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The purpose of the Bill is to amend the definition of “Australian resident” in relation to the social security law so that access to social security payments for New Zealand citizens moving to Australia is restricted to those New Zealand citizens who meet normal migration selection criteria or are covered by a social security international agreement.

On 26 February 2001, the Prime Minister announced these changes indicating at that time that these changes to the social security law were necessary to provide a fair and mutually beneficial approach to the cost of supporting people in need while preserving the common labour market and free movement of people currently available through the Trans-Tasman travel arrangements.

The Bill provides that the changes will not apply to New Zealand citizens who were resident in Australia on 26 February 2001, or who are temporarily absent from Australia and who have been in Australia for a period, or periods, of 12 months in the previous 2 years immediately before 26 February 2001.

For those New Zealand citizens who are intending to reside in Australia, a 3 month period of grace will apply from 26 February 2001. A 6 month period of grace will apply to those New Zealand citizens temporarily absent from Australia on 26 February 2001 and who are in receipt of a social security payment under the portability arrangements that apply under the social security law. A longer 12 month period of grace will apply to those New Zealand citizens, resident in Australia but temporarily absent, who are unable to return to Australia in the 3 month period and are not in receipt of a social security payment.

The Bill also ensures that the changes do not apply to any child related payments under the social security law and the family assistance law. Likewise, the Bill ensures that the changes don’t affect access to concessions under the social security law and the Health Insurance Act 1973.

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

Ordered that the resumption of the debate be made an order of the day for a later hour.

COMMITTEES
Privileges Committee

Consideration of House of Representatives message resumed from 8 February.

Motion (by Senator Ian Campbell) proposed:

That the Senate authorises Senators Bourne, Calvert, Ferguson, Gibbs, Hutchins, Sandy Macdonald and Schacht, as members of the Defence Sub-Committee of the Joint Standing Committee on Foreign Affairs, Defence and Trade, to appear before the House of Representatives Committee of Privileges, subject to the rule, applied in the Senate by rulings of the President, that one House of the Parliament may not inquire into or adjudge the conduct of a member of the other House.

Senator ROBERT RAY (Victoria) (9.32 a.m.)—I am surprised that the Manager of Government Business has not outlined the circumstances of this case before moving such a motion. It is probably the view of the opposition that it will not oppose this motion. But it does highlight a difference of approach in the two privileges committees of this parliament, and I think that should be noted for the record. The Senate Standing Committee of Privileges at this moment has before it a reference via this chamber to do with the corporations committee, leaks and potential contempts therein. That, of course,
is a joint committee which I think has five House of Representatives members as well as four senators. Our decision was not to call any of the House of Representatives members before that privileges committee based on what we regard as the comity between the houses.

A later complication arose when it was found that the in camera submission that had been leaked to a newspaper also went to the Treasurer, Mr Costello, and to the Minister for Financial Services and Regulation, Mr Hockey, and that reinforced our view that it was an even less appropriate course of action to call them before the Senate Privileges Committee. We do not want to see a situation where a potential partisanship might evolve, which I must note is virtually absent from both privileges committees, where those privileges committees take action to call members of the executive before them for a partisan political reason. Therein lies a slight danger.

If I understand it correctly, there is absolutely no suspicion whatsoever that these senators being called before the House of Representatives Committee of Privileges have acted improperly. They are merely there to assist the committee with its inquiries. But I think in the long term we should look at trying to resolve this as an issue of principle. It is a fairly well accepted practice that members of parliament only appear before parliamentary committees on their own volition, and this motion does not change that. Nevertheless, it is not a practice to be generally encouraged.

We should encourage the House of Representatives Privileges Committee to call senators only when it thinks it is absolutely necessary and not as a matter of form. As I said, the Senate Privileges Committee has consistently avoided calling House of Representatives members or seeking permission to call House of Representatives members before it. This in some ways can impede its inquiries, but it has always thought it was a price worth paying. I must say that is especially reinforced if the question of ministers comes up, because compelling ministers from one chamber to appear before another I think in the long run is going to be disastrous. The opposition will not oppose this motion on this occasion but just urges caution in the way these matters are proceeded with.

Senator FERGUSON (South Australia) (9.35 a.m.)—I agree with the sentiments expressed by Senator Ray in relation to privileges matters in general and the calling of members from the other house to appear before the committee. But I think there has been a situation in this particular inquiry where there has been a request by one of your colleagues in particular, Senator Ray, so that senator can clear their name. I was particularly concerned that, if the request were made that someone wanted to be able to appear before the privileges committee rather than being called before the privileges committee, which is the matter that you were referring to, that senator should have that opportunity. For that reason, and in this particular instance, I think the motion that has been moved to allow that to happen is an important one. But in general terms I agree with your sentiments about being able to call members of the other house as opposed to someone who actually makes a request to appear in order that they can clear their name.

Senator BROWN (Tasmania) (9.36 a.m.)—I would be a bit concerned that there could be extrapolation from that. You could get to the situation where senators who do not appear are implicated as a result of their decision. Like Senator Ray, I am very concerned about this process and do not support it. I think there are other ways for senators to inform such a committee and to clear their names without having to be presented to the committee for statements and potential examination. I do not like the way the process is going. I think we should be examining other ways in which information can be given to the committees at the behest of any member—I think there is nothing to prevent that anyway—without it being a parade of personalities, with a distinction between those who turn up and those who do not.

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (9.37 a.m.)—I thank hon-
ourable senators for their contributions and add a couple of points. Firstly, the point made by Senator Brown is a valid one. However, if the Senate is seen to be not agreeing to give those senators leave, the same assumption could be made—that the Senate has, dare I use the word, conspired to ensure that senators are not put in that situation. So I think we are caught between a rock and a hard place in doing that. If the Senate refuses to give senators leave, people may assume that we have something to hide.

I also make the point—and we did seek advice on this before we moved down this path—that the record shows that in 1986 and in 1993 the Senate agreed to similar requests in very similar circumstances to the present case. The conduct of the senators was not at issue. On both occasions it was in relation to alleged leaks or, as they are called officially, unauthorised disclosures from the deliberations of joint committees. I repeat: the conduct of the senators was not at issue. I make it clear that that is the case now: the conduct of senators is not at issue. The committee expects, as Senator Ray quite rightly pointed out, to be able to throw light onto an investigation into an issue in the other place. The senators are not on the stand for their own behaviour.

Joint committees fulfil incredibly important roles in the Australian parliament. I think it is fair to say that some of the joint committees are regarded as the most prestigious committees in the place. Privilege issues flowing from the deliberations and operations of those committees will throw up these problems from time to time. I think it is very fair to say that the government entirely supports Senator Ray’s concerns about ensuring the important independence of the two chambers in these matters and would concur fully with Senator Ray’s concerns about the privileges committee from one place demanding the attendance of a minister who sits in another place. Having said that, I make the point about previous precedents in 1986 and 1993, most importantly, I welcome the support of the opposition for this motion.

Question resolved in the affirmative.
noted, however, that the provisions of part IIIAAA, sections 51A, 51B and 51C, specifically exclude the use of reserve forces in connection with industrial disputes.

Section 51G of the Defence Act imposes certain restrictions on the use of the Defence Force. The Chief of the Defence Force must not utilise the ADF to stop or restrict any protest, dissent, assembly or industrial action, except where there is a reasonable likelihood of the death of or serious injury to persons or serious damage to property. Furthermore, the CDF must not utilise the reserve forces unless, in consultation with the Minister for Defence, he advises that there are insufficient numbers of the permanent forces available. Section 51G, therefore, provides a general restriction on the ADF as a whole in protest, dissent, assembly or industrial action unless there is a serious likelihood of damage to property or injury or death to person, and a specific restriction on the use of the reserve forces, except where the CDF and the Minister for Defence advise that there are insufficient permanent forces. Even if the protests were unlawful, the ADF could not be used unless there was violence of such a scale that it was beyond the capability of the police to deal with. Such use of force is clearly restricted to that which is reasonable and necessary under the specific circumstances.

Senator BROWN (Tasmania) (9.45 a.m.)—Then the government should have no trouble with this amendment. It simply reiterates that the reserves should not be called out in circumstances involving confrontation with civilians within Australia, such as in strikes or protests. The point of this amendment is that we need to make that matter clear. I might just say to Senator Abetz that he will have to sharpen up a bit. He needs to be able to deal with an amendment that arises in committee when the collective thinking of the committee puts its mind to it. That is why we have committees, as you know, Mr Temporary Chairman. It is not a matter of dealing with all these things outside; it is a matter of following the debate and improving the legislation where we can. That process is working very well here. This is an important amendment and, with the assurances that Senator Abetz is giving the chamber, he will have no difficulty with it. However, when you look at the legislation regarding the defence forces, it does say that the defence forces cannot be brought out against civilians unless there is a serious likelihood of damage to property. That applies to every environmental protest, a protest to do with—

Senator Abetz—So every environmental protest might cause damage to property? You’ve got to sharpen up, Bob.

Senator BROWN—Senator Abetz says that every environmental protest might cause damage to property.

Senator Abetz—No, that is what you just said.

Senator BROWN—No, what I said was that it is involved. For example, in the destructive woodchip industry incursions into the environment in Tasmania—which Senator Abetz supports—there is massive damage occurring to property there. When it comes to people wanting to adjudge a phrase like ‘unless there is a serious likelihood of damage to property’, that is no impediment to the use of the defence forces in a protest situation. So I wanted to make the matter clear in this amendment. I am aware that, in the legislation that came through last year in the lead-up to the Olympics, which would allow the armed services to be deployed against Australian civilians, it did say ‘not in industrial disputes’. It did not go to the matter of protests. I am concerned that we make it clear that reservists not be put in the situation where they are used against civilians in Australia. It is up to the chamber to decide yea or nay on that, but I think we need to safeguard both the reservists and the civilians from being put in that situation.

As I explained yesterday, the reservists are people who are in the community. They are great Australians. They are there on call to defend their country. But they ought not to be there to be able to be brought out against Australian civilians on the say-so of the Minister for Defence of the day. Remember that this legislation does not require a report to parliament on the reasons for calling out the reservists—that has been abolished. Also
remember that it makes it compulsory for reservists to respond—there is no longer a choice. I think under those circumstances it is very important that this clause be placed in the legislation, so that reservists do not find themselves in the invidious situation of suddenly being called out in a major protest situation in Australia—albeit at the request of a state government—against their own community. There ought to at least be a choice there as far as reservists are concerned. This amendment should not worry the government. If Senator Abetz strongly feels that the legislation already covers the matter that my amendment raises, then he should have no trouble in having the matter clarified by endorsing this amendment.

Senator Faulkner (New South Wales—Leader of the Opposition in the Senate) (9.50 a.m.)—I have had an opportunity to have a close look at Senator Brown’s amendment. I have been able to discuss this issue with my colleagues in the House of Representatives, Dr Martin and Mr Laurie Ferguson, and we have had the benefit of the written advice on these issues from the Minister for Veterans’ Affairs and Minister Assisting the Minister for Defence. So we have been able to look closely at the question that Senator Brown has placed before the committee.

Let me try to sum up the position, as I understand it, as briefly as I can and outline the position that the opposition will be adopting with the benefit of that examination of Senator Brown’s amendment before the chair. Briefly, the situation is this: once a call-out of the reserves occurs, they are subject to the Defence Act, as of course are Australian Defence Force regulars. I do not think there is any question about that. As I understand it, I think that is a straightforward statement of principle. I would remind the committee that, during the committee stage of the debate on the Defence Legislation Amendment (Aid to Civilian Authorities) Bill 2000, the opposition was able to ensure that a number of significant amendments were agreed to by the Senate to ensure that safeguards were put in place. The point here is that the same safeguards apply to the reserves. That is the principle. If I am wrong in this, no doubt the minister will quickly let me know. But I am certain that principle is correct: the same safeguards that the opposition was responsible for putting in place during the debate on the Defence Legislation Amendment (Aid to Civilian Authorities) Bill 2000 apply to reserves, as they do to regulars in the ADF.

It is for that reason that I and the opposition do not think an amendment that deals with separate safeguards for reserves is necessary. The spirit, if you like, of what Senator Brown is trying to achieve is understood by us all but, clearly, the legislative safeguards that were steered through the Senate by the opposition during the debate on previous legislation mean that it is not necessary for us to support such an amendment at this time. That is the position that the opposition will be adopting on Senator Brown’s amendment.

Senator Murray (Western Australia) (9.54 a.m.)—It is true that the Defence Legislation Amendment (Aid to Civilian Authorities) Bill 2000 was improved as a result of the Senate debate. In my view, that lengthy debate was another example of the Senate at its best, because it was about the essential freedoms, obligations, rights and duties that exist in our society and who should have power, who should exercise power and how power should be exercised. I thought it was well worth the time, the effort and the passion that it evoked. However, I think it is not true to say that the safeguards that were added to the bill or that were already in the bill are sufficient. We on the crossbenches are united in strong opposition to a failure to properly restrain the defence forces in circumstances where it is felt that their powers could be exceeded with insufficient constraint.

Therefore, the Australian Democrats feel that this amendment of Senator Brown’s is a sensible reminder to us all that we should not only ensure that the authorities that have the capacity to exercise the might of the state over its citizens should be restrained but also take every opportunity to place that restraint in the appropriate legislation. This amendment should not be regarded as an exceptional one. It is not a minor one, but it should
be regarded as an amendment that is simply stating what should almost be taken for granted yet is not. In that statement lies our great fear: what sort of government and what sort of opposition will not include in legislation that those troops cannot be used in circumstances involving confrontation with civilians within Australia, such as in strikes or protests? Minister, if you want to improve that amendment, by all means do so. I think the complaint that has come upon us all of a sudden has some merit. But the intent behind the amendment should be supported by any government.

Minister, I do not believe you were a party to the debate on the Defence Legislation Amendment (Aid to Civilian Authorities) Bill 2000. I thought the minister on duty conducted himself very well throughout that debate, although I did not end up agreeing with him. But the fact is that this has returned to us a great fear. It is not as if our fear is a minor party, or Independent or crossbench fear, because the fear is also reflected in members of the two major parties—the coalition and the opposition. The fear is that, if there is not proper legislative constraint, excesses could occur in the hands of the wrong government, the wrong minister, the wrong commander or the wrong Defence Force person. Quite plainly, Senator Brown, with support from the Australian Democrats, is saying that this is the sort of constraint that is both valid and necessary as a protective device in circumstances where the defence forces may be deployed within Australia on civil occasions.

We on the crossbenches—and I think I can speak for all the crossbench side, not just the Australian Democrats—do not think that the safeguards or constraints in the Defence Legislation Amendment (Aid to Civilian Authorities) Bill 2000 are sufficient. You know that from the debate and we retain that view. This is an attempt to shore up that view in this legislation. We do not take an alarmist view; we take the precautionary principle view. Australia has a marvellous reputation with its defence forces, but you cannot ever foresee the future. We think that this amendment, or an amendment of a similar kind, would be helpful in reminding the Australian people that the government and the opposition agree that the Defence Force would not be deployed in circumstances involving confrontation with civilians, such as strikes or protests. We do support this amendment.

Senator HARRADINE (Tasmania) (10.01 a.m.)—I remember the debate that occurred very well. I want to ask the parliamentary secretary, firstly, in regard to reservists: are they also covered by the provisions that were introduced on the last occasion or by the whole of the—

Senator Abetz—I’m sorry; I cannot hear you, Senator.

Senator HARRADINE—Are reservists covered by the strictures that apply to the regular armed forces? Secondly, my understanding is that situations involving confrontations with civilians within Australia, such as strikes, are already exempt.

Senator Faulkner—that’s right, Senator.

Senator HARRADINE—I see the acknowledgment of the Leader of the Opposition and also of the parliamentary secretary.

Senator Faulkner—He’s been promoted to the ministry.

Senator HARRADINE—I’m sorry, I beg your pardon.

Senator Abetz—And you wrote me a very nice letter.

Senator HARRADINE—I did. I beg your pardon, Minister. Thank you for that clarification. That part of Senator Brown’s amendment is, of course, then redundant. We then go to the question of the words ‘such as strikes or protests’. I notice Senator Brown has got—

Senator Abetz—‘Peaceful’ is deleted.

Senator HARRADINE—‘Peaceful’ is deleted. I am not sure what is meant by that, but I recall that provisions were inserted in the legislation which would, as far as I could see, give protection to the principle that the armed forces are the armed forces, and their
duties are not generally peacekeeping duties within Australia. There are, however, very strictly encompassed circumstances wherein the armed forces could be called as an aid to the civil power. But that would be in extraordinary circumstances. Senator Murray says that there may be a minister, there may be a commander in the situation, but that is why that particular action is very circumscribed. I take the view that has been adopted by the leader here, after consultation with shadow ministers, and I am yet to be convinced otherwise. My personal views are very strong on the question of the right of peaceful protest, the right to strike and so on. But I believe, as has been indicated by the Leader of the Opposition and by the minister, that provisions are already in place, having regard to the amendments that were adopted on the last occasion and the legislation itself.

**Senator BROWN (Tasmania)** (10.05 a.m.)—I thank senators for those contributions, particularly Senator Murray for clearly putting the need for this amendment. Yes, industrial disputes are covered in the earlier legislation, three times. This simply makes it four. To make it clear for those reading these amendments into the legislation, the same applies for reservists in circumstances where a minister, without reference to the parliament and with no explanation to the parliament, can call out the defence forces, including reservists, against Australian civilians in a protest situation. I did take the adjective ‘peaceful’ from before the word ‘protest’ because, as we all know, every protest that ever existed has had the potential for being non-peaceful, because somebody might take it into their own hands, including a person opposed to that protest, to make it so. The Franklin River protest is the exemplar of a peaceful protest, but it could very easily be argued that that was not because somebody’s boat banged into somebody else’s boat on the Gordon River. So it was not helpful to have that adjective there. We all know what is meant by this. We do not want a politician to be able to call out the reserves and pit them against Australian civilians who have a different point of view from that politician. That is not what we should be allowing for here.

When we had this debate last year, we fought very hard, and the Democrats fought very hard, to see that there was a sunset clause in the legislation, which was then under the imperative of the forthcoming Olympics, but the government and the opposition voted against that sunset clause. We are having a major change in the way the 1903 defence legislation is interpreted. There were some attempts early last century, but it has not turned out that the defence forces in this country could be deployed against civilians, as they are in other countries, even countries similar to ours, like the United States. Remember Kent State. There have been occasions where this has been absolutely disastrous.

We should not be opening up the possibility of that happening in Australia. I can say, from the feedback I got last year, that there are reservists who would hate to have hanging over their heads the potential for a politician to call them out in a conflict with civilians because there is a protest against something that is happening in the country. That is the job of the state police forces, and there is a mechanism for calling out the defence forces if the police forces were ever to be overrun in a situation like that. But leave the reservists out of that, particularly under these circumstances, which would facilitate some future Minister for Defence much more easily and readily being able to employ the reserves for a domestic purpose. I can see we do not have the numbers on this, but I think it is a very important point that is being debated here. I thank the Democrats for being so constructive in seeing the relevance of this amendment and supporting it.

**Senator ABETZ (Tasmania—Special Minister of State)** (10.09 a.m.)—A number of issues have been raised. The first point that I would make is that, in all of these circumstances, reasonableness applies. You have to have an understanding of the concept of ‘reasonableness’, and I think that is where Senator Brown has difficulty. When you have to apply something on ‘reasonable’ terms, it is very difficult for Senator Brown to get his head around it because reasonableness is not something for which he is noted. He is now suggesting that we have some
huge legislative regime. One of the best bill of rights that existed in the world was in fact in the USSR, but did that give protection to the millions of citizens who were slaughtered during the communist regime? No. Why? Because you had personnel who completely ignored the bill of rights and the appropriate laws. Similarly, if we had a situation in Australia where we had the wrong Governor-General, the wrong minister, the wrong Chief of the Defence Force—and you can go right through—and if it were that pervasive within our society, I would doubt that any legislative regime would overcome those concerns.

The simple fact is that we do have in this regime a substantial number of restrictions. The minister, as I understand the legislation, would not have the power to call out in the circumstance of just a strike. It is for use in circumstances of war, defence emergency, defence preparation, peacekeeping or peace enforcement and things of that nature. Moving to the other legislative regime, which is under IIIAAA, specific circumstances are there outlined—very restricted circumstances—which were debated in this Senate only four or five months ago. The Senate had an exhaustive debate on that, and we now have Senator Brown and the Democrats basically trying to rehash that debate again in circumstances where they are clearly in a minority.

I thank Senator Harradine for pointing out to the Senate that in the handwritten amendment that Senator Brown threw down on the table yesterday evening, he in fact started off by saying that the defence forces or reserves should not be used in peaceful protests and then he scrubbed out the word 'peaceful'. What does that tell the Australian people? If they are not peaceful protests, the chances are they are violent protests; and we would be in the most unfortunate circumstances—and I would hope and pray that Australia would never face the sorts of circumstances contemplated in sections 51A, 51B and 51C of the Defence Act—where the state police forces were not in a position to control domestic violence and where the regulars could not either.

I think most Australians are tolerant and reasonable. They believe in the right to protest; they believe in the right to take industrial action; they believe in the right of individuals to express themselves. And that is what this legislation throughout has protected. But in their tolerance and in their reasonableness, the people of Australia do say that, if there comes a time when protests develop into a situation where there is a likelihood of death or serious injury, then it is appropriate for some protection to be afforded to the civilians of this nation against those who would abuse the right to protest and develop their protest into a situation where death may occur, because civilians, quite rightly, expect the government to be able to protect them against that sort of thuggery—indeed, anarchy.

I make no apology that this government does support the legislation that is before us. Senator Brown's amendment seeks to undermine the regime that was put in place some four or five months ago by this Senate. Senator Brown, by making that very telling point of deleting the word 'peaceful' from his description of protest, is saying that basically, no matter what the circumstance within Australia, no matter if the protest is leading to deaths on the streets or serious injury to people, under no circumstance would he wish the defence forces to be involved. It is my hope and prayer that that would never be visited upon this great nation. But in the circumstances I think the average Australian would want us to have a regime in place where that sort of protection could be afforded. I thank the opposition and Senator Harradine for their very constructive contributions and sensible, commonsense approach to a scenario which I am sure we all hope would never be visited upon this nation.

Senator Brown (Tasmania) (10.16 a.m.)—There we have it. I would put the word 'peaceful' back in there if it would satisfy Senator Abetz, but he would still vote this down. It does not make any difference. What he has said is that he wants the Army and the reservists to be available to put down protests in Australia.

Senator Abetz—No.

Senator Murray—You just said it. Look at the Hansard.
Senator BROWN—You go and look at the Hansard, Senator. You would have called out the troops if you felt it were going to make a difference on the Franklin blockade; indeed, one of your colleagues called for just that at the time. You would call them out against forest blockaders, against the suffragettes and certainly against people in this country who have a different point of view. And, moreover, Senator Abetz has said that there are unreasonable people in this place and this legislation is needed to be used with reasonableness. There is the very argument that I put for this amendment. It needs to be explicit and not left to the interpretation of some future Minister for Defence. So Senator Abetz has argued very cogently for the need for this amendment. I am sure people listening to this debate will see that it is not just good enough to leave it to the reasonableness of some future Minister for Defence; we should be writing it into the legislation that reservists cannot be brought out against Australian civilians, full stop.

Senator MURRAY (Western Australia) (10.17 a.m.)—I want to support that point made by Senator Brown. I did not attend the entire debate on the Defence Legislation Amendment (Aid to Civilian Authorities) Bill 2000 in this place, but I was an active participant and I did attend a lot of it. The minister on duty then was very, very careful with his phrasing and wording, and he was at pains to insist that the government would never, ever bring out the troops against Australians. If you look at today's Hansard to see the words of the minister on duty, you will see that he said, ‘The removal of the word ‘peaceful’ was telling,’ and he then went on to explicitly, in my view, state that there would be circumstances where the use of troops against Australians would be warranted. It is a logical connection.

I know that is not the view of Senator Faulkner; it is not in his mind what a government should do. But this minister, with this minister’s attitudes, explicitly said he can envisage circumstances where they would use the troops. It is a logical extension of what the minister said. Minister, I concur with Senator Brown. There are members on the coalition backbench—although there are lots who would not—who, given certain circumstances, would bring out troops against Australian citizens and residents. That is exactly what this amendment is designed to deal with. If those apologists for government policy do not like it and want to put in the word ‘peaceful’, put it in; Senator Harradine, put it in if that will get your support. But the removal of the word ‘peaceful’ is not the issue here. The issue is the intent of a government and the intent of the Defence Force under the allowable provisions of the legislation before us. I submit to you that there is not an appropriate safeguard. You have said that, because the crossbenches were defeated in their opposition to the previous bill, we should just shut up on this. I would say to you that the Australian Democrats will never shut up on matters of civil liberties and we will continue to push our point. I would expect the same of the Leader of the Opposition in the Senate and his party on things that matter to them and to you. This is a new bill. This is a new consideration. We are entitled to express a viewpoint on it.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (10.20 a.m.)—I find myself in some sympathy with the points that have just been made by Senator Brown and Senator Murray in relation to the way the minister has argued his case on Senator Brown’s amendment. It was very poorly argued and I believe the words chosen by the minister at the table could have been much better framed.

Senator Abetz interjecting—

Senator FAULKNER—I think the comparison that Senator Murray draws with the way Senator Ellison handled a difficult committee stage on a highly contentious piece of legislation was valid. The point that needs to be made here is this: my concern on behalf of the opposition is that we are rerunning a debate that we had in this chamber over very many sitting days and that I think Senator Brown, Senator Murray and, I hope, Senator Harradine and members of the government would accept went with great detail to a whole range of provisions in the Defence Legislation Amendment (Aid to Civilian Authorities) Bill 2000 that was then be-
fore the chamber. This committee examined those provisions in microscopic detail, and it is true to say that there were differences around the chamber. The opposition took a different view to the government. The opposition ensured that certain safeguards were placed in the bill that were not in the original bill as drafted by the government.

It is also true to say, and I would be the first to acknowledge it, that Senator Brown and also Australian Democrat senators wanted to go further. That is also fair to say. I think that everyone who recalls that particular debate would acknowledge that that was the situation. But the point I make now is that this is a bill to amend the Defence Act, as was the Defence Legislation Amendment (Aid to Civilian Authorities) Bill 2000. Those safeguards that the opposition was successful in getting—with, I acknowledge, the support of Senator Harradine, Senator Brown and the Australian Democrats—did put in place some very important improvements, some very significant safeguards, in the Defence Act.

This bill also amends the Defence Act, and I do think now we are rerunning the debate which was won and lost some few months ago, although I acknowledge that Senator Brown particularly and the Australian Democrats—I think it was Senator Bourne who handled that bill at the time on behalf of the Australian Democrats—wanted to go further than the opposition did. The opposition was successful in seeing significant changes; others in the chamber wanted to go further. We are rerunning that debate. I defend the right of Senator Brown to move an amendment to this legislation—or that of other senators, if they so determine. The issues are important; and it is also important that the government, in dealing with this matter, chooses its words and language carefully in the committee stage—and I do not believe the minister has done that.

What I say on the substantive point to the committee is: this bill amends the Defence Act, and the safeguards that this committee piloted through when the Defence Legislation Amendment (Aid to Civilian Authorities) Bill was debated are now in the Defence Act. Those safeguards are legislated for. That is the important point, and I think it goes to the questions that Senator Harradine was raising to the minister. Those safeguards are there—though some senators do not consider them adequate and are using the opportunity of debate on this bill, as they are entitled to do, to argue their case again.

I think that is a pretty fair summation of where we find ourselves. I do not particularly want to have a rerun of the previous debate, because I spent many hours in this chamber, as did others, debating it in the first instance. I accept the importance of the issues, but I do remind the committee that there are now safeguards in the Defence Act that were not there previously. I remind the committee that the opposition, with the support of other non-government senators, was successful in improving the then Defence Legislation Amendment (Aid to Civilian Authorities) Bill some months ago—though I accept, as I have said before, that other senators want to go further. I believe the minister does need to look at the words he used. I think it was a very poor choice of language—

Senator Abetz—Oh!

Senator Faulkner—Well, it was, Minister. I think you will accept that, if you actually take on board the invitation that Senator Murray extended to you to check carefully the Hansard record. I think it was badly expressed—and, I might say to you, differently expressed—when Senator Ellison was the minister handling the committee stage during the debate on the Defence Legislation Amendment (Aid to Civilian Authorities) Bill. However, I do not want to labour the point, because the opposition’s position was explained by me in some detail. It was not to unanimous support, because the government certainly did not support what the opposition was doing, and neither did the minor parties and independents: you did not want us to go as far, and they wanted us to go further. That is the truth of it. Everyone who was in this debate understood that that was the situation.

Fundamentally, I say to the committee that I believe those safeguards are in place, and it is for that reason that the opposition will not be supporting Senator Brown’s amend-
because I believe that the debate effectively has been, if you like, won and lost. Certainly, the debate has been run previously in this chamber, and run exhaustively. That is not to belittle, in any sense, the importance of the issues that are before the committee. They are important, and it is also essential from the point of view of the confidence that the parliament has in these matters for ministers to be consistent in relation to how these matters are dealt with.

On this particular matter, however, let me say, we do have the advantage—and I know that the minister at the table has depended on this and I acknowledge that—of a formal communication from Minister Scott to my colleague in the House of Representatives, Mr Ferguson, the shadow minister, in relation to some of these matters, canvassing the issues that were being dealt with when we decided to defer this committee stage until today. That occurred yesterday when Senator Brown originally moved his amendment. It might be useful—and I would be happy, I must say—to table that letter, if the minister has not fundamentally canvassed those issues or read the detail of that letter into the Hansard. I know that at least in part he has done that, and I acknowledge that that is the case.

I asked on behalf of the opposition for the opposition to be provided with that information. I simply do not know whether that material was provided to other non-government senators in the chamber. But, if it would assist other senators, I would be more than happy to seek leave to have the letter tabled that I requested from Mr Scott and that was provided, giving a detailed response on the issues that were being canvassed yesterday in committee, from Mr Scott to the shadow minister, Mr Ferguson, as that also might assist the committee. You are aware of the content of this, Minister Abetz, but I seek leave to table that. It may assist the committee in understanding some of the background to the matters that were before the chair yesterday and that are still before the chair as I speak at 10.32 a.m. this morning.

Senator FAULKNER—I have sought leave to table it. But, if it would assist the committee, I am happy to incorporate it. My interest here is that it is more a matter of urgency; if senators are interested, if I table it there is the capacity for them to have a look at it now. I am only seeking leave to table it.

Leave granted.

Senator HARRADINE (Tasmania) (10.31 a.m.)—Senator Faulkner, the Leader of the Opposition in the Senate, has outlined the facts of the matter clearly and succinctly—and I agree with what he has said. However, I would like to express my disappointment at the implication made by Senator Murray that in some way I was an apologist for the view of government backbenchers on this.

Senator Murray—if that was the implication, I withdraw it.

Senator HARRADINE—Clearly, I was not. In that last debate I certainly made it clear, I should have thought, that for many, many years I have upheld the right to strike—and that was excluded on the last occasion—and, indeed, the right to freedom of expression.

But coming to the question relating to the amendment before the committee, I presume that Senator Brown will withdraw the words ‘such as in strikes’ or leave out the word ‘strikes’, because that is already covered specifically by the legislation and thus is redundant there. This then would read ‘but not in circumstances involving confrontation with civilians within Australia such as in protests’. The whole regime of the Defence Act—particularly those provisions relating to aid to the civil power—is such that the orderly conduct of these matters is in the hands of the organisers. But if the orderly conduct gets out of the hands of the organisers and there is trouble, including violence, that ought to be able to be dealt with by the police forces. But there could be very serious circumstances, most exceptional circumstances, in which aid to that civil power may be required. As Senator Faulkner has said, there are safeguards. Indeed, the commander in chief of the armed forces and ultimately the Governor-General must approve action to
be taken and deployment of the armed services in aid of a civil power on the advice of the Prime Minister, the Minister for Defence and I think one other minister.

Senator Abetz—The Attorney-General.

Senator HARRADINE—The Attorney-General, that is right. Ultimately it is for the Governor-General. This is in very, very narrow terms, and the safeguards are there.

But I put it to Senator Brown and Senator Murray that, if you have ‘but not in circumstances involving confrontation with civilians within Australia such as in protests’, there could be the most violent protests in situations where the police are unable to deal with the question in a proper and orderly way. Indeed, the police may be under fire, for example. Of course I have great faith in the police, the civil power, dealing with these matters. But if you have this in such a broad fashion as it is, it could mean anything. The whole concept of aid to the civil power goes down the drain, despite the safeguards and despite the fact that the Governor-General, himself or herself, must be involved. I agree with what has been said by the Leader of the Opposition in the Senate. On the last occasion, while placing all of those safeguards into the legislation, we had a reasoned debate that was conducted throughout the chamber with a degree of perception that was, I think, enlightening. Having done all that, I believe that we have done our best. I hope now that the proposal put forward by Senator Brown will be seen as being redundant and unnecessary—unless we are to have anarchy in a particular situation.

Senator ABETZ (Tasmania—Special Minister of State) (10.37 a.m.)—I do want to clear my name, considering some of the quite bizarre assertions made by Senators Brown and Murray as to the circumstances under which I participated in this debate, the comments that I made and how they then sought to interpret them. I think on a number of occasions I said that it is my hope and prayer that the circumstances envisaged in the legislation would never come about, or words to that effect. I do not know how often I have to say that my wish and desire for my country is that those circumstances would never arise. Having said that, how on earth can the Green and Democrats senators then seek to twist it and assert that I would have called out the defence forces on an environmental protest or a suffragette protest, or any other sort of protest to date within Australia? I find that demeaning of those who have sought to make such an assertion.

We then had the suggestion that Senator Ellison, the previous Special Minister of State, said words different from those that I have expressed, and that the defence forces would never be used in any circumstance. I would be surprised if that was said, because the legislation as it currently stands, as passed by the Senate only four or five months ago—legislation which Senator Ellison himself carried through this place—says:

In utilising the Defence Force … the Chief of the Defence Force must not:

(a) … restrict any protest … except where there is a reasonable likelihood of the death of, or serious injury to, persons …

That was exactly the point I made, very calmly and very sensibly, and indeed the very point that Senator Harradine himself made: that in those circumstances, if you were to restrict it, it would lead to anarchy. For Senator Murray to make the assertion that he did lowers my estimation of Senator Murray. I have to say that from Senator Brown I expect anything. But, Senator Murray, in all fairness, the comments you made I think you know do not reflect my approach to these matters. I acknowledge the smile on Senator Murray’s face, and I accept that and will not labour the point anymore.

In my former manifestation I was the Parliamentary Secretary to the Minister for Defence, so I do have some understanding of these issues. The restrictions that apply to this legislation are very strong restrictions. In case there is any doubt in relation to the crossbenchers, can I just repeat again: it is my hope and prayer that these provisions will never have to be implemented.

Senator BROWN (Tasmania) (10.41 a.m.)—I thank the minister, the Leader of the Opposition in the Senate and Senator Murray for their contributions on this important amendment. We cannot leave it to a hope and a prayer. We are here to legislate, and that is what this amendment does. It says that you
cannot call out the reservists against a civilian protest or a strike. Senator Harradine looked at the situation of violence which could not be handled by the police. We have legislated to not allow the defence forces to be brought out against people who are in an industrial protest. My amendment simply says: let us extend that to protests. The same logic applies. There is no logic in leaving out protests which are other than industrial protests from this safeguard that a politician, by reference to the Governor-General, can call out reservists against Australian civilians.

The argument has been well canvassed. I stand very strongly on this point. It is very important that this point has been debated. I can see we are going to lose because we do not have the numbers. However, it is a very important matter of principle for the Greens, and Senator Murray has pointed out that it is for the Democrats as well, and we stand by it.

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

The committee divided. [10.46 a.m.]
(The Temporary Chairman—Senator A.B. Ferguson)

Ayes…………… 10
Noes…………… 51
Majority……… 41

AYES
Allison, L.F.
Bourne, V.W *
Greig, B.
Murray, A.J.M.
Stott Despoja, N.

NOES
Abetz, E.
Boswell, R.L.D.
Buckland, G.
Campbell, I.G.
Collins, J.M.A.
Crowley, R.A.
Eggleston, A.
Evans, C.V.
Ferris, J.M.
Gibbs, B.
Harradine, B.
Hogg, J.J.

Kemp, C.R.
Lightfoot, P.R.
Lundy, K.A.
Mackay, S.M.
McGauran, J.J.J.
McLucas, J.E.
Newman, J.M.
Payne, M.A.
Reid, M.E.
Sherry, N.J.
Tchen, T.
Troeth, J.M.
Watson, J.O.W.

* denotes teller

Question so resolved in the negative.

Bills agreed to.

Bills reported without amendment; report adopted.

Third Reading
Motion (by Senator Abetz) proposed:
That these bills be now read a third time.

Senator HARRADINE (Tasmania) (10.51 a.m.)—I do not want to canvass the situation anew on the third reading of the bill, but I think it is necessary. I had to slip out for a short while to the minister’s Anzac Day preparations. I do not know whether I am permitted, but I will give you an example of a possibility where the defence aid to the civil power would be required—that is, you could have a situation whereby a terrorist group could attempt to take over an outback Australian detention centre. The police in those outlying areas would be unable to deal with that threat to the lives of genuine refugees and the like, and there might be a defence facility nearby.

Under those circumstances, it would be ridiculous to see the defence forces on standby whilst there was mayhem, killing and so forth in a detention centre. I raise that because I have been to some of these detention centres. Some of them are in quite isolated areas and near some of them there are defence facilities. In a situation like that and with protests of that nature—which may be staged by persons who have no respect for human life and who are attacking and protesting their detention—the lives and circumstances of other, genuine refugees are in great danger and under threat where there is
a very small police force. I am thinking of one particular example, and that is Woomera. I thought I would give you an example of the sorts of things that I had hoped to raise previously.

Question resolved in the affirmative.

Bills read a third time.

TRADE PRACTICES AMENDMENT BILL (No. 1) 2000

Second Reading

Debate resumed from 6 March, on motion by Senator Ian Campbell:

That this bill be now read a second time.

Senator SCHACHT (South Australia) (10.54 a.m.)—In my remarks on the Trade Practices Amendment Bill (No. 1) 2000 yesterday, I commented on the work of the Joint Select Committee on the Retailing Sector and the impact on small business of the concentration of economic power of the major retailers in this country. I now want to talk about the other aspect that is of concern to small business in general: how this government’s policies have affected small business through the introduction of the GST and the subsequent business activity statement.

In the campaign for the 1996 general election, the Prime Minister, Mr Howard, made great play of the fact that, if a coalition government were elected, that government—within the first term of office—would reduce red tape for small business by 50 per cent. A lot of small business people thought that was a very good promise and responded enthusiastically. Those in the small business community with some knowledge of dealing with state and federal governments realised that it was more of a heroic promise and that offering to cut red tape by 50 per cent was almost a contradiction in terms. If you promise to do something then carry out a survey of how to do it, you actually increase the paperwork. Those are the sorts of problems that you have at one level. Some organisations want more statistical information so that governments can better understand what is going on in small business but, in doing so, you have to ask small business to fill in more forms for the ABS, which is always a drag and which always takes up working time for hardworking small businesses.

The Prime Minister did make this unequivocal promise. I do not know whether it ever became a non-core or a core promise for the Prime Minister in the subsequent year or so, but he had to sack his first small business minister over a conflict of interest about franchising in the last term. Then he made Mr Reith the small business minister but Mr Reith got himself into strife with a telecard, so he had to go over to Defence. Now we have another new small business minister, Mr Macfarlane, who has been there only a short time and who has inherited the BAS mess. During the debate on the protest from the small business community about filling in the BAS, an accountant dealing with small business and tax matters said that, since 1996, the tax act under this government has gone from 3,000 pages to nearly 8,000 pages—all because of the introduction of the GST and its regulation. So much for a simple tax! Some 5,000 pages of new legislation have been imposed on the Australian taxpayer and, overwhelmingly, on small business. That is why there is now an Armageddon out in the small business community.

In the last few days, since the government has announced some changes to the BAS—it is now to be an annual document only, rather than a quarterly document—we have had more information, to the effect that the changes are not as favourable to small business and that the paperwork to be kept, the record keeping to fill in the annual BAS, will be just as significant an amount as it is for the quarterly BAS. So we watch with interest how the government will get itself off the hook with a constituency which Mr Howard described in 1996 as a ‘natural’ constituency for the coalition. All the commentators have written for years, if not decades, that small business is a natural constituency of the Liberal Party. I have no doubt about the reasons for the collapse of the Liberal Party vote in the Western Australian state election to a low 30 per cent and in Queensland to 14 per cent. The major non-Labor party in Australia in the third biggest state in Australia can muster only 14 per cent of the vote. This is down to a level where the Liberal Party is doing not much better than the Democrats in a good year—or even the Greens in a good year.
now—and it is barely able to match One Nation. That is where the Liberal Party has sunk to in the state of Queensland, and Queensland proportionately has more small businesses than most other states. Probably the highest proportion of small businesses are in Queensland compared with any other state. It is therefore significant that the total combined coalition vote of only 27 per cent occurred in Queensland, the state with the most small businesses. Those small businesses are absolutely outraged at how they have been sold a dummy on the GST so-called tax reform. The so-called 50 per cent reduction in red tape and paperwork for small business has not occurred. It has gone the other way. Not only do increased taxes have to be paid by small business but also there is increased paperwork. This debate is an opportune time to again remind the government of the mess they have made of small business—the generator of most of the economic growth in Australia over the last couple of decades.

Finally, some foreshadowed amendments on this bill to be moved by Senator Murray have been circulated to me. I initially indicate to Senator Murray that the opposition have been looking at them this morning. We still have not had a chance to deal with them thoroughly, but it is unlikely that we will support these amendments. I will wait until the committee stage to hear more remarks from Senator Murray and then I will be able to explain more the reason why we probably will not be supporting these amendments to be moved by Senator Murray. I will explain that some of the motives of Senator Murray are not to be denied but I do not know whether it is appropriate at the moment. (Time expired)

Senator MURRAY (Western Australia) (11.01 a.m.)—I am glad to see that we have finally reached debate on the Trade Practices Amendment Bill (No. 1) 2000. This bill is very significant for small business, and I confess to being surprised that it has taken over eight months to get to the Senate since its introduction into the House of Representatives at the end of June last year. That says something about misplaced government priorities.

The bill picks up a few of the recommendations of the Joint Select Committee on the Retailing Sector. I was a member of that committee. The government needs to remind itself how important that committee—known as the Baird committee—was to the retailing sector and to thousands of small businesses and how closely they have watched and hoped for the arrival of some amendments arising from that inquiry.

One of the significant amendments that this bill makes is to the definition of ‘market’ in section 50 of the Trade Practices Act 1974. At present, ‘market’ is defined as a substantial market for goods or services in Australia, in a state or territory. It is hoped that this amendment will ensure that the Australian Competition and Consumer Commission considers the impact of a proposed merger or acquisition on heavily concentrated regional markets.

An example that I often like to cite occurred in Cooma, which as many of you would know is a small town about an hour and a half’s drive south of Canberra. In that town it was the case that there were two large grocery stores, a Woolworths and a Cannons. They competed against each other for custom for quite a few years until Woolworths decided to buy Cannons. It is now the case that there are two Woolworths stores in Cooma and no real competitor. Anecdotal evidence from the residents of the town suggests that prices have risen since the acquisition. Why would that be a surprise? If you own both the stores, why wouldn’t you make as much profit as you can?

It disappoints me that the ACCC did not or was unable to prevent that acquisition, because I think that is a fairly clear example of a major retailer simply buying out its competition to obtain local monopoly power. The residents of Cooma do not really have a choice other than to stop at the two Woolworths stores unless they want to drive up to Canberra. That is not a criticism of Woolworths. It is a criticism of our competition law that those circumstances are allowed to develop. To a single supermarket owner in a country town, the market is that town and its catchment area. To one of the major chains,
the market ranges from that very town to the whole country.

Along with these geographical distinctions go sectoral distinctions, in that various specialist categories of retail compete with each other in each retail sector, be they butchers or florists. They also compete with multisectoral retail conglomerates covering all retail categories. The evidence before the retail sector committee was persuasive that in certain markets and retail sectors the independent retail sector is under threat. It is my view, the view of my party and the view of many people in the parliament that we should acknowledge that a viable and thriving independent sector in the retail industry is, in itself, desirable and that it has an economic and social value that should not be lost. That sort of message needs to be drummed home to those who run national competition policy in this country.

Without detracting at all from the strengths or professionalism of, or the consumer benefits offered by, the major retailing chains, we have to face the fact that if a viable independent sector is to be retained in each of the retailing sectors then competition policy must be tightened up. I accept the evidence that, in a few regional markets within the supermarket sector, the expansion of major retailers has probably reached saturation point—in one or two regions it might even have exceeded it. In other regional markets, it is also evident that there are still opportunities for the major retailers to expand. On the evidence before the retail sector committee, it is difficult to argue that the national market is saturated by the majors with the logical corollary therefore that national countrywide divestiture of the major supermarket chains is required or that there should be no opportunity for their further growth in any regional market.

However, to deal with any retail market concentration problem, the regulator needs to have an ability to appropriately define the retail market. The ACCC has made it clear that the Trade Practices Act makes the definition of a market somewhat difficult. Section 50 of the TPA does, for instance, clearly state that the market can be determined for Australia as a whole or by state or territory. Under that definition, a few hundred thousand people living in the Northern Territory—and that is the total population—or living in Tasmania can be easily categorised as a market.

A defined retailing market in smaller geographical areas, such as Darwin or Hobart or any sizeable country town in the rest of Australia—or even areas with very large populations, such as defined areas of Melbourne and Sydney—do not strictly speaking fall within the definition of section 50. This does not make sense for retail markets. Retail markets always relate to particular catchment areas or regions, and market definitions should attend to that fact. The main report of the committee attended to that issue and made a very helpful recommendation, and I am glad to see the government has taken it on board.

Two amendments made by this bill that I think are sufficiently significant to note today are items 3 and 4 of the bill. Those provisions make it clear that the TPA provisions on unconscionable conduct and industry codes do not override state or territory laws that are not directly inconsistent with the TPA. The New South Wales parliament recently passed the Retail Leases Amendment Act. That act prohibits unconscionable conduct in retail shop lease transactions. The practical effect of the amendment in the bill before us today makes it clear that the unconscionable conduct provisions in the Trade Practices Act will not be inconsistent with the unconscionable conduct provisions of the New South Wales state act. Last week, together with Joel Fitzgibbon, the shadow minister in the small business portfolio, I addressed a conference of the Australian Retailers Association. The government were invited; they did not come. It was made known to me at that conference just how significant this amendment is to retailers; therefore, it is well supported by the Democrats.

The last of the amendments in this bill that I want to comment on deal with representative actions by the ACCC under part IV of the Trade Practices Act. Part IV deals with restrictive trade practices. In particular section 46 prohibits corporations that have substantial market power from misusing that...
power to eliminate or to damage competitors. During the course of the retailing sector inquiry, the committee heard repeatedly from independent grocers about alleged predatory pricing practices by major competitors. Predatory pricing occurs when a firm temporarily reduces its prices below the level justified by competitive conditions to force a competitor from the market, or to damage that competitor. Having achieved this purpose, the firm expects to be able to raise its prices above the competitive level. Where a corporation that has a substantial degree of market power is found to have engaged in predatory pricing, it will be evidence of a breach of section 46. The problem is that taking action under section 46 is expensive and difficult. The amendment to this bill will allow the ACCC to take an action on behalf of a retailer, which at present it cannot do. I therefore compliment the government on this amendment.

While I am on the subject of representative actions, I should foreshadow the Democrats’ views on the amendments circulated by the Labor Party. My understanding of these amendments is that they will remove sections 45D and 45E—which deal with secondary boycotts and contracts affecting the supply of goods or services—from section 87, which will provide for representative actions. Sections 45D and 45E are provisions that are, to a greater or lesser extent, related to industrial action by employees or unions. It is fair to say that, from memory, when the retailing sector committee considered the idea of representative actions under part IV of the Trade Practices Act, no attention was paid to those workplace relations provisions being present in part IV. They might have been in the minds of some people but I cannot remember their being discussed. As I recall, most of us were concerned about the ability of the ACCC to take representative actions for things like predatory pricing and anticompetitive behaviour. I make the point that, for small business in particular, there is no other recourse but to the ACCC for anticompetitive behaviour but, where workplace relations matters are concerned, small business has recourse to the Industrial Relations Commission.

The Democrats do not see that these two need to be combined or that the need is readily apparent. When I, as the Democrats’ representative on the committee, concurred in the report, I confess that the issue of secondary boycotts and sections 45D and 45E was not in my mind, and I suspect it was not in the minds of the Labor members of the committee, who also concurred in the report. I have specifically asked the shadow minister, Joel Fitzgibbon, about his memory of that, and he said it was not in his mind at the time.

The Democrats are inclined to support the Labor Party’s amendment. One of the government members said to me privately earlier today that he was disappointed to hear that, but the fact is that we intended the representative action provision for a specific purpose. I make the point again that, for small business, there is no other recourse but to the ACCC for anticompetitive behaviour but, if they want to take up workplace relations matters, they have recourse to the Industrial Relations Commission already. So I am not at all convinced that it is necessary.

