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

TAXATION LAWS AMENDMENT (EXCISE ARRANGEMENTS) BILL 2000

Second Reading

Debate resumed from 27 March, on motion by Senator Heffernan:

That this bill be now read a second time.

upon which Senator Cook had moved by way of an amendment:

At the end of the motion, add:

“but the Senate condemns the Government for:

(a) failing to listen to the community concerning the GST impact on excise levels;

(b) opposing Labor’s private member’s bill giving a fuel excise cut to motorists yet condoning a Government backbencher’s private member’s bill that would tear up the Intergovernmental Agreement signed with the States;

(c) belatedly reducing only a portion of its GST fuel excise windfall merely because it is in a state of panic; and

(d) its poor administration of the excise regime”.

Senator COOK (Western Australia—Deputy Leader of the Opposition in the Senate) (9.31 a.m.)—At the close of play last night, I had almost completed my second reading address on the Taxation Laws Amendment (Excise Arrangements) Bill 2000, and I was speaking to the amendment that I had moved to the second reading. That amendment, which has been circulated in the chamber, goes to a legitimate criticism of the government because of its attitude on petrol pricing, among other things.

The first point I want to make is that we had put in this chamber and in the House of Representatives a private member’s bill to cancel the 1 February excise increase on petrol. In the House of Representatives, the government used its numbers to prevent that bill being debated. Here, the government used its numbers to talk out the debate on the bill on the three successive Thursdays that we debated it. While it was using its numbers to thwart the ability of our bill to be put to a vote in either chamber, the government itself backflipped and announced that it was going to cancel the 1 February excise increase and—

Senator Boswell—You should be rejoicing.

Senator COOK—I will take that interjection and return to it in half a tick; the government also announced that it was going to cancel further indexation increases. The interjection from Senator Boswell, through you, Madam President—and congratulations on your preselection, Senator Boswell—was that we should be rejoicing. We would have rejoiced even more had you done the right, honest and fair thing and supported our bill when we put it down, because now, as it seems according to the program, we will be debating the excise adjustments tomorrow. The advantage to Australia would have applied right back then, five weeks ago. There has been a needless delay because the government attempted to resist the overwhelming pressure of the electorate and then, when it caved in, it tried to pretend that it had listened to them and it took the honour for it, when of course it could have done the right thing earlier.

The second thing I want to say is that, if the private member’s bill from the government member for La Trobe were to go ahead, it would tear up the intergovernmental agreement between the federal government and the states. I just wonder to what extent politics has overwhelmed here the real responsibility for proper economic management. We know that the government is a failed economic manager. Exhibit A to that statement is the last December quarter’s figures of negative economic growth. So we know that the government is a failed economic manager. Does it want to tear up the intergovernmental agreement between the federal government and the states or not?

Another issue about the private member’s bill is that, since the government is the beneficiary of the windfall in GST taxation that arises out of higher petrol prices, it is the
government that should declare what the total windfall gain is so we know what level of extra tax revenue above the forward estimates it has gathered so we can then calculate properly whether all of that extra revenue has been handed back. You see, there is this big question mark: until the government says what the windfall gain is, we do not know whether the extra funding in its roads package—which it passed off initially as compensation for higher petrol prices and which amounts to $1.6 billion over four years, compared to the $1.5 billion per year that the Automobile Association estimates is the extra revenue from higher petrol prices, and now there is the backflip on petrol, calculated at $555 million for the balance of this year—amounts to handing back the full level of the windfall. Australian motorists are entitled to know how much extra tax they paid and whether or not the government has refunded that to them. The serial refusal of the government to open its books and enable taxpayers to know how much extra tax they have paid does suggest, since this is a serial refusal militantly pursued by the government, that the government is hiding something and that it is somewhat contemptuous of the right of taxpayers to know how much extra tax they have paid. There are a number of other points I want to make, but I commend the amendment to the chamber.

Senator MURRAY (Western Australia) (9.37 a.m.)—The Australian Democrats do not have any problems with the Taxation Laws Amendment (Excise Arrangements) Bill 2000. So I would just warn my Labor colleagues that the next speaker might be called on earlier than the 20-minute span of a speech, because I doubt whether I will take much longer than 10 or 15 minutes. So, not having many problems, I do not have that much to say, although I obviously need to comment on some of the points made by the opposition relative to their second reading amendment.

This bill regularises the transfer of the administration of excise from the Australian Customs Service to the Australian Taxation Office, and that change occurred administratively in the 1998-1999 financial year. We do not have any particular concerns about that transfer of functions. In fact, there is a strong case that revenue raising functions should, as far as possible, all be in the hands of one authority—and the tax office is the appropriate authority. We would not have objected to this bill being dealt with as non-controversial, because of those reasons. So what we are really doing today is considering the second reading amendment moved by Senator Cook. It is not an amendment that bears much real relationship to the subject matter of the bill. It is an exercise in bashing the government. Well, that is the job of the opposition, so it is legitimate in that respect. However, there are a few elements of the amendment that we should concentrate on.

