strength of electors’ feelings, which I am sure were expressed to them on election day—but maybe they too are not listening.

Petrol prices certainly count as an important issue in the minds of voters in the Far North. Senators will be aware that the Labor Party’s inquiry into petrol pricing, which recently held hearings in Cairns on 12 February, took very important evidence about the impact of fuel pricing on people who live in remote parts of Queensland—and I will be saying more about that at a later stage. The committee took evidence from a range of people—from health professionals, from an operator of a supermarket in the Cape York Peninsula, from the Director of Nursing of the Cairns Blue Nursing Service and from
prawn trawler operators who spoke of decreased safety for their workers. The inquiry took submissions from farmers whose diesel for energy has risen enormously, from taxi operators whose fares have been limited, and from a transport operator who said, ‘We have to get big or get out.’ That is a bit hard when you live in a small place. We heard from a service station operator who is now working for $8 an hour. These are the messages that this government is not listening to—for which, I think I will be proved right, it will pay.

What response did we see from coalition members in Far North Queensland to the events of Saturday, 17 February? Mr Entsch responded with a denial that petrol was an issue in his electorate. He simply denied it. He said that it did not feature. He then went to great pains to denigrate the Labor Party’s very well received consultation process. I think people will be very disappointed in his very partisan and political activity about an honest, credible and sincere consultation process that the Labor Party has undertaken.

But in the time remaining I wish to refer to the actions of Mr Katter. I know there are people in this place who would prefer that Mr Katter was not on their side—but, unfortunately, you accept his vote, so you have to deal with it. Mr Katter responded in his usual way; that is, to obfuscate and to cloud the issue with misinformation and with lies.

Senator Patterson—Madam President, I rise on a point of order. I think the senator has strayed a bit by accusing Mr Entsch of using lies, and I think she should be asked to withdraw that—sorry, I mean Mr Katter.

Senator McLUCAS—On the point of order, Madam President: those remarks were about Mr Entsch. The remarks were about Mr Katter.

The PRESIDENT—It should be withdrawn, Senator.

Senator McLUCAS—I withdraw, but I hope the senator listens to what I have to say next. On 8 February ABC radio stated:

Bob Katter believes there is little doubt the Federal Government will support a private member’s bill he submitted to parliament this week to stop the automatic indexation of petrol prices.

On my investigation at the House of Representatives Table Office, I found that that had not occurred. It is not true. He has misled the people of Far North Queensland and he has to be called to task—and if that side is not going to do it, I am certainly going to do it. It is important to note that, if you are going to submit a private member’s bill in the House of Representatives, it has to be seconded. I do not believe there is anyone over in the other place mad enough to second this non-existent, irresponsible piece of legislation.

Senator Hutchins—What about De-Anne Kelly?

Senator McLUCAS—That was the name I was looking for, but I do not think she is really quite that mad. Mr Katter does not have a seconder for the piece of legislation that he talked about on ABC Radio in North Queensland on 8 February. But there is more. Last Friday the Cairns Post stated:

Federal National Party Member for Kennedy Bob Katter is leading the push for the complete abolition of Federal fuel excise indexation, with draft legislation already before the Federal Government.

This is misleading. It is wrong and it is unfair to people who live in remote places to put out information that Mr Katter believes cannot be refuted. However, it is my job to do it and I intend to.

Mr Katter does not have a piece of legislation before the federal parliament. That is wrong; it is untrue. That is why I made that comment earlier about his behaviour. He is continually misleading the people of his electorate and he cannot be let get away with it. It is our job to keep him telling the truth. This is the reason for the rise of the One Nation Party: people are annoyed with politicians who do not tell the truth. I have to say that Mr Katter is one of the worst offenders. He stands up and blithely mouths utterances that have no basis in truth. We have a responsibility, as do all politicians, to call him to task. I am calling on members on the other side of the Senate to do their job and pull him into line.
Victims Compensation Board

Senator HEFFERNAN (New South Wales—Parliamentary Secretary to Cabinet) (7.24 p.m.)—On behalf of the taxpayers of New South Wales, I would like to draw the Senate’s attention to the web site www.justinian.com.au and to an article entitled ‘Victim compensated for alleged underage sex assaults by John Marsden’. This matter concerns an application to the Victims Compensation Board by a victim, Mr Stals, in claims 97/30987, 97/30988, 97/30990, 97/30993, 97/30998 and 97/31003. These claims were rejected and the reasons were set out over the signature of the authorised magistrate J.M. Millege on 10 December 1999.

I further note that claim 97/31003, and I quote from the stamped Victims Compensation Board document, states:

... deals with the alleged offender, John Marsden, who is alleged to have supplied drugs to the applicant and paid for mutual fellatio and had anal intercourse with Mr Stals. The alleged assaults occurred about 15—20 times when the applicant was 14 years old.

I further note that, in a judgment by Judge Coorey of the District Court of New South Wales criminal jurisdiction, in a decision reserved on 6 September 2000 and handed down on 27 October 2000, the taxpayers of New South Wales paid out $135,000 in compensation for successful appeals 139/00, 140/00, 141/00, 142/00 and 143/00. I note that appeal 141/00 refers to claim 97/31003 and the allegations against Mr John Marsden. I note that, in handing down his judgment, His Honour said:

I am satisfied that the five offenders referred to in appeals 139 to 143 of 2000, committed the assaults as described by the appellant. I accept, without hesitation, the evidence of Dr Quadrio in relation to the appellant’s injuries and the prognosis.

I would like to raise five questions against the background of a recent high profile defamation action by Mr John Marsden in the Supreme Court of New South Wales: (1) is this compensation payment awarded by Judge Coorey a fraud on the taxpayers of New South Wales, (2) will the Crown take steps to recover this compensation payout from the former law society president, (3) is the silence and inaction by the Law Society of New South Wales a display of tacit support for its former president, (4) is the legal and judicial system in New South Wales hopelessly compromised, and (5) is the law simply an ass? Madam President, I seek leave to table a couple of documents: the judgment handed down by Judge Coorey on 27 October 2000 in the District Court of New South Wales, and the article that I have referred to in the Justinian magazine.

The PRESIDENT—Is leave granted?

Senator O’Brien—Madam President, leave will be granted for one of the two documents at this stage.

The PRESIDENT—I do not know which document is the one.

Senator O’Brien—The document for which we will grant leave is the judgment of Judge Coorey.

Leave granted.

The PRESIDENT—Have you finished your remarks, Senator?

Senator O’Brien—No. I have explained to Senator Heffernan that, at this stage, we will not grant leave for the tabling of the other document that he described. This document refers to proceedings that are afoot in the Supreme Court of New South Wales and are, to some extent, sub judice. It contains material that may be defamatory, but I did indicate that we would consider our position further and give him a considered response tomorrow on his proposal to table this document.

Robertson Electorate

Senator HUTCHINS (New South Wales) (7.29 p.m.)—I rise tonight to also make comments in relation to Senator McLucas’s speech earlier on the activities of a number of coalition House of Representatives MPs. I want to talk tonight about the federal member for Robertson, Mr Jim Lloyd, and I would have to say that alongside Bob Katter, De-Anne Kelly, Fran Bailey—

The PRESIDENT—Please refer to members by their correct titles, Senator.

Senator HUTCHINS—I am sorry—Mrs Kelly, Ms Bailey, Mr Katter and a number of
other coalition MPs have at least been beating the drum about the price of petrol, particularly in regional parts of Australia. In one of the most significantly growing areas of New South Wales, the Central Coast, we cannot get one iota of comment out of the federal member for Robertson. The federal member for Robertson, Mr Lloyd, has been noticeably silent about what impact these increased fuel prices are having upon his constituents.

I am advised that this morning in Sydney the price of unleaded petrol was 93.7c a litre. Yet, if you go a few kilometres up the F3—if you do not get jammed where it goes from three to two lanes—you will find that in Woy Woy the price is 95.9, in Umina it is 95.8 and in Erina it is 96.9. If you have a sedan and you want to fill it up with, say, 60 litres once or twice a week—and I would say that if you were living on the Central Coast in the electorate of Robertson and were driving to work you would have to fill it up at least twice a week—to do so at Woy Woy costs you $57.54. In Umina, it costs $57.48. In Erina, it costs $58.14. How much does the federal government reap in excise on that litre of fuel? Of that $57.54 in Woy Woy, $29 goes to the federal government. Of that $57.48 in Umina, $29 goes to the federal government. Of the $58.14 you pay to fill your sedan up in Erina, $29.10 goes to the government.

I tried to find out this afternoon how many people who reside on the Central Coast work in the region. I was not able to find out the figures, but I assume that it is like a number of other areas on the fringes of Sydney, such as the area I come from, the municipality of Penrith, where over 70 per cent of the people living in that area have to travel outside it to work. I assume that would be the same for the cities of Gosford and Wyong, which the federal member for Robertson’s area would cover.

What is Mr Lloyd’s response to these fuel price rises? What is Mr Lloyd’s response to the crippling effect on families’ incomes, on their take-home pay? What is his response? Mr Lloyd has been remarkably silent over the last few months, but he has put out a sham petition trying to get the F3 widened. Also, apparently when you enrol in the federal electorate of Robertson, you get a survey form. All Mr Lloyd is good for is asking you what you think. Mr Lloyd is not prepared to do anything about it. He is not prepared to confront the Prime Minister. He is not prepared to join at least some of his coalition colleagues to get out there and start beating the drum. Mr Lloyd is prepared to be that silent member. Mr ‘Survey’ Lloyd, we might call him.

I have the survey here. You could not answer no to any of these questions. Could you disagree with reducing government and foreign debt? No. Could you disagree with keeping income taxes low? No. Could you disagree with helping increase employment? No. The list has 10 issues. He does get in one that the Liberal Party and the National Party are keen on. He does get in one of those little things that they get excited about, and that is cutting down on welfare cheating. If anybody is welfare cheating, it is the federal government, when they are ripping $29 out of a family each time the family fill up their sedan.