I do want to foreshadow two issues that the Democrats will be pursuing by way of amendments when we reach the committee stage. Both of these issues I explained in some detail in our supplementary report to the joint select committee, so the government has had this before it since August 1999, as have the Labor Party. I have discussed these issues at length with the shadow minister, Joel Fitzgibbon. I assume that the foreshadowed opposition to our amendment has been under long consideration and not just recently, as Senator Schacht implied—although he might not have known any different.

The first of our amendments is to give the ACCC the power to order divestiture where an ownership situation has the effect of substantially lessening competition. The Democrats believe there is value in giving the ACCC the power to break up monopolies that substantially inhibit competition or in giving it the power to reduce monopolies’ market power in particular regional markets by requiring limited and selective divestiture. This power is the natural corollary to an ex-
tension of the ACCC’s power, under section 50 of the Trade Practices Act, to prevent acquisition that would result in a substantial lessening of competition. It is an extremely odd thing that the act can prevent mergers but it cannot require divestiture. That is a failing in our legislation, which has been addressed by other leading countries in the OECD. They do allow both, and I urge both parties to start to think along those lines. I have already used as an example the situation that exists in Cooma in supermarkets. Using that example, a power of divestiture would enable the ACCC to order Woolworths to sell one of the only two supermarkets in that town to restore a competitive market for the benefit of the residents of that town. Why is that contrary to good competition policy? In my view, it supports good competition policy because it allows the provision of a diversity of competition in defined markets.

The second idea we have is a limited reversal of the onus of proof in section 46 of the Trade Practices Act. Section 46 deals with the misuse of market power. The Joint Select Committee on the Retailing Sector received significant evidence as to the difficulty of bringing a successful action under section 46. Witnesses consistently complained of the difficulty in proving predatory pricing. The onus of proof would revert from the applicant to the defendant only in actions brought by the ACCC and it would not revert until the ACCC had established that the business with a substantial degree of market power had used that power. At that time, the onus would shift to that business to prove that it did not use that power for a prohibited purpose. Such a measure would provide a substantial disincentive for oligopolist retailers—and we do have an oligopoly in that sector—to engage in abuses of market power while at the same time ensuring that retailers are not the subject of frivolous claims, because the onus of proof provision would only be available to the ACCC.

In evidence to the committee, the ACCC agreed that there was merit in reversing the onus of proof under section 46. He said:

There may be scope for some further strengthening of section 46 in terms of that kind of thing; that is, if the effect can be shown, then there is a reverse onus of proof on purpose. That would still keep it essentially to purpose. There is a problem at the moment with the test, in that the commission or private litigants have to embark on a cops and robbers type search for purpose in particular cases. They are just not going to succeed in that, even though one has a fair idea that the purpose is anti-competitive. So there is a case for reversing the onus without departing from the underlying notion that, in the end, it would be a purpose test.

The amendment that I will be moving in the committee stage is completely in accordance with Professor Fels’s comment. It is a reversal of the onus of proof on that basis. Those in the chamber who know me know that I am concerned about a general application of onus of proof provisions sneaking into legislation, and I believe those concerns should be heeded. In this instance, however, I believe that the onus to generate the kind of information which is necessary to pursue these issues is the only way in which that section of the act can ever become a real functioning operation in terms of ending anticompetitive behaviour, and in this instance, as an exception, I do believe it is appropriate.

The Democrats are happy to give credit where it is due, and it is true that this bill will be very positive for small business. However, as a mark out of 10, we would probably be inclined to give the government five or six for the bill in its current form. The retailing sector committee—which included the Liberal Party, National Party, Labor Party and Democrats—made 10 unanimous recommendations, of which the government has adopted about five, and some of those have been watered down. I think that is a great shame. I am happy to say that the Democrats were successful in moving a motion on 8 February that requests the ACCC to investigate an issue identified and provided as a recommendation by the committee. I thank the Labor Party for their support for that motion. That was the issue of like terms for like customers and whether wholesalers, as suppliers of the independent grocery sector, are able to buy on similar terms to the major
retailers like Woolworths and Coles. There were suggestions in the course of the inquiry that, even when they were purchasing similar quantities, the independent wholesalers were not able to buy at as low a price as the major retailers. Hopefully the ACCC investigation will clarify that situation in full.

On another one of the recommendations, I am disappointed that the Retail Industry Code of Conduct established by the government is a voluntary code. I think most senators would be familiar with the effectiveness of voluntary codes. Voluntary codes are codes with which business can comply without having to do very much at all. As soon as compliance with a voluntary code starts to cost money, to cause problems or to require a change in behaviour the business simply fails to comply, and that results in no significant consequence for that business. The government very proudly legislated in 1998 part IVB of the Trade Practices Act 1974. That part provides an excellent mechanism for the creation and enforcement of industry codes. All it would have taken—and all it would still take, I might remind both major parties—would have been for the government to gazette a regulation that the Retail Industry Code of Conduct is a mandatory code for the purposes of the Trade Practices Act. I cannot help but think that the voluntary code is a bit of a cop-out, and it certainly amounts to a watering down of the unanimous committee recommendation.

The Fair market or market failure: a review of Australia’s retailing sector report is a comprehensive report on the retailing sector. It followed on from the previous Baird committee report, and I think it is a great contribution to a good parliamentary analysis of problems that afflict the sector. I would implore the government to re-examine the recommendations and text of the report—including my supplementary remarks, which are considerable—with a view to adopting more of the unanimous recommendations than it has so far.

Senator JACINTA COLLINS (Victoria) (11.20 a.m.)—I will concentrate in this second reading contribution on the Trade Practices Amendment Bill (No. 1) 2000 on drawing to the attention of the Senate one difficulty with the legislation, which has already, in part, been covered by Senator Murray—that is, the potential for it to empower the ACCC to undertake representative actions in industrial matters. The shadow minister for industrial relations foreshadowed these amendments in the House of Representatives during their debate on this bill last year, and I do the same now with respect to the amendments on sheet 2104, which have been circulated.

There are two important public policy imperatives that demand the passing of these amendments in dealing with this legislation. First, if these amendments fail, a completely unintended and unconsidered outcome will occur with the enactment of this legislation—although later I will draw to the attention of the Senate the fact that this may have been intended by some. Secondly, the unintended outcome will be an exacerbation of what we would say is already a meritless practice—that is, the presence in the trade practices legislation of matters dealing with industrial relations.

Turning to the first point, there is absolutely no doubt that this legislation was never intended to, nor should it, deal in any way with matters industrial. The history of this legislation makes clear that it is the product of a considerable process of gestation and evaluation of the retail industry. The legislation’s antecedents can be found in the inquiries of this parliament into the behaviour of retail industry participants, specifically the predatory practices of some large retail industry participants. There was an inquiry by the House of Representatives Standing Committee on Industry, Science and Resources in 1997. Their report is entitled Finding a balance: towards fair trading in Australia and is a clear indication of the subject matter. The committee’s first term of reference specified that it was to examine:

The major business conduct issues arising out of commercial dealings between firms...

Subsequent to the report of that committee, a joint select committee of the parliament was established, chaired by the Hon. Bruce Baird, and included amongst its members Senators Ferris, Forshaw, Murray and Schacht. Their first order of business was to consider:
The degree of industry concentration within the retailing sector in Australia, with particular reference to the impact of that industry concentration on the ability of small independent retailers to compete fairly in the retail sector.

The committee did its duty and reported on the nature and extent of predatory pricing arrangements in the retail industry, and it proposed some sensible reforms. The strengthening of the Trade Practices Act was one of the most significant of its recommendations. The committee specifically proposed including provisions in the act to give the ACCC the power to undertake representative actions. The committee report said:

The Committee believes that the evidence clearly reveals a need to address the issue of predatory pricing, with a recommendation that the ACCC be given wider powers to bring representative actions, and to seek damages on behalf of third parties under Part IV of the Trade Practices Act.

This clearly is a sensible proposal, a sensible amendment, and is the product of an eminently sensible process. We have an inquiry by a committee, consideration by the government of the outcomes—with perhaps a somewhat limited response—and bipartisan legislation to deal with real and pressing problems. But here, unfortunately, apart from these sensible matters dealing with the practice of trade in the Trade Practices Act, the government believes that secondary boycotts belong in the act and in 1996 legislated to reintroduce them. Those sections, the infamous sections 45D and E, occur in part IV of the act. So it is possible that these changes would allow the ACCC to undertake representative actions in secondary industrial boycotts.

Senator Brandis—Hear, hear!

Senator JACINTA COLLINS—I would like to be charitable to the government but I can see from comments from the other side that my words are probably fairly accurate. I would like to be charitable and say that this was probably an unintended consequence but the shaking of the head of the senator on the other side indicates that it was probably quite clearly intended. I wish to draw to the attention of the Senate the fact that the government actually has form in this matter and to perhaps remind Senator Murray that a similar effect was involved in the Trade Practices Amendment (Country of Origin Representations) Bill 1998, where, again, in a bill dealing with other issues the government sought to slip in this sort of arrangement so that the ACCC could conduct itself in industrial matters. That provision would have had the same effect as this one but with the added offence of being retrospective. In the aftermath of the waterfront dispute, the government’s intentions were clear: it was an MUA targeting exercise. If I recall correctly, the opposition, the Democrats, the Greens and Senator Harradine ultimately defeated those amendments with amendments to excise the industrial matters involved.

The Labor Party has a long held view that industrial matters with respect to not only small business, as Senator Murray indicated earlier, but all business are best dealt with by industrial tribunals. They possess the expertise to deal with those matters. Even if you disagree with us on that point, there is absolutely no reason to involve the ACCC in such matters. They have no expertise in the area and it is hardly a matter that they were created to develop expertise in. These amendments limit the provisions that allow the ACCC the power to take representative action in situations of predatory pricing in the retail trade by precluding representative actions with respect to secondary boycotts under part IV of the act.

It is Labor’s position that secondary boycott provisions should be removed from the Trade Practices Act, as it is more appropriate that industrial relations matters ought to be dealt with in industrial legislation. Labor’s platform is clear on this point where it says: All industrial matters should be removed from the Trade Practices Act and be regulated by industrial law.

Labor does not support providing the ACCC with more extensive powers to be used as a backdoor method by the government in their ongoing ideological campaign against the industrial relations community. This government have a history of attempting to forum shop industrial relations jurisdiction—for instance, with the Federal Magistrates Court and the second wave proposals, particularly those provisions that attempted to
confer jurisdiction on state supreme courts at the expense of the Federal Court. Labor does not consider this type of forum shopping to be conducive to good public policy, and it is certainly not conducive to good industrial relations.

The manner in which the government, and in particular the former Minister for Employment, Workplace Relations and Small Business, have conducted their approach to industrial relations has seen more intervention in the workplace, not less as has been claimed. Government agents such as the Office of the Employment Advocate operate in a calculated and biased manner, not as the workers’ friend, as outlined by Minister Reith when he was outlining the functions of the office. This was clear from evidence to the Senate inquiry into the second wave, and I also refer to the recent decision by the Federal Court which was critical of the manner in which the Office of the Employment Advocate conducted a prosecution under the Act: Hamberger (Employment Advocate) v. Williamson and the CFMEU.

There is good reason to believe that the government would manipulate the use of the bill’s wider powers as part of their ongoing campaign against unions. Past behaviour of other government agencies leads us to be sceptical about the manner in which the ACCC would exercise its increased powers, particularly as they can be used against the interests of unions and their members. So these amendments will obviate that possibility. They make clear that the provisions in this bill are to be limited to their intended area—that is, predatory pricing in the retail industry. I foreshadow that I will deal with those amendments during the committee stage of the debate.

Senator BRANDIS (Queensland) (11.29 a.m.)—I welcome the opportunity to participate in this debate on the Trade Practices Amendment Bill (No. 1) 2000. In doing so, I have the first opportunity since I became a member of this chamber to speak on legislation that, as a practitioner, has exercised my mind for many years. For many years I dwelt very much among the recondite complexities of sections 45 and 46 of the Trade Practices Act, and I welcome this legislation as a considerable enhancement of and finetuning to what was already a good piece of legislation.

Before I proceed, I will address the remarks made by Senator Collins. We perceive in Senator Collins’s remarks a very important point of principle and point of difference between the government and the opposition in relation to the Trade Practices Act and, indeed, to the role of economic legislation generally. Senator Collins makes clear that her party’s position is that industrial matters have no place in the Trade Practices Act. She says, incorrectly, that the Trade Practices Act is directed to the retail sector. That is an impermissibly narrow view of the scope and operation of the Trade Practices Act. The Trade Practices Act is, as it says, directed to the operation of trade and commerce generally. Most enlightened commentators in this field perceive the role of the Trade Practices Act as being a very broad one; that is, the province of the act should be to protect people from the infliction of economic harm. This is a matter that I addressed in my maiden speech.

There is no legislation of this parliament more suitable to protect people from the infliction of economic harm than the Trade Practices Act. Whether that harm be inflicted by big businesses against small firms, by traders against consumers, or by trade unions or combinations of labour against small businesses or consumers, the principle remains the same: it is the obligation of governments to protect people against the infliction of economic harm. I welcome with enthusiasm the idea that the Trade Practices Act will, with the passage of the years, intrude more and more into the industrial arena, because there is no area of the Australian economy in which there are more opportunities for the infliction of economic harm than the industrial arena.

I will now pass to some remarks about the bill itself. I do not know if honourable senators are aware that a couple of years ago a poll was taken among international experts in the field of antitrust—both antitrust economists and antitrust lawyers—in which they scored some 30 countries which had trade practices or antitrust legislation as to their relative merits and efficacy. In that poll
of distinguished international experts in the field, Australia’s Trade Practices Act was judged to be the best set of competition laws in the world—better than America’s, Britain’s or the European Union’s. It was judged to be the best economic regulation of competition and markets in the world, and that is something of which we may be proud.

The genesis of modern trade practices legislation in Australia lies on this side of the chamber. It goes back to the introduction into the House of Representatives on 6 December 1962 by Sir Garfield Barwick, the then Attorney-General, of the Restrictive Trade Practices Act of that year. To put the act into context, I will read from Sir Garfield’s second reading speech. He said:

I think few, if any, will deny, that there are practices current in the community which by reason of their restrictive nature are harmful to the public interest—that interest being in the maintenance of free enterprise under which citizens are at liberty to participate in the production and distribution of the nation’s wealth, thus ensuring competitive conditions, which tend to initiative, resourcefulness, productive efficiency, high output and fair and reasonable prices to the consumer.

That has been the underlying philosophy of trade practices legislation in this country over almost 40 years.

The bill currently before the chamber finetunes what is already good and powerful legislation. It does that in a number of ways. It does so by increasing the range of operation of section 51AC of the act, which deals with unconscionable conduct in business transactions, by lifting the ceiling beyond which the section does not apply from $1 million to $3 million and by extending section 82 of the act—which is the section which enables private litigants to commence proceedings for damages—to part IVA of the act; that is, conduct in breach of the unconscionable conduct provisions.

It is a notable feature of the Australian Trade Practices Act, particularly in parts IV and V, which are the sections of the act which regulate, among other things, market power and commercial conduct, that a private right of action is given to individual firms. That is not uniformly the case. In the United Kingdom, for instance, it was never the case under the Fair Trading Act that there was a private right of action able to be maintained by individual firms which suffered harm as a result of unlawful conduct. It was always left to the regulator, the Monopolies and Mergers Commission, to bring the proceedings. Nor is there, as I understand, under the 1998 British Competition Act, a right in private citizens or private firms to commence their own proceedings to seek compensation against contravention of that country’s competition laws. The vesting in private corporations of such a right, which has been a feature of the Trade Practices Act since its inception in its current form in 1974, is one of the most important features of the regime for the protection of economic interests which the act prescribes.

Another salutary reform which this bill enacts is the extension of the limitation periods within which proceedings for damages may be commenced by private litigants under section 82. Hitherto, there has been an anomaly in the act because a cause of action which was otherwise maintainable for breaches of either part IV or part V—that is, for breaches of antitrust provisions or the fair trading provisions of the Trade Practices Act—was extinguished after three years. In all Australian states and territories, the common period of limitation before causes of action become statute barred, with some exceptions that are not presently relevant, is six years. It has always been of concern to practitioners in this field that there has been a foreshortening by the Trade Practices Act of the ordinary period of time within which litigants could go to law to pursue their remedies. That limitation has never operated under section 87 of the act, which also provides for the awarding of a number of remedies, including monetary compensation.

I should say to the Senate, as a practitioner in this field, that there remains a lacuna in the act, and that is this: the amendments to section 82 do not incorporate the usual provision that is found in the statutes of limitations of the states and territories in relation to private suits which provide to the effect that, if a material fact of a decisive character first becomes known to a plaintiff after the expiry of the limitation period, the operation of the
limitation period is suspended. It would have been good to see a provision bringing the section 82(2) limitation provision into conformity with the limitation statutes of the states and territories in relation to ordinary private suits, incorporated in these amendments. Perhaps, when next the act is reviewed, that anomaly may be addressed. Nevertheless, a litigant in such a position can, in a proper case, always have recourse to section 87.

Allow me to address Senator Murray’s remarks in which he foreshadowed the amendments which the Australian Democrats propose to move in committee, in particular to section 46 of the act. The Senate would be most unwise were it to accede to the recommendations of Senator Murray. The effect of the Democrats’ amendments as circulated is to add to section 46 of the act—that is, that section of the act which deals with the misuse of market power by dominant firms—a reverse onus on the question of purpose. There are four things wrong with that proposal. The first of them is this: reversals of onus are of themselves intrinsically bad. A very strong case needs to be made, whether it be in civil or in criminal proceedings, before a person who is brought before a court against their own will is told that it is for them to prove their innocence, rather than for the initiating party—the party that makes the accusation—to prove their guilt or their civil liability. As a matter of principle, parliaments ought always—except in exceptional circumstances, of which this is not one—to avoid reversals of the onus of proof.

The second reason why Senator Murray’s concerns are misconceived is that they ignore the operation of subsection 46(7) of the existing Trade Practices Act, which provides that the purpose to contravene the act by misusing market power may be inferred—need not be directly proved—from all the circumstances. So the difficulty in establishing that element of the statutory cause of action under section 46 which Senator Murray apprehends is in fact a misapprehension. The ability to prove purpose by inference, which is itself unusual in statutes of this kind, meets the occasion.

There is a third difficulty with the Australian Democrats’ proposed amendment—that is, it refers only to the ACCC. I said a few moments ago that one of the peculiarities of the Australian Trade Practices Act and one of its best features—why it is such strong protective legislation—is that it vests rights of action in private firms, as well as in the regulator. So a firm which feels that it is being the subject of the kind of victimisation to which section 46 is directed, or the kind of unlawful combination to which section 45 is directed, does not have to go cap in hand to the regulator and have its rights depend purely upon the willingness of the regulator to initiate proceedings. Rather, it can initiate its own private proceedings. The Australian Democrats’ proposed amendment to section 46 ignores that, and so one would have the absurd situation in which, in private proceedings under section 46 there would be no reverse onus, but in proceedings brought by the regulator, there would be. I do not know if Senator Murray has turned his mind to that question, but it makes the amendment, with respect, a nonsense.

Finally, the proposed amendments, and Senator Murray’s expressed concerns that section 46 cases are hard to run, ignore—and they were perhaps said in forgivable ignorance of—a decision only a week ago of the full court of the Federal Court in Australian Competition and Consumer Commission v. Boral Ltd, which was quite extensively reported in the financial press last week. That decision lowers the threshold of section 46 actions very, very considerably. Put shortly, after the Full Federal Court’s decision last week in ACCC v. Boral, the hurdles that a litigant or the regulator must surmount in order to prove conduct in contravention of section 46—in that case, predatory pricing—have been lowered very considerably so that section 46 actions may now be brought much more readily than was previously understood to be the case. I think I can speak with some authority on this. I believe I can claim still to be the only person who has brought a successful section 46 case against a major oil company, and over the years I have both prosecuted and defended several such actions.
It must be borne in mind that what section 46 is directed to is not merely monopoly power; it is also directed to the misuse of market power by any firm in a market with a substantial degree of power, whether that firm be a monopoly or part of an oligopoly. As it was originally conceived, the Trade Practices Act, based on section 2 of the American Sherman Act, was directed only to monopolies. When the Swanson committee reported in 1976 on the occasion of the first review of the Trade Practices Act, it recommended that the operation of section 46 should continue to be so limited; that is, it ought not apply to any firm with market power but only to a monopolist. However, by amendments to the act made in 1986, that position was reversed, so now any firm with a substantial degree of power in a market, whether it be a monopolist or not, is susceptible to the operation of section 46. That also is a circumstance which makes our trade practices law much more powerful than the American antecedents upon which it was based.

When he gave his judgment last week in ACCC v. Boral, a case in which a small business—in that case a brick making business—was vindicated by the ACCC when it complained of predatory pricing conduct by an oligopolist, Mr Justice Finkelstein addressed the issue of the reach of section 46, and I will finish on this. His Honour said that the United States precedents were too narrow. He said:

It must also be remembered that in the United States antitrust legislation is concerned with constraining the behaviour of a monopolist. That is not the focus of s 46. Our section is aimed at regulating a firm with a substantial degree of market power, which would include, but not be limited to, a monopolist. While a monopolist may have the ability to extract a monopoly rent and thus recoup its losses, a firm with only a substantial degree of power may never be in that position.

I conclude by saying that the concerns adverted to by Senator Murray in his otherwise considered remarks are concerns based on a misapprehension of the operation of the act. Particularly in view of the recent decision of the Full Federal Court, the section is much more powerful than had hitherto been believed.

Senator COONEY (Victoria)  (11.49 a.m.)—It is good to follow on from the very learned remarks of Senator Brandis on the Trade Practices Amendment Bill (No. 1) 2000. I took on board what he was saying about the reversal of the onus of proof. One has to have some sympathy for that because it is a serious thing to reverse the onus of proof. That is why I have always had some concern about some sections in the Trade Practices Act, like section 45DC, headed, ‘Involvement and liability of employee organisations: Certain organisations taken to be acting in concert’, which states:

If 2 or more persons (the participants), each of whom is a member or officer of the same organisation of employees, engage in conduct in concert with one another, whether or not the conduct is also engaged in in concert with another person, then, unless the organisation proves otherwise, the organisation is taken for the purposes of sections 45D, 45DA and 45DB:

(a) to engage in that conduct in concert with the participants—

I trust that the government, having heard Senator Brandis’s words, will now do something about section 45DC because that is a section that throws the onus on people who are participating in industrial action. In that context, I want to take up something else that Senator Brandis said. Senator Brandis said that the role of the Trade Practices Act is to protect people from economic harm. It is good to see that people are being protected from economic harm through this Trade Practices Act. He said, ‘Because you want to protect people from economic harm, you would leave unions and people who undertake industrial action in there to be subject to the provisions of the act because they might do economic harm to others.’ But what about the economic harm that is done to them? What about the economic harm that was done in places like Cobar or Grafton, where businesses went broke and left workers unrewarded for the work they had done—without their pay, their entitlements to long service leave and what have you? This act is very limited in whose economic harm it seeks to remedy. It does not look after the workers who are poorly paid, who are denied their
wages or who suffer from all sorts of ill conditions. If it is going to be legislation which will protect people from economic harm, why doesn’t it protect people who are working on the shopfloor or people who were thrown out of work in a most disgraceful manner in many ways?

The government would of course say that those sorts of people are looked after under the Industrial Relations Act—and so they are, to some extent in any event. If you are going to look after those people under the Industrial Relations Act, why don’t you put the provisions dealing with the struggle that people have to get reasonable wages and conditions—by the legitimate means of both picketing and taking industrial action—in the one act which looks after the wages and conditions of people and regulates the relationships that exist between employer and employees?

Why do you not do that, rather than bringing them into this act, which really is looking after the economic wellbeing of the marketplace, where people are selling goods and services? I have never seen work simply as a matter of an object to sell: work is a thing that has much more about it than that—indeed, it takes up people’s very being in the way they see themselves and in the way they have the ability to look after their families, the respect they have in society, and other things as well.

Having listened to Senator Brandis and understood what he was saying, I cannot quite see how he can say that this is the act in which industrial actions should be looked at. That was the point that Senator Collins was making. Senator Brandis said that she had a very limited view of the act, but I think she expressed in her speech the general concept that this is about looking after the marketplace, so it is a fair place to be. I do not think she did in fact limit it in the way that he perhaps suggested.

Senator Brandis says that it is a great piece of legislation—and it is. He said it has its origins back in the times when Sir Garfield Barwick was the Attorney-General. I note that the date on the act is 1974, a time when I think Senator Lionel Murphy was Attorney-General. I think that the actual origin of this particular act comes from that time—from the time that he was Attorney-General and Labor was in office. It has grown apace under different governments since then, and it has become quite a charter of economic decency over that time, and it will develop in that way in the future. In fact, if you look at it, the Trade Practices Act is, along with many other acts, the manifestation of civil life, of civil liberties.

People oftentimes think that civil liberties have only to do with process: that people should not be questioned before they are arrested or that they should not be forced to answer questions if they do not want to, and that they should have freedom of speech, freedom of expression and freedom of assembly. These are all signs, if you like, or dimensions of the presence of a civil libertarian society. But so too is the Trade Practices Act, because those processes came about in response to particular situations—and this bill has come around in response to several situations.

In that context, I would like to read from a book that has some age on it now: it was first published in 1932, but it has gone through some editions since then. It is from a work called *The Modern Corporation and Private Property* by Adolf Berle and Gardiner Means. It is a very great passage, and so I will read it. It has resonance with what we are talking about now. The learned authors say:

> The rise of the modern corporation has brought a concentration of economic power which can compete on equal terms with the modern state—economic power versus political power, each strong in its own field. The state seeks in some aspects to regulate the corporation, while the corporation, steadily becoming more powerful, makes every effort to avoid such regulation. Where its own interests are concerned, it even attempts to dominate the state. The future may see the economic organism, now typified by the corporation, not only on an equal plane with the state, but possibly even superseding it as the dominant form of social organisation.

And that is becoming more and more apparent. The last sentence says:

> The law of corporations, accordingly, might well be considered as a potential constitutional law for the new economic state, while business practice is
increasingly assuming the aspect of economic statesmanship.

That is the way to look at this legislation and to look at the Trade Practices Act generally—that it is, as it were, a constitution, a set of rules that we as a community set up to control great economic powers. The big thing about civil liberties, about civil life, about human rights, is that they are there to restrain the exercise of arbitrary power. Unless you had an act like the Trade Practices Act, you would have very much the exercise of arbitrary power by big corporations and, as has been mentioned before, corporations that may even become monopolies. This legislation has to be looked at in that context; and that is why this act and the developments of it that will take place over the years are essential to the way we will live in the future.

The Corporations Law is another piece of legislation where we will always have growth, because of the significance to our lives of economic power and the companies that run that economic power and the contest between those companies. Madam Acting Deputy President Knowles, in your own state—if I may give an example of what I mean—Woodside and Shell at the moment are in contest, and the way that works out will affect us all: it will affect us all as Australians and it will affect people around the world. There has to be some way through the problems that arise out of that contest so that not only the companies, the big corporations, are satisfied but also the people in Australia are looked after properly.

This bill has a lot of good things in it; we should not be negative about this at all. However, I think one matter that Senator Brandis took up was the power of the commission to intervene in proceedings that people might want to take under the act. I think proposed section 87CA gives the commission the power of subrogation or, if it does not give it the power of subrogation, it comes very close to doing that where it steps in and takes over an action on behalf of a person who might otherwise be unable to proceed against powerful forces that are brought against that person. I think that is something to note and something to praise.

Another matter that Senator Brandis talked about was the extension to six years of the time within which people can take actions under the act—and that is a good thing. Proposed subsections 87(1A) and (1B) are another good thing. Those proposed sections talk about who is going to get the money, if there is only a limited amount of money, when proceedings are taken against a company that comes within the provisions of the act. There are three places to which the money might go. One is to consolidated revenue by way of a fine as punishment for a criminal offence. The next one is a civil penalty, which also goes to consolidated revenue, although not for the commission of a criminal offence but for the carrying out of actions that nevertheless are seen as being reprehensible or in need of check, and the money goes to consolidated revenue by way of a civil penalty. Then the third place to which money might go is to compensating somebody who has suffered damages, suffered loss, through the act being breached in some particular respect. Proposed subsections 87(1A) and (1B) will say that, if the company only has a limited amount of money and a choice has to be made as to whether the money got from that company under the act is to go to consolidated revenue by way of a criminal penalty, a civil penalty or damages, it will go by way of damages first. I think that is a very sensible approach to this area. In other words, if people are going to suffer through conduct proscribed under this act, if they are going to lose money through conduct proscribed under this act, and if there is only a limited amount of money to go around to satisfy the various requirements of the act, the first choice in deciding where that money goes will be to the person who has suffered loss of money, and that will satisfy him or her. I think that is a great thing. I may have been reading that section wrongly. I should have been referring here in my previous comments to proposed section 79B and not subsections 87(1A) and (1B). Perhaps I should have put my glasses on a little earlier. But, in any event, the points I make there are correct, although I need to correct the particular section that I am talking to.
This is good legislation and it is made a lot better by the amendments proposed by Senator Collins, on behalf of the opposition. They simply say that, although the commission can intervene and take over an action and, in effect, as I say, become subrogated to the action, under the act, as amended, it cannot do that in respect of sections 45D and 45E, which deal with the way unions and people struggling for their rights under this act are to be treated by its provisions. It would be quite absurd to think that the commission should enter into the field of industrial relations. I should think the commission would feel quite upset by having to take action against people who were struggling for decent wages and decent conditions. Madam Acting Deputy President, you may well have seen the struggle that people have to go through suffering greatly on picket lines in the middle of winter, with a 44-gallon drum filled with firewood—and I am sure Mr Allan Fels would feel quite upset to think he would have to take action that takes those people away from their struggle to get a few decent conditions and wages so that they can carry on their life and bring up their children properly.

With the amendments to be proposed by Senator Collins, this act is made much better. We have suggested amendments to be introduced by Senator Murray on behalf of the Australian Democrats. Senator Brandis has spoken about the reversal of the onus of proof. I think the reversal of the onus of proof should be taken from the act wherever it appears at the moment, particularly in relation to industrial law. Nevertheless, I can understand Senator Murray’s approach, which says that where you have very powerful corporations you have to have some means of bringing them into check. It will be a very interesting debate in the committee stage.

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (12.08 p.m.)—I thank all honourable senators for their contributions to this important debate. As all senators have agreed, the Trade Practices Amendment Bill (No. 1) 2000 flows from some excellent work done by the Australian Law Reform Commission in its report entitled Compliance with the Trade Practices Act and the more recent work by the Joint Select Committee on the Retailing Sector in its report entitled Fair market or market failure. That committee has become known as the Baird committee. The work was generally all focused on looking at how the Trade Practices Act has performed over recent years. The joint select committee’s report particularly looked at the retailing sector. As I think Senator Chris Schacht made quite clear yesterday, it looked at the problem in Australia of having a couple of very large organisations dominating that sector as against a whole range of smaller players, often small family businesses spread the length and breadth of our wide brown land, who have to compete against those very large organisations with their enormous buying power and enormous potential to enter into discounting.

As I think all senators agree, this is a very solid attempt—dare I say a historic attempt—to seek to strengthen the Trade Practices Act. It is very much for the benefit of small businesses and will provide appropriate remedies for those small businesses. It will ensure that the Trade Practices Act is kept up to date and that the Trade Practices Act and the remedies under that act are there to provide protection for small business. Most importantly—dare I use that cliche—it will ensure a fairer playing field for all. Not only does that involve the small businesses themselves and the other businesses but, most importantly, it is for the consumer.

The amendments to the act underpin the government’s strong commitment to consumer sovereignty, ensuring that consumers ultimately are king in this sector and ensuring that they have choice. Very importantly, it also ensures that every small business has the opportunity to establish, to develop, to become profitable and to become a thriving enterprise. The government are very strongly committed to ensuring, through a whole range of reforms that we have implemented over recent years, that it is possible for an enterprising person who decides they want to enter small business to establish a business,
to compete in a fair marketplace and to compete against bigger businesses on a fairer playing field. The government’s reforms have included reforms to the Corporations Law; the Trade Practices Act to put the secondary boycott provisions back into that act; the financial sector to introduce more competition into the banking sector so that small businesses have better access to finance at more affordable rates; and the government’s fiscal policies to ensure that the government’s budget is brought back into surplus so that we are not putting pressure on interest rates, as was the case for many of the years under the previous government.

All of those people who have been involved in this area, including senators from both sides—I know Senator Schacht was involved, as a previous minister in the small business portfolio and more recently as a member of the joint committee—have worked constructively to see these changes to the act put into place. I welcome the Labor Party support, broadly speaking, for these amendments. The government are very keen to see them enacted as quickly as possible. The one sour note that has come into this debate in recent hours has been the Australian Labor Party’s proposal to move an amendment to effectively remove a remedy that we are seeking to put into this act for small businesses, by seeking to exclude the secondary boycott provisions from the ACCC’s proposed power to undertake representative actions under part IV. The core principle of this legislation—and there is totally bipartisan agreement on this—is to assist small businesses. It is to level up the playing field. It is to provide new and effective remedies for small businesses when they are competing in a very competitive marketplace. This marketplace is increasingly competitive, particularly in the retail sector.

In his contribution to the debate in the other place, Mr Arch Bevis MP alluded to the fact that Labor would seek to exclude the right of the ACCC to take representative actions, on behalf of small businesses particularly, from the secondary boycott provisions. Today we have seen amendments to be moved by Senator Jacinta Collins arrive to do just that. We need to address, as we conclude this second reading debate, exactly what that means. It is in fact a very important day in the development of small business policy in Australia.

A choice has been made by the Australian Labor Party and this morning by the Australian Democrats between the power of organised trade unions and the rights, capabilities, opportunities and remedies available to small businesses. That choice has been made, and it will be demonstrated when we vote on the Labor amendments—hopefully some time in the next few minutes, if not later today. The choice was made to exclude the secondary boycott provisions from the remedies that we are putting into this bill. Let us put that in its starkest possible form. Under the Trade Practices Act, the ACCC can currently take action under the secondary boycott provisions. Here we are seeking to give the ACCC a new power, and that is to take a representative action on behalf of an aggrieved party under this act. The Labor Party is saying, ‘You can’t do that for a business that is affected by a secondary boycott.’

A large business with large financial resources—a Woolworths or a Coles, for example—will have an enormous legal department and certainly an enormous legal budget. If they are affected by the secondary boycott provisions, they will be able to take action under these provisions because they can afford to. They will not need to go to the ACCC and ask them to take a representative action. But if you are a small grocery store anywhere in Australia and you are being affected by a secondary boycott—let us put it in sharp political focus for a moment; we are politicians and we should put it in sharp political focus—if you are a very small department store in St Lucia, Indooroopilly, Indooroopilly, Indooroopilly, Indooroopilly—

Senator Schacht—Is St Lucia in Ryan?

Senator Ludwig—It is not in Ryan, is it?

Senator IAN CAMPBELL—It is, in fact. I grew up there, and I know those suburbs well. I know the shops in Carmody Road, and I know the supermarkets. I know that there are some very big supermarkets in that area, and there are some very small general stores and other supermarkets. Let us put it
in sharp focus. Labor has a choice on small businesses, wherever they are. Let us take out the politics of the next 10 days; let us look at the politics of the next couple of years and look at whether this parliament, the Australian Labor Party and the Australian Democrats are going to be serious about standing up for the rights of small businesses and giving them remedies.

We are effectively saying that, if you are a big business—if you are a Woolies or a Coles—and you get affected by a secondary boycott, you will be able to take action because you have a big legal department and a damn big budget. But if you are a small business and you are affected by a secondary boycott you will not be able to go to the ACCC to seek a representative action on behalf of your complaint, seek a remedy that way or seek the assistance of the ACCC. A choice has been made in this building today to help big business and to ignore the interests of small businesses.

In Senator Cooney’s speech just a few minutes ago, we had the plea: what about the poor workers who cannot work for their rights by boycotts? I appeal to you to think about the rights of the poor workers in these small businesses who can be affected by secondary boycotts that have nothing to do with the issues that trade unions could legitimately protest about, strike about or set up picket lines for under the Workplace Relations Act. They could be totally innocent third parties affected by secondary boycotts. What about the rights of the workers in those small businesses? They are often small family firms—one- and two-person, husband and wife businesses—that are supermarkets or little general shops where they work extraordinarily long hours to try to compete with the big businesses.

What do the Australian Labor Party and the Australian Democrats say to those workers? They say to those workers and to those small businesses, ‘Go to hell.’ That is what you have said today. If you are big, you can take action under the secondary boycott provisions. If you are small, you cannot afford to take action and you want to go to the ACCC and get support in a representative action under the secondary boycott provisions in 45D and 45E, these people say, ‘Go to hell.’ Today marks the day when the Australian Labor Party’s credentials on small business get hoisted up the mast for all to see. They say, ‘Go to hell,’ to small businesses when it comes to the protection of the secondary boycott provisions of the Trade Practices Act. The Australian Democrats have trundled up behind them and said, ‘Me too. We’re with you all the way.’

Let this go down in history as the day that the Australian Democrats and the Australian Labor Party told the world where they really stand. They made a choice today. Who did we see on the speakers list? Who foreshadowed the amendments? It was Senator Jacinta Collins, the senator for the shop assistants union. We have Senator Schacht, the senator for the FCU. These senators come in here on behalf of the trade union movement, they foreshadow these amendments and they support their unions over small businesses.

Senator Schacht—Madam Acting Deputy President, I rise on a point of order. It is about accuracy. I am a member of the Australian Services Union, a member of the Liquor, Hospitality and Miscellaneous Workers Union and a member of the MEAA. I am a member of three unions affiliated with the Labor Party, and I am proud of it.

The ACTING DEPUTY PRESIDENT (Senator Knowles)—Senator Schacht, there is no point of order. You can make a personal explanation at the end of the debate, but you should know that there is no point of order in that comment.

Senator IAN CAMPBELL—I think that your ruling is quite accurate, Madam Acting Deputy President, but I welcome Senator Schacht’s correction. I will ensure that Senator Richard Alston’s excellent list, although it is not entirely accurate, of all of the affiliations of the senators which sits in his drawer will be updated, and I will ensure that the research officer in his office who prepares the list of the union affiliations of all of these senators is brought up to date. But Senator Schacht makes the point a lot better than I can. I do not even know what ‘FCU’ stands for.
The point I make, which is made brilliantly by Senator Schacht—he is a fantastic supporter of the argument, in this case—is that the union movement, through their senators, pretend to support small businesses. But when the first opportunity occurs in this bill—which right up until a few hours ago had bipartisan support, because it improves the protections for small business—the unions say, ‘We can’t have this. We can’t have the ACCC being able to bring a representative action on behalf of small businesses on secondary boycott provisions, because that is against the interests of the trade unions.’

They had a simple choice: support the trade unions and their bosses or support the small businesses of Australia. They had to tick a box, and they ticked the trade unions and said, ‘Go to hell’ to the small businesses. That was a very sad day for small businesses in Australia, but at least it shows small businesses exactly where the Australian Labor Party stand. The Law Council of Australia, who were very supportive of many of the reforms in this bill and, particularly, the inclusion of the recommendations of the Law Reform Commission, have written to the minister and have made it very clear that the Law Council of Australia are opposed to this amendment. A letter from the Secretary-General of the Law Council of Australia, Mr Levy, of 29 December 2000 states:

It has come to the Committee’s attention from the debate before the House of Representatives that the Labor Party intends to move an amendment to have Sections 45D and E excised from the ACCC’s representative actions power in the Bill.

The Committee is opposed to the proposed amendment. The purpose of granting the ACCC the power to bring representative actions is to ensure that the provisions of Part IV are enforced and remedies are obtained for persons, who otherwise might not choose to or be able to afford to bring proceedings. In the Committee’s view, persons who suffer loss as a result of conduct in breach of Sections 45D and E may choose not to or be unable to afford to bring action in respect of the conduct.

The Committee is strongly of the view that Part IV should apply uniformly to corporations and be enforced uniformly by the ACCC.

It is a very important point. I do hope that it is not too late for the Australian Democrats to take these arguments into account. If there were some hope of a change of mind on this matter, I would be very happy to adjourn consideration of this bill so that the Democrats can convene a party meeting and reconsider this. What they are doing can only possibly be based on all of the rhetoric that I have heard from the Australian Democrats over recent years and, particularly, from Senator Andrew Murray. As I understand it, Senator Murray has been a small retailer. He probably understands this better than most of the other members of the Australian Democrats. Many Australian Democrats who are involved in small business clearly understand the importance of this decision and, if Senator Murray wants to indicate that the Democrats will reconsider this, I will be happy to move an adjournment at the committee stage, at the appropriate time, to ensure an opportunity for that reconsideration.

The only other point I would like to make is in response to a remark by Senator Cooney. I will never let this go unsaid. This is in relation to the workers in Cobar and Grafton, workers who do suffer because of insolvency. For 13 years, Senator Cooney was a member of a government that did nothing to help people who suffered as a consequence of corporations going insolvent and not making proper provision for workers’ entitlements. As I said in a recent debate in this place, no less a person than Greg Combet spoke to me about this when I put that to him outside the front of Parliament House when these issues were the issues of the day a couple of years ago. He was asking the government to do this, that and the other, and I asked, ‘How did you get on when your mob were in power a couple of years ago?’ He said, ‘No progress. They didn’t do anything. I’m not arguing about that.’

I will not let go gratuitous, hypocritical remarks from Labor Party senators who did nothing for 13 years to help workers to get their entitlements. In just five years this government has not only set up a compensation scheme and a fund to ensure that workers do get their entitlements but also made reforms to the Corporations Law to ensure that directors who knowingly enter into arrangements so that funds that should be available
for workers are not available can be made liable, both criminally and at common law, for those activities. Those are two measures that this government has brought in in just five years. The Labor Party, who pretend to support the workers when in fact they support union bosses, did nothing for 13 years. I will never let those remarks go unchallenged.

I say to the Australian Labor Party senators that, if they really care about the workers, they will care for the workers in big organisations with highly unionised work forces equally as much as they care for workers in smaller businesses and often non-unionised workplaces. The coalition parties, the Liberal and National parties, care for workers and care for their rights, regardless of whether they are members of unions and regardless of whether they work in a unionised workplace or a non-unionised workplace. We care for them so much that we ensure that, as individuals, they can make a free choice as to whether or not they join a union in the first place. (Time expired)

Question resolved in the affirmative.

Bill read a second time.

In Committee

The bill.

Senator MURRAY (Western Australia) (12.30 p.m.)—I move amendment No. 1 on sheet 2152:

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

1A At the end of section 46

Add:

(8) In an action brought against a corporation by the ACCC under subsection (1), if the ACCC can show that the corporation:

(a) has a substantial degree of market power; and

(b) has taken advantage of that power;

the onus rests with the corporation to show that the corporation has not taken advantage of its power for a purpose referred to in subsection (1).

1B After section 50

Insert:

50AA Action where ownership situation has effect of substantially lessening competition

(1) If a corporation:

(a) owns shares in the capital of a body corporate; or

(b) owns assets of a person;

and the ownership has the effect of substantially lessening competition in a market, the ACCC may apply to the Court for an order that the corporation divest itself of the shares or assets.

(2) If a person:

(a) owns shares in the capital of a corporation; or

(b) owns assets of a corporation;

and the ownership has the effect of substantially lessening competition in a market, the ACCC may apply to the Court for an order that the person divest himself or herself of the shares or assets.

(3) Without limiting the matters that may be taken into account for the purposes of subsection (1) and (2) in determining whether the ownership has substantially lessened competition in a market, the matters mentioned in subsection 50(3) may be taken into account.

Firstly, I wish to deal with the onus of proof issue. I think it is proper to commence with an argument against the reversal of onus of proof so that senators participating in the debate can clearly have before them the usual case against the reversal of onus of proof and then my reasons that there should be an exception. At the beginning I want to acknowledge that some of these remarks I make in defence of the traditional approach are heavily drawn from some aspects of the Dwyer Partners report on the Financial Sector Legislation Amendment Bill (No. 1) 2000 in August 2000, and I thank them for their previous permission to use aspects of that report. One of the quotes they use is:

No matter what the charge or where the trial, the principle that the prosecution must prove the guilt of the prisoner is part of the common law of England and no attempt to whittle it down can be entertained.

That quote comes from Woolmington v. Director of Public Prosecutions [1935] AC 462
at 481 per Viscount Sankey. The ancient principle expressed by Viscount Sankey has not been given the respect it always deserves by Australian legislators, despite our dependence for much of our legal tradition on the British Isles. Strict liability provisions are mushrooming in our legislation, and statutory reversals of the onus of proof have also mushroomed. Legislators sometimes seem to be insufficiently aware of the dangers of eroding these fundamental legal protections, and bureaucratic devices that transgress individual rights for the sake of administrative convenience or policy objectives sometimes do not encounter the resistance that they should.

The traditional rule is that the prosecution in a criminal trial bears the onus of proving the defendant’s guilt beyond a reasonable doubt. In the adversarial and accusatorial legal system, private individuals accused of criminal offences must defend their personal liberty or property against the state and the vast resources it commands. It has always been considered crucial that certain safeguards, such as the presumption of innocence, be in place to protect the accused. When we talk about the persuasive burden in law, certain statutory exceptions require defendants to prove on the balance of probabilities that they are not guilty as charged, and that is known as the legal or persuasive burden which involves a clear presumption of guilt. The Senate Standing Committee on Constitutional and Legal Affairs in its 1982 Report on the burden of proof in criminal proceedings stated in paragraph 517 on page 39:

The effect of placing a persuasive burden on a defendant is to create the possibility that the person can, and under the law must, be convicted even though the tribunal in fact is left with a reasonable doubt as to his guilt.

It is a fundamental human right that a citizen not be convicted of a crime until it is proved against him or her beyond a reasonable doubt. Placing the onus of proof upon the prosecution safeguards a fair trial when the full weight of the state, with its considerable financial and human resources, is pitted against an individual. The evidential burden, as those who are lawyers know, is a weaker version of the persuasive burden. It requires the defendant to point to evidence that suggests a reasonable possibility that the matters necessary for the defence exist or do not exist. It is intended to prevent the defendant from raising frivolous defences for which there is no support.

Now onus of proof reversals appears in a large number of statutes dealing with a diverse range of activities. Government departments often seek to have such provisions incorporated into legislation on the basis that they are supported by public interest considerations that should take precedence over common law protections afforded to individuals. For example, it might be said that the evidence required is peculiarly within the knowledge of the accused person or too difficult or too expensive for the prosecution to otherwise obtain. A joint submission by the New South Wales Bar Association, the Law Society of New South Wales and the Sydney University Law Graduates Association—I do not have the reference for that in my notes—stated:

The use of the presumption of guilt is the result of a lazy attitude in society which wants to see people, guilty or innocent, punished for alleged wrongs without bothering to ensure the facts establishing guilt are proved beyond reasonable doubt in accordance with long established principles of law.

I will move to the reason why you at times should consider using reversal of the onus of proof. What we need to recognise is something that John Ralston Saul from Canada outlined—I think he is a professor—and that is that 51 of the leading economies in the world are companies. Traditionally, the might of the state was pitted against the weakness of the individual. However, the might of the state versus the might of a company is sometimes far more equivalent in power. In the amendment that we have moved, you are looking at a situation where the ACCC, on behalf of the government but acting independently, would be able to exercise a reverse onus of proof on a major corporation with all the defences it has—in other words, an organisation comprising often thousands of individuals and hundreds of executives with massive legal and financial resources.
Senator Brandis—It may not be a major corporation.

Senator MURRAY—The fact is that the situation—which I assume by the interjection that Senator Brandis wishes to maintain or preserve at present—is such that a small retailer cannot easily pursue these matters, and even the large ACCC cannot easily pursue these matters from an organisation. It is not a question of individual rights; it is a question of corporate rights. I would expect Senator Brandis, sitting where he does, to be a defender of corporate rights.

Despite the fact that reversing the onus of proof is not uncommon in Australian law under both the coalition government and its predecessors, I understand that it may still be seen as a big step to reversing the onus of proof in cases brought under section 46. However, the nature of the claims of predatory pricing are invariably going to take the form of a small retailer alleging misconduct on the part of a major retailer. Proving that the purpose of a corporation is to damage a competitor or to prevent entry into a market requires a person to prove a state of mind on the part of the directors or employees of a corporation. That is exceptionally difficult and results in people of such persuasion being able to treat the present law as of no effect.

I would like to emphasise that a reversal of the onus of proof would occur only after a plaintiff or applicant had established that the defendant has a substantial degree of market power. In recognition that there may be apprehension because of the potential for abuse of this measure—and I have acknowledged this in my opening arguments, which outline the arguments against reversing the onus of proof—I see it as appropriate that the reversal of the onus of proof would occur only in cases brought by the ACCC. That should abate concerns that the provision could be used by vexatious or frivolous litigants merely to put the defendant to the expense of defending the claim, without substantial wrong having been committed.

It is important to recognise that the Fair market or market failure report of the Joint Select Committee on the Retailing Sector—a committee well chaired by Mr Baird from the House of Representatives—did not reject this concept. The committee said that it wanted to reconsider the issue at a time of possible review in three years. That was in 1999, so I guess we are a long way through the three years already. My problem with that approach is that, in what is expected to occur to either confirm or deny the need for strengthening section 46—to alter the evidence that the committee already has—there is nothing to suggest that predatory pricing practices will change, that the number of claims of predatory pricing will decrease or that it will somehow become easier to prosecute a claim, so legislating for reversal of the onus of proof in cases brought by the ACCC would provide a substantial disincentive for retailers to engage in that conduct while at the same time ensuring that retailers are not the subject of frivolous claims.