Item (a) is that the Senate should condemn the government for failing to listen to the community concerning the GST impact on excise levels for fuels. That is a logical point; none of us should have a problem with that point. I think what has really emerged in the electorate is a sense that the government has not been quick enough to listen to its own backbench—never mind listening to the opposition—as to what it was hearing, particularly in rural and regional Australia.

The second issue, as we know, is that the government cut excise levels on petrol by 6.7c per litre when the community was expecting a cut of 8.2c per litre—and that decision has continued to rankle. The community simply did not accept that there would be flowthrough savings of 1½c from the oil industry to compensate, and they clearly thought that it was the obligation of the government to comply with that promise. So the government’s failure to listen over a long period of time was a problem for them. I think that people, voters, respect strength and determination in governments of whatever colour; but, if the government had responded prior to the 1 February automatic indexation date rather than after, in political terms it would have done a lot better. However, it has finally kept its promise on that 1½c.

Item (b) of Labor’s second reading amendment condemns the government for ‘opposing Labor’s private member’s bill’ and yet ‘condoning a government backbencher’s private member’s bill that would tear up the intergovernmental agreement signed with the
states’. But, while the government opposed the Customs Tariff Amendment (Petrol Tax Cut) Bill 2001 (No. 2) and the Excise Tariff Amendment (Petrol Tax Cut) Bill 2001 (No. 2), both of which were Labor bills, it is the case that those bills were ultimately made redundant when the government announced its petrol excise reduction. It was certainly the view of the Democrats that the government’s package superseded Labor’s bills.

As for condoning the backbencher’s private member’s bill from a coalition member that would tear up the intergovernmental agreement signed with the states, I assume the opposition is talking about the suggestion that the member for La Trobe, Mr Bob Charles, might introduce a bill into the House of Representatives that would impose the cost of a reduction in excise on the states. As I understand it, such a bill was never introduced, and there was no official comment by either the caucus or the cabinet supporting such a bill. If Mr Charles decides that he wants to introduce such a bill into the House of Representatives, then I would hope that there would be no opposition from either the caucus or the cabinet supporting such a bill. If Mr Charles decides that he wants to introduce such a bill into the House of Representatives, then I would hope that there would be no opposition from either the caucus or the cabinet supporting such a bill. If Mr Charles decides that he wants to introduce such a bill into the House of Representatives, then I would hope that there would be no opposition from either the caucus or the cabinet supporting such a bill.

I do think it is a bit rich for the opposition to complain at the fact that the bills were talked out by the government. The opposition themselves have participated countless times in private senators’ bills being talked out in this place. The Australian Democrats have a long history of many of their bills having never come to a vote because of that very process. Frankly, I think that at some time the managers of government business and the managers of opposition business should determine that private senators’ bills should, in fact, come to a vote and be either agreed or defeated. We all know that in this place the record of private members’ and private senators’ bills succeeding is very sparse. I think—and the Clerk would have the exact record of this somewhere—it is less than 10; it might be as few as seven or nine bills. I think it is a great shame, frankly, that such bills can only ever advance if the government of the day determines that they should. This is, after all, the people’s house, and the government and other political parties, including the opposition, should have the opportunity to have their bills debated to finality.

Item (c) condemns the government for belatedly reducing only a portion of its GST fuel excise windfall because it was ‘in a state of panic’. There is little doubt that the government decision to reduce the petrol excise by 1½c per litre was caused by a final realisation in the lead-up to the Ryan by-election, and with what has been going on in the polls and other events politically, that they ought to move on this issue. The decision was subsequent to a number of fairly bad polls and was in the light of increasingly aggravated public opinion and backbench unrest over petrol pricing. You cannot really disagree with much of (c). There is the suggestion that the government reduced only a portion of its GST fuel excise windfall. It was my understanding that the government promise was that it would reduce the excise on petrol to compensate for the price increase caused by the introduction of the GST. The GST price rise was calculated to be 8.2c per litre. With the belated 1.5c per litre reduction in excise, the government ultimately kept its promise on fuel prices. The real rates of increase in fuel prices apart from that must be laid at the door of international fuel prices and not at the door of the government. However mighty we think the government of the day might be, they are not mightier than OPEC and the people who determine international fuel prices.

The other issue in relation to fuel pricing was the higher than usual indexation of petrol excise caused by the GST spike. It may or may not have been fair for the government to reduce the excise increase to take account of that spike, but they did not. As far as I am
awake a promise was never given in relation to that spike. The Democrats do not believe the government handled the petrol pricing issue well but we believe, as obviously does the opposition, that the electorate will judge them on that performance. Condemnation by the opposition in this chamber, even if they feel it is justified, is of little point in relation to the eventual outcome of how the electorate are going to regard the coalition with respect to this issue.