People in the cities of Gosford and Wyong, which the electorate of Robertson covers, do have to travel by car to work every day in Sydney, and the cities of Gosford and Wyong have those figures. I imagine there are other people who travel to Newcastle or to other parts of the Central Coast. But, on the Central Coast, 53 per cent of the people who go to work travel by car. Where is Mr Lloyd? Where is Mr Lloyd sticking up for his constituents? He is not there. He is silent. He is hiding behind surveys. He is trying to say that he sends out good newsletters to newly enrolled people. I do not think that people on the Central Coast are being served well. I might not agree with what a number of the coalition MPs have been doing to ginger this issue up—because I do not believe that they are being genuine about it—but at least they are raising the issue. At least they are putting pressure on the Prime Minister and the Deputy Prime Minister. At least they are highlighting to the leadership of this country the difficulty with people’s take-home pay. The tax cuts given to people on middle incomes, who are generally resident in the outer sub-
urbs of the cities of this country, are being eaten away by the increased fuel excise imposed by this government. Today’s prices are obviously still affecting the residents and the families of the Central Coast.

All I ask—and I invite Mr Lloyd to respond to this, as he may have an opportunity to do—is: what are you doing about it? We would like to know. The people of the Central Coast and I would like to know what Mr Lloyd is doing about it. All he is doing is hiding behind survey forms and all sorts of other paraphernalia to try to promote his name. Madam President, you probably more than a number of other people in this place know that, in this game, you cannot just hide behind your name; you have to hide behind substance. That is not what the member for Robertson is doing. He is not doing anything at all, and that will not be forgotten at the next election.

Bradley, Mr Fraser

The PRESIDENT (7.36 p.m.)—On 16 February this year, Mr Fraser Bradley retired from his position as Executive Leader, Support, in the Joint House Department. He started his public service career with the Australian National Audit Office in September 1972, but it is his service to this parliament that I wish to refer to this evening. He joined the Joint House Department in 1979, as preliminary planning had commenced for the construction of this building, the new Parliament House. His expertise was in the areas of accounting and audit but over the next seven or eight years, as the construction of the new building progressed, he became more involved with commissioning activities and planning the move to this building. He exchanged his shoe box sized office in the provisional Parliament House for a cramped demountable office on the sloping entrance ramp of the new Senate car park. That was some six months before the new building was occupied.

As an assistant secretary—later turned executive leader—Fraser Bradley has, at various times, overseen a variety of areas within Parliament House that have an impact on our working lives here. He has been responsible for the areas that manage the contracted services within the building—cleaning, catering, licensees and the like—as well as those who provide the facilities that we enjoy, such as the landscape services, visitor services, Health and Recreation Centre, nurses centre and Parliament House shop.

We in this place have all benefited, although some of us may not have precisely realised who it was who was behind it. We benefited from his service directly through his work with the Joint House Committee, which oversees the provision of services, amenities and facilities to senators and members. His wife, Noelene, retired a short time before he did. As I understand it, they plan to enjoy the summer sun in Canberra and the winter sun in Queensland’s Sunshine Coast hinterland. I am sure all senators will join with me in thanking Fraser Bradley for his conscientious and enthusiastic service to the department and wish both him and his wife well in retirement.

Senate adjourned at 7.39 p.m.

DOCUMENTS

Tabling

The following government documents were tabled:

Australian Broadcasting Corporation—Equity and diversity program—Report for 1 September 1999 to 31 August 2000.


Statement of corporate intent.

Commonwealth Electoral Act—2000 Redistribution into electoral divisions—Northern Territory—Report, together with maps showing proposed boundaries and names and compact disc containing suggestions and comments, objections and comments and transcripts of proceedings at inquiry into objections.


Treaties—

Bilateral—

Text, together with national interest analysis—


Multilateral—Text, together with national interest analysis—
Agreement establishing the Pacific Islands Forum Secretariat, done at Tarawa on 30 October 2000.

Tabling

The following documents were tabled by the Clerk:

Australian Communications Authority Act and Radiocommunications Act—Radiocommunications (Interpretation) Amendment Determination 2001 (No. 1).

Radiocommunications Act—

Radiocommunications Licence Conditions (Broadcasting Licence) Amendment Determination 2001 (No. 1).
Radiocommunications (Transmitter and Receiver Licences) Amendment Determination 2001 (No. 1).

QUESTIONS ON NOTICE

The following answers to questions were circulated:

**Australian Taxation Office: Unauthorised Release of Taxation Records**

(Question No. 2870)

Senator Faulkner asked the Minister representing the Treasurer, upon notice, on 30 August 2000:


(1) What legal, disciplinary, or administrative action has been taken as a result of the: (a) internal investigations undertaken within the Australian Taxation Office (ATO); and/or (b) the Ombudsmans investigation and report; if any actions have been taken, when were those actions taken, and what was the outcome.

(2) Is the Treasurer satisfied with the adequacy and appropriateness of the actions taken so far in this case.

(3) Can the ATO confirm that the Ombudsman recommended the payment of compensation in this case, and that the ATO has agreed to consider a claim for compensation from the tax agent.

(4) Can the ATO confirm that the tax agent: (a) has not yet submitted a claim for compensation; and (b) has stated that he has not submitted such a claim because the damage arising from the unauthorised disclosure of information is ongoing.

Senator Kemp—The answer to the honourable senator’s question is as follows:

(1) Refer to the answer to question 2869. I am advised that after the original ATO investigation concluded that the release of information was made legally but had not followed ATO processes, the officer was formally counselled regarding the need to follow office procedures. Following the subsequent conclusion that disclosure was not unauthorised and the officer was acting in the course of his or her duties, a review of the processes used in the area concerned was undertaken to provide clearer supervision and direction in these investigations.

(2) Parliament has placed the administration of the taxation laws in the hands of the Commissioner of Taxation. I am advised that the Commissioner is satisfied with the adequacy and appropriateness of the actions taken within the ATO in relation to this matter.

(3) The Ombudsman recommended that the ATO consider compensation. I am advised that while it does not concede that any unlawful disclosures had been made, nor any liability to damages, the ATO has agreed that it would properly consider any claim for compensation lodged by the agent. It should be noted that the Ombudsman’s investigation was conducted prior to the revision of the Commonwealth Director of Public Prosecution’s (DPP) views on the disclosure. The consideration of any claim for compensation will take into account the DPP’s revised view.

(4) (a) Yes.

(b) I am advised that that is the stated reason – although the DPP concluded that the disclosure was not unauthorised and the ATO does not concede any liability to damages.

**Fuel Excise**

(Question No. 3114)

Senator Cook asked the Minister representing the Treasurer, upon notice, on 16 October 2000:

(1) (a) What was the rate of excise for leaded petrol, unleaded petrol and diesel on 1 July 2000 and on 1 August 2000; and (b) what is the estimated level of excise for these three fuels on 1 February 2001.

(2) How much revenue is the 1 August 2000 increase in excise estimated to raise in the 2000-01 financial year (please provide this answer for each type of fuel, ie leaded petrol, unleaded petrol and diesel separately as well as the aggregate figure).

(3) How much revenue is the 1 February 2001 excise increase expected to raise for the 2000-01 financial year, and for each subsequent year in the forward estimates (please provide this answer for
each type of fuel, ie leaded petrol, unleaded petrol and diesel separately as well as the aggregate figure).

(4) Of the figures in the previous question how much of the increase is estimated to be due to the inflation caused by the goods and services tax (GST). If this figure has changed since the estimates in the Budget please provide both the Budget estimate and the new estimate and reconcile the two figures.

(5) What was the assumed world oil price in the 2000-01 financial year and each of the forward estimate years, in $US, upon which the Budget estimates for the petroleum resource rent tax (PRRT) were calculated.

(6) What was the assumed level of the $Aus against the $US for the Budget year and each of the forward estimate years.

(7) What is the revenue sensitivity of an average $1US movement in the price of oil over a year for the PRRT.

(8) (a) What would be the revenue increase if average oil prices throughout the whole of the 2000-01 financial year were $1, $2, $5, $10 and $15, all $US, higher respectively than anticipated in the Budget and all other Budget assumptions were met; and (b) what are the equivalent figures for each of the forward estimate years.

(9) What was the Australian/US dollar exchange rate assumption for the 2000-01 Budget and forward estimate year.

(10) What is the impact of a lower Aus/US dollar than that used in the 2000-01 Budget and each of the forward estimate years for PRRT collections.

(11) With reference to (10): what happens if the Aus dollar is 1c, 2c, 5c and 10c lower than the figure used in the 2000-01 Budget and each of the forward estimate years.

(12) How much has the price of petrol fallen in regional and rural Australia since the introduction of the GST.

(13) How much has the price of diesel fallen in regional and rural Australia since the introduction of the GST.

(14) How many petrol retailers have registered under the fuel sales grants scheme (please provide a breakdown by state).

(15) Of the registrations, how many are claiming grants prospectively and how many are claiming retrospectively.

(16) What is the total amount outlaid under the program to date.

(17) How does this compare with the original budget estimate for the fuel sale grants scheme.

(18) What audit activity has the Australian Taxation Office (ATO) undertaken to ensure the integrity of the scheme.

(19) The Government announced that remote petrol retailers may claim more than 2c a litre in some circumstances. How many retailers have claimed in excess of 2c a litre and what are their localities.

(20) (a) How many claimants under the fuel sales grants scheme are being monitored by the Australian Competition and Consumer Commission (ACCC); and (b) what does this monitoring involve and how regularly is it conducted.

(21) What compliance tasks must fuel sales grants scheme recipients undertake for: (a) the ATO; and (b) the ACCC.

(22) What is the annual real level of increase in fuel excise revenue to the Commonwealth over the previous financial year for every year since 1990-91 up to and including the 2000-01 financial year.

(23) Of the fuel retailers monitored by the ACCC, how many sold fuel in June 2000 for 90 cents per litre or more.

(24) Of the fuel retailers monitored by the ACCC, how many sold fuel in July, August or September 2000 for 90 cents per litre or more.

(25) Of the fuel retailers monitored by the ACCC, how many sold fuel in the month of June for $1 per litre or more.
(26) Of the fuel retailers monitored by the ACCC, how many sold fuel in the month of July, August or September for $1 per litre or more.

(27) What regional fuel retailers are selling fuel more cheaply now than they were selling it prior to 1 July 2000.

(28) Is it correct that the Government will be increasing the fuel excise in February 2001 by the full amount of the consumer price index increase for the September 2000 and December 2000 quarters.