I want to move on to the clause where the ownership situation has the effect of substantially lessening competition. This is an area where it probably depends on your view of economic power. We have said that, if the ownership has the effect of substantially lessening competition in the market, the ACCC may apply to the court for an order that the person divests themselves of the shares or assets of the organisation. The point is that the ACCC has the power to prevent a merger. I think that is now well established as a desirable principle. I have no doubt that, if you went back to the original debates on that issue, you would find people who opposed it at the time. However, an essential part of competition law worldwide, in most of the leading countries in the OECD to my knowledge, is that divestiture is also a power. Divestiture can take the form of antitrust legislation, which helps make America one of the most vigorously competitive countries in the world, or it can simply fall into the category to which we have put this recommendation.

There are many weaknesses in our competition law. It is not as strong as it could be. However, it would be helpful to revisit the area of divestiture. I think there is value in giving the ACCC a power to break up retail monopolies that substantially inhibit competition or, as is more likely in the Australian
market situation, to reduce their market power in particular regional markets by requiring limited and selected divestiture. In the example of Cooma, I see no objection whatsoever to the ACCC requiring Woolworths to sell one of its two supermarket stores so that competition was introduced into that local market.

I take the view that the power is a natural corollary to and extension of the ACCC’s power under section 50 of the TPA to prevent acquisitions that would result in a substantial lessening of competition. I believe, however, that the power should be regarded largely as a reserve power and, as international precedents indicate, would be seldom used. Its great virtue is as a cautionary power, making oligopolies careful of abusing their market power. For those of you who follow competition policy, this is a country whose horizontal concentration of market power is extremely worrying. V ertical integration is becoming an increasingly worrying situation as well. The oil industry would be a good example of that, but the liquor industry is another one that is emerging. The committee remarked:

The committee is therefore of the view that the break-up of economies of scale and scope, such as an order for Woolworths, Coles or Franklins to divest stores, would lead to an unpredictable result and may undermine the benefits and efficiencies brought about by vertically integrated chain stores.

That statement of the committee indicates a disagreement with the Democrats’ view. It seems to arrive at some sort of reason as to why the power of divestiture is not appropriate. In my view there is no possibility whatsoever that a power of divestiture such as is proposed here would result in the break-up of the economies of scale or scope of Woolworths and Coles. I remarked in my second reading contribution that those two companies are particularly powerful, capable and very professional bodies. Nevertheless, where they exceed the economic power that is valid for them, the ACCC should be given the power to limit them. Those are the main components of the amendment I have put before the Senate.

Progress reported.

MATTERS OF PUBLIC INTEREST

The DEPUTY PRESIDENT—Order! It being 12.45 p.m., I call on matters of public interest.

Pilbara: Resource Development

Senator EGGLESTON (Western Australia) (12.45 p.m.)—Today I would like to speak a little about the prospects for resource development in the Pilbara—prospects which are very rosy and hold great promise for Australia.

Senator Schacht—Have you rolled Costello yet on the North West Shelf?

Senator EGGLESTON—We will have to see, Senator Schacht. We are hopeful, however. But the important thing is that the Pilbara is Australia’s greatest area for natural resources. It certainly generates more wealth for this country from natural resources than any other part of the country. The future development of those natural resources in terms of not only taking them out of the ground—digging out iron ore, tin and gold and producing gas—but also turning the resources into some sort of secondary product is probably one of the most important objectives we should have as Australians. We do not just want to be a quarry supplying raw materials to other countries; we want to create industries dependent on our raw materials, which in turn creates employment and generates wealth for Australians.

The two most important resources in the Pilbara are iron ore and petroleum products, including liquefied natural gas. Already those two resources have made massive contributions to the economies of Western Australia and to the nation as a whole. The Pilbara resource sector contributes over half of Western Australia’s total resource production and was valued at $9 billion in 1997-98. Its value in 2000 was an astounding $12 billion. The Pilbara iron ore industry accounts for approximately 90 per cent of the region’s investment and 30 per cent of its employment.

It is interesting to look a little into the history of the iron ore industry in the Pilbara. The existence of iron ore in the Pilbara was first recorded in 1861. There was no development of the deposits in the Pilbara until
the late 1960s, when the Menzies government repealed a law which prohibited the export of iron ore. That was repealed in recognition of the fact that there were huge deposits of iron ore in the Pilbara. I am sure many of the people listening to this broadcast and also those in the Senate know the story of Lang Hancock flying his plane to Perth one summer through the gorges of the Hamersley Ranges and finding that his compass went awry. He decided there had to be a reason for that. The reason was that the Hamersley Ranges were solid iron ore. He went back in the following dry season and discovered just how vast the deposits were. The first iron ore mine in the Pilbara was at Goldsworthy. Goldsworthy and Associates were basically a British company with some Japanese money.

I think they first exported iron ore from Port Hedland in the late 1960s in a boat called the Harvey S Mudd—a very tiny boat by today’s standards, which probably took only a few thousand tons of iron ore compared to the huge carriers which take ¼ million tons of iron ore from the Pilbara ports these days. Later we saw the development of CRA’s mine at Tom Price. Tom Price was a mining engineer of the Kaiser Steel Corporation, an American company, and the town was named after him. I must say that it is one of the prettiest towns in Western Australia. BHP—or the Newman joint venture, as it was then—developed its iron ore at Mount Whaleback. We then saw Pannawonica, Paraburdoo and so on. More recently we have seen the Channar joint venture with CRA and the Chinese government, which began in the 1990s, and other developments in mines such as Jandicoogina, which is now an important mine for BHP.

One of the interesting differences between the modern mining developments in the Pilbara and those which occurred in the 1960s is that in the 1960s towns were developed and there was a real commitment to regional development with the development of the mining industry. Sadly, these days there is not that commitment there at all, and the workforce for these mines is largely fly in, fly out. The practice of fly in, fly out has done a lot of damage to the development of those towns in the Pilbara, and it is to be very much regretted that that is a policy the mining companies are following these days. They bring their workforce in on a fly in, fly out basis. Avoiding the fringe benefits tax was the original motivation for this. It is also said that there are some benefits in terms of better industrial relations because, instead of people sitting around in mining towns in the hot Pilbara sun in summertime and thinking up reasons to go on strike, they now get flown out to Perth or somewhere else where the weather is a lot cooler and they are less likely to stir up industrial trouble.

Nevertheless, whatever those positive reasons are from the point of view of the mining companies, the damage to regional development is huge, because no longer are people making the north-west of Western Australia or the Pilbara, in particular, their home. That means that, in the long run, we are not going to see more population in the Pilbara and we are not going to see a really strong province developed with infrastructure and services, small businesses and all the other things which come from regional development. In fact, rather sadly, the population of the Pilbara has dropped over the last 10 years by some 10,000. I think it has dropped from about 55,000 to 45,000 permanent residents. No doubt, that has to reflect the impact of fly in, fly out on the area. I certainly hope the mining companies recognise that they have a social responsibility as well as a national responsibility towards promoting regional development and that fly in, fly out can be ended now the fringe benefits tax on employer provided housing has been abolished by the Howard government. There are a lot of benefits, I would have thought, in having a stable workforce with a commitment to an area.

The other great mineral resource in the Pilbara is petroleum products, including LNG. Liquefied natural gas, liquefied petroleum gas, petroleum condensate and crude oil are all extracted from the North West Shelf project, located off the north-west coast of Western Australia, largely off Burrup and the Dampier Archipelago. Most of these resources are off Karratha, but they do extend south to Carnarvon, and there is gas
all the way up the Western Australian coast, along the Kimberley coast and out into the Timor Sea. The North West Shelf project has been described as one of the biggest and most important natural resource developments ever undertaken in Australia. It is a massive venture involving expenditure of around $12 billion so far. The North West Shelf project has increased our gross national product by 1.24 per cent and has provided Australian suppliers with $10 billion in business since 1980. It has been directly responsible for the creation of some 80,000 extra Australian jobs during its lifetime. So the North West Shelf is a very important source of employment. It accounts for 93 per cent of Western Australia’s natural gas reserves. The gas is piped down to the south-west, where it supplies gas to the Perth metropolitan area and to Bunbury. More importantly, a second pipeline down through the eastern goldfields has meant that cheap power is available to the mining communities along the Great Northern Highway, such as Mount Keith, Meekatharra and so on.

The importance of the North West Shelf is that it has the capacity to expand. There are enormous reserves of gas in the North West Shelf, and their development depends on Australian access to the Chinese market. That is one of the reasons why it is very important that Woodside remains as it is, in Australian hands, and not become part of the conglomerate of Shell, which has several other gas deposits around the Asia-Pacific region and therefore a conflict of interest when it comes to developing the North West Shelf to its full potential, because Shell may differentially decide that its other gas reserves around the Asia-Pacific region should be preferentially developed to supply the Japanese and the growing Chinese market.

As I said at the beginning, the future prospects of the Pilbara iron and gas industries really depend on the development of secondary downstream processing. I do not think anyone believes anymore that it is enough simply to establish a mine or a gas well and export those mineral resources to other countries where they are used as part of the industrial processes that create jobs within those other countries. It has been estimated that the Pilbara has high grade iron ore reserves of some 34 billion tonnes. At current rates of production, that means there is something like 400 years supply left. It also means that there is a huge potential for Australian industry to use that iron ore in secondary downstream processing. BHP has taken the first steps to do that at Port Hedland with the development of a hot briquette iron facility to provide feedstock for electric arc furnaces—which is now the way of producing steel—of which there are a growing number around the Asia-Pacific rim.

Regrettably, there were technical problems with the development of the first HBI plant, but it looks like they will be overcome. More regrettably, there was a proposal being considered by Austeel to establish an integrated steel plant at Fortescue, near Karratha. Very largely because of the high cost of electricity in the north-west, that has now been relocated to Newcastle, which is good for Newcastle. But it does underline the fact that the cost of electricity is a major deterrent to further industrial development in Western Australia. I think we really do need to consider our options for cheaper electricity, such as renewable energy, hydrogen cells and, dare I say it, nuclear power. Australia has the curious situation of having a very high cost for electricity, yet we are sitting on one of the greatest reserves of potential power in the world in our uranium stocks. We mine it and send it off to Europe so that the Germans and the French can produce cheap power to run their industries, create jobs and expand their economies, but we just sit here refusing to use it. I suppose that is something we will need to think about for our long-term future.

The other great potential secondary downstream development project in the Pilbara is, of course, petrochemicals that arise from the North West Shelf project and the oil and gas industry. At the Pilbara Industry Conference 2000, the then Minister for Resources Development and now Leader of the Liberal Party in the Western Australian state parliament, Mr Colin Barnett, said:

In the next few years Karratha will witness the birth of a significant chemical industry based on the downstream processing of natural gas into products such as ammonia, ammonium nitrate,
synthetic hydrocarbons, methanol, urea and other petrochemicals. Collectively, these new industries will be much bigger than anything on Australia’s eastern seaboard.

That is a very important comment because, given its potential, the Pilbara could become the Ruhr of Australia. It could become Australia’s greatest industrial area. The Burrup Peninsula has been selected by Syntroleum as the preferred site for its $600 million Sweetwater gas to liquids plant, which will process natural gas into lubricants, solvents and waxes. Construction is expected to begin in the second quarter of this year, providing 1,000 jobs in the construction phase. It is very good to see that. An $800 million ammonia and urea plant is being considered for construction on the Burrup Peninsula, and Dow/Shell are considering the viability of establishing a $3 billion petrochemical plant near Dampier. As I began so I finish: the Pilbara is the most exciting resource development area in Australia and it certainly has a great future. What we need is a commitment to secondary downstream processing. (Time expired)

Aged Persons: Savings Bonus

Senator JACINTA COLLINS (Victoria)
(1.00 p.m.)—As a matter of public interest, I want to comment on scaring Australia’s oldies. I have been concerned by recent comments by the Minister for Family and Community Services, Senator Amanda Vanstone, so I am pleased to note that she is on duty in the chamber and can hear these matters firsthand. I am concerned about her unfounded remarks about the opposition concerning the bonus for older Australians. On 8 February this year Senator Vanstone, in answer to a question without notice from Senator Murphy about the aged persons saving bonus, said:

Some of the senator’s colleagues—
referring to the opposition—have written to a wide range of pensioners in their electorates, stirred them up, upset them and in some cases led them to believe that they are entitled to more than they are entitled to.

A little further on she said:
It has not worked for those who ran it—
the letter writing—
it will not work for those who are running it and I do not know why you bother wasting your time simply trying to highlight the scare campaign that you have run with old people. Australians do not like scaremongers, but they particularly do not like people who scare little kids and who scare old people, and that is what you have been doing.

I respectfully put to the Senate that that is not what has been done in these matters. I will spend the rest of my time in this debate today elaborating on that.

It is unfortunate that the minister seems to equate assisting citizens to access their entitlements with scaring people. My experience with older people wanting to know how to deal with the confusing bonus for older Australians is that they have been anything but scared. People have been angry, annoyed and bewildered but not scared. However, let me paint the bigger picture of what has been going on in this area. It needs to be stated again that Labor is appalled at the Howard government’s casual and confusing treatment of older Australians with respect to the introduction of the GST. The government itself helped to create much of the confusion. Let me remind this place that it was the Prime Minister who, on 25 August 1998, said on Radio 6PR in Perth:

You get a $1,000 bonus for all people over the age of 60.

But this promise was quickly broken—it must not have been a core promise—and replaced with a number of confusing and arcane measures. The bonus for older Australians was eventually aimed at self-funded retirees and age pensioners as supposed compensation, by maintaining the value of their retirement savings and investments, for the newly introduced GST. Unfortunately, many people received payments below their entitlement because Centrelink based their assessments on outdated financial data. In many cases it appears that if Centrelink did not hold current information when the aged person’s saving bonus was being calculated, then $1 was sent to that client’s account. Many people were angry about the insult of being sent $1 from Centrelink—not scared, just very angry. Official government figures obtained by the opposition during the Senate estimates hearings process indicated that more than 300,000 elderly Australians re-
ceived payments of between $1 and $50 and a further 53 per cent received nothing. So you can see how widespread this problem has been.

I became involved in dealing with a wide range of people confused over what they were and were not entitled to. Spurred on by the apparent confusion and concern felt by elderly people in my local community, I initiated a mass mail-out in some areas to people over 60 years of age as a pilot scheme. My office sought people’s experiences in accessing the bonus for older Australians and offered to help if people needed assistance. Surprise, surprise—the responses came flooding in. I cannot recall a scared person amongst them but, rather, many hundreds of confused people.

My staff, in conjunction with Centrelink, went about talking to citizens who wanted help. Centrelink and the staff within Centrelink were very helpful and cooperated with what the minister refers to as a scaremongering campaign. It is probably fair credit to the staff in Centrelink that, despite the constraints put on them by this government, their main objective in their work is still to try and assist people. In fact, a number of people were so satisfied with the service offered between my office and the helpful Centrelink staff that I am able to give some of their comments about the process for the Senate’s information. Mrs Reitter of Blackburn received nearly all the bonus after some help from my staff. She said:

I am grateful for the help as I found the forms a little confusing and did not understand what was going on. The government doesn’t help the little people and I am grateful and very satisfied for your help.

Mr Murphy of Blackburn received his entitlement after a little prompting to Centrelink. He said:

Thank you for your help and please accept my appreciation for the assistance.

Another example was Mrs Rodenlight, who did not go through the Centrelink route but through the Australian Taxation Office and ended up with $3,000 after some prompting from us to put in her forms. I do not think she was scared by our letter that pointed out to her how to receive her entitlement. The more apt word would probably be delighted.

Another example, Mrs Waite of Blackburn, contacted my office recently after we gave her some assistance in getting the older persons bonus. She rang to thank me for the help I was able to give. Mrs Waite highlighted that she and her husband—both reasonably well educated people—had been confused by the promotional material originally sent to them about the bonus and had not completed the form because they believed they were ineligible for the money as they received a pension. She said that without the help of my office she would have received nothing.

Another case that has come to my attention is that of a lady living in The Basin in Victoria. Through a little prompting and support she recently applied for the older persons bonus. She did not stop there; she told four of her friends in the community. Between them they received nearly $3,000. The list could go on. Suffice it to say that the responses we have received only highlight and reinforce this government’s slapdash and careless approach to protecting the weaker groups of citizens in our community against the GST.

Minister Vanstone, you said we were scaring Australia’s older people and that my side of this place were acting inappropriately. Rather, I think the minister needs to act appropriately by reviewing the older Australians bonus program very carefully and looking at what quality controls and targets have been put in place, because something has gone wrong. For a start, go back and look at the amount of money that was committed to promoting the bonus for older Australians and see if it is similar to the amounts of money that have been allocated to other well-known and successful government schemes. I think you will find the amount wanting, if the level of community confusion about the bonus is any indicator. Minister, older Australians are not scared by Labor’s actions; they are very angry with the government. They have been pushed around by this government in regard to the GST—just like small businesses have—and they are not going to be quiet about it. I do not think they are going to forget it either.
Meat Industry: Diseases

Senator COONAN (New South Wales) (1.08 p.m.)—Bonfires of slaughtered animal carcasses in the United Kingdom and elsewhere in Europe only serve to illustrate the devastation wrought by mad cow disease, BSE; its human variant, Creutzfeldt-Jakob disease, CJD; and, more recently, foot-and-mouth disease. Fuelling the bonfires in Britain are the bodies of 14,000 sheep, pigs and cattle destroyed in the last two weeks because of foot-and-mouth disease. A further 60,000 carcasses are due to be destroyed in an effort to contain the disease. By the late 1990s, millions of cattle across Europe were slaughtered because of mad cow disease—400,000 animals in Germany alone—and nearly 100 people died because of its human counterpart, CJD. The number of casualties from these epidemics leaps when you factor in that across Europe 200,000 farmers left the industry in 1999 in the aftermath of mad cow disease. In England, one-third of all family farms have disappeared in the past decade and 42,000 farmers have left the industry in the last two years.

The spread of these diseases, which in the case of CJD has been found to be fatal in humans, poses questions of fundamental importance for Australia. The first question is whether there is an appreciable risk of these, or other devastating epidemics, spreading to Australia. The second question is how we can best meet the demand for Australian meat and livestock to fill the gap in supply caused by the void in the United Kingdom and in Europe. Dealing with the last question first, our meat exporters are enjoying a period of significant growth in trade. Major disease outbreaks in Europe and the UK have meant Australian product is now finding a home on supermarket shelves to an extent we have not enjoyed previously. Last year our 100,000 beef producers and their families generated $3.2 billion in export earnings, with the remaining one-third of production going to domestic sales. While meat exports to Europe traditionally represent around only one per cent of total trade, Australian products are now filling the export gap in countries such as those in northern Africa and we are increasing our foothold in the United States and Japan.

Our coveted status as one of only seven countries in the world which are BSE-free, and as a country which took steps to tighten already strict quarantine measures following the UK BSE outbreak, propels us into what might be called an elite meat export category. It may not be appropriate to crow in the face of devastated export markets in the United Kingdom and Europe. Who can fail to have sympathy with the people who have had their whole herds and their livelihood destroyed? But the opportunities for Australia as an alternative safe supplier are only just being realised. That prompts the first question I asked: how safe is Australia from the risk of these epidemics? It must be said that Australia’s food safety record has stood the test in times of crisis. While food safety has been an issue in Europe, South America, North Africa, Asia, Japan, Taiwan and Malaysia, Australia has capitalised on its position as an island continent with a rigid quarantine system.

According to AQIS, the Australian Quarantine and Inspection Service, in Australia we have remained free of mad cow disease because we have no history of BSE or endemic scrapie, the sheep form of BSE. We have had no imports of live cattle from Britain since 1989. We have a ban on live cattle imported from BSE-affected countries, as they emerge. A tracing program of all cattle imported from Britain, Ireland, Switzerland and France has found no trace of BSE. We have had no imports of meat and bonemeal since 1966 from anywhere but New Zealand, which also enjoys a BSE-free status. We placed a voluntary ban on feed made from cloven hoofed animals, which was introduced in 1996 after a link was found between mad cow disease and its human counterpart, CJD. The ban was upgraded to mandatory in 1997.

How long can we consider ourselves free of risk of a major disease outbreak simply on the basis that we are a relatively disease free island continent with strict quarantine procedures? To begin with, there is no certainty about how diseases such as BSE and CJD are transmitted nor conclusive knowledge about
infection paths or incubation periods. For example, large quantities of prescription drugs imported into Australia from the USA and Europe each year incorporate beef gelatine, or tallow, as the ingested covering for pharmaceutical capsules or tablets. Could beef gelatine sourced offshore give rise to an epidemic?

Our international trade obligations mediated through the World Trade Organisation require that restrictions on food imports be based on sound science. While Australia’s conservative approach to quarantine is well recognised, a zero risk approach would be deemed unacceptable. A zero risk approach would be wellnigh impossible in any event because it would require us to place restrictions on even the most rudimentary movements in and out of the country, such as movements by tourists. While that may seem extreme, it is these movements which could be increasing the likelihood of exposure to an epidemic. Major travel destinations have become choked, making them virtual infection bays. At the height of the mad cow epidemic, travellers were disinfected at entry points to discourage further contamination—all in vain, as it turned out.

The apocalypse, as painted by one American expert, is that ‘thousands of foreign invasive species are hitchhiking through the global trading network aboard ships, planes and railroad cars’. In poorer countries, the proximity between people living and working off the land and the animals they farm has diminished. There is now tangible evidence of diseases ping-ponging back and forth between people and animals—each time the strain adapting to its new host and becoming more resistant to its defences. Natural quarantine has been broken down as these new strains of disease jump the species divide, adapt and become resistant to even the most vigilant sterilisation procedures.

Then again, there is the concern—typified in the outcry over imported salmon and apples with fire blight—whether Australia’s defence against disease is being weakened in the face of free trade. In acknowledging the need for constant vigilance and farm to fork surveillance, environment industry consultant Peter Fisher urges that the precautionary principle should be rigidly applied to minimise the theoretical risk of crossing species barriers. This raises the issue of Australia’s preparedness for a major crisis—one that stems not from weapons but from the breakdown of the public health system from major epidemics such as AIDS, TB or malaria, or indeed from an outbreak caused by diseases crossing the species divide. Do we have an appreciable understanding of the risk posed by major epidemics—because, thus far, we have remained relatively unexposed?

It has been said that science has become indispensable to national security—a concept Australia should embrace before we mount a slippery slope to oblivion. In South Africa, the country with the highest number of HIV positive people in the world, the government is currently facing a life or death battle against major drug manufacturers over access to cheaper medicines to fight HIV-AIDS. Nearly half of all health spending in South Africa goes to pay for drugs—a dire situation exposing the nation’s status as both research and development poor. In an attempt to remedy its serious health problems, South Africa has left itself vulnerable to powerful multinational pharmaceutical corporations. Of course, Australia must heed this lesson well. Whether it be AIDS, malaria or CJD caused by a mad cow outbreak, we need to address our scientific future.

America has an admirable record for supporting health related research. Its booming economy reaps the rewards of targeted immigration policies, which attract the best and the brightest in scientific fields from across the globe. Australia too, through coalition migration policies, will reap the rewards of targeted immigration. Recent research has shown that the skilled component of this year’s migration program is expected to contribute $270 million per year over the next five years and will reap rewards in industries such as ITC. The Investing for growth statement in 1997, the new policy and funding framework for higher education research and research training—announced in Knowledge and Innovation—and the government’s decision in 1999 to double base funding for health and medical research by an additional $614 million over five years
are all examples of our commitment to innovation.

So too the coalition’s innovation package has addressed the issue of reinforcing Australia’s scientific status to enable us to take place on the world stage in these fields. Biotechnology is emerging as a strong driver of economic growth. To this end the coalition will invest $46.5 million over five years, commencing this year, to develop and support biotechnology centres which will focus on research and development and increasingly on the commercialisation of new technologies.

In 2000-01 alone, this government will have provided approximately $4.5 billion funding for innovation, including a record $2.7 billion for science, research and industry innovation programs; $1.8 billion for higher education research and research training; and additional funds for specialised programs, such as those targeted at the ITC sector. These measures by the Howard government are a clear acknowledgment that the scientific status of a nation will shape not just the lives of its citizens but also their national security. Australia has a unique opportunity to be a world leader in the production and export of safe food to new and emerging markets.

**International Covenant on Civil and Political Rights**

Senator GREIG (Western Australia) (1.20 p.m.)—I rise this afternoon to bring to community attention a situation which exists here in Australia—a situation which might more likely be found in a country where law and order was a loosely held concept and where anarchy was the order of the day. Surely here in Australia we believe that a person is innocent until proven otherwise. We believe in giving people a fair go and, if there is a risk that people may be in danger to themselves or to society, then we believe in taking appropriate action. But in many parts of Australia, including Victoria and my home state of Western Australia, a situation exists where a person remanded in custody awaiting trial is treated in the same way and housed in the same parts of a prison as those who have stood trial and have been convicted of a crime.

Imagine the scenario of a person arrested for non-payment of fines. They are unable to meet bail demands and have insufficient funds to pay restitution and so are consequently held in custody awaiting trial. Effectively, this person is not in custody because they have broken the law, because another person in the same position but with access to sufficient funds would be able to meet bail conditions and consequently go home. So in real terms the person in custody, on remand, awaiting trial, is there because they are poor. In custody, they find themselves eating, sleeping and exercising alongside violent and dangerous convicted prisoners—and this can go on for many months.

I want to make senators and others aware of and to put on the public record the abuse of human rights suffered by many unconvinced prisoners being held in the same prisons and under the same conditions as convicted prisoners. The minister and state correctional authorities are aware that this situation is in violation of the International Covenant on Civil and Political Rights, the ICCPR, ratified by Australia on 13 August 1980. This covenant requires that convicted and unconvicted prisoners be segregated. Article 10.2(a) clearly states that accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons.

We currently have in Victoria two Mexican nationals being held awaiting extradition to Mexico. These prisoners have been held in remand and custody for the past two years. They are housed alongside some of Victoria’s most dangerous and violent convicted offenders. They have lived in fear of their safety and have been campaigning to be released to a more appropriate detention centre. Just before Christmas one of these men was released on bail but the other, who was deemed to be at risk of absconding, is still in custody. I state clearly that I am not raising this issue to highlight this particular case, nor am I advocating that these particular men should not have been detained in some fashion; I am advocating that, if the courts decide that they and others like them should be re-
manded, then we have a responsibility to ensure that they are housed safely in a way befitting their unconvicted state—that is, innocent until proved guilty.

Australia ratified the International Covenant on Civil and Political Rights in 1980, some 20 years ago, and at that time moved a reservation which both the federal government and state authorities are still claiming as their justification for not complying with the covenant. The reservation stated in relation to article 10, paragraph 2(a), that the principle of segregation is accepted as an objective to be achieved progressively—and I stress those last few words. This is of course no isolated case. The government continually flouts international treaties to which it is a signatory but it is perhaps surprising that over the course of 20 years no state or federal government in Australia has fulfilled its requirement to this covenant. This reservation signalled Australia’s intention to comply with the principle of segregation in the near future and, most importantly, acceptance without reservation of the requirement for separate treatment, but no-one has acted to make this happen. For example, on page 23 of article 10 headed ‘Victorian detention conditions’, the report states:

... by the end of 1997, a 600 bed male prison will be built at Laverton ... The prison at Laverton will house the majority of male remand prisoners and will allow for further improvement in the separation of convicted and unconvicted male prisoners. The prison referred to is the Port Phillip maximum security prison at Laverton in Victoria, which is now completed and operational. It is the same prison which the corrections commissioner says did not segregate and has never segregated prisoners or remandees based on status.

Whilst Australia’s non-compliance with international treaties is beginning to be the rule rather than the exception to the rule, surely one would draw the line at consciously misrepresenting our status to international human rights organisations. Through the government’s inactivity, the Human Rights and Equal Opportunity Commission, HREOC, has been handling a formal complaint made on this issue. In a preliminary view HREOC confirmed that remand prisoners are held in the same units as convicted prisoners and that this is in breach of article 10.2(a) of the ICCPR. In a particular case that I am aware of the housing of prisoners on remand with convicted prisoners has also breached articles 7 and 10.1 of the ICCPR relating to cruel, inhumane treatment and dignity of the human person. I have been informed of instances of violence and bullying in the unit in which remand prisoners are kept that would certainly qualify as cruel and inhumane treatment. I am horrified about what I hear.

I repeat that these prisoners are unconvicted, yet they are being confined with violent convicted criminals. Despite the fact that remand prisoners are given priority in obtaining trial dates, they can spend unjustifiably long periods behind bars, with many ultimately being found innocent and then being set free. It is astonishing that in the year 2001 there is no national guarantee of rights and freedoms for Australians and that justice is often dependent upon the state in which you reside. The Australian Democrats have called for a renewed debate on a bill of rights, primarily because Australia remains the only Western nation that does not have a bill of rights. The issue I have highlighted here today reflects the urgency with which we need a statement guaranteeing the civil and political human rights of all Australians.

Minister for the Arts and the Centenary of Federation

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (1.27 p.m.)—Yesterday, in regard to Minister McGauran’s gambling interests, Senator Alston said:

Beyond that, I hear Senator Faulkner’s question. It sounds like the usual fishing expedition with assertions about considerable personal interests when in fact there does not seem to be anything, from what he said, to substantiate them.

Let us put the facts on the record. It was Minister McGauran as the acting communications minister who announced the government’s moratorium on interactive gambling. He was acting for Senator Alston, who was absent from Australia from 12 to 29 May 2000 on a swing through Argentina, Uruguay, Chile, Brazil and Mexico. As the act-
ing communications minister, on 19 May 2000 Mr McGauran held a doorstop interview and on 25 May 2000 he issued a joint press release with Senator Newman. On both these occasions he actively and enthusiastically promoted the government’s policy to introduce a ban on online gambling and to make that ban retrospective to 19 May. Mr McGauran said at his doorstop:

During that moratorium period we would look at the possibilities, feasibility and desirability of a permanent moratorium.

While it was clear this temporary ban was for 12 months, Minister McGauran expressed the view that the preferred course of action for the government was to extend the ban indefinitely into a permanent moratorium. We should be very clear about the commercial effects of such a ban. It directly benefited everyone with interests in the existing gambling industry. Interactive gambling represented a great threat to those who operated existing forms of gaming and wagering. What is more, those with the most to lose were those operating gaming that is most easily transferred to the Internet, such as electronic gaming machines that are currently in pubs and clubs—the pokies, the one-armed bandits.

Later last year Mr McGauran took the Interactive Gambling (Moratorium) Bill 2000 through the House of Representatives. At that stage, the public and most parliamentarians were unaware that the minister held significant and valuable interests in a poker machine gaming facility. Why? Because Mr McGauran had chosen not to disclose the holding on the register of members’ interests and had hidden this holding and other assets through a complex web of family trusts and private family companies. All this comes from the public record. Gaming industry sources have informed us that while it is difficult to quantify the actual effect of competition to their industry from any commencement of online gambling, they estimate that Internet gambling would reduce their turnover by some 10 per cent to 20 per cent.

Let us turn to the trail of Mr McGauran’s multimillion dollar interests, again using public sources including asset documents and the Victorian Casino and Gambling Authority web site. I am sure it will come as no surprise to anyone that Minister McGauran’s commercial interest in 70 poker machines is held via a trust, the Peter John McGauran Family Trust in fact. Once again, a minister in this government has gone for the tax avoidance vehicle of choice, the family trust, in order to conceal a conflict of interest and to minimise tax at the same time. It is worth dwelling for a few moments on the exact nature and structure of Minister McGauran’s holding so no-one can be left in any doubt as to his direct conflict of interest. The 70 poker machines are operated from The Millers Inn hotel situated in Altona North. The Millers Inn hotel is in turn owned by a company called McGauran Altona Pty Ltd, which I will go into in more detail in a moment. It is interesting to note that the Victorian government has recently capped the number of poker machines in the local government area of Bass Coast Shire within Mr McGauran’s electorate of Gippsland on the ground that poker machines were too socially and economically devastating for that area. Mr McGauran clearly did not wish to have an interest in the social and economic devastation of his own constituents; perhaps he is a little bit more comfortable fleecing the battlers of West Melbourne. The Victorian Casino and Gaming Authority, the VCGA, lists McGauran Altona Pty Ltd as the venue operator of 70 poker machines, but even more importantly it lists Peter John McGauran, along with his brother, Julian McGauran, and five other members of the McGauran family as approved associates—in other words, Mr McGauran and six other individuals have been approved by the VCGA to hold and operate, as associates of McGauran Altona Pty Ltd, its 70 poker machines.

To properly appreciate the import of being named on the licence as an individual associate, you need to consider the meaning of ‘an associate’ under section 4 of the Victorian Gaming Machine Control Act 1991, which states:

For the purposes of this act a person is an associate of an applicant for a licence if the person

(a) holds or will hold any relevant financial interest or is or will be entitled to exercise any rele-
vant power, whether in right of the person or on behalf of any other person in the gaming machine business of the applicant, licensee, person listed or company and by virtue of that interest or power is able to exercise a significant influence or with respect to the management or operation of that gaming machine business.

Named associate individuals and entities are subject to the full probity checks applying to the licence, and there is a range of measures taken to check on the probity of all those persons, including police checks and personal questionnaires. Mr McGauran would have been required to complete such a questionnaire when the licence was issued or renewed, and we know that this licence was originally issued on 12 November 1992 and was renewed on 12 November 1997.

I will now turn to the shareholders of McGauran Altona Pty Ltd. According to the latest ASIC records available, there are eight shareholders in this company. Seven shareholders are individuals, each holding one ordinary share. Senator Julian McGauran is listed as a shareholder but his brother, Mr Peter McGauran, is not. But it is the eighth shareholder, a company, which is the most important shareholder and provides the clear link between Mr McGauran and his commercial interest in the 70 poker machines.

Rozinta Pty Ltd holds a total of 199,993 of the 200,000 shares issued, or 99.99 per cent of the issued capital of McGauran Altona Pty Ltd. It is the ultimate owner of The Millers Inn hotel and, therefore, the ultimate beneficiary of the profits that are derived from the 70 poker machines that the hotel runs. It is here that Minister McGauran’s commercial interest in the 70 poker machines becomes apparent. According to Mr McGauran’s own declaration of interests he personally owns one share in Rozinta Pty Ltd, but once again, more importantly, he lists the Peter John McGauran Trust as holding a one-sixth interest in 20,000 ordinary shares in McGauran Altona Pty Ltd. We do not actually believe that the 20,000 share figure is correct because there are eight shareholders in McGauran Altona Pty Ltd, seven individuals each with one share and Rozinta Pty Ltd with the remaining 199,993 shares. So we have to say we are slightly perplexed as to how there is a one-sixth interest in only 20,000 shares. It is our belief that this maybe should have read 200,000 shares and that perhaps an error has been made. No doubt Mr McGauran can clear up this anomaly. But I note in passing that Senator Julian McGauran has made precisely the same entry in his declaration and, given that the two declarations are in exactly the same format, it would seem that one simply formed the template for the other down to the same possible mistake. I further note that Senator McGauran’s declaration was lodged some time before his brother’s. It is also our contention that Rozinta holds the shares in McGauran Altona Pty Ltd in its capacity as trustee for the Peter John McGauran trust, given that there are six shareholders in Rozinta, of which Minister McGauran, along with his brother, Julian McGauran, and four other members of the McGauran family are also shareholders.

With six members of the McGauran family each holding one share in Rozinta it is quite easy to see how both the McGaurans hold individually a one-sixth interest in McGauran Altona Pty Ltd if, indeed, Rozinta Pty Ltd acts as trustee for six separate family trusts, including the Peter John McGauran trust, and each of those McGauran family members then holds one of the six shares issued in Rozinta.

In support of this, I also note that Senator Julian McGauran, through the Julian McGauran trust, also holds a one-sixth interest in 20,000 ordinary shares in McGauran Altona Pty Ltd. Likewise, if the contention that Rozinta Pty Ltd is the trustee of the Peter John McGauran trust is not correct, I would ask: who is the trustee of the Peter John McGauran trust? It is clear that Minister McGauran, through the Peter John McGauran trust and a web of family companies, has a direct commercial interest in 70 poker machines run and operated from The Millers Inn hotel. What is also clear, and worth stating for the public record, is that it was the National Party that led the charge to have the government’s anti-avoidance measure, the taxation of trusts, stumped. Here we have once again a minister in this government—this time from the National Party—using the preferred tax avoidance vehicle of choice, the family trust, by which to minimise tax
and try to disguise the most blatant of conflicts of interest we have seen since Senator Parer and his $2 million worth of coal shares. As one National Party backbencher said last week of his leader, ‘More Liberal than the Liberals.’

Finally, we used some public VCGA figures yesterday regarding the average player loss per poker machine in the local government area of Hobsons Bay to determine a likely income stream for the venue operator, for the family trusts and, finally, for Mr McGauran himself. The average player loss per machine in that area is $66,203. Multiplied by 70 machines in The Millers Inn hotel, that is a total player loss— that is, turnover minus winnings paid out—of $4.63 million. Minus the 75 per cent normally paid to the supplier of the machines—in this case, Tattersalls—that leaves $1.15 million for the venue operator. This is pure profit for the venue operator, McGauran Altona Pty Ltd, and its ultimate owners, the six McGauran family trusts.

I saw on television last night various shots of the exterior of the hotel, and a huge sign caught my eye proclaiming ‘pots of gold’. Too right. These poker machines are certainly pots of gold for Minister McGauran. Minister McGauran’s one-sixth share of that profit stream is some $191,000 per year on 1999-2000 figures—and this is without calculating the extra bar and food takings from the patrons of the poker machines. To put this $191,000 profit stream in perspective, Mr McGauran’s salary is $141,750 per year and, if we translate the industry’s inside figure of online gambling threatening 10 to 20 per cent of their business, the existence of a ban on online gambling was worth between $20,000 and $40,000 to him personally. No wonder he was so enthusiastic in promoting the ban publicly while being acting minister. This is an open and shut case of a conflict of interest. This is a clear breach of the Prime Minister’s code of conduct. (Time expired).

Disability Support Services

Senator ALLISON (Victoria) (1.42 p.m.)—I wish to speak today on a subject I have raised a number of times in the Senate, and that is the recognition and funding of students with learning disabilities. In the past couple of months a new organisation has been set up—the Australian Learning Disability Association—and I very much welcome the establishment of this group. According to the ADLA, a learning disability is not due primarily to visual, hearing or motor impairment, intellectual disability, emotional disturbance or environmental disadvantage but it may occur concurrently with any of these. The association suggests that learning disability may arise from genetic variations, biochemical factors, events in the pre to postnatal period, or any subsequent events resulting in neurological impairment.

In simple terms, having a learning disability means that a child will not likely learn in the same way as approximately 90 per cent of the population—that is, these children and students need to be taught differently. It is estimated that, like Canada, the United States and the United Kingdom, approximately 10 per cent to 12 per cent of Australian students have a learning disability of some kind. But unlike these countries, in Australia disabilities such as dyslexia, poor visual and motor control and short-term memory problems have largely been ignored, at least at the official level. Students with learning disabilities do not get a satisfactory education.

What I want to point out today is that the Human Rights and Equal Opportunity Commission in December last year made a landmark decision with regard to learning disabilities. The commission found that a disability such as dyslexia—in fact, the case was dyslexia—was a disability within the meaning of the Federal Disability Discrimination Act 1992. The commission found that an organisation conducting training courses had discriminated against a student with dyslexia by requiring him to sit an examination in the same time as other students and he was not offered an oral alternative. I think that this ruling should be a wake-up call to federal, state and territory governments. They must now, I think, address learning disabilities in a much more rigorous and systematic way than they currently do.

Schools will also need to ensure that they are able to identify students with learning disabilities and assist them accordingly. Par-
ents tell me that there is little or no assistance to do this in schools and that it costs them $250 and more just to have an assessment of their sons and daughters made. Obviously, we will need additional funding for targeted assistance and programs for students with learning disabilities, as well as assistance for teachers who need to be given the tools to identify the students with problems and refer them on for proper diagnosis, which, generally speaking, is done by psychologists.

The current funding for programs dedicated to assist students with learning disabilities is ad hoc and inadequate. The federal government will no doubt talk about its strategic assistance for improving student outcomes program as being one which addresses learning difficulties but, while some students with learning disabilities might be assisted by programs like this which target students with learning difficulties, it is very likely that many students with learning disabilities are missing out.

Literacy programs, for example, typically tackle poor learning performance and do not usually provide a response for neurological learning disabilities. In fact, Queensland is the only state which claims to specifically target students with neurological learning disabilities as part of its learning difficulties program, and in this state assistance is provided through support teachers who work within schools to develop and implement in-class programs. These programs are supplemented by system wide programs like reading recovery and years 2 and 5 diagnostic tests.

In Victoria, schools receive money, teachers and equipment for literacy through their global budgets, primarily for early and middle school years. South Australia has various assistance grants for students with learning difficulties, and the funding is provided either through the schools’ global budget or through targeted funding. In New South Wales, there is no direct funding for students with learning difficulties. Schools are provided with learning difficulties support teachers on a two-year cycle, and they can gain assistance from district officer support teachers too.

But of course lack of funding is not the only issue. There is a lack of public understanding, awareness and acceptance of learning disabilities, and that is the case nationally. This is an issue that is brought to me by parents who are often very distressed about the situation their children are in, because nobody seems to understand what the problem is, not even their schools. There needs to be an awareness of learning disability in education departments, in government and in community sectors. People need to be informed of their rights under the Disability Discrimination Act with regard to learning disability, and we need to see the promotion of education and training on learning disability for education institutions and their teachers. When I trained as a teacher, the question of dealing with a student with a learning disability simply did not arise. I would hope that universities are now taking a more serious approach to this question, but I somehow doubt that that is the case.

Clearly, the federal education minister is in need of some further education too. He admitted in the parliament in March 1998 that the government was aware of the estimates of the numbers of children with learning disabilities but did not accept that these students could not meet minimum standards. Of course they can meet minimum standards, but they can do so only if we know what their problems are and if we have set about putting in place the steps to deal with them. That statement contravenes the Disability Discrimination Act that exists both as law and in spirit to ensure that people with disabilities are afforded equal opportunities to achieve their full potential.

This is a serious issue. It is time for us to change the way we approach the question of learning disability. We need to sort out, if you like, what needs to be done in order to fund learning disabilities and what the differences are with the current set of disabilities that are funded through the states grants legislation—that is, students with physical, intellectual and emotional disabilities. We need to look at the group that has difficulties that can be overcome by literacy programs and then examine the other group that is much more difficult to assist. It seems to me that
this is a very urgent problem, and I look forward to the federal minister’s response to this issue.

Minister for the Arts and the Centenary of Federation

McGauran, Senator Julian

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (1.50 p.m.)—I want to respond briefly to the typical gutter level attack on a member in the other place and on Senator Julian McGauran in this place. Within the Senate in the time that I have been here, there has been a protocol and a courtesy that has been adhered to on all occasions that I can recall. That protocol is that, if you are going to come into this place and—to use the vernacular—drop a bucket on someone, you generally do them the courtesy of letting them know beforehand so that at least the opportunity is open to them to come in and defend themselves.

We know in this place that, if Senator Faulkner puts his name on a speakers list, it is not to make any contribution to the public policy debate of this land. He is renowned as someone who is not comfortable with policy and with public debate on policy issues. He is in a party that is known as policy lazy and that hopes to surf to victory on the back of One Nation populism. It is known for policy flip-flops, a lack of policy altogether and not wanting to do any hard work. It is an opposition that looks complacent in opposition, and you wonder what it would look like if it ever got elected. Here is an opposition that looks compliant in opposition, and you wonder what it would look like if it ever got elected. Here is an opposition that says, ‘We don’t have to do anything. We can just sit back and have no policies, no ideas, chuck a few sprays against ministers and other senators, dig up dirt and run a few scare campaigns.’ It thinks that will get it back into government. The opposition is elated at the moment because its popularity in the polls is up, but I remind those opposite, Madam Deputy President, as you and I know better than most, that polls go up and down. Of course you feel elated when you are doing well in the polls, as we were before Christmas. The opposition went into Christmas feeling that the situation was dreadful and thinking about changing to Simon Crean and dumping Mr Beazley, and now it is all elated and does not think it actually has to do anything to get elected. It thinks it can just sit around and be lazy and not come up with policies.

Of course, Senator Faulkner typifies that approach. Whenever he tries to get involved in the policy debate he makes very big errors. He was, of course, one of the most disastrous ministers in the Labor government. He was promoted to leadership after being one of the worst environment ministers in Australian history. Bob Brown, of course, prior to becoming a senator, put it very well in an article in the *Sydney Morning Herald*. I will just dig it out of Senator Alston’s most impressive drawer here—and we are joined by the Assistant Treasurer, Senator Rod Kemp, who, of course, was one of the most successful shadow environment ministers in Australian history and ensured the development of one of the best environmental policies in Australia that has seen over a billion dollars going into the environment. As Senator Bob Brown, then a renowned environmental activist from Tasmania, said—and I quote from the *Sydney Morning Herald* of 20 May 1995:

John’s strong point—that, of course, is Senator John Faulkner—is his manufacturing of the image of being misunderstood. His religion is the Labor Party. It’s the Labor Party before the planet.

In fact, it is the Labor Party before everything.

What we have seen here today is a testament to Senator Faulkner’s contribution to Australia. He really does unravel when it comes to the hard work. What he does is to get people in his office to dig up dirt and research. It does not really matter if there are any facts involved in it. It certainly does not matter if he hurts the reputation of innocent individuals inside or outside parliament. We saw that with his character assassination of members of the Bailleau family. Senator Faulkner, of course, forgot—or his research officers, his dirt diggers, forgot—to check whether or not the people he was attacking were alive or dead. Of course, two of the people that he attacked in this place unmercifully, causing enormous damage and hurt
to the Bailleau family, had actually passed away. But Senator Faulkner never allows the facts in these cases to interfere with his story.

When you see Senator Faulkner’s name on a list, you know he is coming in here to get down to the gutter. As Senator Kemp has said on many occasions, he is in fact the limbo champion of the Australian Senate—probably the limbo champion of Australia—because no senator, no parliamentarian, has ever gone so low. All he can do is attack people—mostly outside this place, mostly those who do not have the protection of parliamentary privilege to defend themselves. But when he does decide to attack a parliamentarian, he will generally attack people in the other place so they cannot be immediately defended here.

Here is someone who, as a former Manager of Government Business, should know better than anyone the forms, the protocols, the standing orders and, most importantly, those unwritten rules that make this place work as an effective parliament and one of the most effective parliaments in the world, that is, the decent common courtesies shown by senators from opposite sides of the chamber, often with strongly competing philosophical views—although you could not claim that Senator Faulkner has any of those. He today has again shown that he does not even have the common courtesy to inform someone that he is going to seek to drop a bucket on them.

So today he comes into this place—slinks into this place, slimes into this place, crawls into this place, slithers into this place—and sits on his seat, seeks the call and then starts to assassinate the character of Senator Julian McGauran, without the decent courtesy of ringing up Senator McGauran as, in my experience, has been the courtesy. If you are to attack another senator, if you are to launch a political attack, you do the decent thing. Have the guts, have the decency, be strong enough to have the guts to actually pick up the phone, dial Senator McGauran’s number and say, ‘Julian, I’m going to go into the chamber. I’m going to drag up this stuff, but I wanted to do you the courtesy of letting you know first.’ Of course he would never do that. No-one on that side of the parliament would expect Senator Faulkner to do that, because he is the limbo champion, he is prepared to stoop lower. He is never prepared to do the hard work on policy. He is typical of the Labor frontbench when it comes to that. Whenever he went into policy, he failed. He has got the hypocrisy to come in this place and try to attack us on petrol prices, yet, of course, he was the Labor minister who proposed the biggest hike in petrol taxes in Australian history with his infamous carbon tax.

This bloke does not come in and propose policies anymore. He stuffed up the forest debate comprehensively for the Keating government. He stuffed up his first shadow portfolio, so within a few months of being made a shadow minister, he had half his responsibilities taken from him. He is now, of course, the shadow minister for dirt digging. He is the shadow minister for scooping down to the gutter. He is the shadow minister for personal attacks. He is the shadow minister for getting it wrong. He is the shadow minister for attacks on innocent people, be they alive or dead. He is the shadow minister for attacking families who cannot defend themselves. He is the shadow minister for abuse of parliamentary privilege. He does not ever deserve to be a minister. He was a failed minister. He is, in fact, a shadow; he is a disgrace. At the very next possible occasion, if he is a man, if he has any bone of credibility in his body, he should at the very least come into this place and apologise immediately to Senator Julian McGauran and, of course, to Peter McGauran in the other place.