In item (d) the opposition asks the Senate to condemn the government for ‘its poor administration of the excise regime’. Without wanting to be unkind to Senator Cook, this strikes me as a general and pointless criticism. While the government made a mess of the excise rates on petrol this time and whilst there is a real problem with an unkept beer promise, there is nothing to suggest that the administration of excise has been any worse under this government than it was under the previous government. In fact, in certain respects, the administration, given that it is more efficient and producing more money, might in fact be seen to have been better. I am not at all convinced by item (d).

From my comments you will note that there are elements of the second reading amendment which are unexceptionable and which we can agree with, but we think this is a political exercise. It is a legitimate opposition tactic. It is a useful means by which to bash the government, but it is not really an amendment which will achieve much at all. So we will not be supporting it, whilst we do respect the motives that lie behind it.

In closing my remarks, I want to deal with an issue which was raised yesterday, has been raised today and will be raised again, I am sure: the question of the Democrats’ performance on the petrol and diesel excise issues. We have been lectured on what the opposition regard as broken promises on sales tax and petrol. We should not forget the then Prime Minister Paul Keating’s betrayal of the true believers in 1993. He went to the 1993 election opposing John Hewson’s GST, opposing increased sales taxes and promising income tax cuts which he knew the country could not afford. I would have thought those were core promises. After the election, the l-a-w tax cuts were halved and then were funded by a $3 billion increase in sales taxes, half of that from petrol. That sentence represents three broken promises: halved the promised income tax cuts, introduced massive sales taxes without compensation, and half of those came from petrol. There were broken promises everywhere. Faced with a budget careering out of control because of the unfunded tax cuts, the Democrats, led by then Democrat Cheryl Kernot, now Labor’s Cheryl Kernot, reluctantly agreed to support the Labor Party’s increases. I think the coalition did at the time as well. But first the Democrats insisted that the compensation for the tax hikes needed to be increased, particularly for social security beneficiaries.

Let us fast-track through to 2001, when we are being criticised by the Labor Party. The net increases in taxes as a result of the GST package is computed through the budget figures to be about $5 billion in 2002. The net increase in social security payments is computed by those same budget figures to be around $5 billion. That $5 billion equals $5 billion. The basic logic of that implies that low income earners will be better off as the $5 billion in extra GST is collected off all income levels but the $5 billion compensation is paid only to low income earners. We must not confuse this GST issue and the compensation package with other events in the economy which have stressed low income earners, such as higher interest rates and higher fuel rates resulting from OPEC problems and higher import prices.

Let me return to petrol. At the 1998 election the Democrats proposed four key changes to petrol pricing. First, we said that we would support a rebate on fuel costs for regional transport, but only for regional transport. Second, we said we would oppose the deep cuts on diesel fuel taxes, particularly in the cities, on health and environmental grounds. Third, we said we believed that the GST should not only apply to petrol; instead, the existing excises should be kept. This would have meant that bowser prices would not change but also would have meant that business would not have been able to collect GST input tax credits on fuel, worth around $1.3 billion a year. We also suggested
that part of this could then be used to reduce payroll taxes at a state level. Fourth, we said the petrol industry needed to be restructured to reduce the power of oil companies, especially over regional distribution.

Let us deal with those points. Firstly, we said that we would support the rebate on fuel costs for regional transport but only for regional transport. That is what we achieved in negotiation with government. Secondly, we said we would oppose deep cuts in diesel fuel taxes, particularly in the cities, on health and environmental grounds. That is what we achieved with the government: there was no cut in those diesel fuel taxes in the cities on health and environmental grounds. We won nearly $1 billion worth of cuts to diesel or proposed diesel rates, but we could not persuade the government to change its mind on petrol excise. If we had, then the problems with country price differentials with GST offsets and the unnecessary $1.3 billion in petrol tax deductions for business could have been avoided.

However, let us go back to that. As our third promise we said that we believed the GST should not apply to petrol, instead the existing excises should be kept. We could not persuade the government to that. You cannot persuade in negotiations a government to do everything you want to achieve. This would have meant that the bowser prices would not change. What was achieved almost in compensation was that business—contrary to our original position—was able to access GST input tax credits on fuel worth about $1.3 billion a year. So if the Labor Party want to condemn us for allowing business to get GST input tax credits on fuel, they can be our guest, but there is nobody in small business, or business or the farming industry that will agree with them.

The last promise—if you can put it that way—was that we said the petrol industry needed to be restructured to reduce the power of oil companies, especially over regional distribution. We have had no opportunity to negotiate that outcome. The Labor Party have had discussions with us on that issue. My understanding of their position, as expressed by their spokesperson, is that they are far more sympathetic to our view than is the government. Perhaps we will be able to deal with that particular promise in due course with the opposition if they ever become the government. In the meantime we continue to urge the coalition to attend to a necessary restructuring of the petroleum industry.