(29) Is it correct that the 2000-01 Budget includes the assumption that the excise will occur in February 2001(sic); if not, when did the Government announce that it was not going to increase the fuel excise.

(30) The Prime Minister has claimed that it costs $1.7 billion to cut fuel excise by 5 cents for a full year: (a) what is the precise figure for the cost for the 2000-01 financial year, and for each of the forward estimate years; and (b) on what advice was this statement based.

(31) (a) Is it the case that in February 1988 the Commonwealth indexed the rates of excise by less than the normal consumer price index increase; and (b) on which commodities did this discounted indexation occur.

(32) Does the Government still claim that there is no budget windfall from increased tax receipts from excise, GST and PRRT.

(33) Does the Government believe that the windfall it will receive from higher tax receipts should be returned to motorists.

(34) Is it not a fact that the higher the retail price of petrol, the higher is the GST revenue collected on that petrol.

(35) Is it not also a fact that average petrol prices in the country are higher than in the cities.

(36) Does not the higher petrol price in the country mean that rural motorists pay more in total tax than city motorists for the same level of fuel purchases.

Senator Kemp—The Treasurer has provided the following answer to the honourable senator’s question:

(1) (a) The rates of excise for leaded petrol, unleaded petrol and diesel on 1 July 2000 were published in the joint press release by the Acting Treasurer and the Deputy Prime Minister dated 22 June 2000. The rates of excise for leaded petrol, unleaded petrol and diesel on 1 July 2000 were published in the Commonwealth of Australia Gazette on 2 August 2000.

(1) (b) The Government does not publish forecast excise rates. The rates of excise for leaded petrol, unleaded petrol and diesel on 1 February 2001 were published in the Commonwealth of Australia Gazette on 1 February 2001.

(2) The Government does not separately identify the effects of indexation on excise revenue.

(3) See answer (2).

(4) The Government does not separately identify the inflationary effects of the GST on excise revenue.

(5) The Government does not publish in the Budget the oil price assumption used for estimating PRRT revenue.

(6) Exchange rate assumptions are outlined on page 2-10 of the Budget Strategy and Outlook 2000-01.

(7) The Government does not separately identify the effects of oil price movements on PRRT revenue.

(8) See answer (7).

(9) See answer (6).

(10) The Government does not separately identify the effect of exchange rate movements on PRRT revenue.

(11) See answer (10).
and (13) On 20 October 2000 the ACCC released its report on movements in fuel prices in the September quarter 2000. This contains price information for rural and regional Australia since 1 July 2000.

(14) The Government has not published details of claimants registered under the fuel sales grants scheme (FSGS).

(15) See answer (14).

(16) The Government has not published the total amount paid under the FSGS to date.

(17) The budget estimate for the FSGS was $110m in 2000/01. Page 42 of MYEFO estimates additional expenses of around $90 million in 2000-01 for the FSGS.

(18) To ensure the integrity of the scheme ATO field teams are conducting compliance visits on a planned basis.

(19) The Government has not published details of claimants registered under the FSGS.

(20) (a) and (b) In July 2000 the ACCC sent a letter to approximately 3,700 regional and remote retail site owners (representing around 10,000 sites) advising them that the ACCC would be monitoring petrol and diesel prices up to June 2002. These prices included daily retail prices, delivery prices and other costs associated with retailing fuel. Retailers were advised that they should maintain records of these prices and may be requested to provide them to the ACCC. To date, the ACCC has requested records of daily retail prices for petrol and diesel for the months of June and July from approximately 60% of regional and remote retail site owners. The ACCC is currently in the process of reviewing these prices.

(21) (a) Record keeping requirements for the ATO are outlined on page 3 of the booklet, Fuel Sales Grant Scheme -Guide to Claiming.

(21) (b) Retailers eligible for the Fuel Sales Grant must provide accurate records of the requested prices, costs and other financial material to the ACCC upon request.

(22) The Government does not report real petroleum excise revenue estimates.

(23) The ACCC’s general monitoring process examines price movements in cities and towns in Australia. It does not examine retailers individually unless specific concerns are identified by the monitoring process or are brought to the ACCC’s attention.

(24) See answer (23).

(25) See answer (23).

(26) See answer (23).

(27) See answer (23).

(28) Yes.

(29) Yes.

(30) Treasury previously estimated that every one cent reduction in excise will cost around $340 million in forgone revenue (full year). Treasury has since revised this figure to around $320 million in 2000-01.

(31) This information is outlined in the 1987-88 Budget papers.

(32) The Government’s estimates of revenue (including excise, GST and PRRT) have been fully updated in the 2000-01 Mid-Year Economic and Fiscal Outlook.

(33) This question is hypothetical.

(34) The GST is calculated as 1/11th of the purchase price of petrol.

(35) The ACCC’s general monitoring process shows that average petrol prices in the country are generally higher than those in the cities.

(36) No. As excise is a volume and not a value tax, metropolitan and non-metropolitan consumers pay the same amount of excise per litre of petrol or diesel.

While the GST is levied on the retail fuel price which is typically higher in non-metropolitan than metropolitan areas, access to the fuel sales grants scheme reduces the effective tax paid in non-metropolitan and remote areas. From 1 July 2000, a grant rate of 1 cent per litre is paid for sales of petrol and diesel to consumers in non-metropolitan areas, with a 2 cent per litre grant provided for sales in remote areas.
For isolated cases where fuel prices are beyond $1.20 per litre in very remote areas, fuel retailers may apply to the Australian Taxation Office for an additional grant.

**Australian Taxation Office: Unauthorised Release of Taxation Records**

(Question No. 3147)

**Senator Faulkner** asked the Assistant Treasurer, upon notice, on 1 November 2000:

With reference to the case of the tax agent outlined in the Commonwealth Ombudsman’s 1998-99 Annual Report, pp42-43:

1. Can the Minister confirm that the tax agent in this case received a letter from the Regional Commissioner of Taxation, Parramatta, New South Wales dated 22 May 1998, regarding allegations against various ATO staff members’ having been found by internal ATO investigations to be substantiated.

2. Can the Minister confirm that this letter from a senior ATO officer states, ‘I have taken action to ensure that the Tax Agent Investigations Unit’s and the Tax Agent Board Secretariat’s work is more closely defined and to also ensure that these areas are more closely accountable to senior ATO management’.

3. Can the Minister confirm that the NSW Tax Agent’s Board, and specifically a former secretary to that board, have been the subject of allegations in this case.

4. Can the Minister confirm that the former secretary of the board resigned from his position during the course of internal ATO investigations into the complaints made by the tax agent.

5. Was the tax officer, now known to have released confidential information to the NSW Police, instructed to do so by the former secretary of the board or any other ATO officer.

6. Can the Minister confirm that the letter from the Regional Commissioner of Taxation seeks to ‘apologise for that distress and assure you actions have been taken to ensure that these events do not reoccur’.

7. What administrative or policy changes were implemented in the ATO as a direct or indirect result of the assurances given in this letter of apology.

8. Can the Minister confirm that the Regional Commissioner of Taxation who signed this letter is now a member of the NSW Tax Agent’s Board.

**Senator Kemp**—I am advised by the ATO that the answer to the honourable Senator’s question is as follows:

1. Yes. After internal investigation, one of the 12 allegations made by the tax agent was found to be substantiated and one was found to be substantiated in part.

2. Yes.

3. The tax agent in this matter has made complaints about a former secretary to the Tax Agent’s Board (TAB).

4. The former secretary did resign during the investigation but only after it had been established that no charges were to be laid against him.

5. No.

6. Yes.

7. TAB secretariat staff were brought under the direct supervision of the Individual Non-Business (INB) line management within the ATO for all matters other than those directed by their Board. In NSW, the Regional Commissioner (INB) became the Commissioner’s representative on the TAB to provide an effective overview of the relationship between the Board and the ATO. Investigatory resources were no longer provided directly to TABs. Tax agent and unregistered return preparer investigators were amalgamated into a central unit to enable better support to be provided to those officers. Procedures were developed to ensure that cases referred for investigation by the ATO by the TAB were approved by the TAB. Procedures were developed to give greater guidance to investigators in the conduct of their investigations.

8. The Regional Commissioner is a member of the NSW TAB and was so at the time he signed the letter. He has not participated in any TAB business associated with the tax agent.
Australian Taxation Office: Unauthorised Release of Taxation Records  
(Question No. 3148)

Senator Faulkner asked the Assistant Treasurer, upon notice, on 1 November 2000:


(1) Can the Minister confirm that a number of internal ATO investigations have found that a known ATO officer had 'committed offences against s.16 of the Income Tax Assessment Act and most probably ss.8XA and 8XB of the 'Taxation Assessment Act by passing taxation information to the NSW Police'.

(2) Can the Minister confirm that a brief of evidence was supplied by the Fraud Prevention and Control Unit of the ATO to the Commonwealth Director of Public Prosecutions (DPP) in relation to this case.

(3) Can the Minister confirm that the DPP were satisfied that a prima facie case existed against the ATO officer who disclosed confidential information in this case.

(4) Can the Minister confirm that a significant factor in the DPP's decision not to lay charges in this case, despite finding that a prima facie case existed, was that the ATO officer was 'provided with some mitigation because of a lack of managerial direction and supervision' by the ATO.

(5) Can the Minister confirm that the only evidence for this alleged lack of managerial direction and supervision by the ATO was an internal ATO report, dated 17 July 1996, by the Director, Mr Peter Nash.

(6) As of 1 September 2000, how many staff are employed by the ATO on any basis.

(7) How many of these staff are currently assigned within a similarly inadequate 'managerial direction and supervision' framework to that applying to the ATO officer found to have breached legislative confidentiality provisions.

Senator Kemp—I am advised by the ATO that the answer to the honourable senator’s question is as follows:

(1) While at one time it was perceived that there had been an unauthorised disclosure, the DPP has subsequently reviewed its advice and advised that in its view the disclosure was not unauthorised.

(2) The DPP was asked to advise on the matter in 1997 following the initial internal investigations. A brief of evidence was not provided to the DPP.

(3) The DPP did not find that a prima facie case existed. In 1999 the DPP advised that it had reviewed the matter and in its view the disclosure was not unauthorised.