**QUESTIONS WITHOUT NOTICE**

**Economy: Growth**

*Senator COOK (2.00 p.m.)—My question is to Senator Kemp, the Assistant Treasurer. In light of the national accounts figures released today, showing negative growth of 0.6 per cent for the December quarter, does the government stand by its upward revision of GDP as contained in the midyear economic review, released only last November, which increased the growth forecast from 3.75 per cent to four per cent?*

*Senator KEMP—Senator, as you would remember from that period long ago as a*
minister in the Keating government, the official figures of the government are put out in the budget and are revised in the midyear review. Of course, the final figures are covered in the budget, which will be presented late in May this year. That is when the government makes its official forecasts. Let me just make some comments on the national accounts figures, which Senator Cook raised. As he said, today’s national accounts figures show a fall of 0.6 per cent in GDP in the December quarter.

Senator Cook—Madam President, I raise a point of order. The minister has answered the question. I did not ask him to give a dissertation about the national accounts. He stands by the figures; that is the answer to the question. He is now debating the issue, which is against standing orders. I ask you to sit him down.

The President—The minister may not debate the question, and he knows that. He has made some comment on the question that was asked, and the minister may continue to answer the question.

Senator Kemp—I think the Hansard will show that you mentioned the national accounts figures—

Senator Cook—Yes, but that was not the question.

The President—Senator Cook, Senator Kemp knows that he may not debate the issue, and he knows the question.

Senator Kemp—As Senator Cook said, the national accounts figures today show a fall of 0.6 per cent in the GDP in the December quarter. However, this result involves two key transitional effects: the Sydney Olympics, held in the September quarter, have exaggerated the slowdown in the December quarter; further, the transitional effect of the new tax system on the housing sector saw a significant bring forward of construction work in the first half of 2000 and a fall off in activity in the second half of 2000. Forward indicators of housing activity now look much stronger, assisted, of course, by lower interest rates.

The figures today belie the comments made by people like Mr Beazley, Senator Conroy and others just six to nine months ago and, frankly, they show how wrong the forecasts of Mr Beazley and Mr Crean were and how wrong Senator Conroy was in his comments about the expansionary effect of the latest budget and tax reform.

Senator Cook—Madam President, I ask a supplementary question. How could the government have got it so wrong, as recently as last November, given that it was clear then what has been revealed today; namely, that the GST has king-hit the economy? I ask again: does the government stand by its November forecast that the economy will grow by four per cent this financial year?

Senator Kemp—The basic assumption in Senator Cook’s supplementary question is wrong, so it therefore follows, as I said in my response to his first question, that the official forecasts of the government are made twice a year—in the budget and in the midyear review. As far as revising forecasts is concerned, the next official forecast will be made in the May budget.

Economy: Interest Rates

Senator Gibson (2.04 p.m.)—My question is to the Assistant Treasurer, Senator Kemp. Will the minister inform the Senate of the benefits that today’s interest rate cut will deliver for Australian businesses and families? Is the minister aware of any alternative policies, and what effect would these policies have on the Australian economy?

Senator Kemp—I thank Senator Gibson for that important question. Today the Reserve Bank announced that the official cash rate would be cut by 25 basis points. This comes on top of the 50 basis point cut earlier this month, bringing the official cash rate to 5.5 per cent. When this government came into office—seeing former ministers of the Keating government on the front bench reminds me of this—interest rates were in the order of 10.5 per cent. People will recall that, at times during the period of the Keating government, housing loan interest rates rose to 17 per cent and were still heading north. Once this 25 basis point cut has been passed on, mortgage rates will be 7.3 per cent. This represents a saving on interest costs of approximately $267 per month on an average mortgage of $100,000, compared with the
interest rate level we had when we came into government. It is the government’s view that banks should pass this rate cut immediately on to homeowners.

It is important for senators to remember that low interest rates come about as a consequence of the management of this government and the budget surpluses. The Howard government inherited a budget deficit of some $10 billion and a general government debt in the order of $96 billion. Under this government, this deficit was turned into a surplus and, by the end of 2000-01, it is estimated that some $50 billion of Labor’s debt will have been repaid. As I said in my earlier remarks, it should never be forgotten that, under Labor, interest rates rose to over 17 per cent—a very sharp contrast to the rates which are currently being paid now. These rates clubbed home owners and small business and were one of the factors that led to the recession that we had to have, according to Mr Keating.

The Labor Party has opposed every significant measure made by this government to reduce the deficit. The Labor Party continually calls on the government to increase spending and is now promising to roll back the GST. Well, we will wait and see if that occurs. We must conclude that the Labor Party has learnt nothing about being a responsible policy maker. When in government, it has always been a high tax government, a high spending government and a government which has borrowed in order to cover the massive debts which it builds up.

Honourable senators interjecting—

The PRESIDENT—Order! There is far too much noise.

Senator KEMP—I am very glad that the issue of employment has been raised, because I think many people in this chamber will remember that, under the Labor Party, over one million people were thrown out of work. They will recall that there was a major government induced recession in the economy. The unemployment rate peaked at over 11.5 per cent. Labor had a very poor record on the employment front.

This government by its sound management of the economy, by presiding over a long period of growth in the economy and by coming through the Asian financial economic crisis has been able—in contrast to the previous government—to create jobs, not cost jobs, as was the policy under the previous government. Senator Collins, as you are a member of the Labor Party, you should look at the miserable performance of the former Hawke and Keating governments. As Senator Collins would know, the employment growth has been very strong in recent years, and the government takes great pride in that. The fundamentals of the economy are very solid: fiscal settings are solid, interest rates are down and income tax cuts have flowed through to households.

Let me make the point that we will contrast our performance against the Labor Party’s performance any day. As I said, we take great pride in the employment that our policies have been able to create. Senator
Collins will know, as I said to Senator Cook, that the government makes its forecasts in the budget context, and they are revised in the midyear review and that is the time that the forecasts are revised or changed.

**Senator Hill**—A very good answer.

**Senator Crowley**—You will regret that interjection, Robert.

**The PRESIDENT**—Order!

**Senator Hill**—You won't be asking a supplementary after that!

**The PRESIDENT**—Senator Hill! Senator Collins wishes to ask a supplementary question and she is entitled to do so without so much noise.

**Senator JACINTA COLLINS**—This is my supplementary question to the minister: isn't it the case that the national account figures confirm that the GST has king-hit the economy and that the government has little, if any, chance of achieving three per cent employment growth?

**Senator KEMP**—Again, the assumption which underlies the supplementary question is quite wrong. It is not the case that the GST has king-hit the economy. That is not the case at all. The underlying assumption, as I pointed out to Senator Cook, is quite wrong.

**Small Business Innovation**

**Senator BRANDIS** (2.13 p.m.)—My question is to directed to the Minister for Industry, Science and Resources, Senator Minchin. Will the minister advise the Senate what the government is doing to promote improved innovation by small business in Australia? Is the minister aware of any alternative policies?

**Senator MINCHIN**—I thank Senator Brandis for his very astute question. Senator Brandis well knows, as we all know on this side, that small business really is the engine room of innovation in this country. Our $2.9 billion innovation plan has as its central focus assisting and stimulating innovation in small business. For the first time ever in this country, small business will be able to access a new research and development tax rebate. We estimate that around 1,300 small businesses previously unable to access the R&D tax concession will now be able to claim the new R&D tax rebate. This is a first for Australian small business and is something Labor never did in its 13 years in office.

Indeed, we are yet to hear anything from the shadow minister for innovation, Ms Lawrence, about this commitment. We do not know yet whether Labor would keep this rebate if they win the next election. The government has also pledged an additional $535 million to maintain through to 2006 the R&D Start grants program, which is targeted at small business. We have also provided in the innovation plan, for the first time ever, a special tax concession at 175 per cent for additional R&D business—again, something that Labor never did for innovation or for business. This will particularly assist small growing companies who are increasing their R&D by their access to the 175 per cent concession.

The total federal support for business innovation from this government will be around $800 million per annum as a result of this package, a very big contribution to innovation in this country. Small innovative companies are also benefiting from our reduction in company tax, our cuts in capital gains tax and, of course, much more flexible workplace relations.

I was asked about alternative policies. We have not seen one single policy from the opposition about business innovation and, of course, the one policy we do know about, their industrial relations policy, would be a disaster for innovation. Indeed, in government, they presided over a massive blow-out in the cost of their R&D concession, because they presided over the rorting of syndication and did nothing about it. In fact, if you look back in the books you will find that, in their dying days, they made a feeble attempt at producing an innovation policy just before their demise.

Their much awaited 1995 policy on innovation actually reduced government support for innovation by $350 million, as compared with our putting in an extra $2.9 billion in our plan. At that time the WA Chamber of Commerce and Industry described Labor’s last innovation policy as ‘a grab bag that had little significance for Australian industry’ and, indeed, Labor MPs themselves thought
the first attempt at this policy was completely hopeless. Senator Cook would remember this, because he was the industry minister who presided over this debacle at the end of their period. When he presented his policy statement to his own backbench committee, one of them said the feeling was, ‘What’s new about this? This is meant to be an innovation statement.’ Another Labor MP said—and I quote from the press at the time:

It was absolutely lacking in substance. The attitude of the backbench committee was, ‘You can’t be serious.’

Of course, 5½ years later, absolutely nothing has changed in the Labor Party: they are still lacking in substance; they are still not serious. Whether it is on innovation, tax or industry, on all the important issues, Labor have no policies—or, if they do, they are trying to keep them secret from the business community, which fears a return of Labor, a return to 17 per cent interest rates, a return to massive debts—$80 billion racked up in their last five years—and a return to high taxes to pay for their profligate policies.

**Economy: Private Dwelling Investment**

Senator CONROY (2.17 p.m.)—My question is addressed to Senator Kemp, the Assistant Treasurer. In light of the national account figures released today which show private dwelling investment falling by 23.5 per cent over the year to the December quarter, will the government be further revising down the midyear economic review forecast, released only last November, which estimated that dwelling investment would contract by eight per cent for this financial year?

Senator KEMP—Let me respond to the question by Senator Conroy. Following very strong activity in the dwelling sector last financial year, which you will be aware of, Senator Conroy, and which was the highest share of GDP in almost 20 years, total dwelling investment fell—and I think these are the figures that Senator Conroy said—by some 15.4 per cent in the December quarter, following a 23.3 per cent fall in the September quarter. Let me make it clear: this result partially reflects an unwinding of the bring-forward of activity into the March and June quarters associated with the introduction of the new tax system, which saw dwelling investment grow by 8.1 per cent and 9.2 per cent respectively. After declining significantly in the September quarter, leading indicators of dwelling investment appear to have bottomed around the month of October, Senator Conroy.

*Senator Conroy interjecting—*

Senator KEMP—If you would just tune in, Senator Conroy—through you, Madam President—you might actually learn something. As I said, after declining in the September quarter, leading indicators of dwelling investment appear to have bottomed around the month of October and have rebounded strongly in the December quarter. This suggests that building construction should recommence around mid-2001.

Let me state to Senator Conroy that the fundamentals for the housing sector remain strong. After falling in the first half of 2000, housing affordability, which is a very important factor, rebounded strongly in the September quarter—largely due, of course, to the government’s first home owners grant—and remains above its average level recorded in the 1990s. I think that is a very important point in dealing with the issues that Senator Conroy has raised.

Let me also say to Senator Conroy that, following the 0.5 percentage point cut to official interest rates on 7 February, standard variable mortgage rates remain low by historical standards. Fixed loan interest rates have also fallen sharply from their level of over nine per cent in March 1996 to below seven per cent in early 2001. The point I am making to Senator Conroy is that there was a bring-forward, which Senator Conroy is well aware of. The fundamentals in housing remain sound, particularly the affordability of housing. As far as the actual forecasts are concerned, Senator Conroy, let me refer you to the answers that I gave to Senator Cook and to Senator Collins.

Senator CONROY—Madam President, I ask a supplementary question. Doesn’t the dramatic decrease of 23.5 per cent in private dwelling investment confirm that the GST, far from being good for the economy, as
promised by the Prime Minister, has actually king-hit the economy?

Senator KEMP—I thank Senator Conroy for that last question. Of course, in the first part, the assumption is wrong. Let me quote what Senator Conroy’s colleagues were saying when the new tax system was brought in. Mr Crean said that the GST was ‘placing more pressure on inflation, increasing wage pressures and loosening fiscal policy at this stage of the cycle’. This is in utter contrast to the point that Senator Conroy tried to make just then. As usual, the Labor Party are all over the place on policy. They bounce from one thought to the next without any consistent line, and we have seen that in the sort of question that Senator Conroy has posed to me today.

Petroleum Industry

Senator MURRAY (2.22 p.m.)—My question is addressed to the Minister for Industry, Science and Resources. Has the minister seen the report in today’s Australian of the disappearance of the 1 ½c per litre excise reduction into the usual weekly fluctuations in the price of petrol? Minister, when will the government resurrect the need to reform the petroleum industry to bring real competition to the industry at the refining, wholesaling and retailing levels? In 1999, the government’s reform proposals involved allowing individual petrol companies to control the retailing as well as the wholesaling and refining of petrol. Is it the case that failure to successfully negotiate reforms has meant that the government has given up on restructuring that industry, despite the obvious need for it?

Opposition senators interjecting—

The PRESIDENT—Order! We are waiting to proceed with question time.

Senator MINCHIN—The government’s decision to reduce the excise by 1 ½c, of course, was a very important decision by this government, as was the quite magnificent decision to abolish fuel indexation—something which this opposition had for 13 years and which, because it ran such outrageous deficits and built up $80 billion in debt over its last five years, it had no hope of ever removing from the Australian people. Through our economic management, we have been able to develop surpluses to the point where the government is able to afford to remove that impost on the Australian people. That is a function of good economic management; we have put the government in a position where it can afford to take that burden off the Australian people, something we are all very proud of.

It is a fact of life that the petroleum refining and retail industry in this country is in fact quite highly competitive. That is why the however many inquiries there have been into petrol—and Senator Murray would know that there have been some 30 or 40 inquiries—have indicated how competitive that industry is, in the sense that there is a discounting cycle which occurs on a regular basis. The fact is that consumers can take advantage of relatively cheap prices when those cycles are in their downward movement. I for one think any attempt to flatten that cycle by imposing any sort of price control would be ludicrous and would result in higher prices for consumers. In fact, consumers can take advantage of the degree to which there is competition.

The real issue, frankly, from the government’s point of view is the need to reform petrol retailing by the abolition of the franchise act and the sites act. That has been this government’s policy for quite some time. We strongly believe in it. This is the most over-regulated industry in this country. That is contributing to much higher prices than would otherwise be the case. Prices in rural Australia would clearly and definitely fall if the opposition and the Democrats had the wisdom to support this government’s policy of abolishing the franchise act and the sites act and introducing the oil code. The MTAA and everybody else want the oil code, and the way to introduce that oil code and bring petrol retailing within the ambit of the Trade Practices Act is to remove those outdated, idiotic acts—the sites act and the franchise act. The sooner the opposition parties move to that point, the sooner we will have a better pricing arrangement and better retail arrangements for petrol.

Senator MURRAY—Madam President, I ask a supplementary question. Minister,
thank you for your answer. Do you agree that
the up and down weekly prices in petrol, in
complete contrast to other retail price prac-
tices, represent manipulation, not competi-
tion? Minister, do you agree that the vertical
integration of the major oil companies and
their ability to control everything from the
refining operations to the ultimate retail price
does not maximise efficiencies or competi-
tion? Will the government continue to ignore
now the 40 or so inquiries—and you are
right, it is over 40—that have recommended
a restructur of the industry?

Senator MINCHIN—I know that Senator
Murray does have a sort of ideological ob-
session about vertical integration in the pe-
troleum industry. I do not share that ideo-
logical hatred and obsession. I actually think
it is strategically very important in this
country to ensure that we maintain a refining
capacity. I for one never want to see the day
when there is no refining industry in this
country. I think that is actually critical to the
strategic interests of Australia and something
we should all work to preserve. That also
means that we should properly allow the re-
finers to be involved in retailing. The fact is
that the refiner retailers are up against very
stiff competition from the likes of Wool-
worths, who import their petrol from Singa-
pore and can do so without the hindrance of
the retail sites act and franchise act. There is
very intense competition in this industry at
the refining level, given the scope for inter-
national importation of refined petrol. So I
do believe, in response to Senator Murray’s
question, the cycle is a result of competition
in this industry.

Goods and Services Tax: Beer

Senator BUCKLAND (2.28 p.m.)—My
question is addressed to the Assistant Treas-
urer, Senator Kemp. Will the government
withdraw its beer excise proposal, which has
seen the price of ordinary beer rise by eight
to nine per cent, despite the Prime Minister’s
promise that ordinary beer would only in-
crease by 1.9 per cent?

Senator KEMP—The government’s pol-
icy on this is very clear. It has kept its prom-
ise that it made in the ANTS package. What
we now see from the Labor Party is another
attack on the surplus. That is precisely what
the Labor Party is on about. But let me say:
the government’s promise in the election was
clear—and that is the policy of the govern-
ment and it should proceed.

Senator BUCKLAND—Madam Presi-
dent, I ask a supplementary question. Given
that the Prime Minister has finally recog-
nised that he got it wrong on petrol excise,
why won’t he recognise that he also got it
wrong on beer excise? Isn’t it true that he
promised ordinary beer would only go up by
1.9 per cent, yet the reality is that the GST
has pushed up ordinary beer prices by be-
tween eight and nine per cent?

Senator KEMP—The promise that the
government made, the promise that the
Prime Minister made, has been kept. What
you are referring to, Senator, is the price of a
beer over the counter. That was not the base
on which the 1.9 per cent rise was calculated,
as the Senator well knows.

The PRESIDENT—I call Senator Bartlett.

Senator Brown—Madam President, I
raise a point of order. This question ordinar-
ily would be allocated to Senator Harris,
Senator Harradine or me. As you would
know, Senator Harris is away, so it normally
would be allocated to either Senator Har-
radine or me. But you have made a decision
to give it to somebody else on the basis that
that question was missed by the Democrats
last week. You will be aware that the ar-
rangement already entered into has cut by
seven the number of questions each Inde-
pendent may ask per year. This further
erodes that question base the Independents
have—that is, the Greens, Senator Harradine
and I. I do ask: if a member of the govern-
ment, the opposition or the Democrats is
away in the future and Senator Harradine or I
have missed a question, will you allocate us
that spot? Of course that will not happen. I
do not think this is fair-handed. There is not
much we can do about it, but I do register an
objection.

The PRESIDENT—I disagree, Senator,
with your interpretation. It is a matter, if you
wish, that you could ask the Procedure
Committee to look at again. They last re-
ported to the Senate on the principle of pro-
portionality I think in October 1995. I am sure that the committee would re-examine the matter if you feel there is some problem with the way questions are being allocated.

**Convention on Persistent Organic Pollutants**

**Senator BARTLETT** (2.32 p.m.)—My question is addressed to the Minister for the Environment and Heritage. Minister, will the Australian government be signing the Convention on Persistent Organic Pollutants when it opens for signature this coming May? Is it the case that Australia has been trying to weaken provisions in the convention which seek to reduce the levels of dioxin and other pollutants released into the environment? Give that Australia is a major food exporter and food safety issues have become a major concern in many countries, shouldn’t Australia be taking leadership on this issue by showing a strong commitment to clean and healthy food, free from organic pollutants?

**Senator HILL**—We are strong supporters of the CPOPs outcome, and we argued for it in the negotiations. We were pleased with the outcome of the final negotiations. There is only one substance in Australia that causes a problem, as the honourable senator will know, and that is utilised sparingly in the Northern Territory and Western Australia in relation to a particular type of termite. That will be gradually phased out.

So we would want to sign it as soon as we can. As the honourable senator knows, we need to go through a process of intergovernmental consultation before we can make that decision. But I trust that Australia will be an early signatory. I also trust that the parliament will then take up its responsibility under its treaty advisory role and that we might move to early ratification. I trust that the treaty will be a success.

**Senator BARTLETT**—Madam President, I ask a supplementary question. The minister has stated that there is only one substance that causes a problem. Is he aware of the report released now over two years ago by Greenpeace which identified a total of 67 existing facilities or sites which are known, or potential, dioxin sources or reservoirs in Australia? Given that this is a problem that has been around for such a long period of time and the serious health consequences have been well known, why is the government still at a stage where it is not prepared to sign this convention as soon as the opportunity arises?

**Senator HILL**—I have in fact answered that question. But I can say, in relation to the broader issue of air toxics, that Australian governments, led by the Commonwealth, are looking to the development of a national environment protection measure in relation to air toxics which will set a standard in relation to a number of different substances. Then, of course, we would expect the states to ensure that such limits were not exceeded and to take action to remediate any causes. So the issue of air toxics in particular is being addressed—and they include some dioxins.

In relation to dioxins generally, again the issue is being addressed by the Commonwealth and states through the ANZEC process. In particular, a national strategy for dioxin identification, monitoring and, hopefully, ultimate reduction will be looked at at the meeting at the end of June to be held in the Northern Territory. So these matters are being responsibly addressed. *(Time expired)*

**Goods and Services Tax: Prices**

**Senator CROWLEY** (2.36 p.m.)—My question is addressed to Senator Kemp, the Assistant Treasurer. Can the Assistant Treasurer confirm that such items as tea, sugar, fruit drinks, bread, noodles, vegemite, baked beans, coffee, jam, margarine and potato crisps have all risen in price by one to 14 per cent since the introduction of the GST, notwithstanding that almost all of these items are GST free? Can he also confirm that the ACCC informed consumers that the price of all these items would actually fall with the introduction of the GST? Is this what the Prime Minister meant when he said that the GST would be 'good for the economy'?

**Senator KEMP**—Let me make a number of points in response to Senator Crowley's question. There was extensive debate at the Senate estimates hearings concerning price changes. The officials from the ACCC
pointed out, quite correctly, that inflation had in fact come in lower than the inflation that was forecast in the ANTS package. So, in fact, in contrast to what Senator Crowley said, the inflationary trends have been better than those that were forecast in the ANTS package. That is the first point I make.

The second point I make is that there were a number of surveys which were conducted after the bringing in of the GST. They showed that in many areas food prices had fallen. I may be wrong on this, but I think even the Swan report price watch, that Labor Party report which is not noted for being completely objective, also showed, if I recall correctly, that prices had fallen. The short answer to Senator Crowley’s question is that there were price changes as a result of the introduction of the new tax system. There were price changes over the whole economy. Some prices rose, some prices fell, some prices remained stable, but overall the price rises were less than originally forecast in the new tax package. If my memory serves me correctly, this was broadly confirmed by the ACCC officers at the Senate estimates hearings in which these matters were extensively canvassed. Unfortunately, Senator Crowley was not present.

Senator CROWLEY—I am almost breathless with that answer, but not speechless. I ask again—

Honourable senators interjecting—

Senator CROWLEY—Now, now; resist, troops, resist! The question to the Assistant Treasurer suggested that all these prices have risen one to 14 per cent since the introduction of the GST despite the ACCC telling consumers that they would fall—so have another shot at that, Senator Kemp. Further, does the Assistant Treasurer recall that prior to the introduction of the GST the ACCC also predicted in its prices guide that the price of tampons would not rise by the full 10 per cent GST? Can he now confirm that the price of tampons has actually risen by 12 per cent? What will you tell the women of Australia?

Senator KEMP—The first point I make is that the GST is now part of Labor Party policy, so it is an astonishing question. The second point I make is that the overall effect on prices of the introduction of the GST was less than expected. Further, I am not sure where the figures are from that Senator Crowley is quoting, but I have to say that long and bitter experience has taught me never to accept at face value figures that are quoted by a Labor Party senator—particularly, regrettably, Senator Crowley.

Gambling: Internet Ban

Senator FERRIS (2.40 p.m.)—My question is to the Minister for Communications, Information Technology and the Arts, Senator Alston. Does the government remain committed to considering a permanent ban on Internet gambling upon the expiry of the current moratorium in May 2001? Is the minister aware of any unfounded accusations of conflict of interest in relation to the government’s position on Internet gambling, and is the minister aware of any real conflicts in relation to this matter?

Senator ALSTON—The government are certainly presently considering the position in relation to a permanent ban. We have made it plain that we think there are some serious social consequences that flow particularly from those who are problem gamblers, and it is therefore a matter of some serious concern to the government. We will obviously take account of submissions that are put to us, including those from the states.

I am asked whether there are any unfounded accusations. Of course we are all aware that Mr McGauran was attacked under parliamentary privilege yesterday and again today in another grubby little attack in the lunchtime debate, in case some of you missed it. Mr McGauran has fully declared his interests in The Millers Inn in both his statement to the Prime Minister and his statement to the parliament. Mr McGauran was not involved in any government decisions relating to online gambling. These decisions were taken by cabinet and Mr McGauran was not present.

Labor’s claim that the government’s decisions would benefit offline poker machine operators is rubbish. Tattersalls, the owner of the poker machines at Millers Inn, have vehemently opposed the government’s policy.
to impose a moratorium on online gambling. I have an email from them here to that effect. Mr McGauran’s role in relation to the online gambling moratorium has been restricted to announcing the government’s policy, as acting minister, and taking the relevant legislation through the House. While Mr McGauran announced the policy on my behalf, he made his interests clear to my office. The decision was taken to allow him to make the announcement because he had declared his position and he was merely announcing government policy.

Yesterday I asked whether Senator Lundy was a director of the Canberra Labor Club, which has donated more than $1 million over the last year to the ALP. Senator Lundy or her office briefed the media very sparingly that she was not. But that is all she has done. She did not tell anyone the full story, let alone come into this chamber this morning to explain the following facts. In her declaration of interests to the Senate on 13 May 1996, 4 December 1998 and 3 September 1999 she declared she was a director of the Woden tradesmen’s club, which of course has 140 poker machines. The Woden tradesmen’s club has been a regular donor to the ALP. In 1995-96 it provided $12,000 to the ALP, and in 1997-98 it provided $10,500. The donation was to the ACT branch of the ALP, presumably to help in the 1998 federal election campaign, including the re-election of Senator Lundy.

On 27 May 1999 the Senate adopted a motion that the Senate Select Committee on Information Technologies conduct an inquiry into online gambling. Senator Lundy has been a member of that committee since 25 March 1999, and a member of the committee throughout the inquiry. On 2 December and subsequently she deleted her directorship of the Woden tradesmen’s club. So between the initiation of the Senate inquiry in May 1999 and December 1999, Senator Lundy was actively involved in numerous hearings of the Senate committee’s inquiry into online gambling.

The Clerk of the Senate has informed my office that senators who have potential conflicts in relation to Senate committee matters should, at the very least, write to the committee declaring their interest. In relation to the online gambling inquiry, this was done by Senator McGauran. It was not done by Senator Lundy, nor did Senator Lundy verbally declare her potential conflict to her fellow committee members at any time during the inquiry. Compare this with Senator Harradine, who saw fit to declare that he held a TAB phone account. Senator Lundy is clearly in breach of the requirements of the Senate. She must also explain whether she was involved in any shadow ministry discussions in relation to online gambling while she was the director of the Woden Tradesmen’s Union Club. She must also come clean and tell the Senate every date at which she ceased or commenced to be a director of the Woden tradesmen’s club. In addition, Daryl Melham has been a director of the Revesby Workers Club since 1980. It has an undisclosed number of poker machines and regularly donates to the ALP. Melham was a member of the shadow ministry until his resignation. He must also come clean.

(Time expired)

Senator FERRIS—Madam President, I have a supplementary question for Senator Alston. Is Senator Alston able to give the Senate any further information about the issues of Internet gambling and poker machine costs in relation to the Labor Party?

Opposition senators interjecting—

The PRESIDENT—Order!

Senator ALSTON—At least I get more time for a breath, I suppose, Madam President. It ought to be perfectly plain from what I have outlined that the matters in relation to Senator Lundy requiring explanation involve her being a member of a Senate committee looking into this very issue. In other words, she was up to her eyeballs at all relevant times. She had a very clear and direct interest in the outcome.

Senator Robert Ray interjecting—

Senator ALSTON—She did, you see—that is the whole point. The ACT branch of the Labor Party got—

The PRESIDENT—Senator Alston, it is out of order for you to be addressing a senator across the chamber during your answer, and I direct you to address your remarks to
the chair. Senator Ray, you are being disorderly as well.

Senator ALSTON—Madam President, I thought I was speaking in the third person about Senator Lundy. The fact is that donations went from the club of which she was a director to the ALP.

Senator Lundy interjecting—

Senator ALSTON—You think it is a laughing matter, do you? Senator Lundy is a director of a club which gives money to the ALP for the purposes of achieving Senator Lundy’s re-election to the parliament. This is no academic issue. At the same time, she is on that committee at all relevant times pushing a barrow which supports—

Opposition senator interjecting—

Senator ALSTON—No, I have explained that. The fact is that Tattersall’s formal position is that it is opposed— (Time expired)

Education: Greenwich University

Senator CARR (2.48 p.m.)—My question without notice is to Senator Ellison, representing the Minister for Education, Training and Youth Affairs. Will the minister now confirm that the Gallagher committee of inquiry into Greenwich University has vindicated the concerns raised by the opposition about the failure of this organisation—

Honourable senators interjecting—

The PRESIDENT—Order! Senators will come to order.

Senator CARR—to measure up to the Australian quality standards with respect to teaching, research and financial administration? In light of the Gallagher committee’s findings, what action will the government take to protect the interests of students enrolled in this dubious entity? What is the government doing to ensure that the government of Norfolk Island takes the necessary action to remove this entity from the Australian education scene?

Senator ELLISON—Senator Carr knows full well that the government has conducted a proper inquiry into this matter, that it has responded to concerns in relation to Greenwich University and that, as a result of that inquiry, the minister made a statement in the parliament that the Greenwich University review committee had recommended that Greenwich University not be listed on the register of the Australian Qualifications Framework, the AQF.

Of course this government takes the quality assurance of our universities very seriously, and it acted appropriately in looking into this matter. But it was not going to have a witch-hunt. It was not going to engage in undue process, which was being pushed upon it by Senator Carr and others. We had serious allegations which had to be looked into properly. Greenwich University had to be given a chance to put forward its version of events and its side of the story, and that is precisely what was done. The Minister for Education, Training and Youth Affairs has made the position very clear with that statement. We have an AQF in place which is an excellent assurance to the people of Australia and internationally that the Australian universities we have are of an excellent quality. If Senator Carr has other concerns on any other matter, the government will take them up and look into them, as it has done on a whole range of issues.

Senator CARR—Madam President, I ask a supplementary question. What is the minister doing to ensure that the government of Norfolk Island takes action on this matter? Since you have said nothing about protecting the students involved in this university, perhaps you could tell us what you are doing to protect public servants? Can the minister confirm that the vice-chancellor of Greenwich University has threatened legal action against senior officers of DETYA who were involved in this inquiry into the university aimed at seizure of their personal assets, including superannuation, their houses and other property? What is the minister’s response to these threats?

Senator ELLISON—As Senator Carr knows, we are looking at this matter. We are awaiting a response to the committee of review inquiry’s report into the Norfolk Island government. The matters that he raises in relation to the Norfolk Island government are matters for that government. What I can say is that, if Senator Carr has any details in relation to any students or anybody involved in the university, he can take them up with the
minister and the department. He has done that in the past, and we have addressed them.

**Australian Tourist Commission: Funding**

Senator RIDGEWAY (2.51 p.m.)—My question is to the Minister for Industry, Science and Resources, Senator Minchin, the Minister representing the Minister for Sport and Tourism. Minister, as you would be aware, Australia is currently at a turning point in its tourism industry. Australia is basking in the afterglow of the intense international media interest that the Olympics brought, and industry forecasts indicate the potential doubling of tourism visitor numbers over the next decade. Minister, why is the government preparing the tourism industry for a withdrawal of funds to the Australian Tourist Commission when any decline in the ATC’s spending power threatens the realisation of these strong forecasts and the impressive job creation potential of a growing tourism sector?

Senator MINCHIN—I am not aware of what exactly Senator Ridgeway is talking about in relation to a reduction of funding for tourism. This government has been a great proponent of tourism. Tourism has indeed boomed under this government, as Senator Ridgeway knows. If he wants to put some particular facts and figures to me, I am happy to get a response from the relevant minister to those facts and figures. Our record and the performance of the tourism industry under our government have been remarkable. This is a real growth industry for Australia, strongly supported by our government.

Senator RIDGEWAY—Madam President, I ask a supplementary question. I thank the minister for his answer. Minister, are you aware that the tourism industry bodies are united in their lobbying efforts to achieve a significant increase in funding to the ATC’s marketing and promotion budget? Do you disagree with the ATC’s figures, which indicate that its budget has deteriorated significantly over the past five years and that, when coupled with the low value of the Australian dollar and inflation in overseas media buying costs, its buying power is actually $22 million lower than it was five years ago? Minister, why is the government not prepared to invest a reasonable amount in one of our most lucrative export industries when it promises to generate over $10 million in export income for every $1 million spent by the government?

Senator MINCHIN—I do not know of a single organisation funded by the government that does not want more money. That is a simple fact of life which all governments face. I am advised that we allocated a record $360.9 million over the four years to 2001-02 to the Australian Tourist Commission. We have delivered on the third instalment of this record funding by allocating in excess of $91 million to the ATC in the 2000-01 budget. Our record in funding tourism and the Tourist Commission is exemplary.

**Agriculture: Importation of New Zealand Apples**

Senator O’BRIEN (2.54 p.m.)—My question is to Senator Alston, representing the Minister for Agriculture, Fisheries and Forestry. Minister, isn’t it a fact that today’s announcement by the minister for agriculture to defer moves to allow New Zealand apples into Australia is just another stunt by the government to get an issue off the political agenda until after the next election? While on the subject of that particular import risk assessment, why did the minister choose to follow a simple, routine risk assessment process—which is typically followed when the analysis is technically simple and where quarantine risks are not considered to be significant—when that process was clearly not appropriate in relation to New Zealand apples? Isn’t it a fact that there was almost unanimous opposition to the approach taken by the minister from industry and government bodies but he chose to ignore that opposition?

Senator ALSTON—As Senator O’Brien would be aware, there have been a number of public submissions on this issue, and Biosecurity Australia has been undertaking an import risk analysis in relation to the importation of New Zealand apples. A number of those submissions have raised key scientific issues of concern and that is why the minister has announced that the ban will remain in place until those issues have been addressed. He certainly welcomed the announcement by the Director of Quarantine of an open public
process to assess the key issues involved in New Zealand’s application for market access for apples following the closure of objectives to the draft import risk analysis on New Zealand last week. If Senator O’Brien is saying that we should simply go off half-cocked without knowing the full nature and extent of the concerns and without properly testing the key scientific issues, that is not the way we operate.

Honourable senators interjecting—

The PRESIDENT—Order! There is an appropriate time to debate this issue and it is not during the minister’s answer.

Senator ALSTON—The government support a consultative process which will give all the key stakeholders the opportunity to have a serious input, enabling the government to come to a sensible and considered conclusion about the significance of those key issues. That does involve the presentation and examination of detailed scientific evidence. There will be a discussion paper circulated to interested parties and a number of workshops will be held to examine and clarify these issues. If the opposition wants to suggest that we should just make a decision on the run and that we should treat these submissions as somehow not matters worthy of proper and detailed examination then, again, that is not the way that we operate.

Opposition senators interjecting—

The PRESIDENT—Order! There are far too many senators interjecting.

Senator ALSTON—The whole thrust of the opposition’s approach seems to be: ‘Don’t worry about concerns expressed. Treat them as irrelevant, self-interested or somehow unjustified. Don’t bother doing your homework; just get out there and get on with it.’ We are not prepared to put Australia’s safety at risk. We are not prepared to run quarantine risks. We know the dangers that can occur in a whole raft of areas. This is an important issue that deserves to be taken seriously. If additional research is necessary then we will conduct an independent inquiry by reputable scientists with the results being made available to all stakeholders.

We very much understand that there is strong public interest in the draft import risk analysis, and the usual process will be varied to ensure a further comprehensive assessment of possible quarantine risks. The government stand by our conservative quarantine standards and we will require the import risk analysis to cover all major scientific issues thoroughly. Mr Truss will be meeting with his New Zealand counterpart later this week to discuss a range of bilateral issues, including the market access request for apples. The New Zealand government can be assured that Australia will continue to assess its application on its scientific merits. At the same time, the government expect Biosecurity Australia to address all the substantial scientific issues, regardless of how long that might take.

Senator O’BRIEN—Madam President, I ask a supplementary question. I remind the minister that the thrust of my question was that this process was fundamentally flawed from the start, not that we should go off half-cocked. Is the minister aware that the government’s total mishandling of the import risk assessment process for New Zealand apples has not only imposed enormous and unnecessary costs on the Australian apple and pear industry but also caused growers a great deal of concern and distress?

Senator ALSTON—The fundamental premise of the question is wrong. We have not totally mishandled it, and therefore the question does not require any further answer.

Women: Government Policies

Senator PAYNE (2.59 p.m.)—My question without notice is to the Minister Assisting the Prime Minister for the Status of Women, Senator Vanstone. Will the minister inform the Senate of the Howard government’s achievements for women, including better pay and employment, access to child care and education, and the recognition of women?

Senator VANSTONE—I thank Senator Payne for the question, a quite appropriate one the day before International Women’s Day. When we first came to power there were plenty of people who were prepared to predict, especially from the Labor Party and some from the Democrats, that our government would be not friendly to women and
that it would be a bad thing. Even the Australian newspaper was prepared to say in March 1997 that we would emasculate policies and that would put international efforts to give women a better deal behind. I am pleased to say that Lisa Paul has been appointed as deputy secretary of my department, which will mean for the first time we have 50 per cent female and 50 per cent male in the SES of the FACS department—something never achieved, as I understand it, under the Labor Party.

Senator Stott Despoja took the opportunity to jump in and say that our policies were generally anti women. Carmen Lawrence said that women would go backwards under us—

The PRESIDENT—Dr Lawrence.

Senator VANSTONE—Sorry, Dr Lawrence—in areas such as child care. So I thought it would be worth looking at the truth of the matter and examining the facts. In fact, there are now over four million women in the paid work force, which is up 11.8 per cent from 1996 when we came to power. Labour force participation is up and female unemployment is down. With the participation rate up and the unemployment rate down, that is a tremendous achievement.

Looking at women’s pay, real wages under this government have gone up. It is the people on the other side of the chamber who had a Prime Minister who boasted that real wages had gone down under them. We make an alternative boast that under us real wages have gone up. Women have broken the 80c in the dollar barrier and are now up to 84c, which is a good thing. In the area of child care, contrary to the claims that we would be bad for child care, child-care costs have gone down—confirmed by the Bureau of Statistics—and the number of child-care places has gone up under this government. In terms of women in leadership, we have over 30 per cent of women who hold Commonwealth board positions—in fact, it is 32.8 per cent—and we are pleased to see the private sector following suit.

Turning to education, I have particular memories of this area where people said that our policies—

Senator Chris Evans interjecting—

Senator VANSTONE—Before you laugh, Senator Evans, it was your people that were saying that our policies would be bad for women in education and that it would be bad for women who wanted to do postgraduate studies.

Opposition senators interjecting—

Senator VANSTONE—So there is the prediction Labor were prepared to make. They said this government would be bad for women in education and bad for women in postgraduate studies.

The PRESIDENT—Order! There is shouting across the chamber which makes it hard to hear the answer, and it is disorderly. Senator Faulkner and Senator Alston, I call you to order as well.

Senator VANSTONE—I thought it was worth having a look at exactly what has happened to women in education. Fifty-eight per cent of people doing bachelor studies are women but, importantly, in 1996 when we came to power 43.5 per cent of postgraduate students were women. It was 43.5 per cent under Labor. What do you think it is under us? It is 53 per cent. So it is quite the opposite: rather than being bad for women in education, we have increased women’s participation in education. They are taking a much greater part than they were before.

In summary, there are more women available for jobs, there are more women in jobs, the participation rate is up, the unemployment rate is down, we have more women on boards, and we have more women in postgraduate education. It turns out that Senator Stott Despoja, Dr Lawrence, Anne Summers and the rest of the pack that were prepared to predict we would be not friendly to women were completely wrong. This is the most female friendly government Australia has ever seen.

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

ANSWERS TO QUESTIONS WITHOUT NOTICE

Genetically Modified Crops: Tasmania

Senator VANSTONE (South Australia—
Minister for Family and Community Serv-
The answer read as follows—

Senator BROWN—My question is directed to Senator Vanstone, representing the Minister for Health and Aged Care. I will put in writing the important question I had on the Swift Parrot and Mount Nelson to the Minister for the Environment and Heritage because I want to ask a question of the Minister representing the Minister for Health and Aged Care about the emerging crisis in genetic engineering in Tasmania. Is it true that the companies involved in the genetically engineered canola crops actually paid beekeepers $35 a hive to put their bees in the centre of these crops? Does that mean that the Gene Technology Regulator’s assertion that all is safe because there is a 100-metre buffer zone around these crops is patently untrue? This crisis demands immediate action by the Minister for Health. Will he go to Tasmania? Will he set up an independent investigator? Will he be look at criminal charges, if appropriate, against those who have perpetrated this disaster on Tasmania?

Senator BROWN—Madam President, I ask a supplementary question. I spoke to the Minister’s office today. I ask the Minister representing the Minister for Health why Minister Wooldridge’s office knew nothing about the placement of hundreds of beehives in these genetically engineered crops? Why does the Office of the Gene Technology Regulator know nothing about the placement and payment for the pollination of these crops by bees? Is the Minister aware that bees fly eight to 10 kilometres in any given day in any given direction, which makes the 100 metre buffer zone a farce? Will the Minister acquaint himself with the facts in this situation and appoint an independent arbiter? Patently, the Gene Technology Regulator does not know what is going on the ground and, by using words like ‘disappointing’, does not adequately care about the damage this could cause to Tasmania and its rural croplands.

Senator VANSTONE—The Minister for Health and Aged Care has provided the following answers to the honourable senator’s questions:

As Senator Brown knows, risk assessment of Genetically Modified (GM) crop trials is undertaken by the Genetic Manipulation Advisory Committee (GMAC).

Having assessed the risks in relation to GM canola trials, GMAC has advised the Government and the relevant companies that conditions appropriate for managing GM canola trials include isolation from non-GM canola by a minimum of 400 metres during their growth, and in most instances in Tasmanian trials, the isolation zone is 1 kilometre.

In relation to the specific issue of bees, GMAC advise that, due to the foraging patterns of bees within a flowering crop, such as canola, the risk of bees carrying pollen beyond the site is not significant. GMAC has further advised that the risk of pollen being carried beyond the trial site by bees from hives located within the site is less than that of bees from hives outside the trial site. I would have thought that Senator Brown would find the presence of introduced bees within the trial sites a comfort given the potential for further reducing risk.

According to the expert advice provided by GMAC on the conduct of GM canola trials in Tasmania, Senator Brown is completely overstating the current situation by referring to it as a crisis. While the Government is very disappointed that there has been less than 100 percent compliance with recommendations made by GMAC for the conduct of these trials, GMAC advises that the risks to the environment arising from the non-compliance are negligible.

Further, GMAC advises that even the negligible risks can be managed by the remedial actions put into place by the Interim Office of the Gene Technology Regulator (IOGTR), on the basis of GMAC advice. I note that the IOGTR, quite properly, consulted with all States and Territories about the remedial actions to be taken. States and Territories, including Tasmania, have endorsed the remedial action as appropriate and comprehensive. The people of Tasmania are not well served by assertions, unsupported by facts, of a “crisis”. This matter will continue to be handled by GMAC and the Interim Office of the Gene Technology Regulator, in consultation with States and Territories.

In relation to whether companies involved in the genetically engineered canola crops actually paid beekeepers $35 a hive to put their bees in the centre of these crops, this is clearly a question to be put to individual companies.

As Senator Brown is aware, the Gene Technology Act 2000 will take effect from 21 June 2001. Until that time there is no capacity to pursue criminal charges under Commonwealth legislation in relation to this matter. The Tasmanian Government has, however, the opportunity to take legal action against the companies under State
legislation, if the Tasmanian Government believes that there is a case to answer.

**Family Tax Benefit: Repayments**

Senator VANSTONE (South Australia—Minister for Family and Community Services and Minister Assisting the Prime Minister for the Status of Women)  (3.05 p.m.)—On 8 February I was asked a question by Senator Collins in relation to Centrelink, generally speaking. I seek leave to incorporate the answer in *Hansard*.

Leave granted.

_The answer read as follows—_

Senator Collins asked the Minister for Family and Community Services on 8 February 2000:

Can the Minister inform the Senate how many thousands of families receiving Parenting Payment (partnered) have been sent letters demanding repayment of their Family Tax Benefit, Part B, thanks to another payment botch-up by Centrelink? Isn’t it a fact that the payment error has been undetected since the introduction of the GST late last year and the debts, some in excess of $1,000 have racked up through no fault of the families concerned?

Can the Minister also inform the Senate, precisely how many thousands of Newstart recipients were left stranded over the Australia Day long weekend without any money, after Centrelink failed to pay their benefits on time?

The answer to Senator Collins’ question is as follows:

**Family Tax Benefit, Part B**

Centrelink has not sent letters to families receiving Parenting Payment (partnered) demanding repayment of Family Tax Benefit, Part B.

During the period March to May 2000, all customers were asked to estimate their family income for the 2000-01 financial year. The instructional material sent to customers clearly stated that Parenting Payment is a taxable payment that had to be included in the estimate of family income. This estimate was used to calculate their Family Tax Benefit entitlement from 1 July.

As part of its commitment to customer service, Centrelink has put in place a number of strategies to help families accurately estimate their income. As part of this, Centrelink has identified customers whose estimates for Family Tax Benefit appear to be too low and has written to them to advise that this is the case and suggesting that they may wish to revise their estimates.

This is not a Centrelink error. Centrelink is inviting customers who have not estimated their income correctly to revise their estimate to try to minimise any debts which they may run up.

**Payments on Australia Day**

Centrelink has made all payments in accordance with long-standing policy and procedures. Job seeker payments are not paid in advance when there is a single day public holiday in order to reduce the risk of overpayments.

Two groups were affected:

1. Job seekers who were due to lodge their forms on Australia Day were asked to lodge them on Monday 29 January instead. They received their payments on Tuesday 30 January.
2. 81,718 job seekers who lodged their forms on the Thursday before Australia Day received payment on Monday 29 January, the first working day after they lodged their forms. This is because the financial sector observed the Australia Day public holiday and did not process the payments lodged by Centrelink.

Centrelink is considering a range of options to ensure that this does not happen again, in particular where a single public holiday occurs on a Friday. The next Friday national public holiday will occur on ANZAC Day 2003.

**Health: Radiation from Powerlines**

Senator VANSTONE (South Australia—Minister for Family and Community Services and Minister Assisting the Prime Minister for the Status of Women)  (3.05 p.m.)—On 6 March I was asked a question about powerlines and cancer from Senator Allison.

I seek leave to incorporate the answer in *Hansard*.

Leave granted.

_The answer read as follows—_

Senator ALLISON—My question is to the Minister representing the Minister for Health and Aged Care. Is the minister aware of the re-analysis of existing research by respected scientist Sir Richard Doll which links power lines and childhood and adult leukaemia? Will the government hold discussions with the states and what can be done to reduce exposure to radiation of people living near high voltage power lines?

Senator ALLISON—Madam President, I ask a supplementary question. Perhaps the minister would also answer: what implications does this research have for public exposure standards in Australia? Does the minister think it is reason-
able that Australians living near power lines have to wait until there is absolute proof of cause and effect before they can get information about the increased risk of cancer in their children?

Senator VANSTONE—The Minister for Health and Aged Care has provided the following answers to the honourable senator's questions:

The Minister is aware of the re-analysis of existing research by Sir Richard Doll.

The Advisory Group of Non Ionising Radiation to the National radiological Protection Board has now issued its Report on an assessment of all the evidence bearing on this issue.

The major conclusions of the Report are that laboratory experiments have provided no good evidence that power line frequencies cause cancer. Human epidemiological studies do not suggest that this electromagnetic radiation causes cancer in general. There is, however, some epidemiological evidence to suggest that prolonged exposure to higher levels of power frequency magnetic fields is associated with a small risk of leukaemia in children.

The Report goes on to say that the evidence is "not strong enough to justify a firm conclusion that such fields cause leukaemia in children" though this possibility remains.

It is also important to note that the levels of exposure where the effect is seen in the epidemiological studies are quite high. The Report notes that such levels are seldom encountered by the general public in the UK. The National Radiological Protection Board estimates that, if the effect is a real one, that it would cause less than 1 percent of the cases of childhood leukaemia in the UK each year.

The full report is being examined by the Australian Radiation Protection and Nuclear Safety Agency. If further examination is required, the issue will be referred to the Radiation Health and Safety Advisory Council.

Aged Care: Northern Territory

Senator VANSTONE (South Australia—Minister for Family and Community Services and Minister Assisting the Prime Minister for the Status of Women) (3.05 p.m.)—On 8 February I was asked a question by Senator Crossin in relation to the allocation of aged care beds in the Territory. I seek leave to incorporate the answer in Hansard.

Leave granted.

The answer read as follows—

SENATOR CROSSIN—My question is to Senator Vanstone, representing the minister for Aged Care. Can the minister confirm that the entire allocation of aged care beds to the Northern Territory in 1999 went to Doug Moran? Is the minister aware of reports that these 66 beds announced in December 1999 will not be ready until mid-2002? Given that providers only have two years to get the beds operational or have them withdrawn, had the government approved an extension to Doug Moran for these beds beyond this year, and if so, on what grounds? In light of these problems, why then did the government hand out even more aged care beds to Doug Moran in the Northern Territory in January this year? Will these be built on time?