Senator SHERRY (Tasmania) (9.55 a.m.)—We are discussing the Taxation Laws Amendment (Excise Arrangements) Bill 2000. The purpose of the bill is primarily to codify the transfer of the excise function of Customs to the Australian Taxation Office. This followed the physical transfer of this function announced in the administrative orders on, I think, 21 October 1998. The bill will amend the Excise Act 1901, the Customs Act 1901 and will repeal redundant provisions of the Distillation Act 1901 and the Spirits Act 1906. It also makes minor consequential amendments to the Coal Excise Act, the Customs Administration Act, the Excise Act, the Fuel (Penalty Surcharges) Administration Act and the Taxation Administration Act 1953.

Firstly, I make the point that we are dealing with a piece of legislation to transfer the administrative functions about 2½ years after it was actually implemented. That in itself is a legitimate concern which should be responded to by the minister either at the conclusion of this debate or at some time during the committee stage. Why has it taken 2½ years to carry out the legal ratification of the practical transfer that occurred 2½ years ago? I do not know what Senator Kemp, the Assistant Treasurer, has been doing—we often ask that question—but I think it is yet a further reflection on the Assistant Treasurer, Senator Kemp, that it has taken 2½ years to deal with legislation which is in itself not particularly controversial.

The provisions of the bill, firstly, transfer the responsibility for the administration of excise legislation from the CEO of Customs to the Commissioner of Taxation, Mr Carmody, who has been acting in this role for at least a year and a half. Secondly, they formally extend the confidentiality that currently applies to taxation matters to excise matters. Thirdly, they incorporate in the Excise Act the powers of officers that are cur-
rently conferred by the Customs Act for excise purposes. Fourthly, they require the forfeiture of goods seized by police officers to be dealt with in the same way as forfeited goods seized by officers exercising powers for excise purposes.

This bill does provide for some toughening up of provisions which are essential, particularly in the area of the dangerous practice of fuel substitution. In the initial package of seven bills in 1997, Labor supported the initiatives at that time, and I think the Assistant Treasurer, Senator Kemp, can justifiably be criticised for his failure to act a lot earlier in respect of the issue of fuel substitution. There have been a number of fuel substitution scandals, the most notable of which was the evasion of excise through the addition of toluene. This has led to the loss of hundreds of millions of dollars in excise revenue. The issue is not only the lost revenue in this area but also the practice of fuel substitution being a threat to safety in respect of fuel used by motor vehicles in this country.

Following pressure from the Labor opposition and the Labor state fair trading ministers, the Liberal-National parties have finally taken belated action, including changing excise rates on toluene and introducing a bill to strengthen the ability of the ATO to prosecute those engaged in fuel substitution. Labor, having called for a crackdown in this area, certainly supports the measures. It is disappointing—though hardly surprising—that the Assistant Treasurer, Senator Kemp, took so long to act in this particular area.

Of course, the tax issues we are dealing with in this legislation relate to excise. I would like to draw the attention of the Senate to this government’s massive increase in excise collection, as outlined in its own Budget Paper No. 1, ‘Budget strategy and outlook 2000-01’. If we go to table 6, ‘Indirect Tax’, on page 5-13, we see the massive increase in excise tax being collected by this government in the current financial year. We find petroleum products and unleaded petrol on that list. In 1999-2000, $5,044 million was collected. In 2000-01, that increases to $5,993 million. That is almost $6 billion in excise from unleaded petrol. That is an 18.8 per cent increase. In 1999-2000, $1,445 million was collected from leaded petrol. That is estimated to go down in the year 2000-01 to $1,354 million. That is a decrease of minus 6.3 per cent. That is occurring because there is a switch from leaded petrol to unleaded petrol. Diesel excise increases from $4,614 million in 1999-2000 to $5,232 million in 2000-01. That is an increase of 13.4 per cent. There are other excises, including aviation gasoline, aviation turbine fuel, fuel oil, heating oil and kerosene. Excise collected from those increases from $100 million a year to $130 million a year—an increase of 29.9 per cent.

We look further down the list. In 1999-2000, $892 million was collected in beer excise. In the year 2000-01, it is estimated that $1,441 million will be collected—a staggering increase of 61 per cent. In 1999-2000, $152 million was collected in excise on spirits. That increases to $245 million—an increase of 61.7 per cent. In 1999-2000, $1,740 million was collected from excise on tobacco products. That increases in 2000-01 to $5,124 million—an increase of 194 per cent. Total excise collected in the areas that I have outlined in 1999-2000 was $2,783 million. That increases to $6,810 million in the year 2000-01—an increase of 144.7 per cent.