(4) As indicated above, the DPP did not find that a prima facie case existed. The matters the DPP may take into account when making decisions are a matter for the DPP.

(5) This was one finding summarised in an internal investigation report and was based upon the investigations which had been carried out by the investigator.


(7) There was no unauthorised disclosure.

Australian Taxation Office: Unauthorised Release of Taxation Records  
(Question No. 3149)

Senator Faulkner asked the Assistant Treasurer, upon notice, on 1 November 2000:


(1) Can the Minister confirm that the NSW Tax Agent's Board lost its file(s) relating to this case; if so, have these Commonwealth documents been found.

(2) When did the secretary of the board at the time of this investigation resign his position.

(3) When were the board files relating to the tax agent found to be missing.

(4) (a) what investigations were conducted by the board or the Fraud Prevention and Control Unit or the ATO generally to locate the missing files; and (b) what was the finding of any investigation.
(5) What disciplinary or other action has been taken in relation to the improper document handling, tracking and storage procedures which led to this loss.

(6) Does the Minister agree that this loss of Commonwealth documents can also be attributed to a 'lack of managerial direction and supervision', as has been acknowledged as the basis for the central and substantiated allegations in this case.

(7) Can the Minister confirm that the ATO Second Commissioner, Mr Michael D’Ascenzo, has separately acknowledged that former ATO officer, Mr Nick Petroulias, 'was left to do his own thing and was very autonomous'.

(8) Does the Minister agree that adequate management and supervision of all staff in the ATO, in particular, those dealing with sensitive taxpayer financial affairs, is essential to preserve the integrity of Australia’s taxation system.

(9) In light of these clear acknowledgements by senior ATO officers of serious management and supervision problems in unrelated cases, does the Minister believe that there is a longstanding, underlying deficiency in the current management of the ATO.

(10) What action does the Minister propose to require of the ATO in order to address and rectify these serious deficiencies.

Senator Kemp—I am advised by the ATO that the answer to the honourable senator’s question is as follows:

(1) The file has not been located.

(2) 28 November 1997.

(3) During the period in which the officer was on leave prior to his resignation.

(4) The new secretary and staff conducted a thorough search for the file and the previous secretary was asked for any assistance he could provide in locating the file.

(5) As the circumstances of the loss of the file were never determined, it was not possible to take disciplinary action. TAB policy was however reviewed.

(6) Parliament has placed the administration of the taxation laws in the hands of the Commissioner of Taxation.

(7) This question may concern a matter which might arise before a court and on the basis of advice given to the ATO by the DPP, it would not be appropriate to respond at this time.

(8) Yes.

(9) and (10) Parliament has placed the administration of the taxation laws in the hands of the Commissioner of Taxation. The Commissioner is satisfied with the adequacy and appropriateness of the actions taken within the ATO in relation to this matter. In the view of the DPP there was no unauthorised disclosure.

Australian Taxation Office: Unauthorised Release of Taxation Records

(Question No. 3150)

Senator Faulkner asked the Assistant Treasurer, upon notice, on 1 November 2000:

With reference to the case of the tax agent outlined in the Commonwealth Ombudsman’s 1998-99 Annual Report, pp42-43:

(1) What is the cost of all investigations undertaken within the Australian Taxation Office (ATO) in regard to this case.

(2) What is the cost of responding to investigations undertaken by the Ombudsman’s office in relation to this case.

(3) What is the cost of all legal advice and representation in relation to this case.

(4) Since the tax agent first complained about the unauthorised disclosure of confidential information in 1996, what is the cost of responding to correspondence from the tax agent concerned.

(5) (a) What other costs have been incurred by the ATO in relation to this case; and (b) can details of the reason and nature of each of these costs be provided

Senator Kemp—The answer to the honourable senator’s question is as follows:
(1) and (2) The ATO does not maintain this information in readily available form and I do not propose to authorise it to divert the resources required to produce this.

(3) and (4) The ATO does not maintain this information in readily available form and I do not propose to authorise it to divert the resources required to produce this.

(3) (a) I am advised that the ATO has also incurred costs through matters such as dealing with FOI requests from the tax agent and his former clients and dealing with the Commonwealth DPP.

(b) The ATO does not maintain this information in readily available form and I do not propose to authorise it to divert the resources required to produce this.

Australian Taxation Office: Unauthorised Release of Taxation Records

(Question No. 3151)

Senator Faulkner asked the Assistant Treasurer, upon notice, on 1 November 2000:


(1) Can the Minister confirm that the AGS is representing, or has represented, an ATO officer in a private legal action brought in the Supreme Court of NSW by the tax agent concerned.

(2) Was this representation sought by the ATO.

(3) Who is responsible for the costs of this representation, and is the officer responsible for any contribution to those costs.

(4) (a) What is the total cost of this representation to date; and (b) what is the expected cost of this presentation if the case proceeds to trial.

(5) Can the Minister confirm that this legal action alleges breach of statutory duty and misfeasance of public office by the ATO officer.

(6) What are the ATO's guidelines for providing legal representation to ATO officers in private legal actions.

(7) What are the ATO's guidelines for providing legal representation to ATO officers in private legal actions where ATO officers are alleged to have: (a) breached Commonwealth law; (b) breached ATO secrecy provisions; and/or (c) acted outside their powers and/or duties.

(8) Do the ATO guidelines allow for the Commonwealth to pay for that legal representation when the ATO investigations have substantiated those allegations.

(9) Does the Minister believe that there is any conflict in the Commonwealth's interests in the Australian Government Solicitor representing an officer who is alleged to have breached his or her statutory duties, and particularly in a case where the agency employing that officer has found in an internal investigation that those allegations are substantiated.

Senator Kemp—I am advised by the ATO that the answer to the honourable senator's question is as follows:

(1) Yes.

(2) Yes, in accordance with the Commonwealth's Directions on Assistance to Officials for Legal Proceedings, issued by the Attorney-General as part of the Legal Service Directions.

(3) The representation is funded by the ATO.

(4) (a) See answer to (3) of question on notice 3150

(b) It is not possible to estimate the cost with accuracy as the proceedings are not complete.

(5) The legal action alleges such matters.

(6), (7), (8), and (9) The ATO follows the Directions on Assistance to Officials for Legal Proceedings, issued by the Attorney-General. The ATO's investigations have not found serious or wilful misconduct or culpable negligence on the part of the officer. The DPP has advised that there was no unauthorised disclosure of information.

Australian Taxation Office: Unauthorised Release of Taxation Records

(Question No. 3152)

Senator Faulkner asked the Assistant Treasurer, upon notice, on 1 November 2000:
With reference to the case of the tax agent outlined in the Commonwealth Ombudsman’s 1998-99 Annual Report, pp42-43:

(1) In light of the acknowledgement by senior ATO officers that an ATO officer breached statutory confidentiality provisions, and the view by the Director of Public Prosecutions that a prima facie case existed in relation to the disclosure of confidential ATO information, was any consideration given to potential charges against the person or persons who received that information, or who used that information for a purpose not authorised under Commonwealth law.

(2) What was the outcome of this consideration.

(3) Have officers of the NSW Police Service or any other person or persons made use directly or indirectly of confidential ATO information for purposes not authorised under Commonwealth law; if so, what use have these persons made of the information supplied by taxpayers to the ATO on a confidential basis.

(4) Can the Minister confirm that the tax agent has alleged that officers of the NSW Police Service are still making use, either directly or indirectly, of confidential ATO information provided by an ATO officer in breach of statutory confidentiality provisions.

(5) Has the ATO sought an investigation of these tax agent’s allegations by the Fraud Prevention and Control Unit; if not, why not.

(6) Has the ATO taken any other steps to investigate these allegations; if so: (a) what steps have been taken; and (b) what are the results of those investigations.

(7) If no actions have been taken to investigate these allegations, why not.

(8) (a) What steps has the ATO taken to warn any persons making unauthorised use of ATO information that they are acting in breach of Commonwealth law; and (b) what steps has the ATO taken to direct any person making unauthorised use of ATO information to cease using that information.

(9) Can the Minister confirm that the tax agent requested the Commissioner for Taxation to exercise his powers under section 17B of the Taxation Administration Act 1953 to restrain the police from continuing to directly or indirectly use confidential information received by unauthorised means.

(10) Has the Commissioner exercised his powers under section 17B in this way; if not, why not.

Senator Kemp—I am advised by the ATO that the answer to the honourable senator’s question is as follows:

(1) (2) and (3) The DPP did not find that a prima facie case existed. The DPP has advised that there was no unauthorised disclosure.

(4) The tax agent has made allegations.

(5) (6), (7) and (8) There was no unauthorised disclosure.

(9) The tax agent has made this request.

(10) There was no unauthorised disclosure.

Australian Taxation Office: Unauthorised Release of Taxation Records

(Question No. 3153)

Senator Faulkner asked the Assistant Treasurer, upon notice, on 1 November 2000:

With reference to the case of the tax agent outlined in the Commonwealth Ombudsman’s 1998-99 Annual Report, pp42-43:

(1) (a) Can the Minister confirm that in August-September 1999 clients of the tax agent complained to the Australian Taxation Office (ATO) regarding the unauthorised release of their taxation records by the ATO officer; (b) how many clients made such complaints; and (c) how were these complaints made.

(2) What steps were taken by the ATO following receipt of those complaints from individual taxpayers.

(3) Can the Minister confirm that the ATO Solicitor, a senior ATO Officer, replied in writing to those complaints in late 1999.

(4) Can the Minister confirm that the ATO Solicitor stated in that letter that ‘the only information released to the NSW Police was a list of surnames’.
Tuesday, 27 February 2001

SENATE

22143

(5) Can the Minister confirm that Detective Inspector Laney of the NSW Police Service had, on 30 January 1998, returned a two page document to the ATO claiming that this was the only document they had received on this matter from the ATO.

(6) Can the Minister confirm that this two page document contained, in addition to 48 surnames, the addresses, refund amounts, cheque numbers and taxation year details of those 48 taxpayers whose personal financial affairs had been disclosed by an ATO officer contrary to Commonwealth law.

(7) How does the Commissioner explain this apparent discrepancy between the document acknowledged by the NSW Police in Jan 1998 and the statements made by the ATO Solicitor to individual complainants in December 1999.