SENATOR CROSSIN—Minister, this issue has been in the media for the last few weeks, but I am not surprised, given today's performance, that you did not have the answer. Talking about Drug Moran is not personalising the issue; he is the person who in fact won the contract. Minister, my supplementary question to you is: why should Northern Territorians have to wait more than 2½ years for aged care beds that were allocated in 1999? That is the substance of the question. Is this why people are now forced to drive from Darwin to Perth to find a bed for their mother, as recently occurred?

SENATOR VANSTONE—The Minister for Aged Care has provided the following answers to the honourable senator's questions in accordance with information supplied to her:

a) In the 1999 Aged Care Approvals Round, 29 residential high care places and 37 residential low care places were released for allocation in the Northern Territory. The Moran Health Care Group was the only applicant for residential places in the Northern Territory. After due consideration of the requirements of the Aged Care Act 1997 and the Allocation Principles 1997, the delegate of the Secretary of the Department of Health and Aged Care allocated 29 residential high care places and 37 residential low care places to the Moran Health Care Group for a service to be built at Myilly Point, Darwin.

b) Yes.

c) No.

d) See c). In assessing applications, the Department takes into account a range of matters. These are set out in section 14 of the Aged Care Act 1997 and the division 1 of part 5 of the Allocation Principles 1997.
Wednesday, 7 March 2001

If the 2000 allocation is not taken up by the Moran Group, then the Department will explore other options for allocating the places.

See c).

No.

Legionella Bacteria: Department of Health and Aged Care

Senator VANSTONE (South Australia—Minister for Family and Community Services and Minister Assisting the Prime Minister for the Status of Women) (3.06 p.m.)—On 7 February I was asked a question by Senator Lundy in relation to legionella bacteria in the cooling towers of the Alexander Building at Woden. I seek leave to incorporate the answer in Hansard.

Leave granted.

The answer read as follows—

Senator LUNDY—My question is to Senator Vanstone, representing the Minister for Health and Aged Care. Can the minister inform the Senate of the circumstances surrounding the discovery of high levels of legionella bacteria in the cooling towers of the Commonwealth Department of Health and Aged Care offices in Woden, ACT? Can the minister confirm that, in addition to original high levels in December, high levels of legionella were again found just yesterday, despite building management assurances that full cleaning of the towers had taken place? Is the minister aware that the department proposes replacing the cooling towers entirely? Upon receipt of notification of the 6 February test result, the Department sought immediate advice about options to shut the tower down as soon as possible. The tower was shut down on Wednesday, 7 February, and auxiliary air-conditioning units installed. Replacement towers have been ordered. The Alexander Building was one of a number of buildings sold to the private sector in 1998. Upon sale, ownership of the towers in question was retained by the Department as the towers formed part of the cooling system for the Department’s computer facilities. The Department’s maintenance program adheres strictly to the ACT Code of Practice for testing and cleaning of cooling towers. Stringent measures have been undertaken to avoid another failure in communication so that staff can be advised more promptly. This includes an arrangement where Occupational Health and Safety staff now attend building workplace debriefings. The Occupational Health and Safety staff will also be advised immediately of any reading arising from routine testing procedures.

Senator LUNDY—I do have a supplementary for the Minister. Is the Minister aware that the Acting Secretary of the Department of Health and Aged Care sent a message to all staff on 31 January stating ‘the incident was not reported earlier because we as tenants were not informed of the problem when it first occurred’? Can the Minister now confirm that, contrary to this statement, the Department of Health and Aged Care received a fax on 2 January 2001 from their building maintenance firm advising the Department of the high level of legionella bacteria in the cooling towers? Why then were the staff not advised until 31 January that the cooling towers had levels of legionella bacteria above the Australian limits? Why were 29 days allowed to pass before staff were urged to seek immediate medical attention if they experienced any symptoms of the potentially fatal legionsnaire’s disease?

Senator VANSTONE—The Minister for Health and Aged Care has provided the following answer to the honourable senator’s question:
My Department has advised me as follows:
The Department did receive a fax on 2 January this year, providing information on the test result of 29 December 2000. The fax was a copy of correspondence between the facilities manager and the building owner.

This fax indicated immediate corrective maintenance action had been taken. However, it was sent to the wrong area of the Department. It was forwarded to the Department’s Occupational Health and Safety Section on 30 January. The earlier advice to staff that the Department did not know till 30 January was then corrected in a further note to all staff.

Once it was notified of this information, the Department’s Health Management Unit immediately issued advice to Woden-based staff and corrected the earlier statement.

The Department and Comcare are both reviewing the situation.

Pharmaceutical Benefits Advisory Committee

Senator VANSTONE (South Australia—Minister for Family and Community Services and Minister Assisting the Prime Minister for the Status of Women) (3.06 p.m.)—On 7 February I was asked a question from Senator Schacht about the Pharmaceutical Benefits Advisory Committee. I seek leave to incorporate the answer in Hansard.

Leave granted.

The answer read as follows—

SENATOR SCHACHT—My supplementary question to the Minister is: can the minister confirm that the Tambling review recommended that proper transitional arrangements between the old and the new committee be established to ensure continuity of expertise in this highly technical field? Why then, are there only two previous PBAC members on the new committee, each having served less than 12 months, making them too inexperienced to provide continuity between the old and new committees? Is it because the other members refused to serve on a committee with an industry lobbyist?

SENATOR VANSTONE—The Minister for Health and Aged Care has provided the following answer to the honourable senator’s question:

The Tambling Review recommendation for action in relation to membership of the Pharmaceutical Benefits Advisory Committee (PBAC) was that:

Nominations for membership of the PBAC should be sought from a broader scope of organisations than currently and the National Health Act should be amended accordingly. The present system of appointing up to 3 general practitioners, at least one practising community pharmacy and a consumer representative, should be retained. A health economist should be appointed on the Committee. As an interim measure, until the necessary amendments are made to the National Health Act, appointments and reappointments to the PBAC should be for 1 year only, with an option for a further year.

This recommendation does not touch on any arrangements to pertain after legislative amendments were passed.

The decision of some members of the former committee to accept or not to accept appointment to the new committee is a matter for those individuals.

Pharmaceutical Benefits: Celebrex

Senator VANSTONE (South Australia—Minister for Family and Community Services and Minister Assisting the Prime Minister for the Status of Women) (3.06 p.m.)—On 7 February I was asked a question from Senator Crowley about pricing agreement for PBS subsidy of Celebrex. I seek leave to incorporate the answer in Hansard.

Leave granted.

The answer read as follows—

SENATOR CROWLEY—My question is to Minister Vanstone, representing the Minister for Health and Aged Care. Why did the Howard government ignore the pricing conditions of $1 a day with a price volume agreement recommended by the Pharmaceutical Benefits Advisory Committee for the arthritis drug Celebrex? Why instead did the government set the price at $1.20 a day with no cap on the number of scripts issued at the higher price? Is this the first time that the pricing authority has not agreed with the PBAC price recommendations? Is it also the first time that the Minister for Health and Aged Care has approved a drug for listing on the PBS at a higher price and with less stringent conditions than those recommended by the PBAC?

SENATOR VANSTONE—The Minister for Health and Aged Care has provided the following answers to the honourable senator’s questions:

1. The role of the committees in the pricing and listing process have been described in answer to the Question Without Notice of 7 February from Senator McLucas. The Pharmaceutical Benefits Pricing Authority and the Depart-
The Minister for Health and Aged Care has provided the following answers to the Honourable Senator’s questions:

1. No. This is not accurate. The Minister has advised that the Pharmaceutical Benefits Pricing Authority (PBPA), when recommending prices for new items to be listed on the PBS, does take into account advice from the PBAC. The PBAC advice on clinical effectiveness and cost-effectiveness is one of nine factors that the PBPA considers and these factors are stated in the PBPA Annual Report. This issue was also clarified in a letter from Mr Graham Glenn, Chairman of the PBPA, that the Minister tabled in Parliament on 8 February, which corrected various inaccurate assertions by the Opposition.

2. Yes.

3. Yes.

4. PBAC advice was not ignored. It was taken into account by the PBPA, the Department and the Government. Price volume agreements are part of negotiations between the Government and the drug sponsor and are of their nature, commercially sensitive. Price volume agreements are based on the fact that price adjustments will be made when certain triggers are reached and the details are not made available to the public before these triggers are reached. The Minister cannot, therefore, comment on whether or not a price volume agreement was part of the Government’s decision on Celebrex.

Economy: Growth

Senator COOK (Western Australia—Deputy Leader of the Opposition in the Senate) (3.06 p.m.)—I move:

That the Senate take note of the answer given by the Assistant Treasurer (Senator Kemp) to questions without notice asked by various senators today relating to the economy.

At 11.30 this morning the Australian Bureau of Statistics presented the national accounts for Australia for the December quarter. The significant feature of the national accounts for the December quarter is that the Australian economy contracted, went backwards, by 0.6 per cent. As a consequence, the pretence by the Howard government of being a government of good economic management is now in tatters. The wrecking ball of the GST is running through the economy. We are now contracting. If in the March quarter we contract further, Australia will be in recession.

‘Teetering on the brink of recession’ is what the newspapers say now and, if there is a contraction in the second successive quarter, we will actually be in recession.

Mr Howard knows a lot about recessions. In the last year he was Treasurer, economic growth was zero for the first quarter, 1.8 per cent negative for the second quarter, 0.4 per cent negative for the third quarter and 1.3 per
negative for the fourth quarter—three quarters of negative growth when Mr Howard was Treasurer. Australia was then in recession. Now, Mr Howard is the Prime Minister and this first quarter shows negative growth for Australia. It is the first time in the last 10 years of the Australian economy that negative economic growth for a quarter has been recorded. The credentials of good economic management that this government waves around are no longer true—they were never true—and now the lie is put to the argument of the Howard government that they were true.

Let us go to the point of the question to the Assistant Treasurer. While Australia was racking up a negative figure in economic growth—while the Australian economy was contracting—what did this government tell Australia? The government brought out the midyear economic review in November and told Australia that it was revising upwards the budget forecast on economic growth for the financial year from 3.75 per cent to four per cent. The government did this at the very time it told us that the economy was going to get stronger. The statistics released at 11.30 this morning by the Bureau of Statistics show it was getting weaker and it was turning negative.

The question that has not been answered is: what went so grievously wrong with the economic forecast that that outcome occurred? What went so grievously wrong was that the GST began to wreak its destruction on the Australian economy: consumption contracted, profit margins fell, business confidence was lost, investment went out of the economy, our exports went down, retail demand fell and the housing sector in Australia went out backwards. Them's the facts!

Senator Watson interjecting—

The DEPUTY PRESIDENT—Senator Watson, if you wish to speak, put your name on the speakers list.

Senator COOK—The only defence the government makes today is that, earlier this morning, the Governor of the Reserve Bank of Australia reduced interest rates by 0.25 per cent. That is not something to boast about; that is not good economic management. The reason why the Governor of the Reserve Bank made that decision is that the economy is slack: it is negative, it is too slow and it needs to be stimulated. The interest rate reduction was a stimulatory approach. It is not a reflection of good economic management; it is a reflection of bad economic management. Mr Howard, as Treasurer in the Fraser government, brought us four quarters of negative economic growth. Mr Howard, now as Prime Minister, has brought us in the last year of his government the first negative quarter of economic growth. (Time expired)

Senator COONAN (New South Wales) (3.11 p.m.)—What an extraordinary performance today by the opposition. It is an unedifying attempt, if ever I have seen one, to suggest that the first negative quarter of growth in a decade cannot be turned around by one positive quarter.

Senator Sherry—The GST was going to save us from all this.

Senator COONAN—This is not an occasion for gnashing of teeth and doom and gloom. Before Senator Cook gets too excited about it, let us look at the fact that, while consumption has gone off a bit, the nation's economic prospects show very positive indications. It is not only those on the government side who say that. John Symond, from Aussie Home Loans, said about the easing of interest rates:

There is no doubt that the economy is slowing and I expect the interest rate cuts should stimulate activity in the housing market, making home loan affordability the best for homebuyers over the last 30 years.

The decline in construction is only temporary. We all know that the pull forward of demand is only temporary. It was the same case in New Zealand. It is a recognised characteristic of the change to a GST, and it is later corrected. Obviously there will be a huge stimulus to the housing market with the easing of interest rates. John Symond, from Aussie Home Loans, said so. That is proof of that.

There is no doubt that the economic slow down will increase demand for mortgage loan affordability and the best for homebuyers over the last 30 years.

The decline in construction is only temporary. We all know that the pull forward of demand is only temporary. It was the same case in New Zealand. It is a recognised characteristic of the change to a GST, and it is later corrected. Obviously there will be a huge stimulus to the housing market with the easing of interest rates. John Symond, from Aussie Home Loans, said so. That is proof of that.

It is a far cry from Labor's record on interest rates during the Keating 'recession we had to have'. It defies belief that the Labor opposition can sit there and suggest it has a good record on interest rates. When interest
rates under Labor peaked, bill rates were 18 per cent or 19 per cent. With Labor’s new
found interest in rural and regional Australia, what were farmers supposed to do with bill
rates at 18 per cent or 19 per cent?

The Treasurer has acknowledged that the
one-off effects of the move to the new tax
system and the Olympics washing through
the accounts in December had an effect, but
the opposition failed to predict this. If I recall
rightly, the opposition spent most of last year
saying that the tax package would overheat
the economy—that the $6 billion tax cuts
were stimulatory and overheating. Does any-
one remember Senator Cook saying that?

Senator Conroy—Yes.

Senator COONAN—You did say that,
Senator Conroy, Now the opposition says
that the GST is responsible for reducing
growth. It cannot be both. You failed to pre-
dict it. You said that the economy would
overheat. Clearly the tax cuts that you were
so critical of—that you voted against for or-
dinary Australians—were timely and impor-
tant to encourage the growth in consumption.

Today’s retail trade figures for January
show sales are up 0.9 per cent over the
month and 7.2 per cent over the year, which
clearly shows that the abolition of Labor’s
wholesale sales tax has helped minimise the
impact of the new tax system on inflation. As
a result, the CPI growth has been less than
expected. The impact of the new tax system
on the CPI growth is now expected to be 2.5
per cent compared with the budget time es-
imate of 2.75 per cent. It will be interesting
to hear what Senator Conroy says about that.
The GST takes the tax burden from export-
ers, and we all know that exports are doing
much better. This is partly due to that burden
being reduced, which makes them more
competitive on world markets.

Labor had 13 budgets, five election ma-
jorities, three summits, a series of economic
strategies and 4,638 days in government but
still were only capable of promised patch-
work reforms to the deficit they created, to-
gether with high unemployment, a million
people thrown out of work and a shambolic
tax system with no systematic attempt to
address anything that would deliver real
benefits to the people of Australia.

Senator CONROY (Victoria) (3.15
p.m.)—The chickens have come home to
roost today. This is a government that has
had its head in the sand about the GST. This
is a government that lied to and misled the
Australian public about the impact of the
GST and its tax reform package. This is a
government that called an election three
weeks after it released its tax package to spe-
cifically avoid detailed scrutiny of what that
tax package was going to do. It brought out
the Treasury calculations and it wheeled out
the Prime Minister’s staffer’s husband to
verify its economic facts. This was a dodgy
package built on dodgy assumptions, and
now it has come home to roost. What hap-
pened two or three weeks ago? The Reserve
Bank actually blew the whistle.

Senator Ian Campbell interjecting—

Senator CONROY—Senator Ian Camp-
bell, I know you have to sit next to Senator
Abetz, and you sit there and look at him and
say, ‘Oh, my God, he is a minister and I am
never going to be one,’ and that must hurt.
The Reserve Bank blew the whistle when
they said the GST was slowing the economy.
What I am really interested in is that for the
last month or so Treasury have played a bit
of a game over interest rates. The Treasury
have been leaking that Ted Evans was op-
posed to Macfarlane on the Reserve Bank
board. Ted Evans kept telling Macfarlane last
year, ‘Don’t put up those interest rates.’
What did Ted Evans, the Secretary to Treas-
ury, know that he apparently did not tell the
government? It is clear now why Mr Ted
Evans opposed what the Reserve Bank Gov-
ernor wanted to do: he knew this was an
of}
The economy was falling off a cliff! This mob said that unemployment was going to go below fives. We have lost 87,000 jobs since Mr Costello said that unemployment was going to go down below the fives. Exports are on the verge of collapse. Japan is in recession.

Senator Coonan—You had a million people out of work.

Senator Ian Campbell—You had a million people out of work, you hypocrite!

The DEPUTY PRESIDENT—Order! The noise on my right is too high. Please come to order.

Senator CONROY—Senator McGauran, I would not want to pass without saying this because I will not get a chance to speak after you.

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

Senator CONROY—These are the facts about the world economic slowdown that you are scribbling notes about. Export revenue in the December quarter was up a phenomenal 25 per cent from a year earlier, even if the volume rose only modestly. To come in here and argue that it is the world economy that is dragging Australia down, how on earth do you explain the fact that the only thing that has us in positive growth is our export markets? In actual fact, the only thing stopping this country being in a fully-fledged recession right now is the fact that the world economy has dragged us through. Senator McGauran, you are going to stand up next and try to argue that it is all the world’s fault; it is nothing to do with this government. This is like a Basil Fawlty scene: just don’t mention the war—don’t mention the GST. What did the Treasurer say when he stood up in your caucus yesterday? ‘Look, guys, I’ve got something to tell you: honey, I shrunk the economy.’ That is the truth. That is what he has done to you.

Senator Faulkner—That’s the grab.

Senator CONROY—It was borrowed. You guys wanted to give small business $200 to help them with the GST. No wonder the polls and Gary Morgan say you are finished. No wonder Newspoll say you are finished. You treated small business with contempt. Ray Regan appeared before the GST committee and he said that the truth of this GST you are putting forward is that it will cost small business $7,000 just to implement it and then there are the ongoing costs. And what did you give them? $200. No wonder small business have a cash flow crisis! I have this warning for you: if you think the BAS form has been fixed, that is nothing compared to what is going to happen to you in the next quarter, as the bankruptcies start and the cash flow crisis really hits small business. If you think they have been screaming up to now, you have seen nothing yet until you see what is coming in the next quarter.

Senator LIGHTFOOT (Western Australia) (3.20 p.m.)—I do not think we could take seriously the contributions made by Senator Cook or Senator Conroy. But one thing I learned today is the sorts of films Senator Conroy watches. Those films that he watches are actually cheaper, not dearer, as a result of the GST. In Labor’s pathetic confusion, they forgot to mention that taxes are actually lower. The new tax system is delivering to business, particularly small business, a lower tax regime. In contrast to the high taxation policies of the previous government, we are actually lowering business taxation in two steps—from 36 per cent down to 30 per cent. We are lowering capital gains tax—which Labor put up to 50 per cent—to 25 per cent. Income tax is lower for everyone in Australia.

The Labor Party, from what little we know about their policies, are going to roll back the GST because it does not affect the national government: the GST is for the states. They are going to roll back the GST, yet they have promised to give 6.5 per cent of the GST collected by the federal government in its entirety from the states back to local government. So you will have a government that is going to roll back tax but give out more—give out more to R&D; give out more to tertiary education; give out more to defence, if we can believe their shadow spokesman on defence; and give out more to Aborigines, if we can believe their shadow spokesman on Aboriginal affairs. But at the same time they are going to roll back the GST. What does this mean? Roll-back means a roll-up in personal income tax—up it goes. They are big
spenders; do not let the Labor Party near the till. Company tax will go up again from the 30 per cent that we so assiduously brought it down to. Capital gains tax will go up again from the 25 per cent that we brought it down to from 50 per cent, remembering that there was no capital gains tax under the Liberal Party prior to that. Personal income tax will go up for all those people on wages.

If a Labor administration does roll back the GST, what is going to happen? Are we going to go back to the old wholesale sales tax system again? Are we going to retrogress to that, to when the wage earners of Australia, PAYE taxpayers, were paying an inordinate percentage of the whole tax take? How silly can you get? How silly do those on the other side believe Australians are that they would want to return to those devastating times when no-one could tell you what the wholesale sales tax was and what percentage it was on what goods? At least you know today what is happening with the GST. The GST is responsible for a whole regime of lower taxes in Australia. It is responsible for lowering on-farm costs of 24c a litre for diesel, and diesel has gone down by 42c a litre for rail freight.

What about the other areas that the Labor Party are criticising the government for? Senator Cook misled the people of Australia, particularly the people in his state of Western Australia, by saying that we were in negative growth. Let me to tell you something about that: household consumption grew by 0.5 per cent in the December quarter—that is hardly negative growth. The medium-term outlook for business investment remains positive—that cannot be expressed as something negative. After the Olympics spike, of course there was going to be some movement downwards. The national accounts figures confirm that inflationary pressures remain very low. Interest rates are low; housing interest rates are almost historically low. Senator Cook criticised the government as if the government had made the decision to drop the wholesale interest rate in Australia by 0.25 per cent. I suppose they also criticised the government when the central bank dropped the rate by 0.5 per cent last month. What do you want? What do you want to stimulate an economy? On the one hand, you did not give us any credit when the growth in our economy followed the American boom—you said that that was due to the American boom. On the other hand, you are saying that it is our fault that the economy is now slowing even though the American economy has slowed. (Time expired)

**Senator SHERRY (Tasmania) (3.26 p.m.)—**If we look at the front page of today’s national accounts figures that have been issued for the December quarter, it clearly indicates—

"Senator Lightfoot interjecting—"

**Senator SHERRY—**I have news for you, Senator Lightfoot, after that waffling and irrelevant contribution.

**The DEPUTY PRESIDENT—**Address the chair, please, Senator Sherry.

**Senator SHERRY—**The front page clearly indicates that the Australian economy, the gross domestic product, the total national cake has shrunk, has contracted and is now smaller by minus 0.6 per cent. Welcome Senator Lightfoot and the Senate to the new dawn of the GST.

**Senator Lightfoot**—Tell the chamber about the 2.1 per cent growth.

**The DEPUTY PRESIDENT**—Order! Senator Lightfoot, you have given your contribution.

**Senator SHERRY—**Why has the economy shrunk by minus 0.6 per cent? It is the GST. The GST has hammered the Australian economy in a number of important areas. If we look at the Australian economy in respect of construction, we see that the Australian economy went backwards by minus 22.9 per cent—almost a quarter of the construction industry in this country collapsed during the last quarter. Senator McGauran may make a contribution after I have finished speaking. As a member of the so-called National Party, he should take particular note of the fact that the economy in the agriculture, forestry and fishing sector in the last quarter contracted by minus six per cent. So much for the GST looking after the farmers of this country! The
GST has slugged the farmers and residents of rural and regional Australia. These are the figures that are accepted by economists as the true judgment of the Australian economy, and it is not a very pretty picture. They come on top of the figures earlier this week that showed that the national debt—

Senator Ian Campbell—You’re going to close down logging, you hypocrite!

Senator SHERRY—Senator Campbell used to boast about the debt truck when we were in government. When we were in government the national debt was $147 billion; it reached $300 billion earlier this week. Where is the national debt truck now? The current Treasurer, Mr Costello, always used to talk about the national debt, the household debt and the per capita debt. When the coalition were in opposition, national debt was about $10,000 for every man, woman and child. What is it now? It is almost $16,000 for every man, woman and child. Let me remind the Senate what was said in the GST package in the run-up to the election. Let us look at the ANTS package—the Liberal Party-National Party solution to the Australian economy. It says on page 14 that the ANTS document:

... is a comprehensive plan for a new tax system outlined in this document, addressing the key remaining areas of microeconomic reform necessary to gear-up our national economy for the challenges of a new era.

We have seen the gear-up; it has been geared down by a negative 0.06 per cent The ANTS package—the Liberal Party-National Party propaganda in support of the GST—prior to the election said on page 7:

A more competitive business tax system with fewer distortions would result in the Australian investment dollar going further and in reducing Australian reliance on overseas savings.

What has happened to investment? Business investment has declined by 10.8 per cent. Investment in dwellings has declined by 23.5 per cent. So much for that commitment. What has happened to national savings, Senator Kemp? Look at today’s national expenditure. National savings, seasonally adjusted, have declined from 4.6 per cent to 2.6 per cent. If you do not think that is serious, Senator Kemp, you do not understand anything about economics.

Senator Ian Campbell—Why don’t you address your remarks through the chair, you loop!

Senator SHERRY—The only loopy thing is the GST and the sledgehammer blow it has delivered to the economy. We have the evidence today in the national accounts. This is proof of what the GST has done to the economy, and you had the gall to spend over $100 million of taxpayers’ money on a propaganda campaign to tell us that the GST would be good for the economy, Senator Kemp. You went around prior to the election saying that the GST would be good for the country. We now know what the GST means for the Australian economy: a smaller economy, less investment and less saving.

Question resolved in the affirmative.

Petroleum Industry: Pricing

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

That the Senate take note of the answer given by the Minister for Industry, Science and Resources (Senator Minchin) to a question without notice asked by Senator Murray today relating to competition in the fuel industry.

I am not sure of the experiences of other senators, but whenever I talk to constituents about petrol prices two messages come through loud and clear. The first and most obvious is the message that petrol prices are too high. Unfortunately, there is not a lot that can be done about that. The price of petrol is a function of the world crude oil price, the exchange rate and the level of taxes. The second message that comes through is the dislike that motorists have of the constant and incomprehensible fluctuations in petrol prices.

The minister, in answering my question today, attempted to portray those fluctuations as being a result of competition within the industry. I am not sure how many people believe that explanation but, for those of you who do, I have got a bridge across Sydney Harbour that I would like to sell to you. Everyone knows that the price of petrol fluctuates in accordance with the whims of the petrol companies. Are the prices of beer,
shoes, refrigerators, jam or meat dictated by the producers and suppliers? No, they are not. But the price of petrol is dictated by the producers and suppliers. As you get closer to the weekend and the demand for petrol increases, companies put the prices up or they reduce their price support to franchisees. On Mondays and Tuesdays, when people leave their cars parked in the garage or they commute to work on the bus or train, the price of fuel falls. It is not just anecdotes that provide evidence of this. The ACCC’s price monitoring has established these cycles to be true. The difference in price from one point in the week to the next can be as much as 10c per litre, which could make a difference in price of $5 or $6 for a tank of petrol in a family car.

The minister’s support for this incomprehensible pricing system is, I think, very unwise. The interesting thing is that when BP puts its price up at the end of the week the Shell servo on the next block does the same. If this competition about which the minister speaks is really effective, the Shell servo on the next block would not be increasing its price in line with BP; it would be holding its price where it wanted it to be and then waiting for people to come to it as a more competitive outlet.

The government failed in their reforms to the petroleum industry in 1999 quite simply because the policy that they wanted to introduce would have resulted in increased vertical integration, and neither the Labor Party nor the government would accept that. Essentially, the government wanted to allow oil companies to have a free rein on the number of sites that they directly operate and control and to increase their anticompetitive activities. At present, the number of sites that companies can directly operate continues to be limited. The government were happy, unfortunately, for oil companies to control the exploration, refining, wholesaling and retailing of petroleum. Rather than a single company controlling all of the stages of the production and distribution chain, the Democrats would like to see them broken up so there could be competition at each stage. This system of competition is well established in other countries. Refiners should compete with other refiners, wholesalers should compete with other wholesalers, and there should be real competition at the retail level. The way in which the industry is structured and manipulated is, I think, wrong and bad for Australia.

The minister, in his answer, spoke of not wanting to see Australia lose control of exploration and refining operations for strategic reasons. We agree. I will not go into the Shell-Woodside issue, but I take it from the minister’s comments that he would oppose that takeover. I think, from the nod from Senator Cook, that the Labor Party holds the view that that takeover should not occur, and I concur with that view. The breakup of vertical integration would not mean that Australia would lose control of strategic operations. It would simply mean that all points in the production and distribution chain would not be owned, managed and manipulated by the same companies. I am concerned that the government have decided to leave this reform idea in the too hard basket and that their only real response to questioning is to point to their 1999 agenda and say that we and the Labor Party should support it. It is time for new negotiations, new ideas and a new cooperative approach by the Senate to resolve this particular issue.

Question resolved in the affirmative.

AUSTRALIAN TAXATION OFFICE

Return to Order

Senator KEMP (Victoria—Assistant Treasurer) (3.36 p.m.)—by leave—I wish to respond to an order made by the Senate on 5 March 2001. It follows a motion moved by Senator Cook that I, as the Minister representing the Treasurer, table certain documents today. This order is very similar to an order to table documents made by the Senate on 4 October last year. The documents sought to be tabled are the same. The difference is that the Senate has now indicated that, in complying with the current order, I may cause certain information to be deleted from the documents—namely, ‘names of individual taxpayers’ and ‘information which would directly and specifically harm the strategic pursuit of tax avoidance’—provided that the withholding of such information...
does not prevent the Senate from gaining a clear understanding of the information contained in the reports, minutes, documents and supporting documents.

The formulation chosen by the current Senate order is similar but not identical to the position expressed in a letter from Senator Murray when he wrote to me in relation to the order that was made in October last year. Senator Murray indicated—and I think this is still the Democrat position—that the Democrats would not support the release of information which affects the strategic pursuit of tax avoidance and tax minimisation, which names individual taxpayers or which will impede or harm the recovery of substantial tax amounts that are due.

As I indicated when responding to the previous Senate order, the documents concerned are internal management and operational working documents of the Australian Taxation Office. They are part of the strategic administration and corporate assurance processes within the ATO, and they contribute to internal review and discussion. Governments—according to the advice that I have received—have never made such working documents public. In my view, the disclosure of these documents would compromise the ATO’s compliance and enforcement strategies and its internal reporting procedures and would therefore be contrary to the public interest.

I have discussed this issue with the Commissioner of Taxation, who has expressed concern about the disclosure of documents of the kind concerned in this motion. These sorts of documents assist the ATO to set strategies, manage resources and critically assess its own activities. They are prepared by staff and are collaborative. They are work-in-progress and contribute to the open and vigorous internal evaluation and assessment processes within the ATO. Disclosure of such documents may mislead the public or disclose ideas, views, strategies and activities of the tax office that are central to its tax administration role and would affect its tax compliance and administration efforts. In my view, it would not be in the public interest.

It is important to protect the integrity of the internal workings of the ATO to ensure it can undertake its statutory role. Presumably that is why it is unusual, if not unknown, for the Senate to order the production of such documents of an independent agency. As I have said before, that is why Senator Murray took the very important step of writing to me last year to clarify the basis on which he supported the previous order. To remove from the documents concerned information about individual taxpayers and information which would directly and specifically harm the strategic pursuit of tax avoidance does not help me to respond to the Senate order in this case. Let me explain why. Just what is strategic, as opposed to tactical or operational, would, I am sure, be subject to endless debate. Irrespective of that, does the Senate truly want to give tax schemers and promoters access to information that may give them a tactical advantage? The further problem is that compliance with our tax laws goes wider than tax avoidance. Again, does the Senate truly want to give advantage to those who would seek to exploit ATO inside knowledge on compliance issues?

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responsible for me to take the action sought by the Senate. In making this decision, I am very aware of the importance of democratic principles of transparency and accountability. It is for this reason that I previously briefly outlined the framework of accountability which applies to the ATO. It is a very important framework. Independent statutory agencies must be accountable to the government, the parliament and the Australian people. The ATO is so accountable. The ATO reports publicly to parliament in the commissioner’s annual report. It is called before Senate estimates and other parliamentary committees. It is subject to audit processes by the Australian National Audit Office and to scrutiny by the Commonwealth Ombudsman. Consistent with all other statutory agencies, the ATO is subject to a high degree of transparency and accountability.

As I have said before, it is clear that my concerns accord with comments that have been made previously by a minister in the former Labor government, and I refer to the comments made by Senator Gareth Evans. Senator Evans, as I noted previously, spoke of how making a working document public would undermine the proper functioning of government. He also spoke of wrestling with the very difficult and sensitive responsibilities he had, on the one hand, to the Senate and to the public interest to disclose as much material as he reasonably could but, on the other hand, to his country and to other individuals and interests that might be prejudiced by unreasonable disclosure.

Senator Cook may say, as he did in relation to my response concerning the previous order, that reference to Senator Evans’s comments is a very long stretch. I do not agree. Senator Evans was commenting on the weighty responsibility of ministers and governments when responding to orders to produce documents. Senator Cook may say, as he did before, that the government is covering something up. This is not correct. Our concerns are not even necessarily about these specific documents; they about the principle embodied in the Senate’s order. I believe that the government is acting responsibly. Senator Cook may say, as he said before, that there is an inconsistency between the FOI processes and the return to order processes. Senator Cook knows the two processes are different and this point has been made by senators in the past. Nonetheless, as I have noted previously, the FOI framework provides exemptions for internal working documents and documents concerning operations and agencies.

I have not taken this decision lightly. I have weighed up the important considerations and have, as Senator Evans did, weighed the difficult and sensitive responsibilities to the Senate and to the public interest to disclose as much material as possible against my responsibilities as a minister to other individuals and interests that might be prejudiced by unreasonable disclosure. I have concluded that disclosure of these documents would not be in the public interest, and I am therefore unable to comply with the order of the Senate. I am confident, let me say, that my position on this matter is consistent with Senator Murray’s letter to me in October last year.

Senator COOK (Western Australia—Deputy Leader of the Opposition in the Senate) (3.45 p.m.)—by leave—First of all, I should acknowledge the courtesy the Assistant Treasurer extended to me by notifying my office this morning that he would be making a statement at about this time today. Having said that, I now note that the statement that he has made today is in the form of reading a written statement, and I would have thought a normal courtesy might have been to expose that written statement to me before it was read this afternoon so we do not have to deal with these weighty matters on the run or on the trot. That was not done, and I think it does detract a little from the situation. However, let me not be churlish about that. I do acknowledge that I was notified that the response would come today.

I now come to the issues here, which are quite serious and significant. The defence the government has made is to say that the documents that we seek are working documents, documents that are necessary for the formulation of tax policy and documents which, if released, may cause to spill into the public arena information that tax cheats could take advantage of. The government is
now singing a vastly different tune to when we applied for these documents under the freedom of information laws. We applied for these documents under a freedom of information request in August last year, and we were told in September that it would cost us $19,000 to have access to these documents and that 1,916 pages had been identified by the tax office relating to the request that we had made. Because the $19,000 cost to access this information was so exorbitant, we sought through the Senate for those same documents to be tabled here. When the Senate approved that request and asked the government to proceed to table those documents, the government refused on the basis that the documents are now somehow going to compromise the enforceability of taxation.

So the first point is the inconsistency in approach. If you take the FOI approach, you get labelled with a bill you cannot jump over. If you take the parliamentary approach, you get told no because these documents are necessary in the public interest. But what are these documents about? That goes precisely to the issue of public interest. These documents that we have sought are a range of documents which relate to the big end of town and the ability of corporate entities in Australia to properly pay their full rate of tax. Why are they necessary? They are necessary to uphold a fundamental principle upon which all tax law rests.

One of the principles upon which tax law rests in this nation is the principle of equity and fairness—that is, if some taxpayers are paying their full amount of taxation and others are avoiding it, there is no equity and fairness. The only way we can find out whether or not the big end of town pays its full measure of tax is to have access to these documents. We know that ordinary working Australians pay their full whack up-front. They have no access, and most do not seek any access, to any way of avoiding it. It is open and we all know about it.

As far as the corporate sector is concerned, it is shrouded in mystery. It is not as clear. We know of major corporates dodging taxation. We know that, if you have sufficient income to hire a smart lawyer or a slippery accountant and the cost of hiring them is less than the cost of tax you will avoid, there is an in-built financial incentive to go down the route of minimising your tax take and getting a lower tax payout on you.

What is the scrutiny we put the tax office under in order to ensure that every red cent that is owed to the public purse by the corporate sector is paid? We asked for documents that would help us demonstrate that, and the Assistant Treasurer has told us that he will not provide them, in the public interest. I put to this chamber, through you, Madam Deputy President, that it is absolutely in the public interest that this information be on the table and open for public inspection so we can be sure that the big end of town that do have a practice of hiring smart accountants and slippery lawyers to find loopholes in the act and minimise their tax are in fact properly policed, chased up, properly investigated, unpicked as far as the nature of these schemes is concerned and made to pay their full whack—just like everyone else in this country. To deny that principle would be to deny the fundamental principle of fairness. In part (a) of this return to order, we asked for:

(a) the Segment Accountability reports for the 2 years up to, and including, 30 June 2000, provided to the Deputy Commissioner of the Large Business and International (LB&I) business line bimannually or at any other time from the following LB&I divisions—

and we set down a series of divisions. That is, we simply want to see the information about what happens here. In our motion, we specifically asked that names of individual taxpayers not be provided and we specifically asked that information which would directly and specifically harm the strategic pursuit of tax avoidance not be provided. So
we built into our motion the necessary safeguards for public probity and proper conduct. But to draw that exemption right across as a screen covering all of the information we want is a stretch too far and is a cover-up by the government and should not be allowed by this chamber.

I am offended by the response that the government has made, because this is the third time that we have sought these papers. We sought these papers by FOI in August of last year; we then sought them by resolution of the Senate late last year, I think in October; and we have sought them again. Every time we have either been told, ‘Pay $19,000 to get them,’ or ‘No, you can’t have them.’ Even with the provision to protect individual taxpayers and not interfere with the strategic actions of the tax department, we are still told that there is a public interest factor involved here.

I do not intend today to move anything in this chamber with respect to the government’s conduct, but I do intend to—and I now announce that I will—reserve my right to come back, when I have considered the text of the minister’s written statement in fuller detail, and take further action. In the meanwhile, the 1,916 pages which the tax office has identified—which were identified—relating to our requests are, I imagine, still available, still filed together, still kept, and are not dissipated and disaggregated over the tax office so that we cannot be told in the future, if we were to succeed in our request, that the cost of reassembling them and reconstituting them is too great a cost for the Commonwealth and that the information will not be made available to the parliament because of cost factors.

I put the government on notice: since the tax office have told us that they have these documents together, they should not now scatter them and then try and defend themselves on some future occasion by saying that the cost of gathering them together again is too great. We know these documents exist, and we know that they would have been provided, had we had the readies, the $19,000. Let me turn to one of the other elements here that is fundamentally important. In part (c) of our motion that the Senate has adopted, we ask for the tabling of:

A copy of the report in regards to the transfer pricing project known as the 207 project and supporting documents pertaining to the 207 project strategy.

Just in case that is too opaque, let me spell it out. One of the easiest ways for corporate manipulators to minimise their tax is through transfer pricing. The 207 project strategy that the tax office has refers to the 207 Australian companies that are thought to engage in transfer pricing. Obviously that is a significant matter of public interest: does any one of them minimise its tax through the exercise of transfer pricing, or does it not?

What we do know on the public record is that the return from project 207 has been minuscule, yet the volume of dollars that gets churned by these companies engaging in transfer pricing is huge. So, on the face of it—you would have to say prima facie—there is an argument that the 207 project, which is supposed to nail down corporate tax avoidance in transfer pricing, has not been a very successful project. And on the face of it—you would have to say prima facie—the evidence suggests strongly that more money can be recovered if there is a more enthusiastic approach in chasing these areas of potential avoidance and, it has to be said, actual avoidance to the final degree.

My final remark is this: I think it is an outrage that the government should simply draw the curtain across vital public information and say, ‘You’re not entitled to it, because we declare what the public interest is. It doesn’t matter if the Senate thinks otherwise: we insist, and our definition of the public interest will reign.’ That is totally outrageous, and it is totally outrageous to drag poor old Gareth Evans into the argument by citing something that he said when he was here as a senator and, moreover, when he was the foreign minister talking about sensitive international intelligence that might endanger the nation—as if that is a defence in the case of a tax issue. That is absolutely outrageous of you—

Senator Ian Campbell interjecting—

Senator COOK—I will ignore the interjection of the parliamentary secretary, be-
cause I know he has a long history in this chamber of trying to obfuscate and blunt the key points on a plain, straightforward matter such as this. I am sure you will draw the parliamentary secretary to attention at any moment, Madam Deputy President. The concluding issue I want to make is this: at the end of the day, the responsibility for the integrity of the Australian tax system and the proper enforceability of Australian tax law rests with the government.

I think it is entirely appropriate to denounce and to attack and to vilify tax evaders who, by aforethought and consideration, with access to slippery lawyers and smart accountants, evade the tax they should pay when ordinary taxpayers have to pay their full whack. While I think that is right and should be continued and their practices exposed, the buck ultimately stops with the government on whether it has got in place a proper regime of enforceability that overcomes these issues.

If these documents that we have sought—and, by resolution of the Senate, the Senate now asks for—are to be denied, how can we ever check that the proper tenets of enforceability—the ensuring of equity, prudence, inspection and investigation to bring down large-scale corporate crooks in this country who evade taxation—are being managed at all? We do know, as a matter of fact, the association that this government has with the big end of town and their disconnect from ordinary Australian concerns. We do know that this is an insensitive government. We do know that this government does not listen to ordinary Australians but does listen to the corporate sector.

I am not going to make this point as a finally concluded one, but it is worth saying that what we are drifting to is a conclusion that there may well be in the government’s behaviour here a desire to protect the corporate sector from proper scrutiny because they are their mates—while ordinary Australians have to undergo full scrutiny. I think ordinary Australians should undergo that, but so should the corporate sector.

Senator MURRAY (Western Australia) (4.00 p.m.)—by leave—Madam Deputy President, I am sure you will be pleased to know that I will not be as long as Senator Cook was.

Senator Cook—My apologies.

Senator MURRAY—That is all right, don’t apologise to me; I just won’t be as long. I will begin by thanking the minister for preparing a carefully considered and deliberated document with appropriate gravitas, because the impact of having carefully prepared it means that the minister cannot get away with it being an expression of rhetoric. It was obviously a very clear expression of a considered government view on this matter.

When this return to order was originally put to the Senate, the Australian Democrats, through me, did write to the minister and he has read out what I wrote. I thought at the time that those were proper restraints and qualifications on the kind of material that should be exposed in tax issues. I am pleased now to note that the Labor Party have accepted those qualifications as being appropriate and have recorded them in their rerequest for these documents on the return to order. That really sets a framework in which these matters should be considered. I should make it clear, for the purpose of the Senate and for the minister, that that letter I put out remains the Australian Democrats’ view on what constraints there should be for expression of sensitive tax issues.

We then move on to the nature of the government’s response. The nature of the government’s response is to refuse the Labor Party request, which was supported by the Democrats, entirely. Such a refusal has to be first evaluated in terms of the general attitude of this government to transparency and openness. If the government’s record was one of being extremely transparent, open and cooperative with the Senate with documents and information and they then took this line as an exception, you could argue that there might be more validity behind their refusal than apparent, given their culture.

This government, regrettably, in contrast to the previous Liberal government of Malcolm Fraser, is not renowned for accountability measures, apart from the Charter of Budget Honesty. This government has not responded to the freedom of information re-
port in 1996, a joint report by the Australian Law Reform Commission and the Australian Research Council. They have not responded to really first-class reports chaired by a coalition member at the time—I suspect it was Senator Newman—on whistle blowing. They were in 1995, I think, those two reports: an interim report and a following report. This government has not acted to close down the excessive use of the commercial-in-confidence approach. By and large, it is a government in which the culture of secrecy, of keeping matters away from public evaluation and avoiding full transparency, is alive and well. Therefore, I have to put the minister’s response in that context—and I think that is a very important point to make, because this is not exceptional behaviour; this is usual behaviour. That is what concerns me.

I do not know what is the content of those documents. The attitude of the Australian Democrats is—and those senators like Senator Cook who have been here for 16 or 17 years would know it to be true—that, by and large, we have always supported the disclosure to the Senate of important material in these matters. It is just a general principle we follow, and we have done that again here. But I do not know what is in those documents. I have heard the arguments of Senator Cook and they sound reasonable. I have heard the rebuttal of the minister and that might sound reasonable. I have heard the rebuttal of the minister and that might sound reasonable. But I am a practical man of the world in many respects; I find it not believable that, out of 1,916 pages, not one page can be tabled. How about one per cent, which would be 19 pages; or two per cent, which would be 38 pages? You see where I am going with this. It is just the wrong attitude to say that nothing, not even the covering page of a document, is available.

When you have, therefore, an attitude of total rejection, you realise that what you are dealing with is a bureaucratic and administrative approach to secrecy—which is not justified in terms of legitimate concerns which the Commissioner of Taxation is legitimately required to protect. He is required to protect the names of taxpayers. He is required to protect his strategic approach. He is required to protect his operational and tacti-

cal moves to limit tax avoidance. But he is not entitled to defend what is an endemic bureaucratic culture of secrecy. You see that in the freedom of information area. The attitude of government agencies is that everything is secret unless there is an exception; whereas we would argue that everything should be open unless there is an exception. It is a very, very different culture—and in another place we are trying to deal with that issue. So, on those grounds, I must say that, despite the gravitas of the minister’s response in terms of the context in which they deal with these matters, I do not find it believable that not even one page can be tabled in response.

My last point is this. I think the Labor Party, in putting up this motion twice—it is an issue they obviously feel strongly about—have established a precedent. They have, I think, set what I would regard as a current precedent against which governments should be measured. Obviously, if that air of triumph I can feel in the Labor Party has the consequence that you become the next government, you will remember this return to order because it is the sort of thing which we would expect you in government to respond to, and I hope you would, within the qualifications.

We should be very clear that, whilst everything in the Senate has political overtones, this exercise also has a very, very important principle at stake: that the government is accountable to the parliament and the parliament is accountable to the people. If there is one issue above all which all parliaments since Simon de Montfort have followed, it is that the most important job of a parliament is to tax and to spend. If that ability to tax is not open to the proper scrutiny of parliament, then what else is? Regardless of your motives or the motives of your party, Senator Cook, whether they are political or not, the principle you are seeking to pursue is so important that it deserves the full support of the Senate. I would urge the government to reconsider the totality of their ban. I certainly would accept that not all of those 1,916 pages could possibly be exposed, but I cannot accept that not one would.
NOTICES

Presentation

Senator Woodley to move, on the next day of sitting:
That the Senate—
(a) notes, on International Women’s Day, the contribution of the organisation, Australian Women in Agriculture, to the well-being of agricultural communities;
(b) acknowledges that rural and regional Australia would cease to function without the contribution of women to their communities; and
(c) calls on the Government to continue funding this organisation as a high priority in the May 2001 Budget.

Senator George Campbell to move, on the next day of sitting:
That the Minister representing the Minister for Finance and Administration (Senator Abetz) provide to the Finance and Public Administration References Committee by 14 March 2001 the following documents relating to that committee’s inquiry into the Government’s information technology (IT) outsourcing initiative:
(a) a copy of the legal advice obtained by the Department of Finance and Administration from Phillips Fox, referred to in evidence at the public hearing on 7 February 2001;
(b) a record of documents generated by the Humphry Review and their current location;
(c) a copy of advice from KPMG on whether the IT outsourcing service contracts contained embedded finance leases;
(d) copies of the evaluation reports for IT contracts that have been let, with information identified as commercially sensitive ‘blacked out’ and providing the reasons for such claims;
(e) a copy of legal advice that the disclosure of evaluation reports to the committee may create a significant risk of litigation to the Commonwealth;
(f) a copy of a letter and attachments from the Minister for Finance and Administration (Mr Fahey) dated 20 January 1999 to ministers that gives further detail about the Office of Asset Sales and Information Technology Outsourcing’s role in going forward with the implementation of the IT initiative and advice as to whether the letter was provided to the Humphry Review;
(g) details of the transition arrangements and the operation of the Office of Asset Sales and Information Technology Outsourcing (OASITO) for the next 6 months, including:
(i) arrangements with the consultants that OASITO previously had on the books,
(ii) who is to be retained,
(iii) precisely which contracts have been terminated and when, and
(iv) ongoing liabilities in terms of contract commitments after 31 December 2001; and
(h) copies of financial advice from PricewaterhouseCoopers, dated 26 May 2000, and Deloitte Touche Tohmatsu, dated 10 May 2000, on the methodology used to calculate savings.

Senator Ian Campbell to move, on the next day of sitting:
That the following bill be introduced: A Bill for an Act relating to the application of the Criminal Code to certain offences, and for other purposes. Prime Minister and Cabinet Legislation Amendment (Application of Criminal Code) Bill 2001.

Senator Mason to move, on the next day of sitting:
That the Joint Standing Committee on Electoral Matters be authorised to hold two public meetings during the sittings of the Senate on 27 March 2001 and 3 April 2001, from 5 pm, to take evidence for the committee’s inquiry into the integrity of the electoral roll.

Senator Tierney to move, on the next day of sitting:
That the Senate—
(a) notes:
(i) an advertisement published in the Port Stephens Examiner of 28 February 1996, in which the Member for Paterson (Mr Horne) claims that he fought hard to get a Medicare office opened in Nelson Bay and that the office was in fact open, and
(ii) that there was no Medicare office in Nelson Bay when this advertisement was published and that this
advertisement was published just days before the 1996 federal election;
(b) criticises Mr Horne for telling residents of Nelson Bay, when he was advised in May 1995 by the then Parliamentary Secretary to the Minister for Health, that there would not be a Medicare office at Nelson Bay; and
(c) calls on Mr Horne to explain why he told people via his advertisement that a Nelson Bay Medicare office was opened, when there was clearly no office in existence.