This is a staggering increase in excise collected from the range of products that I have outlined: unleaded petrol, diesel, beer, spirits and tobacco products. The only area where excise collection goes down is leaded petrol, and that is not because there is a reduction in the tax levels but because there is a reduction in the use of leaded fuels. So we have a staggering increase in the excise take by the Liberal-National Party government. It is a record level of excise collection. This is in part why the Liberal-National Party has become the highest taxing government in Australian history bar wartime.

If we look at page 8-42 of the same budget papers, the total tax collection as a percentage of gross domestic product is listed, and that is the traditional, accepted measure of tax levels. In the table on page 8-42, in 1999-2000 tax collections as a percentage of gross domestic product are listed at 26.1 per cent. The table then shows a decline in the year 2000-01 to 23 per cent, a further decline in
the year 2001-02 to 26.2 per cent and, in the following two out years, a decline to 22.6 per cent. You have to ask yourself: why do we have this massive increase in excise tax collection when the budget papers show a decline in tax collected as a percentage of gross domestic product, particularly when I have just claimed—and claimed correctly—that this is the highest taxing government in Australian history bar the wartime period? The answer is quite simple. The government has excluded GST revenues from its own tax collection table. If you include GST revenue collection in the tax table and recalculate Commonwealth tax as a percentage of gross domestic product, tax as a percentage of gross domestic product rises to just over 24 per cent.

We get the constant assertion from representatives of the Liberal-National Party that they are a low tax government, when that is not correct. The only way they can achieve that claim is by excluding GST revenues. Of course, they argue it is a state tax. The GST is of course collected under a Commonwealth head of power. The government proudly boast about the implementation of their GST as part of their tax reform package. By any normal accounting standard, the revenue collected from GST, which is outlined on page 4-20 of the budget papers, should be included in Commonwealth tax revenue collection. Never mind that the states spend the money. We all know that at least so far the money is allocated to the states. The Commonwealth collect the GST, and the government proudly boast of the GST and its implementation as part of tax reform.

I referred earlier to the staggering increase in excise taxes under the Liberal and National parties. I also referred to the massive increase in beer excise in particular. I want to touch on this very briefly because we will be coming to specific legislation on beer excise later in the week. I do not know how many beer drinkers in the pubs and clubs around Australia had a copy of the ANTS package. I do not suspect it was very many. The ANTS package refers to a 1.9 per cent increase in beer prices as a result of the GST, and it refers to this 1.9 per cent increase relating to packaged beer. However, during the election campaign the Prime Minister, Mr Howard, fudged the issue. Frankly, I am being generous to the Prime Minister, Mr Howard. I could accuse him in far stronger language but I will not do that. It is interesting to look at the comments that Mr Howard made during the election campaign about the price of beer. He said on the John Laws program on 23 September 1998:

There’ll be no more than a 1.9 per cent rise in ordinary beer.

There is no explanation that his promise to the Australian electorate related only to packaged beer. I do not believe that anyone can possibly claim that the beer drinkers of Australia in the pubs and the clubs, listening to the Prime Minister, had on hand an ANTS package—all 500 pages of it—and looked in it to see whether in fact the Prime Minister was referring to packaged beer or a glass of beer. The Prime Minister said on 14 August 1998, on the Alan Jones program:

Across the board there is virtually no change in relation to alcohol. A tiny CPI equivalent rise in relation to ordinary beer.

Again, there was no mention by the Prime Minister, Mr Howard, that the promise related only to packaged beer, unless you read the ANTS package—the 500-page document that the government put out. This is an example of the Prime Minister misleading the Australian electorate about the impact of excise and the GST in respect of its application to beer.

To confirm the claim that I have just made, we need to look no further—and Senator Ian Campbell, who might respond, would be aware of this—than Mr Cameron, the former Liberal Party member for Stirling. On Perth radio 6PR this Liberal member of parliament, who was a member of Mr Howard’s government, said:

I was a member of the government that went to the 1998 election with that policy and I can tell you I was led to believe, by the powers that be—an obvious reference to either the Treasurer or the Prime Minister—that beer would only go up by 1.9 per cent. There was no differentiation between stubbies, cans or middies. We were simply told a beer would go up by 1.9 per cent and it was a common question
asked of me and asked of the government because many Australians love a cold beer, as we know. And it wouldn’t be proper for me to reveal what goes on in the government party room back then when I was an MP, but I can tell you what was not said.

So this is clear evidence of the Prime Minister misleading the public of Australia in his references to the price of beer going up by only 1.9 per cent when in fact it was a commitment relating only to packaged beer—and it has come from none other than a member of Mr Howard’s own Liberal government, Mr Cameron, the member for Stirling. We will deal with the breaking of that promise in legislation that we will deal with later in the week.

As I said earlier, this is a high taxing government as a percentage of gross domestic product. It is one of the highest taxing governments in Australian history bar the wartime period. I am pleased to note that finally some journalists have caught up with these budget figures and started to expose this government as a high taxing government. Why wouldn’t it be a high taxing government, given the government’s own budget figures that I have outlined in respect of exercise and given that it has implemented a goods and services tax?