(8) Given that the ATO has apologised to the tax agent concerned, has the ATO provided any explanation or apology to the 48 taxpayers whose personal taxation and financial affairs were disclosed by an ATO officer in an unauthorised manner; if not, why not.

(9) Does the Minister consider that the ATO has met all of the requirements of the ATO Taxpayers’ Charter in relation to the rights of the 48 taxpayers whose personal taxation and financial affairs were disclosed by an ATO officer in an unauthorised manner.

Senator Kemp—I am advised by the ATO that the answer to the honourable senator’s question is as follows:

(1) (a) Yes.
   (b) 16.
   (c) By letter.

(2) The ATO Solicitor inquired into the matters raised in the letters and then responded to the letters.

(3) Yes.

(4) The ATO Solicitor’s letter stated that “as far as I am aware, the only information released to the NSW Police was a list of surnames”.

(5) Yes.

(6) The document contained those details, but the DPP has advised that the disclosure was not unauthorised.

(7) The ATO Solicitor’s reply was written on the basis of a file copy of the document released, which had all information other than the surnames deleted.

(8) The DPP has advised that the disclosure was not unauthorised.

(9) The DPP has advised that the disclosure was not unauthorised.

Cocos (Keeling) Islands: Oceania House

(Question No. 3169)

Senator Crossin asked the Minister for Regional Services, Territories and Local Government, upon notice, on 10 November 2000:

(1)(a) What is the intention of the Government in relation to the sale of Oceania House, on the Cocos (Keeling) Islands; and (b) what is the timeframe for the sale.

(2) Is the Government aware of an agreement made in 1993 between the Federal Government and the residents of the Cocos (Keeling) Islands that resulted in the ownership of Oceania House passing to the islanders; if so, on what basis is the Government sale of Oceania House proceeding; if not has the Government made inquiries or do they intend to make inquiries into the status of the agreement.

(3) What conditions will be written into the tender process to minimise impacts on the Cocos Malay community and its Muslim community.

(4) What guarantees or conditions will be specified in the tender concerning the employment of Cocos Malays.

Senator Ian Macdonald—The answer to the honourable senator’s question is as follows:

(1) (a) It is the Government’s intention to sell Oceania House.

   (b) I have asked my department to make this a priority with the aim of finalising the disposal process by early 2001.
(2) I am advised that, prior to the Act of Self-Determination in 1984, the then Minister for Territories and Local Government, the Hon. Tom Uren, undertook to purchase Oceania House and its surrounds and that discussions took place with the Cocos (Keeling) Island Council regarding a possible subsequent transfer to the community. The community later offered to contribute funds towards the purchase of the property, however this offer was withdrawn. The Commonwealth eventually bought the property from the Trustee.

My department has found no record of any formal agreement made in 1993 under which ownership of Oceania House would pass to the local community. The Shire Council recognises the significant financial burden presented by the restoration and maintenance requirements of the property.

It is proposed that 2.5ha of the surrounding gardens, which have significant heritage value, and a manager's bungalow built in the 1950s be passed on to the community. Additionally, it is proposed that the community receives the chattels of historical significance from the house. The chattels, which include a plaque dated 1857 proclaiming the possession of the islands by Queen Victoria and four bronze busts, will be displayed in the local museum.

(3) An Expression of Interest exercise conducted in 2000 to canvass market demand for Oceania House included requirements in the assessment criteria for detailed information on social and financial benefits to the community of intended use.

The evaluation criteria for assessing responses to the Request For Tender will include a requirement for respondents to address issues of cultural sensitivity. To ensure that this is properly addressed the Shire President will take part in the evaluation process.

(4) It is not appropriate for the Commonwealth to include conditions on the sale of the property in freehold imposing obligations regarding employment.

**Australian Broadcasting Corporation: Managing Director**  
*(Question No. 3170)*

Senator Brown asked the Minister for Communications, Information Technology and the Arts, upon notice, on 13 November 2000:

With reference to the answer to question on notice No. 2629 (Senate *Hansard*, 30 October 2000, page 18666):

(1) What is the provision, including in dollar terms, of the Australian Broadcasting Corporation's chief executive officer's package for: (a) a motor vehicle; (b) superannuation; (c) contributions towards health insurance; (d) annual subscriptions; (e) telephones; (f) media monitoring equipment; (g) any other items including spousal or family entitlements; and (h) travel.

(2) What has been the cost of air travel for the chief executive officer (CEO) in the first 8 months of his tenure, including the cost for spouse or family.

(3) What is the overall estimated value of the CEO's all-up package, per annum.

Senator Alston—The answer to the honourable senator's questions is as follows:

(1) The ABC Managing Director's contract includes provisions for:

(a) the use of a motor vehicle in accordance with prevailing ABC policy and payment of all registration, insurance, maintenance and running expenses incurred in relation to the vehicle;

(b) payment of contributions to a complying superannuation fund to a maximum level permitted by the Minister for Finance and Administration;

(c) reimbursement of the difference between basic health insurance and top health insurance premiums in the policy of the Managing Director's choice;

(d) payment of annual subscriptions in respect of such cultural, business and professional organisations of relevance to his role as Managing Director that the Managing Director shall from time to time nominate;

(e) a dedicated telephone to his residence for official use in respect of which the ABC will meet all costs;

(f) media monitoring equipment, including television, audio recorder, pay television installation and rental, radio and video; and
(g) and (h) business class travel both domestically and internationally (for which the Managing Director may be accompanied by his partner) at the ABC’s expense and payment of travelling allowances in accordance with Remuneration Tribunal Determination and ABC policy.

The combined agreed value of items (a) motor vehicle; (b) superannuation; (c) contributions towards health insurance; (d) annual subscriptions; and (e) telephones is approximately $60,000. There is no specification of the value of item (f) media monitoring equipment or (g & h) travel.

(2) Cost of air travel for the Managing Director for the first 8 months of his tenure (17 March 2000 to 30 October 2000) was $95,703 of which $17,622 related to domestic air travel and $25,391 related to international air travel. The remainder of the cost relates to air travel necessarily incurred in respect of the Managing Director’s family for international travel prior to selling the family home in Great Britain and relocating to Australia and in accompanying the Managing Director on official business.

(3) The overall estimated value of the CEO’s all-up package, per annum, is $346,095, of which $20,000 comprises a ‘performance pay’ component. This figure includes base salary, personal loading, living allowance, superannuation, motor vehicle, contributions towards health insurance, annual subscriptions and telephone, and performance pay. It does not include media monitoring equipment or travel.

**Mallacoota Arts Council: Funding**

(Question No. 3187)

Senator O’Brien asked the Minister for Communications, Information Technology and the Arts, upon notice, on 30 November 2000:

(1) What was the level of funding provided to the Mallacoota Arts Council Inc. through the Register of Cultural Organisation program in the 1998-99 and 1999-2000 financial years.

(2) What other funding has the department provided to the council in the 1998-99 and 1999-2000 financial years.

(3) Under what programs were these funds provided.

Senator Alston—The answer to the honourable senator’s question is as follows:

(1) Mallacoota Arts Council has had tax deductible status for donations since 27 February 1992 through entry on the Register of Cultural Organisations, maintained by the Department of Communications, Information Technology and the Arts. The value of donations received in the relevant period was as advised by the Arts Council to the Department:

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Nil</td>
<td>$4,610</td>
<td>$5,980</td>
</tr>
</tbody>
</table>

(2) and (3) Other funding included:

**Federation Community Projects Program**

Mallacoota Arts Council received a Federation Community Projects program grant payment of $27,015 in 1999-2000. The payment was the first instalment of a grant of $30,015 for a project titled ‘Mallacoota Performing Arts Complex’.

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Nil</td>
<td>$27,015</td>
<td>$21,700</td>
</tr>
</tbody>
</table>

**Festivals Australia**

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>$12,000</td>
<td>$21,700</td>
<td></td>
</tr>
</tbody>
</table>

**Bovine Spongiform Encephalopathy**

(Question No. 3195)

Senator Brown asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 1 December 2000:

With reference to Bovine Spongiform Encephalopathy (BSE) or ‘mad cow disease’:
Do safeguards in Australia match or exceed those now in place in the United Kingdom.

Are bone meal and all other mammal-derived ingredients prohibited in food for stock in Australia.

How is this prohibition policed at farm level.

(a) What testing is in place for BSE.

(b) Has Australia remained free of BSE contamination; if not, what are the exceptions.

What education program is in place for producers and retailers regarding BSE.

Have any imports of meat from contaminated countries to Australia been permitted in the past five years; if so, can details be provided.

Senator Alston—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

(1) The safeguards introduced in Australia are different to the United Kingdom because Australia is preventing the introduction and establishment of the disease whereas in the United Kingdom they are attempting to eliminate and eradicate the disease. Australia has in place strict quarantine, disease surveillance and feeding measures that are designed to protect Australia’s BSE- and scrapie-free status. Australia only imports cattle from BSE free countries. The importation of meat and bone meal is prohibited from all countries except New Zealand.

(2) There is a legislative ban on the feeding of specified mammalian material to ruminant animals in Australia. It is legal to feed meat and bone meals in rations to pigs and poultry.

(3) The prohibition is enforced by state and territory agriculture departments.

(a) A surveillance and monitoring program is being undertaken in accordance with the Office International des Epizooties (OIE) International Animal Health Code Chapter on BSE. A similar surveillance and monitoring program is being undertaken for scrapie.

(b) Australia has not had a case of BSE in introduced or native born cattle.

A national coordinator for Transmissible Spongiform Encephalopathies (TSEs) including BSE monitoring and surveillance activities has been appointed in Australia to ensure that a high level of awareness about TSEs is maintained by the Australian farming communities, livestock industry groups and the veterinary profession.

Australian State and Territory authorities conduct awareness programs on the clinical signs of TSEs in animals for those involved in the livestock industries.

The Australian Quarantine and Inspection Service (AQIS) has provided awareness training on the identification of the clinical signs of TSEs for its veterinarians who undertake ante- and post-mortem inspection of animals slaughtered for human consumption at abattoirs servicing the export market.

(6) Until recently the importation of beef and beef products has been permitted from all countries with the exception of the United Kingdom, in accordance with Australian import permit guidelines. These guidelines mean that most of these imports have been canned beef and highly processed meat based flavours.