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

That the Senate—
(a) notes the perilous human health situation in South Africa, and elsewhere in Africa, and the right of the Government of South Africa to take action to make health care more accessible to its citizens;
(b) supports the South African Government in its effort to provide much needed medicines at affordable prices to poor South Africans though the Medicines and Related Substances Control Amendment Act passed by the South African Parliament in 1997;
(c) further notes that the South African Government’s right to take action in matters of national emergency and to source drugs from legitimate suppliers, so-called parallel importation, is not precluded by the World Trade Organization Agreement on Trade-Related Aspects of Intellectual Property Rights; and
(d) calls upon the major pharmaceutical companies and the Pharmaceutical Manufacturing Association to end their action in the South African High Court against the legitimate actions of the South African Government to deal with a major health crisis.

COMMITTEES
Selection of Bills Committee
Report

Senator CALVERT (Tasmania) (4.10 p.m.)—I present the third report of 2000 of the Selection of Bills Committee.

Ordered that the report be adopted.

Senator CALVERT—I seek leave to have the report incorporated in Hansard.

Leave granted.

The report read as follows—

SELECTION OF BILLS COMMITTEE
REPORT NO. 3 OF 2001

1. The committee met on 6 March 2001.
2. The committee resolved to recommend—
(a) That, upon the introduction of the following bill in the House of Representatives, the provisions of the bill be referred to a committee as follows:

<table>
<thead>
<tr>
<th>Bill title</th>
<th>Stage at which referred</th>
<th>Legislation committee</th>
<th>Reporting date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Crimes Amendment (Age Determination) Bill 2001 (see appendix 1 for a statement of reasons for referral)</td>
<td>Immediate</td>
<td>Legal and Constitutional</td>
<td>27 March 2001</td>
</tr>
</tbody>
</table>

(b) That the provisions of the following bills be referred to a committee as follows:

<table>
<thead>
<tr>
<th>Bill title</th>
<th>Stage at which referred</th>
<th>Legislation committee</th>
<th>Reporting date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Customs Legislation Amendment and Repeal (International Trade Modernisation) Bill 2000 Import Processing Charges Bill 2000 Customs Depot Licensing</td>
<td>Immediately</td>
<td>Legal and Constitutional</td>
<td>22 May 2001</td>
</tr>
</tbody>
</table>
(see appendix 2 for a statement of reasons for referral)

(c) That the following bills not be referred to committees:

- Family and Community Services Legislation Amendment (New Zealand Citizens) Bill 2001
- Primary Industries and Energy Research and Development Amendment Bill 2001

The committee recommends accordingly.

3. The committee deferred consideration of the following bills to the next meeting:

- Trade Practices Amendment Bill (No. 1) 2000
- Treasury Legislation Amendment (Application of Criminal Code) Bill 2000
- Maritime Legislation Amendment Bill 2000
- Human Rights (Mandatory Sentencing for Property Offences) Bill 2000
- New Business Tax System (Simplified Tax System) Bill 2000
- Social Security Legislation Amendment (Concession Cards) Bill 2000
- Taxation Laws Amendment (Excise Arrangements) Bill 2000
- Aircraft Noise Levy Collection Amendment Bill 2001
- Copyright Amendment (Parallel Importation) Bill 2001
- Lake Eyre Basin Intergovernmental Agreement Bill 2001

(Paul Calvert)

Chair
7 March 2001

Appendix 2

Proposal to refer a bill to a committee

Name of bill(s):
Customs Legislation Amendment and Repeal (International Trade Modernisation) Bill 2000
Import Processing Charges Bill 2000
Customs Depot Licensing Charges Amendment Bill 2000

Reasons for referral/principal issues for consideration
These bills cover a range of issues including e-commerce, compliance measures, requirements on importers and exporters and regulatory powers of customs, which are properly matters for parliamentary scrutiny and review

Possible submissions or evidence from:
Committee to which bill is referred: Legal and Constitutional Legislation Committee
Possible hearing date:
Possible reporting date(s): 30 June 2001
(signed) Kerry O’Brien

NOTICES
Postponement

Items of business were postponed as follows:

- General business notice of motion no. 831 standing in the name of Senator Stott Despoja for today, relating to the Glenelg Croquet Club, postponed till 8 March 2001.
- General business notice of motion no. 828 standing in the name of Senator Brown for today, relating to biodiesel fuel, postponed till 8 March 2001.

GENETICALLY MODIFIED CROPS: TASMANIA

Motion (by Senator Brown) agreed to:
That the Senate—
(a) notes that the Minister for Health and Aged Care (Dr Wooldridge) declined the Senate’s invitation of 1 March 2001 to provide an explanation for the Government’s failure to ensure effective monitoring and safety control of 58 sites of genetically-engineered crops in Tasmania associated with foreign companies Aventis and Monsanto; and

(b) resolves that there be laid on the table, no later than 9.45 am on 8 March 2001, by the Minister representing the Minister for Health and Aged Care (Senator Vanstone), an explanation for the failure referred to in (a), together with details on:

(i) what prosecution or other legal action is being taken,
(ii) what urgent moves have been set in train to contain the spread, including by bees, of genetically-modified material within and beyond the 100-metre buffer zone for the crop area,
(iii) when and how the Minister was informed and how he reacted,
(iv) the potential damage, direct and indirect, to Tasmania’s agriculture sector, in particular its growing organic produce sector’s well-being,

and

(v) all approved, current and previous, genetically-engineered sites in Tasmania.

COMMITTEES
Economics Legislation Committee
Extension of Time

Motion (by Senator Calvert, at the request of Senator Gibson) agreed to:

That the time for the presentation of the report of the Economics Legislation Committee on its examination of annual reports referred to the committee be extended to 8 March 2001.

AUSTRALIAN GRAND PRIX: TOBACCO SPONSORSHIP

Senator ALLISON (Victoria) (4.12 p.m.)—I move:

That the Senate—

(a) notes that:

(i) the press coverage for the Australian Grand Prix in Melbourne on 1 March to 4 March 2001 again provided tobacco companies with unparalleled advertising opportunities,

(ii) Save Albert Park counted 255 370 ticketed attenders for the 4-day event, in contrast to the Grand Prix Corporation’s claim that 369 500 people were there, and

(iii) this will be the sixth year that the race has made an operating loss, and again Victorian taxpayers will underwrite the event;

(b) urges the Federal Government to ban incidental advertising of tobacco products outside the confines of the Grand Prix; and

(c) urges the Victorian State Government to:

(i) investigate alternative venues for the Grand Prix,

(ii) make public the contract signed with the Grand Prix Corporation, and

(iii) reveal the extent to which it subsidised the race.

I also seek leave to table newspaper clippings showing some of the Australian press coverage facilitating incidental tobacco advertising.

Leave granted.

Question resolved in the negative.

MATTERS OF URGENCY
Goods and Services Tax: Impact on Economy

The DEPUTY PRESIDENT—I inform the Senate that Madam President has received the following letter, dated 7 March, from Senator Cook:

Dear Madam President

Pursuant to standing order 75, I give notice that today I propose to move:

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

The failure of the Government to take account of the disastrous impact of the GST on the national economy.

Yours sincerely

Senator Peter Cook

Is the proposal supported?

More than the number of senators required by the standing orders having risen in their places—

The DEPUTY PRESIDENT—I understand that informal arrangements have been made to allocate specific times to each of the
That, in the opinion of the Senate, the following is a matter of urgency:

The failure of the Government to take account of the disastrous impact of the GST on the national economy.

When the government proposed the GST to Australia, we were told that the GST would be good for the economy and it would be good for our country. If we did not like it or if we harboured doubts about it, the mantra became: ‘But it is good for Australia. Never mind if you might suffer a little. Do that suffering in the national interest.’ That was the mantra that we were force-fed: ‘It’s good for Australia.’ Well, the incontrovertible proof that that is not true, that that was a lie propagated politically, came this morning at 11.30 when the Australian Bureau of Statistics released the December quarter Australian national accounts, which showed that the Australian economy in the last quarter of last year, from September to December last year, contracted by 0.6 per cent: we grew smaller by 0.6 per cent; we went backwards in that quarter by 0.6 per cent.

The definition of a recession—and newspapers have been headlining ‘Australia teetering on the brink of a recession’ for the last several days—is two consecutive quarters of negative economic growth. If the March quarter shows a negative economic growth figure, Australia will officially be in recession. The first step towards that came today with the figures on the December quarter. Of course, a recession is something this Prime Minister knows a lot about. When he was the Treasurer of Australia under the prime ministership of Malcolm Fraser, he delivered these growth figures for the last year of his treasurership of this nation: for the June quarter of 1982, zero per cent; for the September quarter of 1982, negative growth of 0.18 per cent; for the December quarter of 1982, negative growth of 0.4 per cent; and, for the March quarter of 1983, negative growth of 1.3 per cent. When he was last the Treasurer, the Australian economy contracted. Now that he is the Prime Minister, the Australian economy is beginning once more to contract.

The sales pitch that ‘the GST is good for you’ is looking like a sick story that Australia has had to learn about the hard way. It is not good for individual Australians, it is not good for the aggregate of the Australian economy and, therefore, it is not good for the national interest of Australia. When Kim Beazley said that the GST was working through the Australian economy like a giant wrecking ball, he was right. That is what the GST has done to our national accounts. Today’s national accounts confirm again just how the wrecking ball has demolished economic growth. You cannot say any longer that the GST has mugged the economy, because in fact the GST has delivered a king hit to the economy.

Let me go through the plain facts of the case, because the facts are the most eloquent expression of the point I am making. The economy shrank for the first time in 10 years—a record in itself—in the December quarter by 0.6 per cent. Private dwelling investment from December 1999 to December 2000 went down by 23.5 per cent. Business investment for the same period—and this is an important indicator of economic health; if business is not investing in future development, future growth levels will be constrained—went down by 10.8 per cent. Importantly, in the business investment block, new investment in machinery and equipment by Australian business, which goes to the ability of the Australian economy to be highly productive, fell by 5.5 per cent for the December quarter.

They are not the only bad figures that come out of these national accounts. Domestic final demand market—which is the phrase economists use for ‘consumer spending’—for the December quarter fell by 1.2 per cent. Remember that the December quarter contains Christmas, the traditional spending spree period for Australians. We spent 1.2 per cent less that quarter than we did previously. On top of the national accounts fig-
ures, Madam Acting Deputy President—I am sorry, I did not catch the change in the chair, Mr Acting Deputy President—

The ACTING DEPUTY PRESIDENT (Senator Lightfoot)—That is far more acceptable than ‘Madam’. Thank you, Senator.

Senator COOK—On top of the national accounts figures, let me go to some of the other benchmark indicators of the economic health of Australia or, in this context, how sick the economy really is. We all remember the debt truck that Mr Howard had driven around Australia to indicate that one of his sober commitments to the Australian people before the 1996 election was that he was going to bring down foreign debt. Foreign debt is now at a record high of $301 billion. If I use the Treasurer’s preferred measure of foreign debt, it equates to $15,696 per man, woman and child in Australia. That is the level of foreign debt. In aggregate terms, it has never been as high as that. This is a record achievement by this government.

On Monday this week, the ANZ Bank published its job advertisements survey. This is a vital indicator, because it tabulates how many advertisements for job vacancies there are in Australia and compares the number of advertisements placed for job vacancies with the previous performance. It is the early warning indicator that the labour market is contracting and/or expanding, that we are heading for more unemployment or more employment. What did the ANZ job indicator survey show on Monday this week? It showed a fall of 10 per cent for February 2001. It showed a reduction of 24.1 per cent in advertisements in Australia for the year. Again, the job market is going south. It says as well that 87,300 full-time jobs were lost in the last four months in Australia. So much for the job outlook!

Let me turn to what the Treasurer, in a flight of rhetorical fancy, described as an important indicator of the health of the Australian economy. Let me turn to the value of the Australian dollar. Mr Costello said on 30 June 1995:

A nation’s currency is a mark of how its economy is perceived in international markets ... the mark that has been given to our currency and to this Prime Minister’s economic management is a fail—an absolute fail.

At that time, the Australian dollar was valued at 70.97c to the US dollar. At around midday today, the Australian dollar was valued at 51c to the US dollar. By the Treasurer’s own mark, this is what the international markets think of the value of the Australian economy. If the Treasurer is to be believed, that value is now vastly reduced from the time when he uttered those deathless words about the valuation of economies.

The Australian dollar has been trading at a very low level indeed and well below budget forecast levels for at least the last nine months. What does this mean? It means that any foreign company can buy Australian companies cheaply. It means that, if you are an American company and you want to buy out a profitable Australian company, you can get it at half price. That is what has been happening in Australia: Australian companies are being taken over by foreign companies. Without going into the merits or the detail of it, we are seeing a classic example on the North West Shelf of Western Australia, where Shell is making a takeover bid for Woodside—an international conglomerate is trying to take over an Australian company that exploits Australia’s natural resources. This is happening because the dollar makes Australian companies such easy targets.

Is it therefore surprising that, when you go to the indicator of business confidence, you find that business confidence has collapsed and that the outlook for business confidence—the expectation of businesspeople about making a profit in this economy—is the worst in 10 years? The ACCI-Westpac survey shows that this is being driven not only by the disastrous output for profit making but also by the BAS form debacle. Remember the GST? Remember the BAS? Remember the backflip that the government undertook as it alienated its own small business constituency? Remember the efforts of the government to copy Labor policy in redesigning its own form? The business community is in pain. It is hurting. Its expectations are lower and it is one of those groups in the Australian community that is paying out on the government.
Let me turn to our exports. In economics, if the domestic demand is low, international demand might be high and pull us through so that growth levels can still go up. The September quarter compared with the December quarter shows a change of minus 2.2 per cent for Australian exports of goods and services—that is, we have gone backwards. At a time in which the Australian dollar is virtually at a record low and Australian goods are cheaper in foreign markets—and the one advantage of the GST was to take tax off exports—you would think that we would be more competitive, we would be selling more abroad and we would be going gangbusters in our exports. The truth is, our export output fell by 2.2 per cent in the December quarter compared with the September quarter. It is not a good look and is certainly an indicator of the ill health of the economy. They are the penalty marks of this government in this economy.

Finally, it comes back to the GST. In question time today, a boastful Assistant Treasurer went on to extol some of the virtues of the GST. One of the points he made was that, from 1 July last year when the GST came into force, there were expectations of massive price hikes, and those massive price hikes, at least in the official figures of inflation, did not show up quite clearly. What is showing up quite clearly now and what the commentators are pointing to is that one of the reasons that the inflation level was not pushed to the forecast limits is that businesses absorbed costs—that is, they reduced their profits. Because of reduced profits, they have disturbed their shareholders. Because of reduced profits, they have not committed to forward investment. In the face of low aggregate demand, the economy has stalled and gone backwards. That is the wrecking ball of the GST. That is why Labor were opposed to the introduction of the GST and why we will continue to roll it back. (Time expired)

Senator FERGUSON (South Australia) (4.26 p.m.)—It is a pretty fair indication of the enthusiasm of the Labor Party for this urgency motion that they had to press-gang another three people into the chamber to support this urgency motion and that those members immediately left, before Senator Cook got on his feet. I understand that they simply do not have any heart or any support for the urgency motion that is before the chamber today. After all, we are talking about a GST which the people opposite now support. In trying to put a case for the fact that the GST has harmed Australia’s economy, not once did Senator Cook say that, if they should be elected to government, they would get rid of the GST. He did not say that once, because they actually want it and they actually believe in it. But they had to wait until we had a government of our particular persuasion to bring it in.

We have heard a lot from Senator Cook today. We do not hear anything from the backbenchers of the ALP. Whenever anything to do with the economy needs to be talked about in the chamber, who do we get? We have Senator Cook asking the questions, we have Senator Cook taking note of the answers, we have Senator Cook seeking leave to make statements about the production of documents, we have Senator Cook leading the debate on the urgency motion—to be followed by Senator Conroy, another shadow minister—and, occasionally, we have Senator Sherry, who professes to have an interest in economic matters. But not once do we ever see any of the other Labor backbenchers come forward to speak on any of these so-called important matters. It would appear that the Labor backbench simply do not support the position that is taken by Senator Cook and the shadow ministry on this particular issue.

I wonder what crystal ball Senator Cook and Senator Conroy are going to use later this year or this time next year. Only 12 months ago, the Labor Party and its leaders said that the fiscal stimulus caused by the introduction of the GST would overheat the economy. Mr Crean argued in the middle of last year that we were giving income tax cuts that were far too small. But then Senator Conroy, who uses a different crystal ball—I notice Senator Cook is leaving, and I can understand why—referred to the Howard government’s tax cuts as ‘wantonly throwing money into the economy’. We have Mr Crean, who says we were giving income tax cuts that were far too small, and we have
Senator Conroy, who says the Howard government tax cuts were ‘wantonly throwing money into the economy’. Somehow or other, they have to get it right. They have to either get the same crystal ball or make sure that their statements are made on some basis of fact. There is no evidence to substantiate the claim that they make in this urgency motion today about the effect of the GST on the economy.

As a matter of fact, it is fair to say that Labor’s confusion about tax reform and taxation policy has reached a new height today: they have done a complete backflip on the position they took last year. Last year the introduction of the GST was going to overheat the economy; this year the GST has caused all the problems that they perceive there are in the economy. Senator Cook now claims that the GST is responsible for the slowing down of the economy. This is just an example of Labor’s confusion about tax in a more general fashion.

Let us not forget that Labor now support the GST. They do support the GST, otherwise they would be saying to the Australian public, ‘We do not like the GST. We do not support the GST and, if we ever get into government, we will get rid of it.’ Senator Conroy, you will have the opportunity later to get up in this chamber and say, ‘The GST is so bad and has had such a bad effect on the economy that in our policy, if we ever get elected to government, we will get rid of the GST.’

Senator Conroy interjecting—

Senator FERGUSON—Senator Conroy, if that is what you believe, you will have every opportunity to say it in a few minutes time. They claim that they will roll it back, but no details have been supplied. They have no idea whether to roll it back or to get rid of it.

Today they are quite comfortable in saying, ‘We think it has caused terrible damage but we support it totally,’ because they know that the change in the direction of tax reform in this country has been one for the better. It is one that will suit Australia’s future in a far more effective way than the old wholesale sales tax system which they absolutely worshipped. They worshipped it because they could increase sales tax by stealth and not give any compensation whatsoever to the people they were affecting, whether they were high income earners or low income earners. More importantly, the Labor Party have never guaranteed that they will maintain the $12 billion in personal income tax cuts which the Howard government has delivered. Given the slowing of the world economy, particularly in Japan and in the USA, it is all the more important that the Howard government has delivered $12 billion in personal income tax cuts.

In addition, this government’s sound economic management is delivering lower interest rates. The Labor Party are a party of high interest rates. You have only to look at their record. Mr Acting Deputy President Lightfoot, I am sure you personally were well aware of the impact of 24 per cent interest rates and 17 per cent housing loans, because there were not many people in Australia trying to earn an income for themselves who could afford those rates. They were not able to collect a weekly salary, as Senator Conroy did, regardless of the state of the economy. On every payday Senator Conroy was able to collect his pay. He knew it would be there, because the interest rates on small business loans never affected Senator Conroy. He was one of those very lucky Australians who knew that he was going to get paid for every day he worked, not like the risk takers in Australia—the small business operators in Australia—who are the last to get paid. The wages get paid first to the employees, and they are the last to get paid.

Senator Conroy interjecting—

Senator FERGUSON—We now have home loan mortgage rates of 7.3 per cent. Senator Conroy, the fact that really hurts you is that our lower interest rates mean that a taxpayer who was buying a home in 1996 and who had a $100,000 mortgage, which is considered to be the average loan, currently has $270 a month more in their pocket than they would have had under the Labor Party. They have $270 a month extra, simply because we have managed this economy so well that we have been able to keep inflation low and been able to keep interest rates low.
in order to provide more money in the pocket for those people who are forced through their circumstances to have to borrow money, whether it be for a home or whether it be to run a small business.

Senator Conroy simply would not know about that because he has been in the fortunate position of collecting a wage. I do not begrudge him that at all. I am sure he worked very hard in the Victorian Transport Workers Union but he knew that he was always going to get paid when payday came. But for many people in small business that payday does not come because, if they get hurt by high interest rates, they are the very last people to get paid.

Today’s national accounts show a fall of 0.6 per cent in GDP in the December quarter. However, we need to remember a few key points. This result involves two key transitional effects: first, the Sydney Olympics held in the September quarter have exaggerated the slow-down in the December quarter; and the second one is the transitional effect of the new tax system on the housing sector, which saw a significant bring-forward of construction work in the first half of 2000 and then a significant fall-off in activity in the second half of 2000. It was to be expected. Not only that; the government knew that it would happen.

The forward indicators show that housing activity now looks much stronger, assisted by lower interest rates. The Labor Party simply cannot understand that. It is probably why there is no-one other than Senator Denman, who is the whip at present, actually sitting behind Senator Conroy to listen to what he is going to say. They have all heard Labor’s rhetoric before. They have seen the Labor Party and how they actually act when they are in office; they have seen how they love high interest rates; they have seen how they love high taxation rates. The backbenchers of the Labor Party simply do not support the frontbenchers, who are the only ones that ever speak on economic matters. Nobody on the back bench is allowed to speak—just Senator Cook, Senator Conroy, occasionally Senator Sherry and once in a blue moon we see Senator George Campbell, the man with 100,000 dead men around his neck. I am sorry I will not be here to hear Senator Conroy’s contribution. The situation is that Labor simply should never be allowed to govern Australia again. **(Time expired)**

**Senator MURRAY** (Western Australia) (4.37 p.m.)—On 25 November 1998 the Senate referred the GST and the proposed new tax system to four committees. By the time the final report came down five months later, in April 1999, these committees had produced five reports totalling 1,508 pages, including the Democrats’ minority reports. A total of 1,544 submissions and 777 form letters were received, 27 public hearings were held and a number of expert modellers and economists were used as consultants. Why do I tell you that? It is to remind the Senate that the Labor members speaking today were members of that committee process. They know from that committee process the expected ups and downs and consequences of the introduction of the new tax system. For instance, the modellers quite rightly told us that the mining and agricultural industries would benefit from the new tax system and that the hospitality industry and the tourism industry would suffer. Why? Because costs were reduced in the mining and agricultural industries and, with the result of an imposition of GST on services, prices would go up in the other industries, which would have employment effects.

It was very clearly understood by Labor, and yet in their rhetoric and the expression of their views they are adopting an attitude that is just not credible and that goes to the extremes of economic argument, thereby diminishing the very points they are trying to make. I say to the Labor Party: you should be very careful of the triumphant attitude you are presently projecting, because at the moment I get the impression that if the unemployment level rises, the Labor Party cheer and buy a round of drinks. If interest rates fall, they groan in disappointment. If the dollar falls, their excitement knows no bounds. I think that expression of triumph when Australians get hurt is a terrible indictment of their view that politics overcomes anything to do with compassion and anybody else’s interests.
I have known for a long time that Australians are powerful and capable people. I know that we punch above our weight, but I am absolutely astonished that the GST actually caused the downturn in the United States and Japan! I just did not know that it would have that effect. I have also been appalled to discover that if it does not rain in Dubbo, you have to blame the GST. If the trains do not run on time, blame the GST. If manufacturing exports fall, blame the GST. If bank fees rise, blame the GST. If your grandmother, Senator Conroy—and I hope you have one—contracts the flu, blame the GST. If the economy records its first negative growth in 10 years, blame the GST.

Seriously, there were five significant economic events last year. Firstly, there were two poorly timed rises in interest rates. Secondly, there was a rapid slowdown in the United States—caused, as I said, by our GST!—and hence in world growth. Thirdly, there was the GST, which affected the timing of activity, especially in the housing sector—it is credible to say that the GST has had some negative effects as well as positive effects; it is credible to say that. Fourthly, there was a big rise in household income on the back of tax cuts, social security increases and wages. Fifthly, there were the Olympics. Does anyone remember the prognosis for New South Wales that, after the Olympics, there would be a downturn in the economy and in employment? It stands to reason. Any person with economic training knows that.

The national accounts reflect the effects of all these things. Yes, the GST was part of it—it would be foolish to argue otherwise—but only part. The continuing strong rise in household consumption was, alongside the GST, driven by tax reform. That has cushioned our economy from a further slide. If there had been no GST, in my view there still would have been negative growth last quarter, or at least even growth. The Olympic hangover, the world economy, the United States slowdown, the rate rises—which the Reserve Bank should be punished for, frankly—the petrol price shock, the poor wheat crop and the slump in manufacturing all would have delivered a negative outcome.

The GST has not been the dominant economic determinant in this country. Australia still rises or falls on the back of the United States economy. It has always been thus. The United States catches a cold and we catch pneumonia.

Senator Conroy—It’s a pity we haven’t got a recession then!

Senator MURRAY—I know you want us to go into recession, and I am sorry to hear it, Senator Conroy.

Senator Conroy—I am disappointed to hear you talk like that; I thought you were above that.

Senator MURRAY—The Labor Party must understand it. I know that Senator Conroy is far smarter than he sometimes gives out, but if the Labor Party do not understand it, they will not be trusted to effectively run the Australian economy. What will the Labor Party do when the economy picks up, as it will? Three-quarters of the countries in this world have a GST or VAT. Have they all collapsed and gone down the tubes? Of course they have not. I ask ordinary citizens who say, ‘I don’t like the GST’ where they have travelled. When they tell me the various countries, I ask, ‘How’s the GST going in those countries?’ They say, ‘What?’ It is not even noticed. We are going through a transitional period. Nearly all the OECD countries have a GST. If the GST is to blame, as the Labor Party wrongly claim, will Labor get rid of it? No. So why are we having this debate? If the Labor Party are saying that they can improve the GST, good on them. If you can improve the implementation of it, good on you. If you can make the system work better, good on you. If you can do tax reform better than the government, good on you. But do not condemn a system which I have been privately told by a number of Labor people you are very glad has arrived.

Are Labor using the GST as a smoke-screen, as a scapegoat? Yes, absolutely. Are they using it for political purposes? Of course, and it is smart to do so. It is smart from your perspective to do so, but it is not credible in economic analysis. You are putting out a more sophisticated version of the blame politics that drive people like Pauline
Hanson and One Nation: ‘If there is a problem, don’t fix it. Blame someone else.’

**Senator Conroy**—So we’re responsible for Pauline Hanson’s One Nation now. You’re desperate today!

**Senator MURRAY**—That is not what I said. I said you are using the blame politics that she uses. I am not saying you like Pauline Hanson’s One Nation. I would not say so, and I do not want you to take that inference. But it is that blame politics. If you have a problem with the GST, with its implementation or with the new tax system, for goodness sake spell out what you will do to improve it. The Democrats, amongst others, would look at that carefully and support it if it was right.

**Senator Conroy**—What are you going to do to improve it?

**Senator MURRAY**—I have already done a lot. Australia deserves better than what Labor is dishing up to them, with this motion and Labor’s total failure to outline its economic policies. I hope, Senator Conroy, that when you speak you will address some of the fundamental issues and not the rhetoric of this king hit—smashing down the Australian economy with a view that any bad news is good news for the Labor Party. I know you want to get into government, but get into government on good grounds, not on grounds that result in being triumphant when there is a negative situation in the economy.

**Senator KNOWLES (Western Australia)** (4.45 p.m.)—Today we are debating a motion that was put before the Senate by Senator Cook. It says:

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

The failure of the Government to take account of the disastrous impact of the GST on the national economy.

I was fascinated to listen to Senator Cook’s contribution, which he somehow always referred to as ‘rhetorical’. I am not too sure what he actually means when he says ‘rhetorical’. I think he might mean that it is rhetorical.

**Senator Sandy Macdonald**—He sure does!

**Senator KNOWLES**—I am glad you say that, Senator, because I was not too sure. He kept on talking about this ‘rhetorical’ thing, and I have looked in the dictionary and I cannot find it. There must be something in this motion that we cannot see. But I want to come back to this motion.

**Senator Conroy**—Oh, back to the issues!

**Senator KNOWLES**—We have a real smarty over there. It will be very interesting to see whether Senator Conroy can actually address the issues in this motion to take account of the disastrous impact of the GST on the national economy. I want to go through a couple of things which, according to the Labor Party, as Senator Murray has said, are disastrous. For example, today’s retail trade figures for January show sales up 0.9 per cent over the month and 7.2 per cent over the year. The abolition of the wholesale sales tax has helped minimise the impact of the new tax system on inflation. As a result, CPI growth has been less than expected. The impact of the new tax system on CPI growth is now expected to be 2.5 per cent compared with the budget estimate of 2.75 per cent. Under the Howard government, Australia has enjoyed 14 consecutive quarters of annualised growth of above four per cent before the December quarter—something which the Labor Party, I might add, never achieved. Since the Howard government came to office, 800,000 jobs have been created, cutting the unemployment rate to 6.7 per cent compared with a peak under Labor of 11.2 per cent. Home loan interest rates have fallen to 7.3 per cent from a peak under Labor of 17 per cent. Productivity growth has been high under this government, leading to solid wages growth of around 4.3 per cent over the year to December, compared with real wage reductions to low paid workers under the accord of the Labor government.

In addition to all of that, the $10 billion budget deficit inherited from Labor has been turned into a sustainable surplus. And by the end of 2000-01, the government will have repaid over $50 billion in net debt since coming to office. This disaster that the Labor Party are now talking about will also result in the ratio of public net debt to GDP falling from around 20 per cent of GDP in 1995-96—when they were in government—to an expected 6.4 per cent in 2000-01.
Senator Sandy Macdonald—The second lowest in the world.

Senator KNOWLES—As Senator Sandy Macdonald says, it is the second lowest in the world. In addition, the Howard government has delivered $12 billion in tax cuts—the largest personal income tax cuts that have ever been granted in this country. And here we have the Labor Party coming in here and saying that the effects of the GST have been disastrous on the economy! I just cannot believe it. I will go on and talk about this so-called disastrous effect on the economy. Australian taxpayers, as I say, have benefited from the $12 billion of tax cuts—80 per cent of taxpayers are now paying a marginal rate of no less than 30 per cent. Under Labor, 80 per cent were paying the highest marginal rate. And this is a disaster? Come on, this cannot be considered a disaster.

Small business has benefited with the delivery of generous depreciation rates and reduced compliance costs. Company tax has been reduced from 36 per cent to 34 per cent, and in the next financial year it will fall again to 30 per cent. Capital gains tax has been cut in half for individuals. Is that a disaster? I wonder whether Senator Conroy will be saying that that too is a disaster. Was the abolition of Labor’s inequitable wholesale sales tax and a raft of other taxes a disaster? Was that a disaster when it has seen exports going up and more money coming into the country? Is it a disaster that there are huge windfalls for the states? The states benefit from the GST, and that means that they can spend more money on schools, hospitals and so forth. In addition, Mr Beazley was always saying that the GST was going to be a nightmare to introduce, and it has not been. Even the supermarket trolley of food has not gone up as expected. Yet Senator Crowley came into this place today at question time and tried to say it had. What happened under the Labor Party was that it just kept jacking up and jacking up with inflation, while real wages kept going down and down.

So here we have all of these benefits that have been given and delivered to this economy by this particular government as a result of bringing in a new tax system and throwing out the old one, which we had in common with only Botswana and Swaziland. Even one of them has now given it away and gone to an indirect system. I do not recall which one it is, but one of them has shed it. So had the Labor Party still been in government now, we would now have a tax system in common with either Botswana or Swaziland—only one of them, not both. But the most amazing thing about all of this is that, while all of these benefits have been delivered to the Australian community and to the Australian economy, the Labor Party voted against every measure.

Senator Sandy Macdonald—And they believe in it.

Senator KNOWLES—Yet while they voted against every measure—and they do believe in it—they are now saying that they will keep the GST. If that is not duplicitous, what is? If that is not dishonest to the community, what is? If they are talking about roll-back—and believe me, Mr Acting Deputy President, I have pages of stuff here that I have collected on their questions about roll-back during question time—are they going to roll back all of these things? We do not know. We do not have a policy from the Labor Party. We do not know what they are going to roll back. But here they are saying that the effect of the new tax system has been disastrous on the economy. I just hope Senator Conroy can explain to the people of Australia why all of these benefits that I have put down in the Senate today are disastrous.

Senator Murray said that the Labor Party cheer when there is bad economic news. To be quite honest, that is nothing short of a disgrace. Only this morning I overheard...
three Labor senators cheering at today’s economic figures. *(Time expired)*

Senator **CONROY** (Victoria) (4.53 p.m.)—The government has had to wheel in the usual suspects to defend the GST. Senator Gibson is still here with us and will be making up the fourth wise monkey. This is a question of stand up: see no evil, hear no evil and speak no evil—just replace the word ‘GST’ for ‘evil’; it is interchangeable in this particular debate. This debate is about the fact that the federal Liberal Party went to the last election with a series of mistruths about the impact of the GST. They said to the Australian public, ‘Look, it might not be great for you personally but it is going to be good for the country. This is a reform the country needs.’ Do not worry about the overseas evidence. Do not worry about other countries like Japan that have brought on a GST and never truly recovered from it; their economy has slumped. Do not look at any international examples where you have the evidence. Do not look at Canada, where the only extra job created out of their GST was in the tax avoidance unit of their tax office to chase people who are avoiding taxes.

So let us wheel out the usual suspects: Senator Ferguson, who has spent many hours with Senator Gibson, Senator Murray and me. Bring out the government’s three wise monkeys to repeat the mantra. They are working on the basis that, if you keep saying it long enough and often enough, people will not notice what the GST is actually doing to the economy. This is a government that prides itself on economic management. It crowns that only it can manage the economy. After today’s disastrous results, it should now be clear to everybody that the fig leaf the government has been using has been ripped away. Today’s national accounts figures show indisputably that the economy has contracted; we have gone backwards. Australia was described on the *World Today* program as the ‘shrinking’ economy. The GST has king-hit the economy and this government has presided over it, fiddled with it and pretended that it was not going to happen, because if it admits the truth the wrath of the Australian people will be on it at the next election.

That is what will happen when we get a chance to get to the polls, because people have worked out that they have been fooled. They have worked out that they have been conned about the effects of the GST. The Prime Minister is reported as stating at the last Liberal Party meeting that he just wants to win the next election. This has been confirmed by a number of backflips in the last week. He abolished the indexation of petrol excise. This is estimated to cost the government $140 million this financial year, $550 million in the next financial year, $815 million in the financial year after that and $1.16 billion in the 2003-04 financial year. That is a total of $2.6 billion over four years. But let us not forget what Mr Howard said earlier this year. On 3 January Mr Howard, having decided to spend $1.6 billion on roads to then go ahead and spend roughly the equivalent of that, or perhaps a little more, on waiving this excise increase, said that that would be financially irresponsible.

This is a government in full-scale panic. The government has not revealed the full petrol tax windfall that it received by breaking its promise. We cannot tell what the effects are on the bottom line yet. But the Howard government’s policy panic is starting to undermine budget honesty in this country. It is a policy panic because of the disastrous effects of the GST on business activity. We had crocodile tears today about small business. This morning I had some small business people in my office. They said, ‘Senator Conroy, we want to show you what we are going through. The BAS reforms’—much touted by those on the opposite side—’have not helped us.’ They got out the wads of invoices and spreadsheets from their computers and showed me the hours and hours of compliance they are still required to go through—note: they are still required to go through—to try to keep up with this disastrous tax. Mr Howard is in the business of winning elections and is showing little regard for the economic consequences of the policies his government has pursued.

Mr Costello cannot escape the blame. Today we had a first: a smirk-free day in Canberra. Mr Costello had to front the media without his smirk today. The public have
worked out that this is a big end of town government. It is a government that is only interested in pandering to the Business Council, to Mark Paterson and ACCI, to VECCI and to the big end of town, et cetera. They have ignored small business and only taken advice from the big end of town. Small business people told me today that they still face huge problems in administering the GST—

*Senator Heffernan interjecting—*

**Senator CONROY**—You can laugh, Senator Heffernan—not to mention the cash flow crisis they are going to face in the next quarter. We will see if you are still smiling then, Senator Heffernan. Senator Heffernan, when the numbers of bankruptcies start rising you will be happy behind your trusts that protect you, but small business will be going under because of this government. Senator Heffernan, like Mr Costello, has lost touch. John Howard and this government are out of touch with what is happening to real people and real families in the economy.

The tax reform agenda of the GST is crippling this country. Today’s national accounts show that GDP decreased by 0.6 per cent in the December quarter, while our exports in that quarter boomed. Senator Murray comes in here and quite disingenuously tries to pretend that the world is going into recession; unfortunately our exports are booming still, and they are going to go down because America and Japan are going to slow down. But you cannot pretend, Senator Murray, when you sit in your office right now, that the slowdown in the American economy has caused our slowdown. You are being deceitful when you say that, and you know it. Dwelling construction is down, engineering construction is down and business investment is down. None of these have to do with what is happening in America today or in the last three months. This is a home-grown crisis brought on by this government and its GST.

Today’s national accounts round off a series of disastrous economic statistics for Australia, and the government should now acknowledge that the GST has not delivered what they promised. Growth for the year December 1999 to December 2000 was only 2.1 per cent, and this was achieved during a period when Mr Costello stood up in parliament and said, ‘These revised figures are a good news story.’ I will tell you what: in November he revised up economic growth, and he comes into the parliament today and has to admit that growth has actually gone backwards. This was achieved when Treasury were arguing with the Reserve Bank about putting up interest rates. Treasury knew what was going on, this government knew what was going on, but they cannot afford to tell the truth. How can they have got it so wrong?

Mr Costello, it is time to acknowledge the effects of the GST. It has imposed a shocking burden on small business, smothered business investment, and decimated business and consumer confidence. This disastrous state of affairs was already clear from a number of other statistics that the government have been in denial about. Today the dollar has hit a 3½-month low of US$51.4c. In 1995, when the Australian dollar was worth US$71c, the then shadow Treasurer, Mr Costello said, ‘A nation’s currency is a mark of how its economy is perceived in international markets.’ The mark that has been given to our currency and to this Prime Minister’s economic management is an absolute fail. That is what Peter Costello said in 1995 when the dollar was at US$71c. Today it is at US$51c. That is a failure—a miserable failure.

In MYEFO, the government were forced to revise down investment growth. We should not have been surprised then that aggregate business investment, after a flat performance for a number of quarters, slumped by 5.2 per cent in the December 2000 quarter. On top of that, home building is down by 23.6 per cent—the biggest decline since Mr Howard was Treasurer in 1983. The GST has mugged, if not king-hit, this economy, and the government continue to put their head in the sand and pretend it is not the case.

Household debt is at record levels. According to the RBA, the overall growth of household borrowing continues to exceed the growth of incomes. Business and consumer confidence are down, according to a survey released in the last 24 hours by ACCI—the champions of the GST—and Westpac. The
survey is of industrial trends for the March quarter, so this is what is going to happen in the next quarter, according to the business community. It reveals a continued fall in business confidence; a decline in output yet again; a decline in new orders; a sharp decline in exports to the lowest reading in the 1990s, except for the Asian crisis; a decline in capacity utilisation; a decline in the profits outlook for the next 12 months to make up the worst profits outlook since the recession of 1990; a squeeze on profit margins; and a continued poor outlook for business investment. This is not the Labor Party speaking; this is not those in the Democrats who have some economic sense; this is the ACCI-Westpac survey. It tells us that what is in store for the next quarter is more negatives.

This government, with the sound economic management credentials they try to pretend they have, are going to preside over the introduction of a recession brought on by their ham-fisted pursuit of a 1945 socialist French tax, which has turned every small business in this country into a tax collector. You are driving businesses out of business and you are bankrupting businesses. But don’t you worry, Senator Heffernan: you will still be able to avoid paying tax with all those trusts.

Senator GIBSON—Yes, I know they did, but when Mr Keating was Treasurer, he tried to push that line because he knew that it was the right thing to do for this country. Then Mr Hewson led the coalition with Fightback, which was, again, a comprehensive tax package that would have been good for Australia, good for our children and good for our grandchildren. Then, 3½ years ago, the Prime Minister announced that the coalition were going to take the risk of adopting tax reform and bringing in change. Why? Because Australia needed it for the future. And we came forward with a comprehensive package.

Basically, what was wrong was that we had an unfair, inefficient tax system. Our indirect tax system—our WST—was unfair and easily rorted. It was hidden and easily rorted. Our marginal tax rates were far too high. Ordinary income earners on $30,000 to $50,000 faced marginal tax rates of 34 cents in the dollar. People did not want to work overtime, do extra work or save. We have changed that. The business tax rates were uncompetitive and were just simply too high, both on income tax and on capital gains tax. And, just as importantly, we had an unfair taxation system between the Commonwealth and the states, and the government has addressed that.

With this motion, which makes reference to the GST, I should remind the Senate and listeners that, when the ALP use the term ‘GST’, they actually, by inference, mean the total ANTS package—the total A New Tax System package. I should remind the Senate and listeners of what was in that package. What have we done? We have completely reformed the indirect tax system. We have removed wholesale sales tax and replaced it with the GST, which favours business and favours exports. We have reduced income tax marginal rates, so the 80 per cent of workers who earn between $30,000 and $50,000 per year face a marginal rate of 30 per cent—an incentive for them to work and to save. Business tax rates have been reduced from 36 per cent to 34 per cent and next year they will be down to 30 per cent. Capital gains tax for individuals has been halved and is down to 10 per cent for super funds. We have re-
duced fuel excise, so transport costs are lower—again favouring business and favouring exports. That is what we have done. We have tried to encourage growth in the economy and that is what has happened.

Let us look at the hypocrisy of the opposition in this matter. They have known, their leadership has known and their people who have studied the tax have known that reform has been required for well over 20 years. Unfortunately, the public believe that most politicians here in this place act in the interests of all Australians for the long term—that is what they really do believe. That was true for the coalition when it was in opposition. We supported the Labor Party in freeing up the dollar, in freeing up the financial markets, in national competition policy and in tariff reduction because they were very important economic policy issues for all Australians. But since we have been in government, the ALP have opposed virtually everything that we do with regard to economic policy. They do not care about the long term for our kids and our grandchildren. They have bucketed tax reform for the past 3½ years. As Senator Murray and Senator Ferguson said earlier, I was a part of the two Senate committees that went around Australia, and Senators Cook and Conroy rubbed witnesses before those committees and rubbed the whole proposal for tax reform during the whole of that time. And, now, what have they done—the hypocrisy of it—they want to keep the GST.

With regard to the economy, let us see what the changes have been since we have been in power for the last five years. Employment, 6.7 per cent; in Keating’s last year, nine per cent. Interest rates on housing, 7.3 per cent; before we came to office it was 10.5 per cent and had been at a peak of 17 per cent. Government debt is now down to $46 billion; in Labor’s time, $96 billion. The economy is now in surplus; it was in deficit when the ALP were in government. The key thing with regard to interest rates, which is not well understood because it is a bit complicated, is that the risk premium on 10-year bond rates in Australia when the Keating government were in power was 220 to 250 basis points or 2.2 to 2.5 per cent—that is, over and above the US bond rates. Today it is down to 20 to 30 basis points—very little difference. The world judges Australia as being much better managed today than it did five years ago. Sure, the world economy is slowing—there is no question about that. The world’s biggest economy has hit a brick wall, and our largest trading partner, Japan, has slipped back into recession, as reported on the news this morning. Paul Krugman, the famous US economist, said earlier this week that there is a change in the world economy.

(Time expired)

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

The Senate divided. [5.16 p.m.]

(The President—Senator the Hon. Margaret Reid)

Ayes………… 28
Noes………… 38
Majority…… 10

AYES
Bishop, T.M.
Brown, B.J.
Campbell, G.
Collins, J.M.A.
Cook, P.F.S.
Crowley, R.A.
Forshaw, M.G.
Harradine, B.
Hutchins, S.P.
Lundy, K.A.
McKiernan, J.P.
Murphy, S.M.
Ray, R.F.
Sherry, N.J.

NOES
Abetz, E.
Alston, R.K.R.
Brandis, G.H.
Campbell, I.G.
Crane, A.W.
Ellison, C.M.
Ferris, J.M.
Greig, B.
Heron, J.J.
Knowles, S.C.
Lightfoot, P.R.
Macdonald, J.A.L.
McGauran, J.J.J.

Bolkus, N.
Buckland, G.
Carr, K.J.
Conroy, S.M.
Cooney, B.C.
Evans, C.V.
Gibbs, B.
Hogg, J.J.
Ludwig, J.W.
Mackay, S.M.
McLucas, J.E.
O’Brien, K.W.*
Schacht, C.C.
West, S.M.

Allison, L.F.
Bourne, W.V.
Calvert, P.H.*
Coonan, H.L.
Eggleston, A.
Ferguson, A.B.
Gibson, B.F.
Heffernan, W.
Kemp, C.R.
Lees, M.H.
Macdonald, I.
Mason, B.J.
Minchin, N.H.
Murray, A.J.M.  Newman, J.M.  
Patterson, K.C.  Payne, M.A.  
Reid, M.E.  Ridgeway, A.D.  
Tchen, T.  Tierney, J.W.  
Troeth, J.M.  Vanstone, A.E.  
Watson, J.O.W.  Woodley, J.  

PAIRS  
Crossin, P.M.  Boswell, R.L.D.  
Denman, K.J.  Chapman, H.G.P.  
Faulkner, J.P.  Hill, R.M.  

* denotes teller  

Question so resolved in the negative.  

COMMITTEES  
Scrutiny of Bills Committee  
Report  

Ordered that the report be printed.  

DOCUMENTS  
Auditor-General’s Reports  
Report No. 30 of 2000-01  

The ACTING DEPUTY PRESIDENT (Senator Hogg)—In accordance with the provisions of the Auditor-General’s Act 1997, I present the following report of the Auditor-General: Report No. 30 of 2000-01—Performance Audit—Management of the Work for the Dole Programme: Department of Employment, Workplace Relations and Small Business.

Senator STOTT DESPOJA (South Australia—Deputy Leader of the Australian Democrats) (5.21 p.m.)—by leave—I move:  

That the Senate take note of the report.  

The ANAO finds that the management of the Work for the Dole program was generally efficient and effective. Of course, this makes no claim on the adequacy of Work for the Dole as a particular policy of this government. However, I do want to draw senators’ attention to some of the more worrying aspects of the report and indeed the policy. The ANAO considers that contract monitoring was not of a sufficient standard and that the department has been slow to carry out an effective program of contract monitoring. This is clearly not good enough. While the rapidity of the government’s demands on the department has obviously impeded its capacity to properly carry out its functions, we are most concerned that the ANAO has found inadequate training of community work coordinators, particularly in the areas normally delivered by the public sector. This is yet another symptom of the dangers of indecent privatisation. Page 14 in particular indicates some of those problems.

I also note with considerable concern that the ANAO finds that there is a risk that, when tendering to be a community work coordinator, or CWC, organisations may not have appreciated the full extent of their management responsibilities, and some may not have allowed sufficient margin to fully cover these responsibilities. Page 16 of the report refers to this issue. This finding underscores one of the great weaknesses of the whole Work for the Dole scheme—something that the Democrats have pointed out on a number of occasions. Fundamentally, it is an exercise in seeming to be doing something rather than really addressing the fundamental structural problems that perpetuate serious unemployment problems.

The Democrats have consistently opposed Work for the Dole in its current form. We believe that this scheme is a punitive attempt to gloss over symptoms of deep-seated unemployment and underemployment issues. Work for the Dole is neither a labour market nor a training program—and, of course, the government has acknowledged that it is not actually a labour market training program per se. An amount of $360 million was allocated in the 2000-01 budget at the direct expense of targeted intensive assistance schemes or appropriate VET programs. The Democrats have consistently highlighted the incoherence of the use of these funds. They would be much better directed to alleviating the alarming decline of our education and training institutions. Even the government now acknowledges that employment assistance is not the aim of the program, yet it continues to tout it as a key component of the government’s employment strategy.
In the Democrats’ view, Work for the Dole is a cynical exercise in appearing to be doing something with a problem it has largely created itself: it is largely a problem created by government or perpetuated by government with its divisive rhetoric of mutual obligation. There is no doubt that mutual obligation is overreliant on the threat of abandonment if a range of intrusive compliance measures are not strictly adhered to. The government persists in side-stepping the other side of mutuality—that is, the requirement of the government, firstly, to provide adequate funding for high quality school-to-job pathways programs; secondly, to ensure high quality vocational education and training programs; thirdly, to ensure high quality education in our funds-starved universities—that is something that we have heard about, particularly over the last couple of days; and, above all, to ensure proper levels of income support so that people can participate in education and training programs.

They are the things that government should be providing. Instead, we have this stopgap measure, a poll driven exercise in the form of Work for the Dole, designed to make the government feel a lot better about not only the unemployment statistics but the lack of education and training being provided; yet it is not actually doing anything to solve those deep-seated structural unemployment problems. The Democrats are committed to upholding the responsibilities of government to invest in the future of Australia and Australians. Squandering money on Work for the Dole is a sad and mean-spirited example of its abdication of this particular responsibility.

Senator CALVERT (Tasmania) (5.26 p.m.)—I have not had a chance yet to look at the Auditor-General’s report No. 30 of 2000-01 on the performance audit of the management of the Work for the Dole program, but I would like to make a couple of comments in reply to the criticisms made by Senator Stott Despoja. Regarding the Work for the Dole scheme or the mutual obligation policy of the government, it is all very well for Senator Stott Despoja to sit there and criticise it, but I wonder just how many Work for the Dole schemes she has been involved in.