To conclude, the second reading amendment moved by the Labor Party, firstly, condemns the government for failing to listen to community concern over the GST impact on exercise levels. The GST has clearly impacted significantly on excise, as I have mentioned, and I referred to the figures earlier. There is no better example of the Prime Minister blatantly misleading the Australian people than in respect of his commitment on beer prices. There is no better example of the Prime Minister misleading the Australian people than in respect of petrol prices—he said that the GST would not increase the price of petrol, when it did by between 1.5c and 2c a litre.

Secondly, we condemn the government for condoning a Liberal backbencher’s private bill, the effect of which is to force the states to reduce tax collections on petrol. Whatever we think of that proposal, it is in clear breach of the intergovernmental agreement signed by the Prime Minister, the Treasurer and the states. The states were assured that they would be able to spend GST revenues as they desired. The Commonwealth should not be interfering in that area.

Thirdly, our amendment makes the comment that the GST fuel excise reduction—which we will be dealing with later in the week—is a result of electoral panic by this government. I do not think anyone could seriously claim that this government is not in panic mode at the moment. Fourthly, we condemn the poor administration of the excise regime—and I have referred to that—in relation to the fuel substitute scandal, which the Assistant Treasurer, Senator Kemp, has finally and belatedly done something about.

This amendment should be supported. I note that the Democrats are not supporting our amendment. I am disappointed but I am, frankly, not surprised. The implementation of the GST saw the Democrats enter into a partnership with the government. Who can forget that photo of Senator Lees and the Prime Minister, Mr Howard, shaking hands and smiling after they had done the deal to support the implementation of a GST? (Time expired)

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (10.15 a.m.)—I thank colleagues opposite for contributing to this second reading debate on the Taxation Laws Amendment (Excise Arrangements) Bill 2000, although people who have had the pleasure of listening to this debate on the radio or who will have the more doubtful pleasure of reading this debate in Hansard at some stage in the future will probably find it hard to link any of the sentences uttered by those opposite—with the exclusion and notable exception of Senator Andrew Murray of the Democrats—to the provisions of this bill. To Senator Sherry’s credit, he did at least spend a few seconds of his first minute on his feet referring to these arrangements, and in fact asked a serious question about why this bill was not introduced earlier.

To remind honourable senators, the bill—apart from a number of other what you would call machinery provisions or tidying
up matters—ostensibly seeks to transfer the general administration of the excise legislation from the Chief Executive Officer of Customs to the Commissioner of the Australian Taxation Office. Senator Sherry raised what I regard as a serious point in relation to why it has taken until now to bring this measure before the parliament. I think he would agree that the arrangements that are in place are working quite effectively. The commissioner is in fact exercising these powers and has been doing so for some time now under an entirely normal practice, that of delegation. That is a quite normal administrative procedure that is entirely constitutional and legal. This bill seeks to put that into law because the law should reflect practice. There is certainly no serious criticism of it taking some time to be formalised.

As you would know better than most, Madam Acting Deputy President Crowley, this parliament deals with many pieces of legislation in any given sitting period. The government, in consultation with the opposition on many occasions, has to set priorities in terms of financial and other matters. In fact, when it has come to dealing with excise matters, this government and the parliament have been assiduous in ensuring that the excise regime has integrity. To that end we have brought forward pieces of legislation, including the Petroleum Excise Amendment (Measures to Address Evasion) Bill 2000, which was passed through this place, as I recall, last year; and the Excise Amendment (Compliance Improvement) Bill 2000, both dealing with very important issues of excise evasion.

I think there was absolute thunderous agreement across the aisle in relation to the need to ensure that the excise regime did have integrity and that those people who seek to avoid excise by fuel substitution, for example, or racketeering in tobacco and other products need to be brought to the attention of the authorities and need to be intercepted, and the government of course introduced a very strict regime. In fact, I noticed on the television news last night that this regime has been successful in uncovering a major racket in tobacco in the past 24 hours, and I commend the authorities for their success in doing that. What I am saying is that those very important legislative amendments that seek to improve the integrity of the excise regime have taken legislative priority over what we would regard as only a minor administrative rearrangement—which is, nonetheless, an important rearrangement.

The debate on the second reading has centred around what is known in the game as a pious amendment moved by Senator Peter Cook, an amendment on the second reading which seeks to score political points off the government. I will not deal with the gist of the amendment in too much detail because, quite seriously, I do not believe that it deserves that much attention. It seeks to make some statements about the government’s decisions in relation to fuel excises. Senator Sherry sought to support Senator Cook’s amendment by referring to the increase in excise collections in the budget papers. He destroyed his own argument when he referred to the figures in relation to the excise collections on leaded fuel. Most people in Australia who visit their petrol station regularly, as I certainly do, will have picked up the point that Senator Sherry has just figured out— that is, that leaded fuel has not actually been available at petrol stations for some time now.