Following the recent incidents in Europe there has been a re-assessment of the food safety risks posed by imported beef and beef products. As a consequence of this re-assessment, the Department of Health and Aged Care has advised that Australia should suspend imports of foodstuffs containing beef or beef products from Europe until acceptable assurances are available that the product is safe.


Indigenous Land Corporation: Chairperson

(Question No. 3205)

Senator Harris asked the Minister for Aboriginal and Torres Strait Islander Affairs, upon notice, on 8 December 2000:

(1) Did the Minister at any time suggest to ‘Sugar’ Ray Robinson, the Acting Director of the Board of the Indigenous Land Corporation (ILC), that he would get Mt Tabor transferred to the Bidjara Housing Corporation if Mr Robinson cooperated and acquiesced in the plan to get rid of Sharon Firebrace, the recently appointed Chairperson of the ILC Board.
(2) Was the Minister aware of or in any way involved in an offer being put to Mr Robinson by Mr Clem Riley and Mr Kevin Driscoll, both members of the ILC Board.

Senator Hill—The Minister for Reconciliation and Aboriginal and Torres Strait Islander Affairs has provided the following answer to the honourable member’s question:
(1) No
(2) No.

Department of the Prime Minister and Cabinet: Programs and Grants to the Gwydir Electorate

(Question No. 3212)

Senator O’Brien asked the Minister representing the Prime Minister, upon notice, on 18 December 2000:
(1) What programs and/or grants administered by the department provide assistance to people living in the federal electorate of Gwydir.
(2) What was the level of funding provided through these programs and/or grants for the 1996-97, 1997-98, 1998-99 and 1999-2000 financial years.
(3) What level of funding was appropriated for the above programs and/or grants for the 2000-01 financial year.

Senator Hill—The Prime Minister has provided the following answer to the honourable senator’s question:
I am advised by my department as follows:
Department of the Prime Minister and Cabinet (PMC)
(2) Nil.
(3) $40,000.
Office of National Assessments (ONA)
(1) Nil.
(2) Nil.
(3) Nil.
Office of the Inspector-General of Intelligence and Security (OIGIS)
(1) Nil.
(2) Nil.
(3) Nil.
Office of the Commonwealth Ombudsman
(1) Nil.
(2) Nil.
(3) Nil.
Australian National Audit Office (ANAO)
(1) Nil.
(2) Nil.
(3) Nil.
Public Service and Merit Protection Commission (PSMPC)
(1) Nil.
(2) Nil.
(3) Nil.
Office of the Official Secretary to the Governor-General
(1) Nil.
Department of Communications, Information Technology and the Arts: Programs and Grants to the Gwydir Electorate
(Question No. 3217)

Senator O’Brien asked the Minister for Communications, Information Technology and the Arts, upon notice, on 18 December 2000:

(1) What programs and/or grants administered by the department provide assistance to people living in the federal electorate of Gwydir.

(2) What was the level of funding provided through these programs and/or grants for the 1996-97, 1997-98, 1998-99 and 1999-2000 financial years.

(3) What level of funding was appropriated for the above programs and/or grants for the 2000-01 financial year.

Senator Alston—The answer to the honourable senator’s question is as follows:

The Department of Communications, Information Technology and the Arts has provided funding to the electorate of Gwydir. On 6 December 2000 an answer to a similar question asked of me by Senator Mackay was tabled. I refer the Senator to this Senate Hansard (Question No. 3054, page 20937) in relation to parts (1) and (2) of the question. In relation to part (3) of the question, set out below are funding details for the 2000-2001 financial year. The Department’s website has more detailed information on these and other programs and/or grants administered by the Department.

<table>
<thead>
<tr>
<th>Program</th>
<th>2000-01 funding to Gwydir</th>
</tr>
</thead>
<tbody>
<tr>
<td>Playing Australia (National Performing Arts Touring Program)</td>
<td>* part of $224,854</td>
</tr>
<tr>
<td>Festivals Australia (funds cultural activities at regional and community festivals)</td>
<td>$5,144</td>
</tr>
<tr>
<td>Visions of Australia (national exhibitions touring program)</td>
<td>* part of $44,000</td>
</tr>
<tr>
<td>Federation Cultural and Heritage Projects Program</td>
<td>$0.55m</td>
</tr>
<tr>
<td>Gilgandra Centennial Celebration of Federation project - $1m is being provided to the Gilgandra Shire Council for the construction of a cultural heritage centre in Gilgandra</td>
<td>$1.58m</td>
</tr>
<tr>
<td>Major Federation Fund Construction of Gunnedah Performing Arts Centre, Gunnedah ($1.63m overall)</td>
<td>$1.58m</td>
</tr>
<tr>
<td>Regional Communications Partnership self-help subsidy scheme</td>
<td>Subsidised access rate</td>
</tr>
<tr>
<td>Self-help retransmission groups who co-locate their retransmission equipment at an ntl site are charged subsidised access rates for a period of 10 years.</td>
<td>for SBS service of $250pa + GST.</td>
</tr>
<tr>
<td>Mudgee is currently retransmitting the SBS service at the subsidised rate of $250pa + GST.</td>
<td></td>
</tr>
</tbody>
</table>

* The grants are for tours that include venues in the Gwydir and other electorates. The Gwydir component cannot be separately identified.

Networking the Nation grants program (Regional Telecommunications Infrastructure Fund). Commenced in 1997

<table>
<thead>
<tr>
<th>Project</th>
<th>2000-01 funding to Gwydir</th>
</tr>
</thead>
<tbody>
<tr>
<td>Coolah’s “Technology Heart”</td>
<td>$65,000</td>
</tr>
<tr>
<td>Coonabarabran Telecentre</td>
<td>$13,500</td>
</tr>
<tr>
<td>Teletask *</td>
<td>$39,000</td>
</tr>
<tr>
<td>Coonamble Telecentre</td>
<td>$90,000</td>
</tr>
<tr>
<td>Upper Hunter Remote Community Access</td>
<td>$1,500</td>
</tr>
<tr>
<td>Project</td>
<td>2000-01 funding to Gwydir</td>
</tr>
<tr>
<td>------------------------------------------------------------------------</td>
<td>--------------------------</td>
</tr>
<tr>
<td>Reach Out! Bush Network*</td>
<td>$75,000</td>
</tr>
<tr>
<td>Central West Internet Access*</td>
<td>$13,920</td>
</tr>
<tr>
<td>Orana Region Telecommunications Initiative*</td>
<td>$45,000</td>
</tr>
<tr>
<td>Promotion and Briefing for Remote Indigenous Communities *</td>
<td>$2,500</td>
</tr>
<tr>
<td>Gilgandra Telecentre</td>
<td>$40,000</td>
</tr>
<tr>
<td>Northern Inland Online 2*</td>
<td>$149,546</td>
</tr>
<tr>
<td>Coolah Shire Mobile Phone Service</td>
<td>$30,000</td>
</tr>
<tr>
<td>Lightning Ridge and Collarenebri POP Centres</td>
<td>$169,000</td>
</tr>
<tr>
<td>Coonamble Shire Remote Online Access</td>
<td>$85,000</td>
</tr>
<tr>
<td>Mudgee Local Internet Centre</td>
<td>$100,000</td>
</tr>
<tr>
<td>Internet Tools for NSW Local Government *</td>
<td>$400,000</td>
</tr>
<tr>
<td>Joint Commonwealth/NSW Community Technology Centre Program *</td>
<td>$350,000</td>
</tr>
<tr>
<td>Walgett Community Internet Access Centre</td>
<td>$142,500</td>
</tr>
<tr>
<td>Wellington Valley Network</td>
<td>$80,000</td>
</tr>
<tr>
<td>NSW Local Government IT Strategic Framework *</td>
<td>$100,000</td>
</tr>
<tr>
<td>Get IT, Got IT, Good (IT &amp; T Roadshow) *</td>
<td>$32,500</td>
</tr>
<tr>
<td>Nationalising E Momentum in Local Government *</td>
<td>$70,000</td>
</tr>
<tr>
<td>Teleworking to the Fore *</td>
<td>$82,500</td>
</tr>
<tr>
<td>FRAN Internet Access for ALL *</td>
<td>$8,200,000</td>
</tr>
<tr>
<td>Farmwide Regional Access Network*</td>
<td>$660,000</td>
</tr>
<tr>
<td>Rural Link Program*</td>
<td>$17,100</td>
</tr>
<tr>
<td>Opening the Farm Gateway*</td>
<td>$85,000</td>
</tr>
<tr>
<td>Central West Support Network*</td>
<td>$125,000</td>
</tr>
<tr>
<td>Online Action for NSW Local Government*</td>
<td>$9,000</td>
</tr>
</tbody>
</table>

* Projects marked with an asterisk provide assistance to people in Gwydir as well as other electorates.

**Aviation: Sydney Basin Airspace Management**

( Question No. 3235)

**Senator O’Brien** asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 18 December 2000:

1. What assessment has been made of the impact of transferring low capacity regular passenger transport operators from Kingsford Smith Airport to Bankstown Airport on airspace management in the Sydney Basin.

2. (a) Who undertook the assessment; (b) when did the assessment commence; and (c) when was it completed.

3. Can a copy of the assessment, including any proposed changes to airspace management arrangements, be provided.

4. If no such assessment has been undertaken, on what basis did Cabinet endorse a proposal to encourage the progressive transfer of regional operators from Kingsford Smith Airport.
Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) and (2) Advice was provided by Airservices Australia in 1999 on the above matter. Further work is currently being undertaken in association with the scoping study for the sale of Sydney airports.

(3) The advice prepared by Airservices Australia in 1999 was provided as input to briefing for Cabinet on a range of issues relating to Sydney’s future airport needs. As such it is not available for release.

(4) See (1) to (3) above.

Department of Communications, Information Technology and the Arts: Contracts to Deloitte Touche Tohmatsu

(Question No. 3256)

Senator Robert Ray asked the Minister for Communications, Information Technology and the Arts, upon notice, on 24 January 2001:

(1) What contracts has the department or any agency of the department provided to the firm Deloitte Touche Tohmatsu in the 1999-2000 financial year.