I have been involved in quite a few in my home state of Tasmania. Whilst it might not be the be-all and end-all, it has had some very positive outcomes. I understand, from talking to people in DEWRSB in Hobart that I have been involved with, that 30 to 40 per cent of people involved in Work for the Dole schemes are going on to further employment or training. I know of one particular case in a Work for the Dole scheme where quite a few people that I have spoken to, young people, have been involved in catering; and some of them have gone on to enrol in Drysdale House afterwards, because the scheme gave them the opportunity to see that they liked that type of work.

The old TCA ground in Hobart was falling to pieces; in fact, cricket was moved from the old TCA ground to Bellerive. A lot of people would know the Bellerive oval. The old TCA ground was languishing there, falling apart; and one of the first Work for the Dole schemes that had, from the Hobart City Council, a lot of support, both moral and monetary, has turned into an exemplary case of what can be done if the state government, the federal government and the local government all work together. It is there for anybody to see. It is there for Senator Stott Despoja to go and look at and talk to some of the people involved.

There are 8,640 pickets around that ground that were all made by hand and painted by hand. The women’s grandstand that was burnt down by vandals has been replaced by the Work for the Dole participants, and a lot of them have gone on to apprenticeships in the building industry. The grandstand itself has been repainted. It is a tremendous project. That ground is now being used in a very positive fashion by cricket clubs in Hobart and, as I said, it is a fine example of what a Work for the Dole scheme can do. I am aware of other schemes in the Derwent Valley, at the Botanical Gardens, and I would like to place on record the wonderful work that is being done in that area by Peter Monaghan from the state department of planning. I think it is, or primary industry or whatever. But these guys are really making the Work for the Dole scheme have positive...
outcomes and, more importantly, have positive outcomes for the participants.

Question resolved in the affirmative.

COMMITTEES
Finance and Public Administration
References Committee

Membership

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

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

That Senator Stott Despoja be discharged as a substitute member from the Finance and Public Administration References Committee, and be appointed as a participating member, for the committee’s inquiry into the Government’s information technology outsourcing initiative from close of business on Thursday, 8 March 2001.

ASSENT TO LAWS

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

International Monetary Agreements Amendment Bill (No. 1) 2001

BILLS RETURNED FROM THE HOUSE OF REPRESENTATIVES

Messages received from the House of Representatives agreeing to the amendments made by the Senate to the following bills:

Health Legislation Amendment Bill (No. 1) 2001
Workplace Relations Amendment (Tallies) Bill 2000

TREASURY LEGISLATION AMENDMENT (APPLICATION OF CRIMINAL CODE) BILL 2001

WORKPLACE RELATIONS AMENDMENT (UNFAIR DISMISSALS) BILL 1998 [No. 2]

AIRCRAFT NOISE LEVY COLLECTION AMENDMENT BILL 2001

First Reading

Bills received from the House of Representatives.

Senator HEFFERNAN (New South Wales—Parliamentary Secretary to Cabinet) (5.31 p.m.)—I indicate to the Senate that those bills which have just been announced are being introduced together. After debate on the motion for the second reading has been adjourned, I will be moving a motion to have the bills listed separately on the Notice Paper. I move:

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

Question resolved in the affirmative.

Bills read a first time.

Second Reading

Senator HEFFERNAN (New South Wales—Parliamentary Secretary to Cabinet) (5.32 p.m.)—I table a revised explanatory memorandum relating to the Treasury Legislation Amendment (Application of Criminal Code) Bill 2001 and move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

TREASURY LEGISLATION AMENDMENT (APPLICATION OF CRIMINAL CODE) BILL 2000

The purpose of this bill is to make consequential amendments to certain offence provisions in legislation administered by the Treasurer to reflect the application of the Criminal Code Act 1995 to existing offence provisions from 15 December 2001.


In addition, the Bill makes a number of amendments to the Corporations Law made necessary by changes in the Corporate Law Economic Reform Program Act 1999.

Further bills will be introduced to make consequential amendments to taxation laws, the Corporations Law, the Australian Securities and In-

This Bill provides for amendments which specify the physical elements of an offence and corresponding fault elements (where these fault elements vary from those specified by the Code) and specify whether an offence is one of strict or absolute liability. In the absence of such an amendment, offences previously interpreted as being one of strict or absolute liability would be interpreted as not being one of strict or absolute liability. In addition, any defences to an offence are being re-stated separately from the words of the offence. Use is being made of this opportunity to convert penalties expressed as dollar amounts to penalty units.

The Bill does not change the criminal law. Rather, it ensures that the current law is maintained following application of the Criminal Code Act to Commonwealth legislation.

WORKPLACE RELATIONS AMENDMENT (UNFAIR DISMISSALS) BILL 1998
I reintroduce the Workplace Relations Amendment (Unfair Dismissals) Bill 1998.

The Bill will amend the Workplace Relations Act 1996 to exclude new employees of small businesses (other than apprentices and trainees) from the federal unfair dismissal regime and to require a six month qualifying period of employment before new employees (other than apprentices and trainees) can access the federal unfair dismissal remedy.

This Bill is the same Bill that was introduced into the House of Representatives on 12 November 1998 and passed by the House of Representatives on 2 December 1998, but rejected by the Senate on 14 August 2000.

The Government is not reintroducing this Bill because it wants to have an election over it. The Government is reintroducing this Bill to implement its mandate and policy, and to unlock small business access to some 50,000 new jobs which could be created in the economy if this Bill was passed.

The proposed small business exemption has been the subject of an almost unprecedented degree of political obstructionism. In less than four years, it has been voted down in one form or another on eight occasions by the Labor Party and on five occasions by the Australian Democrats.

On each occasion these parties have done so, they widen the chasm between their rhetoric and practice when it comes to small business issues.

More importantly, on each occasion Labor and the Australian Democrats oppose this measure they leave more families coping with unemployment to continuing economic and social disadvantage. They vote against giving small business employers the confidence to take on unemployed Australians without the risk of being tied up for months in the unfair dismissal courts.

The Coalition’s workplace relations policy at the October 1998 federal election, More Jobs Better Pay, committed the Coalition to the re-introduction of this measure as a priority on being re-elected, after it was three times rejected in the previous parliament. This we have done, only to still be blocked in implementing our mandate. Again today, we ask the parliament to let the government legislate to keep its promises.

The case for the passage of the bill is overwhelming. Whilst in our first term the government made major inroads into the reform of workplace relations, including improvements to the worst aspects of Labor’s job-destroying unfair dismissal laws, it is widely recognised that ongoing labour market reform is required to drive unemployment down further.

That is an aspiration we as a government have. It should be shared by this parliament. To achieve that goal requires a willingness by this parliament to ease the burden of unfair dismissal laws on the employment generator of our economy – small business.

The government recognises that passage of this Bill now requires the Labor Party and the Australian Democrats to abandon the political obstructionism that has to date characterised their stance. They would be required to balance in a different way competing interests between the purpose of unfair dismissal laws and the negative impact these laws have on small businesses and the rights of unemployed Australians to access new jobs. If they did so, and allowed this Bill to pass, they might even be given credit within the broader community.

What is required is less political opportunism, and a more objective and commonsense analysis of the evidence in support of this Bill.

That evidence has been communicated to the Labor Party and the Australian Democrats in writing, orally, in public and in private. Last year a majority report of a Senate Committee recommended that the Bill be passed without amendment. Despite this, Labor and the Democrats still claim that there is no evidence linking the impact of unfair dismissal laws on hiring intentions by small business employers.
There is - as a majority of the Senate committee found. Ignoring the evidence and these findings is like burying one’s head in the sand. Indeed, after months of complaining that no such evidence existed, the Labor Party even opposed the government bringing real small business employers before the Senate committee as part of its submission to give their evidence first hand. That suggests a closed mind intent on obstructionism, not a fair assessment of the policy balances which should be made by this parliament.

In fact, Labor’s position has become more regressive as the months of obstructionism have passed. In August 2000 Labor adopted a national policy to expand rather than limit the adverse impact of unfair dismissal laws. Should Labor return to government they now have a policy to reintroduce the discredited unfair dismissal laws they first introduced in 1993, laws that cost thousands of jobs and even had Labor Premier Bob Carr repudiating Labor policy during the 1996 federal election campaign.

The measures in the Bill are balanced. They retain rights in respect to unlawful (such as discrimination based) dismissals for all employees (new and current), including those in small business. Further, given that the Bill applies only to new employees, it does not remove rights of existing employees in small business to access federal unfair dismissal laws should their employment be terminated.

It is an unavoidable fact that the defence of an unfair dismissal claim, however groundless, is especially burdensome for small businesses. In many larger businesses, more expertise and resources can be put into recruitment and termination procedures. Small businesses have no such resources. Even attendance of witnesses at a hearing can bring a small business to a standstill. The Bill also proposes the introduction of a six month qualifying period. This provides a fairer balance between the rights of employers and employees. It will provide some relief for medium and larger businesses which may not benefit from the small business exemption. It will deter frivolous claims. This standardisation of a six month period will also remove the uncertainties that can affect businesses relying on probation periods introduced for specific employees. The six month period is reasonable for Australian employees and employers, and may be compared with qualifying periods in place in other countries; for example, the United Kingdom, which has a 12 month qualifying period. In 1994 Labor itself in government legislated (with Democrat support) a six month qualifying period for fixed term employees – a fact apparently lost on today’s Senate.

I turn now to the terms of the Bill itself. The exemptions are to commence on Royal Assent. However, the exemptions will not apply to existing employees. As it is intended to encourage new employment, the exclusion will only apply to employees who are first taken on by the relevant employer after the commencement of the amendments.

The exemptions are from the federal unfair dismissal provisions, only. Employees to whom the exemptions apply will still be protected by other provisions of the Workplace Relations Act in respect of termination of employment. The exemptions do not apply to apprentices or trainees, whose position remains unaltered.

The small business exemption applies only to businesses employing 15 or fewer employees. This size of small business was chosen because of the precedent provided by the Employment Protection Act 1982 (NSW), introduced by the Wran Government, and followed by the then Australian Conciliation and Arbitration Commission in the 1984 Termination, Change and Redundancy Test Case.

The Bill provides that, in counting the number of employees in a business, casual employees are only to be counted if they have been engaged on a regular and systematic basis for at least 12 months. The intention of this exclusion is to reflect the fact that a business which occasionally engages additional casual employees is not necessarily a large business.

The qualifying period of six months will need to be continuous employment. The regulations will be able to prescribe circumstances to be disregarded in determining whether employment is continuous or not, much as is presently done in calculating length of service for the purposes of the entitlement to pay in lieu of notice.

AIRCRAFT NOISE LEVY COLLECTION AMENDMENT BILL 2001

The purpose of this Bill is to correct an administrative oversight, which resulted in Sydney (Kingsford-Smith) Airport not being declared as a ‘leviable’ airport after 30 June 1996.

The parent legislation, the Aircraft Noise Levy Collection Act 1995 (the Collection Act) and the Aircraft Noise Levy Act 1995, establish a regime by which an aircraft noise levy can be imposed and collected at certain airports.

The funds that are raised through the levy are used to recover the costs incurred in providing an airport noise amelioration programme. In the case of Sydney, the levy raises around $38-40 million
per annum and as at 31 January 2001 had raised a total of $197 million. Meanwhile, expenditure on
the programme to 31 January 2001 was $347 million. This has enabled over 3300 homes and
over 80 public buildings to be noise insulated.

Depending on future expenditure and recovery
levels, it can be expected that the levy will need to
continue for another five years.

The declaration of an airport as leviable, under
Section 7 of the Collection Act, is the trigger,
which enables the levy to be collected. In 1995,
Sydney Airport was declared as leviable for the
nine months to 30 June 1996. However, there was
no subsequent declaration. This was due to an
administrative oversight within the Treasury
which failed to have the responsible Minister
declare Sydney Airport from 1 July 1996.

This Bill will correct the oversight by deeming a
declaration to have been in place from 1 July
1996. In order to validate prospective collections,
the Assistant Treasurer on 21 February gazetted
Sydney as a leviable airport up to and including
30 June 2006.

The amendment will not involve any departure
from the purpose of the legislation and imposes
no additional burden on airline operators or other
businesses.

I commend the Bill to the Senate.

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

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

COMMITTEES
Legislation Committees
Reports

Senator CALVERT (Tasmania) (5.33
p.m.)—On behalf of the chairs of relevant
legislation committees, I present the follow-
ing reports:

Reports on annual reports referred to leg-
sislation committees—No. 1 of 2001, dated
March 2001—
Community Affairs Legislation Com-
mittee.
Employment, Workplace Relations,
Small Business and Education Legisla-
tion Committee.
Environment, Communications, Infor-
mation Technology and the Arts Legis-
lation Committee.
Finance and Public Administration
Legislation Committee.

Foreign Affairs, Defence and Trade
Legislation Committee.
Legal and Constitutional Legislation
Committee.
Rural and Regional Affairs and Trans-
port Legislation Committee.

Ordered that the reports be printed.

Senator CHRI$ EVANS (Western Aus-
tralia) (5.34 p.m.)—by leave—I move:
That the Senate take note of the report of the
Senate Community Affairs Legislation Commit-
tee.

This report from the Senate Community Af-
fairs Legislation Committee in particular
highlights the concerns that the committee
had at the Department of Health and Aged
Care’s annual report 1999-2000, wherein, the
department—and I must be fair to them—
made an admission about the underper-
formance in the area of aged care. At page 6
of that report listed as one of the
underachievements of the department is an
item relating to aged care. There was one
relating to the MRI issue as well, as senators
will not be surprised to hear. But, in terms of
the aged care area, they said that there was
insufficient integration of the aged care
compliance, the complaints resolution
scheme and the accreditation process. I think
that has to be the understatement of the year,
but I am glad that the department did
acknowledge the serious problems that have
existed in the area of aged care. I think
this has very much been driven from
the minister’s office. This report highlights
that we have increasing problems with the
aged care system within the health department
seem to be un-
der increasing pressure, so much so that, as
the problems in the department exacerbate
and as the concern about aged care in this
country grows, the information provided to
the public and the parliament is reduced.

There has been a deliberate attempt to pro-
vide much less information to those with an
interest in aged care, and I think that is be-
because of the concern they have about how it
represents this government’s performance. I
do not blame the department for this fact; I
think this has very much been driven from
the minister’s office. This report highlights
that we have increasing problems with the
aged care system in this country—many de-
scribe it as a crisis—yet the government is
trying to restrict the information that is avail-
able.
I want to start by referring to the performance measure listed in the department’s report which they made as part of their so-called aged care reforms in 1997. One of the performance measures was a reduction in waiting periods for individuals entering residential care from the previous year. What we do know from the annual report is that the average waiting time has in fact increased from 29 days in 1997-98 to 47 days in 1998-99 and then to 55 days in 1999-2000.

During the estimates process, I tried to get from the department the breakdown by regions so we could see which regions were most badly affected by this failure to meet the performance target. We have vastly increased waiting times for people to access residential care in this country which puts enormous strains not only on the families and the individuals but also on our health system. Thousands of people who should be in nursing homes are in hospitals because they cannot get a bed.

But do you think the department would provide that information this year? No. Every other year we have had access to that information, which allows us to assess in which regions the waiting times have increased, and to examine why they have increased in those regions and what can be done in a policy sense to ease that pressure. But this year the department thought it would be inadvisable to provide us with that information because they thought it could be misconstrued. This is one of the key benchmarks set down in their annual report, set down by the government to measure their performance, but they are now saying, ‘Well, we don’t think you ought to use that benchmark because in measuring our performance you might find that in fact we failed. We failed quite dramatically to deliver an improved performance.’ In fact, the performance has worsened considerably.

There are particular regions in Australia where I think waiting times are now reaching periods of almost 100 days. These are for very sick, frail people who are in need of nursing care and who cannot access that care because waiting times have blown out, because there are not enough beds available in the system. It is important to note that we are not getting the sort of information that we should be getting and that the government is trying to hide statistics that have previously been available under governments of both persuasions. These statistics are no longer available. As the crisis in aged care grows, the information available to us to measure the performance of the department and the minister has been reduced.

There is nothing more telling in that regard than the furore regarding the latest bed allocation round. On 12 January this year the minister announced the allocation of beds—who the successful bidders were to provide more aged care beds in this country. These are beds that are worth about $35,000 per bed licence on the open market, so once someone is granted 40 or 80 beds by the government they have a considerable asset, in the order of millions of dollars. As I say, the going rate for these high care licences is about $35,000 on the open market. We find that the list was produced in a format very different from the list in all previous years. It was produced in a format which did not allow one to identify who had been allocated these million-dollar licences. In many instances you cannot identify who won these licences to provide aged care beds in this country. Some of the providers are obvious: if it says Catholic Health Care of Australia, one gets a feel for it. But in the list provided to the industry, to unsuccessful tenderers and to the parliament, it is not clear in many cases who won those licences.

I highlighted yesterday the example of a defunct bowling club getting $2.6 million worth of licences. This is a former bowling club that is now a vacant block of land but which has successfully, apparently, tendered for 50 aged care beds, and the licence is worth more than $2 million. If you want to find out who they are you can visit the address listed—it is a vacant block of land—and you know that they are named after the now defunct bowling club. Who is behind it? Who has got the licence? Who has had this generosity from the Commonwealth? You cannot tell.

There are other similar examples. There is one listed as ‘a new service’ at Glen Waverly. There is one listed as ‘a new service’ at Co-
burg. This is one of the best of them: 45 aged care beds, which means about $1.5 million a year in funding, went to ‘new service—west Sydney, located in Auburn-Lidcombe, New South Wales’. So if you are looking for an aged care bed, if you want a place for your mum or your dad, just head for west Sydney and look for somewhere that looks like a new service in the Auburn-Lidcombe area, because that is all you know. That is all the accountability provided by the Commonwealth government as to what they have done with $1.5 million worth of taxpayers’ money and 45 beds that are desperately needed to provide nursing care to elderly Australians who cannot get into beds and who are now waiting, on average, up to three months to get a bed.

The minister thinks this is the standard of accountability that is somehow acceptable now in the Australian community. She just has to tell us that we have given some money to someone somewhere in west Sydney who hopefully will have a facility somewhere in the vicinity of Auburn-Lidcombe, and that is all we need to know. Quite frankly, that is just not acceptable. In my own state of Western Australia, the list says ‘new service, Joondalup south’. Well, the minister might not realise it but Joondalup is a pretty big area, one of the fastest growing areas in Australia. All we know is that there is a new service, that they got 50 aged care beds as well, but we do not know who they are. The industry, the people who work in this industry, do not know who they are. Quite frankly, it is just not acceptable. What has the minister got to hide? Why is it that almost two months after her public announcement we cannot find out who got these bed licences, who got these millions of dollars worth of assets, to meet the growing demand for aged care beds in our community?

We know that Senator Judith Troeth knows who they are in her area, because she was given the list. But the department told me that such information was not available; it had not been produced. The department either deliberately misled the estimates committee, or the minister had compiled that information and not provided it to the department. Senator Troeth and other duty Lib-
(c) makes amendments in place of Senate replacement amendment no. 1 and original amendment no. 3:

Clause 3, page 2 (line 11), omit “, at the request of the Minister.”.

Clause 9, page 6 (lines 6 to 12), omit the clause (but not the note), substitute:

9 The Board’s functions

(1) In addition to the functions conferred on the Board by other provisions of this Act, the Board has the functions of:

(a) deciding the ARC’s goals, priorities, policies and strategies; and

(b) subject to subsections (2) and (3), initiating inquiries, on its own motion, into matters related to research; and

(c) ensuring that the ARC’s functions are performed properly, efficiently and effectively.

(2) The Board may initiate an inquiry under paragraph (1)(b) only if:

(a) the inquiry will not prejudice the performance of any or all of the ARC’s functions under section 6; and

(b) the Board has consulted the Minister about the proposal to initiate the inquiry.

(3) If the Board initiates an inquiry under paragraph (1)(b):

(a) the Board must provide the Minister with information about the results of that inquiry; and

(b) the Board may, if it considers it appropriate to do so, publish information about the results of the inquiry in such manner as the Board thinks appropriate.

I would like to make some comments and explain what this motion means. The motion that I have just moved relates only to the Australian Research Council Bill 2000. This matter has been before the Senate on two previous occasions: 4 December last year and 8 February this year. Amendments were made on both occasions. On 4 December, amendments were made which I will call the original amendments. On 8 February, further amendments were made which replaced some of those original amendments.

In moving this motion, I understand that the Democrats are going to insist on Senate amendments Nos 4, 5, 6 and 7, which are amendments to the original amendments moved on 4 December last year. I further understand that the Democrats will not insist on amendments Nos 3 and 11 of those original amendments moved in December last year. It is to be noted that, of those original amendments, amendments Nos 1 and 8 were replaced when this matter was dealt with on 8 February by subsequent amendments, which I will call the new amendments. They are on a separate sheet, and they are listed as amendments Nos 1, 2, 3, 4 and 5.

I think that describes where we are at with this motion and the government’s approach to it. I have taken the liberty of foreshadowing what the Democrats might or might not do, which is rather presumptuous, I suppose. But I understand that there has been some discussion on this matter, and I merely mention that in order to expedite matters at the committee stage. It might be appropriate now to hear what the Democrats have to say in relation to that.

The CHAIRMAN—Before you do, Senator Ellison, you did not mention original amendment No. 10.

Senator ELLISON—Yes, that was part of my motion.

The CHAIRMAN—But what is happening to it in the future?

Senator ELLISON—It is not being insisted on. The Democrats can confirm what they are doing in relation to that.

Senator STOTT DESPOJA (South Australia—Deputy Leader of the Australian Democrats) (5.49 p.m.)—The minister was not presumptuous. He has tried to bring some clarity to a complex number of amendments and changes. This is, of course, the fourth time that we have discussed this legislation in the Senate, so I do not think it is necessary to go over a lot of ground in detail. The minister has outlined generally what the Democrats will be doing. In relation to the minister’s last comment, the Democrats will be withdrawing original support for Senate amendment No. 10.
The CHAIRMAN—So you are not insisting on it?

Senator STOTT DESPOJA—We are not insisting. The white paper ‘Knowledge and innovation’ proposed to establish the Australian Research Council as an independent organisation with an enhanced strategic leadership and management role in Australian research. We believe the original ARC Bill 2000 brought forward to the Senate was flawed in a number of respects, notably in respect of ministerial accountability and the capacity of the ARC to initiate its own inquiries. The Democrats also had major concerns about the processes, by which institutions were able to access Commonwealth funding for research and for research education, that were in the original Australian Research Council (Consequential and Transitional Provisions) Bill 2000.

In the Senate inquiry into these bills, including a public hearing that was held on 14 November last year, all relevant peak bodies in the sector, including the Australian Vice-Chancellors’ Committee, the National Tertiary Education Union, FASTS and CAPA expressed various concerns in relation to the bills. To strengthen the ARC and address some of the shortcomings in the proposed legislation, the Senate passed a series of appropriate and moderate amendments on 4 December last year. I think most of those were substantially reaffirmed on 8 February this year, when these bills came back. Initially, the government opposed all of the Senate amendments. However, the Democrats are pleased that, after a process of constructive negotiation, the government has now indicated its intent to withdraw its opposition to the key amendments. The Democrats are similarly removing support for amendment (11) and not insisting on supporting opposition amendment (10). However, we do welcome the government’s intention to no longer oppose amendments (4), (5), (6), and (7). That was outlined by the minister. These amendments are undoubtedly the most important to ensure ministerial accountability and will ensure public confidence in the operations of the ARC. I reiterate: the Democrats are glad to hear that the government will no longer be opposing those particular amendments.

The Democrats will be not insisting on the four amendments we moved on 8 February, which replace the original amendments (8) and (9), placing a student representative nominated by the Council of Australian Postgraduate Associations on the ARC board. Finally, the Democrats will no longer be supporting current amendment (4). That is in the consequential and transitional provisions bill. I understand we are moving on to that, Chair.

The Democrats are pleased that the amendments we propose to support or move today will provide an appropriate regime of accountability for these funds. In brief, the Democrats will not insist on the opposition alternative to amendment (1) and we will be removing our support for the Democrats original amendment (3). Instead, we will be supporting two government amendments that give the ARC board the capacity to initiate and publish its own inquiries but move this capability from section 3, which deals with the objects of the acts, to section 9, which deals with the functions of the board. On ministerial accountability, the Democrats are removing support for amendment (11) and not insisting on supporting opposition amendment (10). However, we do welcome the government’s intention to no longer oppose amendments (4), (5), (6), and (7). That was outlined by the minister. These amendments are undoubtedly the most important to ensure ministerial accountability and will ensure public confidence in the operations of the ARC. I reiterate: the Democrats are glad to hear that the government will no longer be opposing those particular amendments.

The Democrats will be not insisting on the four amendments we moved on 8 February, which replace the original amendments (8) and (9), placing a student representative nominated by the Council of Australian Postgraduate Associations on the ARC board. Finally, the Democrats will no longer be supporting current amendment (4). That is in the consequential and transitional provisions bill. I understand we are moving on to that, Chair.
The CHAIRMAN—We will keep the bills separate, if you do not mind. Otherwise, I am likely to get totally confused here.

Senator STOTT DESPOJA—There are a number of confusing amendments. Perhaps I will remark on that another time. But that is certainly intended as an overview, as the minister also outlined, of what the Democrats have agreed to do. Again, we are glad to see that the government has agreed to support the amendments that provide for stricter accountability requirements.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (5.55 p.m.)—I table a supplementary explanatory memorandum relating to the government amendments to be moved to this bill. The memorandum was circulated in the chamber on 7 March 2001.

Senator CARR (Victoria) (5.56 p.m.)—This is an interesting situation for the Senate to find itself in. I begin more in sorrow than in anger. The government has acknowledged the error of its ways in so many positions that it has put before us today. On many key issues, the government has undertaken yet more backflips in a season of backflips. I suppose this is part of the new policy direction of this government. It is essentially not able to stand the heat for too long on any particular matter that appears to be controversial.

The Democrats’ attitude on some of the other issues does concern me. Senator Stott Despoja has established that she is deeply concerned about higher education in this country. She has demonstrated over time a commitment to a range of issues. I share that commitment. This is now the fifth time we have discussed this matter, if we include the proceedings of the Senate committee. It is perhaps the sixth or seventh time if we consider the Senate estimates, which I understand Senator Stott Despoja was not able to participate in. She was also not able to participate in all the hearings of the committee, so she may have missed some of the nuances of the government’s position. I can understand that, given there have been distractions of late within the Democrats, she may not necessarily have all of these matters firmly within her grasp.

The critical issues in the seven or eight times we have discussed these matters in the chamber and its various committees have been accountability, transparency, strategic direction and quality assurance. They are the critical issues that this parliament has to address when it is talking about the research effort of this country—a matter of absolutely fundamental importance to the direction this country takes in the higher education sector and perhaps the whole innovations policy that we embark upon as a nation. These are not just momentary issues that should be considered as though we were passing like ships in the night. It is certainly not appropriate that the significant matters we discuss today were given to us some two hours ago. We have seen amendments which we have not understood, I would suggest, given what the Democrats have said today. The positions that were not circulated in this chamber and that were given to us at such short notice ought to have been discussed more fully. It is only reasonable.

Given that Senator Stott Despoja has such an interest in these matters, I am deeply troubled to hear her say that the key amendments that we have been pursuing throughout those seven or eight times in the chamber have been accepted by the government. I thought she said that the government was going to insist it was accepting amendments (4), (5) and (6)—for instance, in regard to the Australian Research Council Bill. That is not what the government’s motion says. The government says that it will not insist on original amendments (3) to (7). Perhaps I have misunderstood something, but the words ‘not insist’ suggest to me it is voting against them. Maybe in the Democrats party room there is a different view of what these words mean. I look forward to an explanation of what those terms mean.

On the issue of accountability, which is the critical question in all of this, we have propositions under the transitional provisions bill. I am perhaps ranging across these matters in an overview manner, as Senator Stott Despoja mentioned. The critical issue here was the power of the minister to allocate public funds. That was the critical question we had to deal with. We now have a propo-
sition in the form of a schedule that lists the number of universities in this country that can receive moneys, and it adds two to that list—so be it.

The critical issue in terms of accountability is the power of the minister to distribute money and the terms under which he can distribute that money. In the amendments that the Democrats are proposing, through the government, the Democrats are basically being conned because these amendments still allow the government to distribute money to anybody the minister thinks appropriate. I look forward to the arguments on this point. The propositions we have before us today do not restrict the minister to only those institutions. I look forward to an explanation as to why I am mistaken on those points.

When these matters are voted on today, or perhaps at another time, the Labor Party will be asking that these issues be divided. In terms of the first motion, we will be insisting on clause 10 and we will be insisting on clauses 2 to 5. Given that we have been told that the key issues are being accepted by the government, those matters dealing with student representation, which this government is not supporting and which the Democrats appear to have walked away from, are apparently not a key matter anymore. We will be giving them the opportunity to demonstrate why that is not the case.

What we see here is a serious problem that has arisen essentially because the government has felt it necessary to move away from its original position and, unfortunately, the Democrats have failed to appreciate the strength of this chamber’s hand on this issue. While I welcome the government’s backflips and its capitulation on a number of important matters, particularly in relation to the capacity of the Australian Research Council to operate as an important source of advice to the government and the role it plays in the funding of Australian research, a number of other issues do need more attention.

It is an irony, is it not, that Dr Kemp, just this week, on Monday, had to go through the same tired old lines in the House of Representatives. He could not come forward and actually spell out what the government’s position was. He could not announce that the government was about to cave in on critical matters. We have now heard from Senator Ellison that the last position that was presented to this chamber—and presented to the other chamber by Dr Kemp just on Monday—is no longer the government’s position. As I say, I welcome that. But I am a bit troubled by the fact that the Democrats do not seem to appreciate that they did not have to move away from those important questions of student representation and from those critical issues of the powers of the minister. They did not have to because, frankly, they did not appreciate just how strong the feeling is in this chamber on the matter.

I am told there is some pressure mounting within the education community for the Senate to move away from its position on a range of issues. All I can say to the Democrats and to the minister is: that is not pressure that we have heard about. No-one came to us and suggested that there needs to be a substantive change in our position. In fact, the position that we have been arguing has been widely supported within the education community. No doubt we will hear much from the Democrats so that we can explain to those people why their concerns about accountability, their concerns about transparency and their concerns about appropriateness of representation were wrong. I look forward to the Democrats’ advice to us on those matters.

What we have seen here is that the government have changed their tune on a range of matters. They have decided to drop the laughable requirement that the ARC present for tabling in parliament a range of documents which are required in any case in their annual report. What a big concession that is! They were able to argue this because they said it would overwhelm the ARC with paperwork and red tape. It is not necessarily a major concession by government to acknowledge these fundamental facts.

The critical issues are: firstly, the list of institutions that should be able to receive public funds; and, secondly and more importantly than that, the power of the minister to actually distribute funds within those institutions and more especially to those outside the list. That is what really concerns me.
We have seen in recent times a discussion about Greenwich University and the debacle out there at Norfolk Island. It is thanks to this government’s mishandling that we are stuck, it would appear, with this wretched entity. The education department’s Gallagher committee of inquiry pointed out that ‘its courses, quality assurance mechanisms and academic leadership standards fail to meet those expected of Australian universities’, if I might just quote the minister’s words on that matter. As we read these amendments, we see that an institution could still receive moneys if this government chose to provide it—no doubt we will hear more on that point. I look forward to the government explaining to me why Greenwich University could not receive moneys, if the government chose to give it to them.

Commercialisation, privatisation and the various other commercial pressures that are being pushed into our universities mean that there is enormous pressure on quality assurance within our university sector. The government said that these matters are best raised by the Universities Quality Agency; however, we will have to wait for that to be fully operational. We are yet to see any change in the government’s attitude that they cannot inquire into individual complaints or particular universities’ quality assurance processes. It would appear on that basis that this government essentially has a hands-off attitude towards the operation of the higher education sector.

As I outlined previously, Labor will be insisting on this particular measure of accountability. It is really important that the Senate discuss those matters properly. It is just not good enough to drop propositions on the opposition’s table after question time and to circulate an explanatory memorandum. We may not be able to discuss these issues for very long, but I do think we are entitled to discuss them in a little more detail than we have been given the opportunity to do to date.

Finally, let me say this about student representation. These are issues that need to be pressed. The government is able to see a former pharmaceutical industry spokesman on the Pharmaceutical Benefits Advisory Committee. The government is prepared to see tobacco industry lobbyists on the Breast Cancer Council. It is prepared to see a whole range of people on various representative bodies in this country, but it is not prepared to see students on the Australian Research Council. It strikes me that it is a very strange and quite inconsistent approach to take. Never mind that higher degree students make up about two-thirds of the academic research labour force, or that they author or co-author about one-third of the university research publications. The government needs to explain to us why students are not entitled to be represented on such important bodies. I look forward to the government’s explanation of those matters.

We need to see clearly the context of these arrangements. At the estimates committee, I pressed this point quite strongly. What did it matter if the Senate insisted on its amendments, as it had done on previous occasions? The answer from the departmental officials was: not one jot. The Democrats essentially have been snowed; they have been conned. I do not think they necessarily appreciate the strength of their position, or the Senate’s position, on these matters; nor have they appreciated the government’s intention on these matters. It troubles me that, through these amendments, the government essentially has allowed a position to be maintained—which the Democrats appear to be supporting—which will provide the minister with more than ample opportunity to maintain his discretion in the allocation of funds to organisations he thinks are appropriate. I have yet to hear a convincing argument for why it is that BHP, or other organisations such as Telstra, will not be able to receive moneys as a result of these amendments, irrespective of the fact that there is a list of institutions. (Time expired)

The CHAIRMAN—Before I call on other speakers, I think from the three speakers we have heard to date, it will be necessary to divide the question when it is put. Unless I receive an indication to the contrary, I will be putting it in the terms of, firstly, not insisting on amendments Nos 3 and 11, then No. 10 and then Nos 4 to 7. Secondly, we will move to (b) and amendments Nos 1 to 5.
instead of the original Nos 1, 8 and 9. Then we will move on to the government amendments on sheet DU275. That explanation is to help people understand how I will split the question.

Senator Carr—We will need to be clear on that.

The CHAIRMAN—Yes, you will need to be clear about that, Senator Carr.

Senator Carr—We wish to insist upon item 10 in the first clause.

The CHAIRMAN—It will be put separately.

Senator Carr—We wish to insist upon amendments Nos 2 to 5 in the second clause. We will be insisting on others as well.

The CHAIRMAN—But you do not wish to insist upon No. 1 in the second clause?

Senator Carr—We are agreeing on No. 1; that is correct.

The CHAIRMAN—So that has to be split as well. So that is No. 1 and Nos 2 to 5. Does anybody else have any other bids while I am taking bids on how we are going to split the question?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (6.12 p.m.)—I take it we are talking about (b) in the motion that I moved.

The CHAIRMAN—Yes.

Senator ELLISON—On my understanding, I think it would be appropriate to do it that way.

The CHAIRMAN—Yes, it is because one senator has indicated that he wishes to vote a different way. He does not wish to vote the same way for Nos 1 to 5. He wishes to vote a different way for No. 1 than he does for Nos 2 to 5, so I therefore have to split that.

Senator ELLISON—That is appropriate.

Senator STOTT DESPOJA (South Australia—Deputy Leader of the Australian Democrats) (6.13 p.m.)—Thank you for outlining that process. With the intention of the opposition to divide, I assume that Senator Carr was referring to calling a division on the amendments. If it facilitates the chamber in any way, I am very happy to be quite upfront about how the Australian Democrats will vote on the various amendments, which may save time. If Senator Carr insists on a division, that is fine, but I will make it very clear to the Senate how the Democrats will vote on various amendments.

I briefly want to respond to Senator Carr. As we go through the amendments, I am happy to respond in more detail should he require it. First of all, I want to set the record straight. Unless Senator Carr has evidence otherwise, I believe there was one hearing into this bill, and I certainly was there for that hearing. Secondly, I acknowledge I was not at the estimates process, but I always read through Senator Carr’s comments with due consideration and fascination because we both have a very strong concern about the higher education sector. That is one reason why I would not proceed with this negotiated outcome unless I was confident that it had the support of some of those very key groups within the sector, such as the National Tertiary Education Union or the Australian Vice-Chancellors’ Committee, which have supported the changes before us to both pieces of legislation. I note for the record that much of Senator Carr’s comments related to a second bill, the Australian Research Council (Consequential and Transitional Provisions) Bill 2000. I did not elaborate on that bill in my earlier comments because we are not dealing with that bill immediately. I will happily make those comments at a later stage when it is appropriate. Senator Carr did choose to enter into that debate a little early.

Student representation is a key issue. That is why the Democrats were more than willing to pick up this issue not only in the hearings and in our report to the Senate committee on this legislation but also at various times when this debate has come before the chamber. I really do appreciate the support of Senator Carr and the Labor Party for the notion of student representation. But it does beg the question: why, while the Labor government was in office, did we not see comparable calls for student representation not only on the Australian Research Council but also more generally? I am happy for someone to correct the record—maybe the
government advisers or even the opposition or the opposition’s advisers.

In my time I can recall only perhaps a National Union of Students representative on the Higher Education Council. I am not even sure if there was student representation on the Higher Education Council or one of the National Board of Employment, Education and Training, or NBEET, subcommittees. I certainly remember as a student representative arguing very strongly for student representation on a range of government higher education committees and councils and pleading with the Labor government of the day. So this backflip is a welcome one, and I am sure that Senator Carr, if his party should enter office again, will ensure that student representation is a fundamental part of all bodies such as this. I hope they will have the opportunity to further improve this legislation and the council if they do get into a position of power.

The Democrats will not be insisting on our amendments that placed a student representative, nominated by the Council of Australian Postgraduate Associations, CAPA, on the ARC board. I have indicated many times in this place and in this debate today that we believe research students are central to Australia’s research capability and future. Thus in the best of all worlds it would be valuable to have that perspective fed into the deliberations of the ARC—there is no doubting that. I do not doubt the veracity of Senator Carr’s claims. He has good reason to call for that, just as we did in our amendments. However, I should also acknowledge that in the submission from CAPA to the Senate inquiry on these bills last year, they made it very clear that there were a number of core issues associated with these bills.

The core issues went to ministerial accountability, the capacity for the ARC to initiate its own inquiries and issues with the accreditation of institutions to receive funding in the research training scheme and the institutional grants scheme. That was very clear in their submission and in their evidence before that committee. The Democrats have a similar view and—now that we believe that these issues have been satisfactorily dealt with—we are not prepared to jeopardise the carriage of the bill by insisting on that particular amendment, notwithstanding the significant merits of that perspective and of that original amendment. I do not resile from that, but we recognise that that is not going to be an outcome that can be negotiated in these circumstances.

Genuinely, I do not need the response now, but I would be very happy to be enlightened at some stage as to the number of student representatives on government boards dealing with research or higher education during the period of the Labor government. As I recall, there were not too many, and certainly not in relation to the ARC, which since 1988 was the Labor Party’s responsibility. Again, for the record, I am very pleased with Senator Carr’s willingness to insist. For the record, the Democrats will not insist on that original amendment. If the Labor Party choose to move that amendment or want to divide on that issue, they will not have Democrat support. So I think it will perhaps be a waste of Senate time to have a division, especially when I am quite happy to say on behalf of all my colleagues to how you now wish to proceed in debating the amendments that remain before us.

The CHAIRMAN—I will proceed as long as people keep standing and speaking.

Senator CARR (Victoria) (6.19 p.m.)—I would like to raise a few issues. Senator Stott Despoja raised some views in her defence for what is essentially a backdown by the Democrats on some critical issues, which is a disappointment to me. I have no doubt that, from time to time, we stand at either end of this chamber and draw attention to perhaps the inadequacies of our parties’ positions or perceived positions. But I do think on this occasion, given Senator Stott Despoja’s self-professed longstanding commitment to student representation, it is a disappointment that these matters were not pursued. Senator Stott Despoja mentioned the Labor Party’s response on these matters. We did have student representation on the Higher Education Council. I do not think there is any argument about that matter.
Senator Stott Despoja—It took you long enough to get it.

Senator CARR—But the fact is that it was there. The issue here, Senator, is that you said it was a key issue and now you say it is not. You suddenly discovered that this is no longer a key issue. I think it is important for the student organisations to appreciate the change in heart of the Democrats. I have no doubt they will be asking, like I am, why it is that these issues are no longer key concerns for the Democrats. As I say, there are developments under way on the side of the Democrats. I do trust that this is not a movement that perhaps tell us other things about where the policy direction of the Democrats might be going.

Senator Ellison—What about voluntary student unionism?

Senator Stott Despoja—No change.

Senator CARR—There will be no change on the voluntary student unionism matter. But I could ask the Democrats: will they no longer see this as a key issue and perhaps see the need to change it? But I want to come back to this question of the discretion of the minister to actually allocate public funds to organisations other than those listed in the schedule. The proposition, as I understand it—essentially of the Democrats—is that they are cutting in half the amendments that we were seeking. There are four propositions in the original arrangements, and the Democrats have cut off the critical question in relation to the limitations on the discretionary power of the minister to allocate moneys.

I have raised this in the context of Greenwich University. I have indicated my deep concern about this matter, and I am going to ask the minister again about the issues I raised during question time about Greenwich University. There is nothing here that I can see that would prevent a future minister, should one be mad enough to do it, from allocating moneys to organisations like Greenwich. I am particularly concerned, given the behaviour of the Duke of Brannagh—this man who has these aristocratic pretensions; this man who has a royal title in both France and Russia. I understand he is pretty close in line for the restoration of the tsarist throne; perhaps he has inherited the haemophilia gene as well.

Senator Ellison—He is obviously not an old Bolshevik.

Senator CARR—He certainly is not an old Bolshevik, but I am concerned about his threats to your officers, Senator Ellison. Claims were made in the Campus Review just last week, in which he referred to actions that he undertakes. He says:

We have only two weeks from the Norfolk Island act that is proclaimed and the government said a senior bureaucrat in DETYA was denying the very existence of the legislation and had a message placed on the World Wide Web to that effect. He goes on to say:

The name is withheld pending legal proceedings being prepared against the individual.

My concern here is that threats are being made against Commonwealth public servants for doing their job. I may well argue with government and I may well from time to time be known to criticise government for undertaking certain policies, but I do think that the issue of threats to public servants needs to be identified more clearly. This is an unsavoury tactic that is being proposed. As I understand it, the Duke has made various threats against senior public servants from the higher education division of DETYA for the sequestration of property and superannuation entitlements for undertaking their work for the quality assurance committee, established with Mr Gallagher as its head.

I would like to know what action this government is taking. I raised questions this afternoon about the protection of students. What action is the government taking? Clearly they are not taking very much on the defiance of the Norfolk Island government on the findings of this committee which demonstrated that, in the three areas of teaching, research and finance, this university is not up to scratch. So I think we are entitled to know where the government stands on these matters. But it is not just Norfolk Island that is an area of concern to us. The quality assurance issues go to a range of Internet entities. This government has said that Norfolk Island and the Greenwich University are not up to speed, but what action has been taken about Bircham International
College, Oracle University, the Australian Open Theological College Ltd and the University of the Seven Rays? What action has the government taken to ensure that these sorts of operations do not work in ways that undermine our international reputation?

Is it possible for any of these organisations to secure money under this government’s regime? For instance, is it possible that the Esoteric Sciences and Creative Educational Foundation—which operates on the Internet, offering higher degrees, I am told, to Australians at this very time—will get money? I am told that the Australian College of Trans-Himalayan Wisdom is out there peddling its stuff. What action is this government taking to close down these sorts of outfits? As I read the government’s proposals, these outfits may well be entitled to public money. They may be entitled to claim research money. Will the Australian College of Esoteric Astrology be entitled to money? What about University of Asia—now known as University Asia—and what about St Clements? St Clements is that mob operating in South Australia, known as Tertiary Services Ltd and Wholesale Whiskey Distributing Co., offering education services out of the back of a pub, two doors down from the South Australian department of education. There is the Power Business Institute, a registered RTO offering higher degree qualifications. I understand that the Webster Training Academy is also doing the same thing. And what about EMA Open Learning?

So many of these institutions are operating at the moment and I think we are entitled to know whether or not the government intends to take steps to see that these sorts of operations do not get access to public moneys and are not able to operate in this country and offer people higher degrees. We have heard much talk about the new protocols that established the new Universities Quality Agency, and I have indicated my concerns about those. We heard the government’s claim on 20 March last year about the new processes for accreditation established through MCEETYA, which required the Commonwealth to take action to protect the word ‘university’, the business name, under the Corporations Law. What action has the Commonwealth taken in that regard? My understanding is that the answer is very simple: nothing—not a thing.

That is why I raise these issues, particularly for the benefit of the Democrats. The problem is that, even when you get formal agreements entered into by this government with the states and territories through the ministerial councils in this country on such fundamental issues as the use of the term ‘university’, you find that the government do not take any action. Even after a formal committee was established after considerable pressure in this chamber, which committee is made up of representatives from a number of states and headed by the senior officer in the higher education division and which found that Greenwich University does not measure up on basic matters such as research, teaching and finance, this government do nothing. But they allow their officials to be threatened by these bogus outfits, such as we have seen on Norfolk Island.

Senator Ellison—No, it doesn’t.

Senator CARR—The minister says that it does not. I look forward to his response, because I hope he can demonstrate to me that some strong action will be taken by the government not just on the issue of students’ rights, about which I have seen nothing mentioned, not just on the issue of public servants’ rights, about which there has been nothing said, but also on the issue of what happens to the government of Norfolk Island, given that the next in line, as I understand it, for the Russian throne is now proposing that Norfolk Island secede from the Commonwealth of Australia, so keen is he to have this bogus outfit, which has been thrown out of New Zealand, thrown out of Victoria and thrown out of California and has never even been accredited, even in Hawaii. We are told it is a great American institution—they have some beauties, haven’t they? They are now able to threaten our public servants for doing their normal jobs, from what I can see, under the direction of the Commonwealth minister. So, Minister, I trust that you will be able to give us some explanation on these matters.

Senator ELLISON (Western Australia—Minister for Justice and Customs)
...—I do not want to prolong matters more than necessary, but can I say that Senator Carr did raise this matter at question time today. I have looked into it further, and I understand there was an article written for the Campus Review. That was by Dr John Walsh of Brannagh, who is the gentleman Senator Carr refers to—

Senator Carr—The Duke.

Senator ELLISON—The Duke. No doubt if he had been a Bolshevik it would have been a whole lot better in your eyes, Senator Carr. Unfortunately, he is on the wrong side of the throne—or wants to be on it. In relation to Senator Carr’s point that there has been some threat made to public officials, I will say at the outset that if any allegation is made by anyone that these public officials were acting beyond their duties or were in dereliction of their duties, the government would defend that matter very strongly. That article in the Campus Review states, ‘legal proceedings are being prepared against the individual.’ If that is a threat of legal action against any Commonwealth public official, the usual provision of assistance will apply in relation to the defence of that matter, and the guidelines are well established in relation to that.

I have made inquiries with the department and I can say that the threats that Senator Carr says were made were perhaps not as direct as that, and any mention of legal action was perhaps more implicit in what was said. Nonetheless, we, in print, mention of legal proceedings, and I place on record that the government denies any allegation that these Commonwealth officials were doing other than acting within their duty and direction, and they will be given the support of the government. I place that on record, Senator Carr.

In relation to funding under this bill, I think Senator Carr was trying to ask: who is to say that Greenwich could not get some financial assistance under these bills? Can I say that it would not qualify for research funding. It is not on the proposed schedule that is the subject of a Democrat amendment which we are going to be dealing with shortly; it is not on the Australian Qualifications Framework register, and it does not have a researched training management plan. For these reasons, it would fail to meet the funding requirements, and to suggest that it would is without foundation. Senator Carr raised the question of students at the university, and I will take that matter on notice. I think that deals with the question of Greenwich University.

Senator CARR (Victoria) (6.33 p.m.)—First of all, I acknowledge the minister’s commitment on behalf of the government to defend those public servants. I think it is important that it is presented clearly and forcefully, for the likes of John Walsh, that this behaviour is not accepted by the major parties of this parliament. In terms of this particular consequential bill, we do think the matters in the amendments that we have proposed—particularly those about the naming of the organisation, applying for funding, the description of the research funding, the name and title of the person leading the program, the statement of reasons for approval or failure to approve the proposal, and the naming of persons or organisations who provide advice to the minister in respect of the proposal—warrant further support of the Senate, and we will be asking that the Senate do that.

We would like to know why the Democrats feel that the schedule alone will provide sufficient defence in terms of restricting the ministerial discretion on these matters. In the absence of amendments (1) to (3), why is it that we can make that assumption? I have had to hear from the Democrats why they believe that that is the case, because it is quite apparent—from the discussion we have had so far—that there is not any explanation as to why the government believes that or why the Democrats have been persuaded that that is the case. Why isn’t it, with the Democrats moving away from the position they have argued on so many other occasions when we have discussed these matters, that the ministerial power be restricted explicitly? Why do the Democrats feel the need to do that on this occasion?

When the government outlined its position on Monday, its position was that ‘there is a danger that the reasons for approval in circumstances may lead to unfair criticism of the recipients of a grant or challenge the
public confidence in the ARC’s grants process. That is a peculiar view of the parliamentary and political processes in this country—not to mention what I would have thought was the traditional culture within our universities. The idea of unfair criticism is an interesting concept. Presumably we would have unfair defences of criticism as well. Presumably, under this proposal, we are supposed to accept that the government’s decisions are final. Why should we argue, according to the logic that has been presented to us, that the decisions have been made on anything other than a fair basis?