Those of us who drive older cars that used to run on leaded fuel have figured out there are all these different sorts of fuel you can buy that do not have lead in them. I am sure that is a very good thing for the environment and for all of our brains that have been attacked by the invisible forces of lead in the atmosphere for all these years. Senator Sherry has actually figured this out. And he has figured out why there has been a drop in excise collections on leaded fuel—that is, because of the fact that fuel companies do not sell it any more. He made the point that it was not due to some drop in the excise on leaded fuel, that it was because there is less fuel sold.

By making that point he makes quite articulately the case for why the excise on other fuels has gone up. The indexation introduced by the Australian Labor Party in government in the 1980s, which introduced
the automatic, inflation linked indexation of excise, will be abolished by this Liberal government that believes in lower taxes and smaller government through a bill which hopefully will be passed through this place at some stage in the next few days, which will ensure that the excise in real terms does not actually increase. So the only reason for increases in excise will be that people are buying more fuel. Senator Sherry, of course, refused to make that point.

When you have had an economy that has been in a significant growth trend for all of the years of the Howard-Costello government, you would expect an expansion of economic activity, growth of the economy, more small businesses being created and more people in employment—something like 800,000 more people are in employment. In fact, while we are talking about employment, the point should be made that the Australian Labor Party seek to attack the new tax system and call it a 'job destroying tax'. The reality is that, since the introduction of the new tax system, employment has continued to grow very strongly, and significantly more strongly than under the disastrous policies of the previous Hawke and Keating governments, when—as you would know, Madam Acting Deputy President Crowley—something like a million breadwinners were put out of work, creating devastating results for a million households around this nation, putting so many people into economic turmoil. We understand what the impacts were of those policies that put a million people out of work. They created in this nation—a recession that the Treasurer at the time, in his incredible arrogance, said was a recession we had to have. It was engineered: they actually made some decisions not to slow the economy but to stop it and send it backwards at high speed.

When people hear the rhetoric about roll-back coming out of this Australian Labor Party opposite that struggle to release policies, they should think back to what roll-back meant in the days of that recession we were told we had to have. They are very good at rolling back economies: creeping up a hill, then trying to pull on the handbrake and finding that the old car they are driving slides backwards at a rate of knots, wiping out millions of people as they go out of control.

Senator Cook in his speech said something about the latest national accounts figures that were released and that Senator Rod Kemp, the Assistant Treasurer, has so eloquently referred to when asked about them in question time. The record shows, on those national accounts, that there was a minor contraction in the economy during the last quarter of last year. Senator Cook said that that is exhibit A and that means we are bad economic managers. But I will use Senator Cook's logic to make a point about that. As Senator Kemp has made quite clear, a minor contraction in one quarter was the result of an artificial contraction in one sector that makes up five per cent of the economy, and that is the housing sector.

If you look at the housing sector over the last two or three years, you will see that in trend terms that sector has had one of the most successful periods of its operation in the history of Australia: more young people, more families, have been building more houses than ever before in the history of this most wonderful land we live in. But, because of the transitional provisions bringing in the new tax system, there was a huge bring forward of activity prior to 1 July last year and, quite naturally, a fall-off of activity. Of course, that was predicted and it has had an effect—a larger effect than any of us would have wanted—on the expansion. But if Senator Cook says that that small contraction proves we are bad economic managers then, on his own logic, the worst economic managers in the history of this nation were obviously those at the time of that massive recession, the worst since the war and almost since the 1930s, which drove a million people out of work and saw interest rates driven up to over 30 per cent for small businesses. That is the reality for the Australian people as they make decisions about who can manage the economy better. It is a crucial thing.

People look at economics and economic management and they hear politicians and economists talking about it, and it seems very dry and irrelevant. When you talk about the national debt or GDP or ratios of this and
that, quite frankly, for the people in the suburbs of Australia, that makes their eyes glaze over—it does not affect them. But the importance of economic management of course does affect them—as you know, Madam Acting Deputy President, and as colleagues opposite know. If you run high debts, if you run high spending, if you run the economy badly—as we saw for so many of those 13 years under Labor—you drive the interest rates of home owners up to over 17 per cent, you drive the interest rates of small businesses up over 30 per cent, you destroy those people’s disposable income, you destroy the value of their homes—in which often most people have most of their savings tied up—you destroy those small businesses that employ so many of our citizens and you destroy the economy. You actually destroy the social fabric of the nation. So economic management is intrinsically linked to the quality of life, the freedom that people enjoy to pursue their own dreams and hopes. If you have people who do not understand how to run an economy, who are not responsible economic managers, then you destroy the social fabric of the nation.