(2) In each instance what was the purpose of the work undertaken by Deloitte Touche Tohmatsu.

(3) In each instance what has been the cost to the department of the contract.

(4) In each instance what selection process was used to select Deloitte Touche Tohmatsu (open tender, short-list or some other process).

Senator Alston—The answer to the honourable senator’s question is as follows:

<table>
<thead>
<tr>
<th>1999/2000 FINANCIAL YEAR</th>
<th>what was the purpose of the work undertaken</th>
<th>what has been the cost to the department of the contract (commissioned cost)</th>
<th>what selection process was used (open tender, short-list or some other process)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Conduct an information systems security review. The review included risk assessments and the revision and development of policies and procedures that mitigated the risks.</td>
<td>$33750</td>
<td>Selective Tender</td>
<td></td>
</tr>
<tr>
<td>To undertake assessment of Computechnics Pty Ltd</td>
<td>$12000</td>
<td>Short List</td>
<td></td>
</tr>
</tbody>
</table>

Department of Family and Community Services: Contracts to Deloitte Touche Tohmatsu

(Question No. 3258)

Senator Robert Ray asked the Minister for Family and Community Services, upon notice, on 24 January 2001:

(1) What contracts has the department or any agency of the department provided to the firm Deloitte Touche Tohmatsu in the 1999-2000 financial year.

(2) In each instance what was the purpose of the work undertaken by Deloitte Touche Tohmatsu.

(3) In each instance what has been the cost to the department of the contract.

(4) In each instance what selection process was used to select Deloitte Touche Tohmatsu (open tender, short-list or some other process).

Senator Vanstone—The answer to the honourable senator’s question is as follows:

<table>
<thead>
<tr>
<th>Contract placed by</th>
<th>Purpose</th>
<th>Cost $</th>
<th>Selection Process</th>
</tr>
</thead>
<tbody>
<tr>
<td>Family &amp; Community</td>
<td>Software standards report</td>
<td>30,000</td>
<td>Restricted tender</td>
</tr>
</tbody>
</table>
Senator Robert Ray asked the Minister for Communications, Information Technology and the Arts, upon notice, on 24 January 2001:

(1) What contracts has the department or any agency of the department provided to the firm KPMG in the 1999-2000 financial year.

(2) In each instance what was the purpose of the work undertaken by KPMG

(3) In each instance what has been the cost to the department of the contract.

(4) In each instance what selection process was used to select KPMG (open tender, short-list or some other process).

Senator Alston—The answer to the honourable senator’s question is as follows:

<table>
<thead>
<tr>
<th>1999/2000 FINANCIAL YEAR</th>
<th>what was the purpose of the work undertaken</th>
<th>what has been the cost to the department of the contract</th>
<th>what selection process was used (open tender, short-list or some other process)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Internal Auditing Services</td>
<td>Provide probity advice in relation to the Acton Peninsula Project.</td>
<td>$100000</td>
<td>Short-list based upon expertise</td>
</tr>
<tr>
<td>Provide probity audit services for facilities management and catering tenders</td>
<td></td>
<td>$75000</td>
<td>KPMG were appointed to the Acton Peninsula Project in 1998 as an extension of their role as internal auditors to the Department</td>
</tr>
<tr>
<td>Provide auditing services to assess the performance of companies participating in the “Partnerships for Development/Fixed Term Arrangement” program</td>
<td></td>
<td>$25972</td>
<td>KPMG were appointed to the Acton Peninsula Project in 1998 as an extension of their role as internal auditors to the Department</td>
</tr>
<tr>
<td>Review and enhance relating to, monitoring and evaluating industry development aspects of informations technology outsourcing contracts, non-performing companies in the “Partnerships for Development Program” and administering the telecommunications carrier industry development plans</td>
<td></td>
<td>$225339</td>
<td>Public Tender</td>
</tr>
<tr>
<td>Implementation of organisational changes to the “Partnerships for Development Program”</td>
<td></td>
<td>$23770</td>
<td>Direct engagement</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$11300</td>
<td>KPMG chosen because of exper-</td>
</tr>
</tbody>
</table>
1999/2000 FINANCIAL YEAR

Accounting review into centralisation of accounts process $10789 Short-list

McKerlie Consulting (Division of KPMG) $23231.25 Shortlisted tender process

Provide an independent assessment of the ABC and SBS arrangements for procuring digital television services

Provide auditing services to assess the performance of companies participating in the “Partnerships development/Fixed Term Arrangement” program $181149 Extension of original contract that was open tender

Department of Family and Community Services: Contracts to KPMG
(Question No. 3275)

Senator Robert Ray asked the Minister for Family and Community Services, upon notice, on 24 January 2001:

(1) What contracts has the department or any agency of the department provided to the firm KPMG in the 1999-2000 financial year.

(2) In each instance what was the purpose of the work undertaken by KPMG.

(3) In each instance what has been the cost to the department of the contract.

(4) In each instance what selection process was used to select KPMG (open tender, short-list or some other process).

Senator Vanstone—The answer to the honourable senator’s question is as follows:

<table>
<thead>
<tr>
<th>Contract placed by</th>
<th>Purpose</th>
<th>Cost $</th>
<th>Selection Process</th>
</tr>
</thead>
<tbody>
<tr>
<td>Family &amp; Community Services (FaCS)</td>
<td>Cost effectiveness analysis of a quality assurance system for family day care.</td>
<td>62,606</td>
<td>Restricted tender</td>
</tr>
<tr>
<td>FaCS</td>
<td>Evaluation of the supported Wage System for people with disabilities.</td>
<td>38,000</td>
<td>Open Tender</td>
</tr>
<tr>
<td>FaCS</td>
<td>Development of a performance management framework for the Commonwealth Disability Strategy</td>
<td>94,690</td>
<td>Restricted tender</td>
</tr>
<tr>
<td>FaCS</td>
<td>Review of budget process</td>
<td>39,300</td>
<td>Restricted tender</td>
</tr>
<tr>
<td>FaCS</td>
<td>Consultancy services to examine the issues and pressures facing the business services in the disability employment sector and to develop a strategic plan for the industry over the next 3 to 5 years.</td>
<td>421,383</td>
<td>Open Tender</td>
</tr>
<tr>
<td>CRS Australia</td>
<td>Post implementation review of Financial Management System</td>
<td>36,923</td>
<td>Restricted tender</td>
</tr>
</tbody>
</table>
Department of Communications, Information Technology and the Arts: Contracts to PricewaterhouseCoopers

(Question No. 3290)

Senator Robert Ray asked the Minister for Communications, Information Technology and the Arts, upon notice, on 24 January 2001:

(1) What contracts has the department or any agency of the department provided to the firm PricewaterhouseCoopers in the 1999-2000 financial year.

(2) In each instance what was the purpose of the work undertaken by PricewaterhouseCoopers.

(3) In each instance what has been the cost to the department of the contract.

(4) In each instance what selection process was used to select PricewaterhouseCoopers (open tender, short-list or some other process).

Senator Alston—The answer to the honourable senator’s question is as follows:

<table>
<thead>
<tr>
<th>1999/2000 FINANCIAL YEAR</th>
</tr>
</thead>
<tbody>
<tr>
<td>What was the purpose of the work undertaken</td>
</tr>
<tr>
<td>Undertake a scoping study, providing expert advice and evaluate the most appropriate replacement “Human Resources Management System” for the Department</td>
</tr>
<tr>
<td>Provide financial advice about the financial viability and business planning of proposals put forward by applicants to the “Networking the Nation Program”</td>
</tr>
<tr>
<td>Provide assistance for the “Online Regional Summits”</td>
</tr>
<tr>
<td>Produce a report on “employee Share Option Remuneration” for the Minister, in support of the National Office for the Economy’s engagement with the Ralph Review of Business Taxation.</td>
</tr>
<tr>
<td>Review applications for the fourth round of applications for the “Information Technology Online” grants.</td>
</tr>
<tr>
<td>Determine the viability of establishing a national assurance framework from electronic authentication products and services.</td>
</tr>
</tbody>
</table>

Department of Family and Community Services: Contracts to Price Waterhouse Coopers

(Question No. 3292)

Senator Robert Ray asked the Minister for Family and Community Services, upon notice, on 24 January 2001:

(1) What contracts has the department or any agency of the department provided to the firm Price Waterhouse Coopers in the 1999-2000 financial year.

(2) In each instance what was the purpose of the work undertaken by Price Waterhouse Coopers.

(3) In each instance what has been the cost to the department of the contract.
(4) In each instance what selection process was used to select Price Waterhouse Coopers (open tender, short-list or some other process).

Senator Vanstone—The answer to the honourable senator’s question is as follows:

<table>
<thead>
<tr>
<th>Contract placed by</th>
<th>Purpose</th>
<th>Cost</th>
<th>Selection Process</th>
</tr>
</thead>
<tbody>
<tr>
<td>Family &amp; Community Services (FaCS)</td>
<td>Performance improvement initiatives in finance function</td>
<td>176,207</td>
<td>Restricted tender</td>
</tr>
<tr>
<td>Centrelink</td>
<td>Crisis simulation exercise and crisis simulation plans.</td>
<td>110,536</td>
<td>Restricted tender – selected from DOFA Competitive Tendering and Contracting Panel</td>
</tr>
<tr>
<td>Centrelink</td>
<td>Taxation advice, project management assistance</td>
<td>150,000</td>
<td>Restricted tender</td>
</tr>
</tbody>
</table>

**Department of Communications, Information Technology and the Arts: Contracts to Ernst and Young**  
(Question No. 3307)

Senator Robert Ray asked the Minister for Communications, Information Technology and the Arts, upon notice, on 24 January 2001:

(1) What contracts has the department or any agency of the department provided to the firm Ernst and Young in the 1999-2000 financial year.

(2) In each instance what was the purpose of the work undertaken by Ernst and Young.

(3) What has been the cost to the department of the contract.

(4) What selection process was used to select Ernst and Young (open tender, short-list or some other process).