Unfortunately, the whole nature of academic debate in this country is about controversy; it is about challenging priorities; it is surely about trying to establish whether or not decisions are made fairly and whether or not a recipient of a grant is entitled to that grant. I do not see that there is anything particularly difficult about that proposition. Perhaps the Democrats could explain to us what matters were raised in their discussions with the government, other than those that were stated in the position that has been outlined in the government’s public position as presented to the House of Representatives on Monday. What new information should we have to assess the validity of the government’s claim on this matter?

Senator STOTT DESPOJA (South Australia—Deputy Leader of the Australian Democrats) (6.37 p.m.)—I might address some of the amendments and changes before us in the Australian Research Council Bill 2000, as opposed to the next bill, to which Senator Carr is referring. It is amazing how many higher education debates that involve Senator Carr get back to Greenwich these days.

Senator Carr—For good reason.

Senator STOTT DESPOJA—There are many good reasons—I acknowledge that intersection—and many of us commend the work that Senator Carr has been doing on that particular topic. However, some of his contributions to the chamber today, including that on the issue of student representation, have been grandstanding or discussions of issues that are related to but not specifically pertinent to these bills. I have just been going through the opposition senators’ report from the Senate inquiry that investigated the bills before us and I can find no mention of student representation. So once again I state, in response to Senator Carr’s earlier questioning, that this remains an important issue for the Democrats and one that we hope will be addressed either by government or the opposition at some stage in the future.

In the meantime, it is worth noting that that report refers a number of times to CAPA and CAPA’s position on the bills. CAPA is cited throughout the report provided by opposition senators, and therefore they should have been as aware as the Democrats were of the key issues that were highlighted as issues of concern by CAPA. The Democrats believe that we have met those conditions and have certainly responded to the core concerns that organisations like CAPA have. I also reiterate that we do have the support of the AVCC and the NTEU. Basically, this boils down to the fact that some of the things that we have achieved in the context of these discussions in what has become a long-running debate are the very things that Senator Carr wanted to achieve on behalf of the Labor Party but did not.

I will for the record, so we do not tie up this debate too much longer, outline some of the other changes. The Democrats, as I said, will be supporting the government amendments that are before us, which clarify the capacity of the ARC board, as distinct from, say, the ARC CEO, to initiate its own inquiries. Apart from moving the capacity from S3 to S9, there are two differences between the government’s and the opposition’s prior amendment that should be put on record today in the Senate.

First, the reference to research education has been dropped. There are good reasons why we wanted this reference in our initial amendments. Research students perform most of the research in universities and, as such, are basic to our national research endeavour. Moreover, research students constitute the future of Australia’s research. Thus, the quality and policy settings of research education are of major national significance. We are well aware that the prime responsibility for carriage of research educa-
tion policy lies with DETYA, and thus there is a view that the water should not be mud-died. We do emphasise, however, that research education is contained in the more global phase, if you like, ‘matters related to research’. Thus, the dropping of the specific reference makes no material difference to the scope of the ARC’s capacity to initiate its own inquiries.

In addition, the government’s amendment requires the ARC board to consult with the minister prior to initiating an inquiry. This does not give a minister the power to veto. Thus, we are satisfied that this amendment will not only give the ARC the capacity to initiate its own inquiries but actually substantially enhance the independence of the ARC. That is something that Senator Carr has referred to as well.

In relation to ministerial accountability, senators will be well aware that accountability and transparency are at the heart of the Democrats’ ideology and have been a central focus in relation to this chamber’s deliberation on these bills. Accordingly, we welcome the government’s agreement not to oppose amendments Nos 4, 5, 6 and 7. These four amendments require tabling in both houses of any ministerial requests for advice and directions about the performance and functions of the ARC and notification of general government policies that impact on the ARC.

The Democrats will not insist on our amendment that requires the minister to table funding rules and variations to funding rules. These rules and variations to rules will be published on the Internet and widely circulated in the research community. This is the content of some of the discussions and agreements that we have come to. Senator Carr is not in his place, but nevertheless he wanted to find out what we had been discussing and what we had agreed on, and here it is.

Progress reported.

**BUSINESS**

**Government Business**

Motion (by Senator Ellison)—by leave—proposed:

That consideration of government business continue from 6.50 p.m. to 7.20 p.m today.

**Senator CARR (Victoria) (6.43 p.m.)**—Could I just indicate to those who have any interest in this matter that there will in fact be divisions just before 7.20 p.m.

Question resolved in the affirmative.

**AUSTRALIAN RESEARCH COUNCIL BILL 2000**

**AUSTRALIAN RESEARCH COUNCIL (CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) BILL 2000**

Consideration of House of Representatives Message

Consideration resumed.

**AUSTRALIAN RESEARCH COUNCIL BILL 2000**

**Senator CARR (Victoria) (6.44 p.m.)**—Can I get a clear understanding from the Democrats, because I think we have had contradictory positions put to us? Is it your understanding that the government is going to no longer insist on amendments Nos 4 to 7, in clause (a) of the first motion? Is that your understanding? I just indicate for the Hansard that Senator Stott Despoja indicated that it is her understanding. I ask the government: is that your understanding? The motion you have moved here today, Senator Ellison, suggests to me that in fact Nos 4 to 7 will be excluded from the motion. Can we get some clarity on that issue? That is my reading of the amendment.

**The CHAIRMAN**—They will be insisted on, as I understand it, because we are dividing the question, Senator Carr. So whatever way you want to vote on them, you can vote on them. I will be putting the question for part (a) in three separate lots: Nos 3 and 11 together; No. 10 independently; and Nos 4 to 7. They will be put in those three bundles, because I understand from the debate in the chamber that those three bundles of amendments will be attracting people to a common vote. No. 1 is in the next group.

**Senator CARR**—It might speed the proceedings up if I indicate that the opposition will be supporting the motion in regard to
Nos 3 and 11, and only Nos 3 and 11. We wish to insist upon Nos 4 to 7 and No. 10.

The CHAIRMAN—Nos 4 to 7 will, I think, be insisted upon, because that is the Democrats’ indication as well. The Democrats will not be insisting on No. 10, but you will be, and therefore you want to divide on that? Is that right? Any further contributions?

Senator CARR—Given that it has been expressed clearly what the Democrats position is, we do not need to divide on No. 10.

Senator STOTT DESPOJA (South Australia—Deputy Leader of the Australian Democrats) (6.47 p.m.)—I would like to finish my brief remarks from earlier that outlined the rationale behind our decision. I mentioned the tabling of rules and variations to funding rules, our decision not to insist, and the fact that this information will be widely circulated and available. Insisting on this particular amendment creates unnecessary work for a minister’s office and for both houses, given that that information will be circulated widely and will be publicly available. Accordingly, we have no difficulty in not insisting on the amendments.

Amendment No. 10 is somewhat more complex: this amendment required the minister to table a report detailing the name of the organisation seeking funding, a description of the research proposal, the name of the lead researcher and a statement of the reasons why a decision was made for (a) proposals recommended by the ARC but not approved by the minister and (b) proposals not recommended by the ARC but approved by a minister. The Democrats acknowledge the intent of the opposition’s amendment. However, after further consideration and, on balance, we have decided not to insist. The concern with the minister approving proposals not recommended by the ARC is effectively redundant, to the extent that a funding proposal cannot be funded if it does not go through ARC processes and the minister may not direct the ARC as to which proposals do or do not get recommended. So we believe that is no longer required.

The requirement that a minister name individuals, organisations and reasons, in cases where a minister did not approve a proposal recommended by the ARC, sets up a raft of legal problems and may impinge upon the privacy and standing of affected individuals. I am aware of legal advice on this matter, and the Democrats are satisfied that dropping the amendment is, on balance, the appropriate step. It should be noted that the only example of a minister not accepting an ARC recommendation was that of Minister Vanstone back in 1996—which reminds us that we have not actually got to the bottom of that episode yet. So it is not a provision that is likely to be exercised frequently.

Moreover, there are other mechanisms through estimates—a process that Senator Carr is more than familiar with—that permit disclosure of a such an action by the minister. No doubt Senator Carr will be delighted that he has another automatic question to put to the current and future First Assistant Secretary of DETYA. On the other hand, however, if Senator Carr happens to be the responsible minister, he will also know what question to expect from Senator Ellison, in that case.

I have outlined the rationale behind the Democrats’ reasons for not insisting on certain amendments. I have not tackled the transitional and consequential provisions bill, although that seemed to be a substantial amount of Senator Carr’s contribution to this debate, even though it is a different bill. So I am quite happy to indicate how we are voting, if that is required, to prevent any further divisions. Otherwise, we are quite happy to vote on this bill.

The CHAIRMAN—I shall now proceed to put the amendments. I will put amendments Nos 3 and 11 first, then No. 10, then Nos. 4 to 7 in group (a), and then I will move on to group (b). I will get these out of the way first. The question is that the Senate does not insist on amendments Nos 3 and 11.

Question resolved in the affirmative.

The CHAIRMAN—I shall now move to No. 10. The question is that the Senate does not insist upon amendment No. 10.

Question resolved in the affirmative.

The CHAIRMAN—We shall now move to amendments Nos 4 to 7. The question is
that the Senate does not insist upon amendments Nos 4 to 7.

Question resolved in the negative.

The CHAIRMAN—We will now move to point (b), and I intend to divide the amendments Nos 1 to 5, so that we will first vote on amendment No. 1 and then on amendments Nos 2 to 5, and these are in place of the original Senate amendments Nos 1, 8 and 9. The question is that replacement amendment No. 1 not be insisted upon.

Question resolved in the affirmative.

The CHAIRMAN—The question now is that replacement amendments Nos 2 to 5 not be insisted upon.

Question put.

The committee divided. [6.56 p.m.]

(The Chairman—Senator S.M. West)

Ayes…………… 38

Noes…………… 25

Majority………… 13

AYES

Abetz, E.  
Allison, L.F.

Bartlett, A.J.J.  
Bourne, V.W.

Brandis, G.H.  
Calvert, P.H.

Campbell, I.G.  
Coogan, H.L. *

Crane, A.W.  
Eggleston, A.

Ellison, C.M.  
Ferguson, A.B.

Ferris, J.M.  
Gibson, B.F.

Greig, B.  
Heffernan, W.

Herron, J.J.  
Kemp, C.R.

Knowles, S.C.  
Lees, M.H.

Lightfoot, P.R.  
Macdonald, I.

Macdonald, J.A.L.  
Mason, B.J.

McGauran, J.J.J.  
Minchin, N.H.

Murray, A.J.M.  
Newman, J.M.

Patterson, K.C.  
Payne, M.A.

Reid, M.E.  
Ridgeway, A.D.

Stott Despoja, N.  
Tchen, T.

Tierney, J.W.  
Troeth, J.M.

Watson, J.O.W.  
Woodley, J.

NOES

Bishop, T.M.  
Bolkus, N.

Brown, B.J.  
Buckland, G.

Campbell, G.  
Carr, K.J.

Collins, J.M.A.  
Conroy, S.M.

Cooney, B.C.  
Crowley, R.A.

Denman, K.J.  
Evans, C.V.

Forshaw, M.G.  
Harradine, B.

Hogg, J.J.  
Hutchins, S.P.

Ludwig, J.W *  
Mackay, S.M.

McKierman, J.P.  
McLucas, J.E.

O’Brien, K.W.K.  
Ray, R.F.

Schacht, C.C.  
Sherry, N.J.

West, S.M.

* denotes teller

Question so resolved in the affirmative.

The CHAIRMAN—I now go to part (c) of the message. The question is that the government amendment on sheet DU275, which amends Senate replacement amendment No. 1 and the original amendment No. 3, be agreed to.

Senator Harradine—Madam Chairman, I raise a point of order. Under standing orders, we were supposed to go on to the adjournment at 6.50 p.m. A number of us have been engaged in other necessary functions, particularly relating to the Hans Heysen gift from the New Zealand parliament to Australia. We all thought—at least I did and other colleagues seemed to think so too—that the adjournment would take place at 6.50 p.m. as per standing orders. I do not know who has made the decision—no doubt it has gone through this parliament—but certainly we were not advised of it.

The CHAIRMAN—The Senate made the decision that, as there were no government documents, government business would continue until 7.20 p.m.

Senator Ellison—I might just say for the benefit of senators that the ARC Bill is an important bill, and if we do not complete it tonight, we will be looking at coming back in three weeks time—

Senator Harradine interjecting—

Senator Ellison—Two weeks plus one gives you three; that is the first sitting week back. In any event, it is desirable that we get through this because of the fact that there are appointments in relation to the ARC that will expire at the end of this month and we have a time line to observe. With the cooperation of
the Democrats and the opposition, which the government is grateful for, we thought it was best that, for the sake of half an hour, we polish this bill off tonight. I apologise if that has inconvenienced senators, but unfortunately it was something which presented itself on the spot.

The CHAIRMAN—I now put the question that the government amendments on sheet DU275 be agreed to.

Question resolved in the affirmative.

AUSTRALIAN RESEARCH COUNCIL (CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) BILL 2000

Senator ELLISON (Western Australia—Minister for Justice and Customs) (7.02 p.m.)—I move:

That the committee does not insist on amendments Nos 1 to 4 made and insisted on by the Senate to which the House of Representatives has insisted on disagreeing.

In relation to this motion, I understand that the non-government parties are going to insist on Senate amendments Nos 1 to 3 and that the Democrats are going to move an amendment in place of Senate amendment No 4. Again I say that in the interests of clarity. These Senate amendments were dealt with on 4 December last year. They relate to the Australian Research Council (Consequential and Transitional Provisions) Bill 2000, which is the second bill we are dealing with now. That, subject to confirmation by the Democrats, is the position.

Senator STOTT DESPOJA (South Australia—Deputy Leader of the Australian Democrats) (7.03 p.m.)—That is the case. Two amendments have been circulated: one in the name of the government and one in my name relating to the schedule. Can I clarify who is moving that amendment? I presume it is me.

Senator Ellison—Madam Chair, the government amendment should have been withdrawn, and I think that will assist there.

The CHAIRMAN—Thank you. That clarifies the situation.

Senator CARR (Victoria) (7.04 p.m.)—I am very pleased to hear that the Democrats will not be so silly as to accept the government’s proposition because, frankly, without the full package, the ministerial power of discretion would have been maintained. That would have substantially undermined whatever intentions the Senate had when it discussed these matters on previous occasions. I believe that the Democrats have made some errors of judgment in accepting part of this package. They had no need to do that and could well have maintained their position. As the government has indicated tonight, it is anxious to secure the passage of this legislation in line with the new appointments it is seeking to secure. So the proposition that has been put in other quarters that this was a matter that would not have passed without some compromising by the Democrats I think, from what the government has said today, has clearly been demonstrated to be incorrect.

The nature of this political process is that we do have to know—as Kenny Rogers says—when to hold them and when to fold them. Frankly, Senator, I think you do have to know when to walk away. We ought to know when to run—and we do a fair bit of that, and I understand how concerned you are about some of the criticisms I have made of the Democrats position on this. But, frankly, I think it is very unwise for you to count your money while you are still sitting at the table, which is essentially what you have done in this matter. I think it is appropriate enough to remember that there is always time enough for counting, particularly when the dealing has been done.

I understand that are you critical of others who make deals. I can say to you: I am not one who will fall for that sort of sanctimonious hypocrisy. I am one who is only too happy to acknowledge that the nature of the political process is one of negotiation and reaching agreements. But there are periods when one has to actually insist on principles that you have argued, and there are times when conflict is necessary to actually secure a better result. There are times when I think the Democrats have demonstrated just how easy it is for someone to mislead them. We have seen with the GST just how easy it has been to mislead them. I am afraid that in this case we will get another example of where it
is that the Democrats perhaps have been only too happy to accept things that they did not need to accept. While we will, obviously, now generally reach agreement around insisting on critical elements of this last provision, and while I do acknowledge the importance of that matter, and I understand that the government is effectively accepting that and backing down on its position, which I think is a victory for commonsense, I think it is a pity—

Senator STOTT DESPOJA—It is a victory for the Democrats.

Senator CARR—But, you see, that is the point: the government was always going to cave. You did not have to get into the closet with them on these matters, Senator, and I am afraid you have made a terrible mistake in that regard. No doubt we will hear more about it, and perhaps we will learn from the experience in the process. We hope that that is not a harbinger of things to come within the Democrats. I trust that you will be able to maintain the strength of your commitments and principles on these matters.

Senator STOTT DESPOJA (South Australia—Deputy Leader of the Australian Democrats) (7.08 p.m.)—As much as I would love to, I cannot stay here all evening listening to cheesy country songs recited by Senator Carr. He talks about getting into closets or, as he dared to suggest earlier, passing ships in the night. I think his language is revealing, and I suspect he should be very wary of his phraseology, especially with International Women’s Day coming up tomorrow. What really lies at the heart of Senator Carr’s contribution is: (a) yes, he does recognise the need for negotiation and maybe even compromise, and (b) he is just feeling a bit sad that he did not do it. I am glad that he acknowledges that the insistence on amendments (1) to (3) is a vital part of this process. We have made very clear that that was something that we would insist upon and we would continue to do so. It was an important backdown by the government and one that I am thankful for. I am not convinced that they would necessarily have caved in, but that is obviously a matter of opinion for Senator Carr.

Briefly and quickly, the four Senate amendments all go to which institutions or bodies should be eligible to access the two new white paper competitive funding schemes for research and research education: the institutional grants scheme and the research training scheme. I have already noted that the total funds for these two new schemes are in excess of $750 million, a very significant amount of Commonwealth funds. The Democrats are satisfied that the requirement that eligible institutions be listed on the two relevant AQF registers is an appropriate condition for parliament to consider inclusion on the schedule. However, we also believe the access to Commonwealth funding should be determined by the Commonwealth through the instrument of the schedule rather than be reliant wholly on state accreditation processes. This is particularly acute at the moment, as there is considerable inconsistency across the states in the legislative frameworks for accrediting institutions. We are aware that some of this has been addressed through MCEETYA’s national protocol, but we remind senators that, nearly 12 months down the track, no state or territory has passed legislation to give effect to that particular protocol.

The only change the Democrats wish to see with these four amendments is the inclusion of two additional institutions to the schedule. Accordingly, we will not be insisting on the current No. 4 but are moving an alternative that places Bond University and the Melbourne College of Divinity on the schedule. The Democrats are satisfied that Bond, particularly through its association with the University of Queensland, warrants inclusion on the schedule. The Democrats are satisfied that, despite having a far narrower profile than a conventional university, Melbourne College of Divinity, particularly through its association with the University of Melbourne, warrants inclusion on the schedule. The Democrats also note the opposition’s support for the inclusion of these two institutions the last time we discussed these bills in February. That wraps up the debate for the Democrats, and I am glad to see that we have had a progressive outcome on this piece of legislation. It is one that the Democrats are quite proud of.
The TEMPORARY CHAIRMAN—I shall now proceed to the vote on this. I will split the amendments into two groups: first Nos 1 to 3, and then No. 4. The question is that the committee does not insist on amendments Nos 1 to 3.

Question resolved in the negative.

The TEMPORARY CHAIRMAN—The question is that the committee does not insist on amendment No. 4.

Question resolved in the affirmative.

Amendment (by Senator Stott Despoja) agreed to:

(R4) Schedule 1, page 4 (after line 33), at the end of the Schedule, add:

8 At the end of the Act
Add:

SCHEDULE 1—INSTITUTIONS OR BODIES ELIGIBLE FOR SPECIAL RESEARCH ASSISTANCE

Note: See section 23

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Resolutions reported; report adopted.

ADJOURNMENT

Motion (by Senator Ellison) proposed:

That the Senate do now adjourn.

International Criminal Court

Senator PAYNE (New South Wales) (7.14 p.m.)—I rise this evening to make some comments on an issue of current international political moment, in some ways. They are comments made against what I would describe as a backdrop of relative global
peace. In recent times, the debate has been an important one on how to pursue people whose actions threaten that relative global peace—those who commit crimes of such magnitude that they constitute crimes against humanity. Let me put that in context.

Since World War II, it is estimated that there have been some 250 international and regional conflicts which have marred that peace, with as many as 170 million casualties resulting. In fact, it is really impossible to fully calculate what has happened in the process of those conflicts, but we, as interested and involved observers, are well aware that many thousands of atrocious acts of terror and violence have been perpetrated. A proposed means of dealing with the perpetrators of these atrocities is the establishment of a special court, the International Criminal Court. The sole purpose of the ICC would be to prosecute those accused of genocide, crimes against humanity and war crimes. We already know that the United Nations has special bodies pursuing the sorts of offences which were, for example, committed in the Rwandan and Yugoslavian conflicts of recent times. The UN has international criminal tribunals in place there. But these are ad hoc only. They have limited jurisdiction and are not permanent bodies.

The Statute of the International Criminal Court was a treaty signed in 1998 negotiated over a period of six years. One hundred and sixty countries took part. Australia played a leading role in the negotiation and settlement of the statute implementing the ICC. It was the culmination of a much longer process that commenced in 1937 under the auspices of the League of Nations. As of 12 February this year, 29 countries of the 139 original signatories have formally ratified the Rome statute, including Argentina, Canada, Germany, New Zealand and South Africa. The parliament’s Joint Standing Committee on Treaties is currently inquiring into this treaty, seeking a view as to whether ratifying the treaty is in Australia’s national interest. There is currently much public debate here about that. I am aware that the committee has received over 120 submissions from individuals and organisations.

Tonight I want to add some of my own thoughts to that debate and lend my full support to the stance of the government in seeking ratification. It seems clear to me from reading and hearing some of the commentary outlining the ongoing debate that a great deal of confusion exists about the proposed ICC and how it would operate. Myths have developed about its potential legal and political impact in Australia and the place of the court within the international community.

For example, the first myth is that Australian nationals will be prosecuted by other countries—that is, Australians could be subjected in an unwarranted manner to the laws of another country in a way that is out of sync with Australian values and beliefs. In fact, this could not happen, primarily because the ICC is a body which will act as an adjunct to domestic laws—I will return to that point in a moment—and it could not apply the laws of one country to the subjects of another. In the unlikely event that Australians would be involved in committing a crime such as genocide—and I am sure all Australians would agree that they should then be pursued to the full extent of the law—they would be subject primarily to punishment by the Australian legal system. We already have a well-established criminal justice system that would more than adequately address any crimes committed by Australians, including a system of military justice that applies to Australian soldiers.

A second myth in this process is that Australia would somehow cede sovereignty and perhaps independence to foreign nations by ratifying the ICC treaty. The first point to make is that, as I have mentioned, the ICC has strict safeguards that ensure the primacy of local laws first. The director of the ANU’s Centre for International and Public Law, Dr Hilary Charlesworth, has correctly pointed out that the ICC is designed as a ‘safety net’ to come into effect only when individual nations are unwilling or unable to pursue the prosecution of certain crimes themselves. Its jurisdiction will not be retrospective, and it is designed to complement a nation’s laws, not override them.

The ICC is not about creating a new body of criminal law. Most importantly, the defi-
nitions of the crimes over which it will have jurisdiction are long established by international agreement as far back as the 1948 UN treaty series Convention on the Prevention and Punishment of the Crime of Genocide. The ICC will not have power to legislate, so Australia or any other country which ratifies cannot be subject to laws implemented from abroad. We therefore can uphold our own interests and, if we are one of the first 60 nations to sign, we will automatically participate in the set-up of the court and in the selection of judges and prosecutors.

I move on now to the concept—for want of a better word—of the ICC as part of some larger world conspiracy. This is the myth that the ICC forms one plank in some type of conspiracy to create a new world order, with the interests and rights of individual nations subjugated to the preference of some small group of world powers. I put it that this is clearly untrue and unjustified. The establishment of the ICC is about the maintenance and protection of human rights. It is the latest step in a journey that has taken place over the last 100 years towards upholding human rights, further upholding and strengthening the Universal Declaration on Human Rights. It is a body whose powers will be born from the agreement of participating nations; it will not be a system imposed on unwilling innocents.

Fourthly, it has been suggested that the ICC would provide a forum for the vexatious and unnecessary harassment of individuals and countries. In dismissing this myth, I think it is worth recognising the lengthy process of negotiation that was required to secure a statute to which 139 countries would become signatories. It is not in any of those nations’ interests to create a body that could unfairly target them or their citizens. Thus, the safeguards are put in place restricting the jurisdiction of the court, and I go back to those three areas: crimes against humanity, genocide and war crimes.

The jurisdiction is only those international crimes which are covered in article 5 of the statute, clearly defined by international agreement. Issues can be brought before the ICC only by a member of the UN Security Council or a member state. In cases where a matter is referred to the ICC, prosecution is not mandatory. The ICC will operate in a manner very similar to the manner in which the ad hoc bodies established to deal with the aftermath of conflicts in Rwanda and Yugoslavia operate. To the best of my knowledge, neither of these bodies has caused incident or objection. From Australia’s perspective, with eminent jurists like Sir Ninian Stephen and David Hunt participating in the tribunal addressing matters of the former Yugoslavia, I think it would be surprising if objections were raised.

The final myth, in my view, is a political one—that the Australian people do not support the prospect of simply signing another international treaty. This myth is very easy to propagate if you perhaps use the simplistic arguments of other minor political parties in this nation and some of the inward facing, isolationist views they hold as fuel. This myth is the most concerning of all, because those who advance the argument, either deliberately or as an unintended side effect, give validity to the myths that create these opinions in the first place. We are part of a world community, and we must play a role within our region and more broadly. I think most Australians recognise this. I experienced first-hand the reaction of Australians to the situation in East Timor and their ongoing interest in such international issues, which makes me think that that is the case.

Finally, I think it is appropriate that Australia ratifies the treaty for the International Criminal Court as soon as possible. We have been a world leader on human rights. We should support any initiative that further seeks to uphold the Universal Declaration on Human Rights. How can Australia oppose it? We have always stood against international violence. We have fought outside our borders against international violence and against breaches of human rights. How can we in good conscience oppose the pursuit of justice for the victims of gross injustices against humanity?

The establishment of the International Criminal Court will acknowledge that the current ad hoc processes of the United Nations cannot effectively and efficiently deal with many crimes. For example, as one re-
cent newspaper editorial noted, there is currently ‘no international body empowered to deal with the rape and sexual mutilation being used as weapons in other parts of the world’. I only have to refer to recent convictions in the tribunal concerning the former Yugoslavia for such crimes to demonstrate that point.

The world community would benefit from a continuous and consistently operating body to pursue these issues in a timely fashion, to gather the evidence and to encourage the witnesses to attend, avoiding the maxim that justice delayed is justice denied. It is incumbent on Australia to fully support this initiative. When faced with gross atrocities in our own region, in East Timor, we asked the world community to act with haste. We demanded fast action from the United Nations and from other countries. Opposing the establishment of the ideal body to prosecute those who commit such heinous crimes would be hypocritical and would only relegate victims of similar violence to the very slow lane of international justice.

Parliamentary Committees:
Administration

Senator SCHACHT (South Australia) (7.23 p.m.)—I want to congratulate Senator Payne on her remarks in defence of the International Criminal Court, a matter before the present Joint Committee on Treaties. I only wish that some of her colleagues would take note of her remarks. They were well put together. I only hope that some of the people so far giving evidence with the most misleading amount of tripe have an opportunity to read and hear Senator Payne’s speech. I congratulate her on her contribution.

I rise to speak in this adjournment debate on a matter I would not have thought needed to be raised in the Senate. It deals with the administration of committees in this parliament and, in particular, with the role of the Clerk of the House of Representatives. I have been a member of the Joint Committee on Foreign Affairs, Defence and Trade since 1987, apart from the three years I was a minister. I have been very fortunate to be a member of what I consider the pre-eminent joint committee of the Australian parliament. It has the most prestige and is the most sought after committee for members of both sides to serve on. I also had the great honour to be chair of that committee from 1990 to 1993. During that period, I was pleased to be able to put recommendations on behalf of the committee to the parliament that we establish the Human Rights Subcommittee, which is now a standing committee of the overall committee.

Recently, an invitation was arranged by the Australian defence forces for members of the Defence Subcommittee, of which I am a member, to visit East Timor for a day, a night and a day as part of the work of the committee. It is quite relevant to work of the subcommittee, as our troops are serving in East Timor. It seemed to me a very reasonable proposition. Though I was not able to put my name forward to attend, because of other commitments, I discovered in the week leading up to the visit there became a dispute about who should attend from the secretariat or the staffing side of the committee going to East Timor. The Prime Minister ultimately agreed and in a letter explained that he would provide a VIP plane and facilities for the delegation to visit East Timor. The committee would be there as guests of the Australian Army and they would arrange a very comprehensive itinerary.

Members of the committee on all sides presumed that the secretary of the Defence Subcommittee and the secretary of the overall committee, Margaret Swieringa, and the Defence adviser on attachment from the Defence Force to the committee would be the two appropriate people to accompany the committee on its visit. In particular, the secretary of the Defence Subcommittee had participated in a delegation to the United Nations in the last 18 months and had helped prepare a report about Australia’s involvement and relations with the United Nations vis-à-vis East Timor. It was clear and sensible that the person assisting the members to draft the report should be the person to continue that work. But no.

The Clerk of the House of Representatives, who has the responsibility—delegated from both the Presiding Officers—to look after the administration, said that he would not send Margaret Swieringa. Initially, he
said that he would not send the military adviser to the committee. Both would not be sent; he would select somebody else to attend. Remember that the plane was being provided by the Prime Minister. It had spare seats. In the end, after intense lobbying, the Clerk reluctantly agreed to send the Defence adviser, but he flatly refused to allow Margaret Swieringa, the secretary of the Defence Subcommittee and the overall secretary of the committee, to go. The Clerk selected another officer, Ms Gould, to attend—an officer whom I know well and who has previously served on the Joint Committee on Foreign Affairs, Defence and Trade. But she was not the secretary of or serving on that committee.

The Clerk refused all entreaties from the chairman of our committee, Senator Ferguson, and letters from all of us stating that it would be only sensible, rational and reasonable for Margaret Swieringa to attend. There was no response. Ms Swieringa could not go. When I wrote to both Presiding Officers, expressing my exasperation about this matter, I got a reply from the President of the Senate saying that this was a matter for the Speaker, because they were in charge of the administration. On 19 February, after the visit, I finally got a reply from the Speaker. I find it extraordinary in some senses. I believe the letter was drafted by the Clerk. I do not know whether that is correct; I have not had a chance to speak to the Speaker about it. In part, the letter states:

The Clerk of the House has advised that he decided, after ascertaining that the Clerk of the Senate had no objection to the proposal, to identify a person from his staff—that is, the staff of the Clerk of the House of Representatives—who was a defence expert and had previously worked on the committee's secretariat. That person had been designated to travel to East Timor subsequently as part of a team training parliamentary staff from East Timor, and the Clerk has indicated that he saw wider parliamentary benefit in his decision.

That is Sir Humphrey Appleby par excellence. It is obfuscation; it is absolute junk to say that. For the purpose of the Joint Foreign Affairs, Defence and Trade Committee, no one would have been better than to send the committee secretary, Margaret Swieringa, who works week in and week out on these matters. But, for personal vindictive reasons, I can only surmise, the Clerk of the House of Representatives said, ‘No, you cannot go.’ I understand there may still have been an empty seat on the plane and that she could have still gone, even with Ms Gould going, but the Clerk of the House of Representatives said no. This is an unsatisfactory explanation. Even more unsatisfactory, in my view, is the final paragraph which states:

I understand that the only direct approach to the Clerk was made by the delegation leader late on Friday, 9 February—which was only two days before the delegation left—

Senator Ferguson requested that Mr Mike Milford be included in the visit, and I understand that the Clerk reconsidered the matter and agreed to Mr Milford’s inclusion in the visit.

We know from the meetings of the Defence Subcommittee in the week preceding that there was endless discussion. The Clerk would have to be deaf, dumb and blind not to know that we wanted Ms Swieringa and Mr Milford to go on that delegation. To put this in a letter back to a member of the Defence Subcommittee, which I am, is an insult. I do not like raising matters about parliamentary administration, but this is outrageous. I do not know what the justification is for the Clerk in the House of Representatives to do this, other than to exercise some stupid personal power to tell the rest of the staff in the House of Representatives that he will pick the people who get the trips. If that is the case, it is a senseless attitude to have. I strongly object to it. If the clerks want to be in the main game of being in politics, they have a very simple option: stand for parliament and get elected. That is the position that should be taken if they want to be a main player.

The staff of the Senate and of the House of Representatives overwhelmingly do a wonderful job in providing us with the services to make the place run properly. But if there is an attitude that Mr Harris has exhibited that he knows better than the members of the committee who have the responsibility
to report to the parliament then I think democracy is the wrong way up, and he should understand that. I am sorry I have had to raise this matter but I feel very strongly about it. The elected members of parliament, of all parties, have to be superior to the administration.

Smogbusters Day: Clean Air Campaign

Senator BARTLETT (Queensland) (7.32 p.m.)—I rise to speak about an important day that is happening next week while we will not be sitting. Wednesday, 14 March is National Smogbusters Day. Smogbusters is a network of apolitical organisations across Australia who campaign for clean air, and clean air is important to every single citizen and resident of this nation. These campaigners encourage us to take the first steps in relation to cleaner air so that we can help ourselves. One of their aims is to get people out of their cars and into walking, bicycling and public transport as a healthy alternative for both people and the environment.

All of us can be involved in Smogbusters Day in different ways. It is a good opportunity to remember that walking, cycling or using public transport instead of driving not only decreases air pollution but also decreases your petrol and parking costs, keeps you fit, relieves traffic congestion, makes roads safer and neighbourhoods quieter. I might add that it also saves public funds in the long term, because the amount of money spent by both state and federal governments on continually expanding and repairing road infrastructure in this country is enormous. If there was less reliance on the motor vehicle and using road transportation, then that cost would diminish significantly to the benefit of all of us and certainly to the benefit of a balanced budget.

In addition to encouraging individuals to make personal decisions on their transportation means, Smogbusters Day is also a good opportunity to get active overall in the campaign for cleaner air. I particularly want to focus on the great efforts that Smogbusters do in my own state of Queensland in conjunction with the Queensland Conservation Council. They have had a big impact over a number of years by bringing greater attention to some of the important issues there. Given that I spend a lot of time criticising the federal government and the Minister for the Environment and Heritage, Senator Hill, for his many, many failings in the area of the environment, I should be even-handed and note his support and funding for this area of activity. While only a small amount of funding is provided, it goes a long way in trying to get greater attention to some of these important issues.

Air pollution is a significant health and environmental problem for city dwellers in particular. In south-east Queensland, in the bottom corner, 72 per cent of air pollution comes from motor vehicles. There are similar figures in other major urban areas. In Queensland we are expecting an 80 per cent increase in greenhouse gas emissions in the transport sector from 1990 to 2010, well in excess of our national target of an eight per cent increase. With the total vehicle kilometres travelled set to rise in south-east Queensland by 100 per cent during that same time frame, it is clear that increasing motor vehicle use is a major problem.

Certainly I do not want to sound utopian and suggest that we should all get rid of our cars tomorrow and get by on bicycles. Cars have their role. They have an important place in transportation through enabling access and community connection. But it is the increasing and out of control dependence on the car to the exception of all other options that we need to address.

We also need to put a lot more focus on encouraging not only alternatives to the car in terms of transportation but also alternative cleaner fuels and cleaner engines. The car is obviously going to be part of our society into the future, so we do need to look at ways of reducing emissions, whether that is through engine technology or through cleaner fuels. There has not been enough attention paid to that area. The Democrats have been successful in managing to get some advances in fuel quality standards out of this government in terms of the emission contents, sulfur contents and things like that. Whilst that step is welcome, and I think the Democrats’ role in that needs to be acknowledged, it still goes only part of the way.
Last year’s Smogbusters Day schools, universities, workplaces, community groups, government organisations and others organised events throughout the country, particularly in south-east Queensland, and this year is going to follow the same model. Many of the year’s events will involve rewarding less polluting commuters with free trees and other items provided by Smogbusters. People volunteering with Smogbusters get free T-shirts as well. However, some of the volunteers have gone even further, organising sustainable transport challenges between departments at their workplaces and having free dress days at their schools for clean commuting students. These are just a couple of the examples of some of the ideas that have come forth this year to try to get the message across and to try to make an impact.

The involvement of community volunteers is an important part of the activities of Smogbusters and needs to be acknowledged. The number and variety of events organised just around Queensland could not occur without the work of community volunteers.

Smogbusters Day is about encouraging and empowering the community to do something to improve the quality of the air we all breathe and working with local and state governments to ensure the provision of better services and infrastructure. Smogbusters can also help the community to organise their own events in their workplaces, schools, universities and neighbourhoods to spread the message of clean air and sustainable transport. I would certainly encourage anybody who is interested in participating to get in touch with their local conservation organisation.

Campaigning for clean air is not just for the community. As parliamentarians, we have an even more important responsibility. Whether that is in taking part in the Smogbusters Day transport challenge on 14 March by walking, cycling or using public transport—and, hopefully, continuing to do so after that day—it sends a strong and public statement in support of the solutions to the problems of air pollution and growing motor vehicle use. We also need to look at the future use of federal funds and petrol taxes to improve the feasibility of alternative transport through a holistic national transport strategy rather than just building more roads and increasing car dependence. It is one of the great shames, in relation to the focus on petrol prices in recent times, that some of these other important issues in relation to reducing our dependence on petrol were not given enough attention. Certainly the Democrats acknowledge the importance of ensuring that people’s overall costs of day-to-day living do not become excessive, and the high petrol prices, particularly when they go up so steeply so quickly, are clearly a problem, particularly for people with limited budgets.

We also need to look at the other aspect of the equation, which is our ongoing dependence on petrol and fuel. Clearly there are factors in relation to world petrol prices, and these are likely to continue for some time. One of the best ways to help the community in the long term is for the government to provide incentives to move away from our excessive dependence on the motor vehicle and on fuel. Some basic funding for public transport infrastructure and for reversing the terrible decline in the proportion of funding provided to rail networks in this country would be a simple way to do it. Again I would suggest that money invested now in expanded rail networks and public transport would more than pay for itself down the track in reduced costs in road repairs and upgrading and indeed on our health budget. The health impact of pollution in cities from motor vehicles and road transport is significant. Clearly that has a cost to another department—but it certainly has a significant cost. If we can look at ways of reducing our dependence on road transportation, it will bring significant financial benefits to the budget in reduced health costs.

There are other options. We need to look at how other countries are supporting low sulfur and unleaded fuels and biodiesel. We need to provide simple financial incentives to remove excise from some of these cleaner fuels—for example, providing extra funds for public transport. There are heaps of options for governments to follow at state and federal levels. Unfortunately at the moment there is not sufficient attention paid to this,
and we are all bearing the cost of that with our continuing dependence on the motor car and the difficulty that presents to us when fuel prices go up. There is also a loss of air quality, which is a significant issue with major impacts not just on the general community but more specifically on the younger people in the next generation. *(Time expired)*

**Tasmania: Rural and Regional Assistance**

**Senator CALVET (Tasmania)** (7.42 p.m.)—I rise to speak about an issue of very great importance to my home state of Tasmania—that of rural and regional assistance to Australia. Members of this chamber may recall that I spoke on this matter in the Senate on 28 February during the debate on the matter of public importance motion of Senator Mackay. My purpose in this adjournment debate is to elaborate on the substantial program of assistance—and it is substantial—being given to regional Australia by this government. This is not to deny that there is unfinished business and that more work needs to be done to further improve the quality of life for people in these areas, but this government is doing what needs to be done in regional Australia, specifically in my home state of Tasmania.

Tasmania represents a very good example of how the Howard government’s rural and regional assistance programs are benefiting so many Australians. The federal government realises that it exercises an important influence on the lives of people and businesses that make up rural and regional Australia. Improving access in respect of local, national and international linkages provides an economic and social lifeline to smaller communities. Initiatives such as increased road funding under the Roads to Recovery Program; the Bass Strait Passenger Vehicle Equalisation Scheme—which has given strong impetus to the growth of tourism in Tasmania—and Networking the Nation have made Tasmania a more attractive destination to visit and have improved social and community vitality.

These sorts of initiatives make a difference to regional Australia and reduce the relative isolation of regional communities from services urban Australia has come to expect. The federal government has committed more than $65 million to the Tasmanian Freight Equalisation Scheme. In addition, almost $17 million has been spent on the Bass Strait Passenger Vehicle Equalisation Scheme. Both programs are evidence of the Howard government’s commitment to Tasmania as a vibrant economic region.

Communications are improving rapidly in Tasmania due to the huge boost in funding access to telecommunications and the provision of online services. Sixty-four new online access centres have been established in Tasmania, providing increased access for these communities to information throughout the world. Tasmania has been allocated almost $47 million in federal roads funding for the current period. This is a major improvement to access. The coalition has also provided $1 million to upgrade rail track infrastructure in Tasmania. Since this federal government’s black spot program started, 123 Tasmanian road sites have been upgraded with grants worth more than $5.3 million. This has played an important role in lowering the Tasmanian road toll. The Regional Solutions Program has created significant interest from local communities, particularly in improving infrastructure. All of this is about delivering social and economic benefits to our regions.

Tasmania has benefited from the establishment of rural transaction centres in relatively isolated parts of the state, such as St Mary’s in north-east Tasmania. The government’s strategy is to ensure people living in rural Australia have access to the same basic services that people in large towns and cities take for granted. Recently Minister Ian Macdonald announced a network of 15 RTC field officers to assist rural communities in accessing this program. In Tasmania a field officer was appointed in the Meander region. This initiative will provide important ongoing support to rural Tasmanians. Under Networking the Nation we have seen $15 million committed to networking Tasmanian schools, huge increases in mobile phone coverage and many other improvements all designed to improve access. Cabling networks have been upgraded, allowing call centres to be developed in Burnie, Devonport
and Launceston and providing a significant boost for jobs in these areas.

The Natural Heritage Trust has been a huge success throughout Tasmania, with the dual goals of sustainable agriculture and conservation of Tasmania’s unique biological diversity. The trust has helped Tasmanians repair and regenerate the local environment, while at the same time it has enhanced our clean green reputation. Nearly $121 million has been directed to 1,297 Tasmanian projects in the strongest commitment ever to refurbish Australia’s environment. The Commonwealth is also assisting with the funding of a major review of sea and air access to Tasmania in cooperation with the tourism industry there.

The Howard government’s record on aged care in regional Australia stands unequalled. Some 44 per cent of aged care places and 74 per cent of capital grants went to rural and regional areas, greatly exceeding its population base of 30 per cent. In Tasmania alone, 824 new aged care places have been provided since Labor left office in 1996—far more than Labor could have even contemplated. This includes 29 new high care beds and 409 new low care beds. The funding by the federal government to assist the development of multipurpose health centres has improved access to health services in the form of one-stop shops, adding comfort and care to many of our elderly in regional areas. In fact, I opened one in George Town just before Christmas and it has received great community support. Another one has just been opened in Nubeena in the Tasman area.

This is a government that is doing what has to be done in rural and regional Australia. Regional Australia will also be a beneficiary of the recently announced federal government’s $2.9 billion Backing Australia’s Ability plan, particularly in agribusiness and technology in rural Australia, research, and access to education through the online curriculum content program.

This government is committed to R&D. Recently the University of Tasmania received over $110,000 through the research and development program for rural and regional Australia. This significant program is supporting important research on local and regional Tasmanian issues. This government recognises that access to quality research and information on regionally identified issues is of the highest priority. Other programs designed to assist access to services for our people who live in the non-urban areas of Australia include improving television reception, the rural doctors scheme, and supporting rural pharmacies. Tasmania’s rich diversity of cultural heritage has also benefited from this federal government’s conservation funding. The Cultural Heritage Projects Program has recently supported a number of projects, including the conservation of the Old Hobart Gaol—certainly a place of great historical and cultural significance.

Access and the reduction of economic inequality in many areas are strong features of the regional policy stance of this government. They promote community wellbeing, regional economic performance and social progress. All I can remember of Labor’s contribution to the problems of the country were: the Better Cities program; the threat to the Tasmanian Freight Equalisation Scheme; unemployment of 11 per cent; interest rates of 18-plus per cent; the recession we had to have; inflation of 10 per cent; closure of post offices; banks leaving country towns; and deficits for the country for their last five years in office of over $69,000 million.

Today’s announcement of a further 25 basis point cut in interest rates is more good news for Tasmanian small businesses and families. Tasmanian families with an average $100,000 home loan are now paying $270 less in interest payments than they were when Labor left office. For Tasmanian small business overdraft rates, the story is just as significant. Under Labor in 1996, the overdraft rate was 11.25 per cent—tell me about it. Today it is 8.5 per cent—a saving of $2,800 a year on a $100,000 overdraft. This is real assistance for Tasmania, achieved by sound economic management by this federal government. Labor’s record in office has not been hard to beat. This is a government that is doing what has to be done in rural and regional Australia, and this has meant real benefits for Tasmania.
Manuel, Ms Jean, MBE

Senator FORSHAW (New South Wales) (7.51 p.m.)—I appreciate my colleagues cutting short their time so that I could make a few comments tonight. I wish to record the passing of a former councillor and shire president of the Sutherland Shire, Jean Manuel. Jean was the quintessential volunteer. She started her volunteer work during the war years and throughout her entire life was a great volunteer worker in the Sutherland Shire region. In 1972 she started the first refuge for women and children in the shire, and that centre still operates today. There was not a charity or organisation in the shire that Jean was not involved in. She spent tireless hours helping out at the Sutherland Hospital and also at the St Vincent de Paul. She was a member of the Sutherland Lioness Club.

Jean was a fiercely independent woman who became active in local government. In 1965 she became the first ever woman elected to the Sutherland Shire Council, and she remained on council for 15 years. She became deputy president in 1968 and held that post for six years. She also served as shire president for two years, in 1978 and 1979. As I said, Jean was a fiercely independent woman and a person who was respected and admired by everybody in the shire and from all sides of politics. I think she truly was regarded as the first lady of the shire. Her work for the shire was honoured when she was awarded an MBE. I know that she will be missed greatly by all the residents of Sutherland Shire and I extend my condolences to members of Jean Manuel’s family.

Senate adjourned at 7.53 p.m.

DOCUMENTS

Tabling

The following documents were tabled by the Clerk:


Indexed Lists of Files

The following documents were tabled pursuant to the order of the Senate of 30 May 1996 as amended 3 December 1998:

Indexed lists of departmental and agency files for the period 1 July to 31 December 2000—Statements of compliance—

Department of Agriculture, Fisheries and Forestry.

Department of Defence.

Department of the Prime Minister and Cabinet.

Public Service and Merit Protection Commission.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

**Attorney-General’s Department: Programs and Grants to the Gwydir Electorate**
*(Questions Nos 3223 and 3226)*

Senator O’Brien asked the Minister representing the Attorney-General and the Minister for Justice and Customs, 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 provided through these programs and/or grants has been appropriated for the 2000-2001 financial year.

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

**Legal services**

(1) While there is no funding specifically allocated to the federal electorate of Gwydir, the Commonwealth Community Legal Services Program provides funding to the Community Legal Service for Western NSW located at Dubbo. The organisation provides telephone advice services and outreach visits to Lightning Ridge, Walgett, Coonamble, Mudgee, Coonabarabran and Gilgandra all of which are located within the Gwydir electorate. In addition, funds are provided under the Commonwealth Legal Aid Program to the Legal Aid Commission of NSW for Commonwealth legal aid matters. These funds are used by the Commission to provide legal aid services in Commonwealth matters across NSW. The Legal Aid Helpline is available to assist clients throughout the electorate with a range of legal services (1800 806 913).

(2) The level of funding provided to the Community Legal Service for Western NSW under the Commonwealth Community Legal Services Program for the years in question was as follows:

- 1996-97 - $206,959
- 1997-98 - $208,168
- 1998-99 - $221,021
- 1999-00 - $222,531

The level of funding provided under the Commonwealth Legal Aid Program to the Legal Aid Commission of NSW for Commonwealth legal aid matters for the years in question was as follows:

- 1996-97 - $40.970m
- 1997-98 - $31.131m
- 1998-99 - $31.100m
- 1999-00 - $31.100m

(3) The level of funding to be provided under the Commonwealth Community Legal Services Program to the Community Legal Service for Western NSW in 2000-01 will be $226,700.

The level of funding to be provided under the Commonwealth Legal Aid Program to the Legal Aid Commission of NSW for Commonwealth legal matters in 2000-01 will be $33.719m.

**National Crime Prevention Program**

(1) to (3) Funding of $25,000 for the 2000-01 financial year has been approved from the National Crime Prevention Program to enable consultations to be undertaken with local communities and key stakeholders in Western New South Wales on four proposed community justice program pilots.

**Veterans’ Affairs Portfolio: Contracts to Deloitte Touche Tohmatsu**
*(Question No. 3268)*

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 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 Minchin—The Minister for Veterans’ Affairs has provided the following answer to the honourable senator’s question:
(1) One contract was entered into with Deloitte Touche Tomatsu in the 1999-2000 financial year.
(2) The purpose of the work undertaken was to provide consultancy services for the department prior to the introduction of the GST.
(3) The cost to the department of the contract was $195,745.90.
(4) The selection process used to select Deloitte Touche Tohmatsu was a short-listing process involving three firms.