Senator Alston—The answer to the honourable senator’s question is as follows:

<table>
<thead>
<tr>
<th>1999/2000 FINANCIAL YEAR</th>
<th>what was the purpose of the work undertaken</th>
<th>what has been the cost to the department of the contract</th>
<th>what selection process was used (open tender, short-list or some other process)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Review “Gatekeeper”, research developments in policy review and technology and produce “Gatekeeper 2” In a Form Suitable for electronic publication.</td>
<td>$118000</td>
<td>Public Tender</td>
<td></td>
</tr>
<tr>
<td>Provide consultancy service for Telecommunications Information Management and Analysis</td>
<td>$420973</td>
<td>Public Tender</td>
<td></td>
</tr>
<tr>
<td>Expert support of an activity-based costing system</td>
<td>$15000</td>
<td>Short List</td>
<td></td>
</tr>
<tr>
<td>Establishment of an activity-based costing system to recover monitoring costs from telecommunications carriers</td>
<td>$16800</td>
<td>Short List</td>
<td></td>
</tr>
</tbody>
</table>

**Department of Family and Community Services: Contracts to Ernst and Young**  
(Question No. 3309)

Senator Robert Ray asked the Minister for Family and Community Services, upon notice, on 24 January 2001:

(1) What contracts has the department or any agency of the department provided to the firm Ernst and Young in the 1999-2000 financial year.

(2) In each instance what was the purpose of the work undertaken by Ernst and Young.
(3) In each instance what has been the cost to the department of the contract.
(4) In each instance what selection process was used to select Ernst and Young (open tender, short-list or some other process).

**Senator Vanstone**—The answer to the honourable senator’s question is as follows:

<table>
<thead>
<tr>
<th>Contract placed by</th>
<th>Purpose</th>
<th>Cost $</th>
<th>Selection Process</th>
</tr>
</thead>
<tbody>
<tr>
<td>Family &amp; Community Services (FaCS)</td>
<td>Development of an outcome/output costing system, accrual budgeting and agency banking arrangements.</td>
<td>483,741</td>
<td>Restricted Tender</td>
</tr>
<tr>
<td>FaCS</td>
<td>Provision of advice on re-engineering of the current work in state and territory offices.</td>
<td>229,449</td>
<td>Restricted Tender</td>
</tr>
<tr>
<td>FaCS</td>
<td>Review of management arrangements for Tuggeranong Office Park.</td>
<td>9,000</td>
<td>Restricted Tender</td>
</tr>
<tr>
<td>FaCS</td>
<td>Project management and quality control for the Review of Business Services (Disability Sector).</td>
<td>41,998</td>
<td>Open Tender</td>
</tr>
<tr>
<td>Social Security Appeals Tribunal Centrelink</td>
<td>Development of an outcome/output costing system. Provision of audit services</td>
<td>18,341</td>
<td>Restricted Tender</td>
</tr>
<tr>
<td></td>
<td></td>
<td>24,000</td>
<td>Open Tender</td>
</tr>
</tbody>
</table>

**Department of Communications, Information Technology and the Arts: Contracts to Arthur Andersen**

(Question No. 3324)

**Senator Robert Ray** asked the Minister for Communications, Information Technology and the Arts, upon notice, on 24 January 2001:
(1) What contracts has the department or any agency of the department provided to the firm Arthur Andersen in the 1999-2000 financial year.
(2) In each instance what was the purpose of the work undertaken by Arthur Andersen.
(3) In each instance what has been the cost to the department of the contract.
(4) In each instance what selection process was used to select Arthur Andersen (open tender, short-list or some other process).

**Senator Alston**—The answer to the honourable senator’s question is as follows:

<table>
<thead>
<tr>
<th>1999/2000 FINANCIAL YEAR</th>
</tr>
</thead>
<tbody>
<tr>
<td>What was the purpose of the work undertaken</td>
</tr>
<tr>
<td>Extract, from a database, historical expenditure data summarised in a manner relevant to the bandwidth inquiry and manipulate the information required</td>
</tr>
</tbody>
</table>

**Department of Family and Community Services: Contracts to Arthur Andersen**

(Question No. 3326)

**Senator Robert Ray** asked the Minister for Family and Community Services, upon notice, on 24 January 2001:
(1) What contracts has the department or any agency of the department provided to the firm Arthur Andersen in the 1999-2000 financial year.
(2) In each instance what was the purpose of the work undertaken by Arthur Andersen.
(3) In each instance what has been the cost to the department of the contract.
(4) In each instance what selection process was used to select Arthur Andersen (open tender, short-list or some other process).
Senator Vanstone—The answer to the honourable senator’s question is as follows:

<table>
<thead>
<tr>
<th>Contract placed by</th>
<th>Purpose</th>
<th>Cost ($)</th>
<th>Selection Process</th>
</tr>
</thead>
<tbody>
<tr>
<td>Family &amp; Community</td>
<td>Evaluation of child care access hotline.</td>
<td>68,420</td>
<td>Restricted tender</td>
</tr>
</tbody>
</table>

**Department of Veterans’ Affairs: Contracts to Arthur Andersen**

(Question No. 3336)

Senator Robert Ray asked the Minister representing the Minister for Veterans’ Affairs, upon notice, on 24 January 2001:

(1) What contracts has the department or any agency of the department provided to the firm Arthur Andersen in the 1999-2000 financial year.

(2) In each instance what was the purpose of the work undertaken by Arthur Andersen.

(3) In each instance what has been the cost to the department of the contract.

(4) In each instance what selection process was used to select Arthur Andersen (open tender, short-list or some other process).

Senator Minchin—The Minister for Veterans’ Affairs has provided the following answer to the honourable senator’s question:

(1) There were no contracts entered into with Arthur Andersen in the 1999-2000 financial year.

(2), (3) and (4) See answer to (1).

**Department of the Prime Minister and Cabinet: Legal Advice**

(Question No. 3366)

Senator Robert Ray asked the Minister representing the Prime Minister, upon notice, on 29 January 2001:

(1) What has been the total cost to the department in the 1999-2000 financial year of legal advice obtained from the Attorney-General’s Department.

(2) What has been the total cost to the department in the 1999-2000 financial year of legal advice obtained by the department from other sources.

Senator Hill—The Prime Minister has provided the following answer to the honourable senator’s question:

I am advised by my department as follows:

(1) and (2) The information requested is not readily available from departmental records in the form requested. The department’s accounting system records the amount spent on legal services, which includes the conduct of litigation and other services as well as the provision of legal advice. In the 1999-2000 financial year, the total cost to the department for legal services obtained from the Attorney-General’s Department, the Australian Government Solicitor, and barristers was $6,280,510. Of that amount $5,845,329 was spent by the then Office of Indigenous Policy. No money was spent on legal services provided by private firms of solicitors.

**Department of the Environment and Heritage: Legal Advice**

(Question No. 3369)

Senator Robert Ray asked the Minister for the Environment and Heritage, upon notice, on 29 January 2001:

(1) What has been the total cost to the department in the 1999-2000 financial year of legal advice obtained from the Attorney-General’s Department.

(2) What has been the total cost to the department in the 1999-2000 financial year of legal advice obtained by the department from other sources.

Senator Hill—The answer to the honourable senator’s question is as follows:

(1) $4,950.
(2) $1,004,098. This figure includes payments to the Australian Government Solicitor (AGS) and the cost of AGS onsite counsel services. The figure does not include the cost of the Department’s in-house legal services provided by its employees.

Department of Veterans’ Affairs: External Legal Advice
(Question No. 3381)

Senator Robert Ray asked the Minister representing the Minister for Veterans’ Affairs, upon notice, on 29 January 2001:
(1) What has been the total cost to the department in the 1999-2000 financial year of legal advice obtained from the Attorney-General’s Department.
(2) What has been the total cost to the department in the 1999-2000 financial year of legal advice obtained by the department from other sources.

Senator Minchin—The Minister for Veterans’ Affairs has provided the following answer to the honourable senator’s question:
(1) $733,817.20.
(2) $505,904.02.

Trade Portfolio: Executive Agencies
(Question No. 3402)

Senator O’Brien asked the Minister representing the Minister for Trade, upon notice, on 31 January 2001:
(1) How many executive agencies are there in the minister’s portfolio?
(2) In each case: (a) when was the executive agency established; (b) why was the agency established; and (c) what was the cost of establishing the agency?
(3) In each case, can a breakdown of all costs incurred in establishing the executive agency be provided, including accommodation, human resources (including payroll management) and information technology resources?
(4) In each case, have any corresponding savings been identified by the department from the establishment of the executive agency?
(5) In each case, what is the public benefit flowing from the establishment of the executive agency?

Senator Hill—The Minister for Trade has advised that there are no executive agencies in his portfolio.

Veterans’ Affairs Portfolio: Executive Agencies
(Question No. 3415)

Senator O’Brien asked the Minister representing the Minister for Veterans’ Affairs, upon notice, on 31 January 2001:
(1) How many executive agencies are there in the Minister’s portfolio.
(2) In each case: (a) when was the executive agency established; (b) why was the agency established; and (c) what was the cost of establishing the agency.
(3) In each case, can a breakdown of all costs incurred in establishing the executive agency be provided, including accommodation, human resources (including payroll management) and information technology resources.
(4) In each case, have any corresponding savings been identified by the department from the establishment of the executive agency.
(5) In each case, what is the public benefit flowing from the establishment of the executive agency.

Senator Minchin—The Minister for Veterans’ Affairs has provided the following answer to the honourable senator’s question:
(1) There are no Executive Agencies in the Veterans’ Affairs portfolio.
(2), (3), (4) and (5)See answer to (1).
Aboriginal and Torres Strait Islander Affairs Portfolio: Executive Agencies
(Question No. 3416)

Senator O’Brien asked the Minister representing the Minister for Aboriginal and Torres Strait Islander Affairs, upon notice on, 31 January 2001:

(1) How many executive agencies are there in the Minister’s portfolio?

(2) In each case: (a) when was the executive agency established; (b) why was the agency established; and (c) what was the cost of establishing the agency.

(3) In each case, can a breakdown of all costs incurred in establishing the executive agency be provided, including accommodation, human resources (including payroll management) and information technology resources.

(4) In each case, have any corresponding savings been identified by the department from the establishment of the executive agency.

(5) In each case, what is the public benefit flowing from the establishment of the executive agency?

Senator Hill—The Minister for Reconciliation and Aboriginal and Torres Strait Islander Affairs has provided the following answer to the honourable senator’s question:
The question has a NIL response.