As we all know, it is a matter of history, a matter of record, that there are still people in Australia who are recovering from the devastation that was wrought upon them by the Labor Party’s economic policies. And the same people who ran those economic policies—with the exception of only Mr Keating and Mr Willis, who have left the place—are on the front bench: Mr Crean, Mr Beazley, Senator Cook and others who were all part of the decision making processes that saw Australia drive at full speed into a brick wall and destroy the lives of so many people. Many of those people who were forced to sell their homes against their will, who were the subject of mortgagee auctions, who saw their small businesses go to the wall, who are still paying off those debts, who lost the equity in their homes, have never been able to buy homes again. They will never forget what the previous government did. I, for one, will not allow them to forget it.

The only other response I would make to comments made during the second reading debate is in relation to the furphy that has been put out by Senator Sherry and that has been picked up by a couple of journalists who have accepted at face value Senator Sherry’s arguments about the taxing and spending history in Australia. The record will show—and this is where there is some duplicity and hypocrisy from some people opposite—that the government, at question time after question time and in press release after press release put out by populists from the other side, are criticised for their spending reductions. We are criticised for reducing Commonwealth spending. We are told we should spend more in all of these different areas.

When we came to power, we had revealed to us by Treasury that we had a $10 billion deficit, when Senator Cook opposite had been saying right up to Christmas in 1995 that the budget was in surplus and the economy was going along nicely. Talk about deficit denial! Senator Cook is saying we are not telling people the full facts about petrol excise, GST revenues and this windfall he hopes to find. This is the senator who stood up in this place and said that the budget was in surplus and just a few weeks later the truth was revealed, and that was that we were $10 billion in deficit—not a few hundred million or a few billion but $10 billion. Senator Cook has the audacity to come in here and say that we are not telling the full facts. We are the government that actually brought in the charter of budget honesty so no government can ever get away with the duplicity and cover-up of the fiscal affairs of the nation in the way that Senator Peter Cook, the then finance minister Mr Kim Beazley, Prime Minister Paul Keating and others did in their gross deception of the Australian people prior to the 1996 election.

The facts are that the Commonwealth tax burden has fallen substantially under this government and I know you in particular, Mr Acting Deputy President Lightfoot, would be very proud of that achievement. This government has seen the tax burden—which was around 23.4 per cent of GDP back in 1996-97 when this government came to power—drop to around 21 per cent of GDP by this year, making Australia one of the lower taxing countries on the globe. That is a proud boast from someone who believes quite ear-
from someone who believes quite earnestly—as you, Mr Acting Deputy President Lightfoot, and our other colleagues believe—that government should be as small as it can be. It needs to be an effective and efficient government that helps people but if it is too big, is too bloated and is ripping too many tax dollars out of the back pockets of hard-working taxpayers, it destroys their freedom, their incentive and their capability to spend their money how they choose to, rather than how politicians and bureaucrats in Canberra choose to spend it for them.

On the expenditure side of the budget, this government inherited from the Labor Party, when they were in government, spending which was averaging around 26 per cent of GDP. That was much higher, I might reinforce, than the spending patterns of the Whitlam government, which went down in history as one of the most spendthrift governments on the planet. Mr Keating and Mr Beazley, when he was finance minister, actually managed to out-Whitlam Mr Whitlam. They spent more money and raised taxes. This government quite proudly has reduced the incidence of tax on citizens and reduced government spending as a share of GDP from 26 per cent of GDP to about 24 per cent in the latest fiscal year.

If Senator Sherry wants to say that GST revenue—the entirety of which is collected and sent to the states to pay for schools, hospitals and roads—should somehow be incorporated, then he will have a big argument to put. Senator Sherry said something that scares me today and he is going to have to explain himself on it. While he admitted that the GST money was allocated entirely to the states without reduction and without exception—every last cent goes to the states: just as we were forced to collect the excise for the states after the High Court decision, we now collect the GST for them and return it—Senator Sherry said something that was quite alarming, and it needs to be addressed by his leader.

We do not know the Labor Party’s policy on what they are going to do to the GST. They have said they will take it off tampons. That is roll-back so far. If you listened to Senator Murphy’s questions during question time yesterday, you would think that they may have a policy to take it off hats. But that is all we know so far. Senator Sherry has raised a very scary prospect for the Labor Party—in particular for Mr Bracks, Mr Carr and Dr Gallop. He said, ‘So far, the money is allocated to the states.’ Does this give us an inkling of Labor’s policy? This may well be the way they are going to pay for their promises—that is, to stop some of that GST going to the states. That is the question Senator Sherry will have to answer some other day.
empt entity itself, and not a private sector commercial interest, will benefit from the exemption. This move is supported in principle by the Labor Party.

However, the effect of the proposal applies to existing contracts where the developer may be hit with a new tax liability but will not apparently be able to pass it on. The bill proposes that the new sales tax liability will apply to any dealing on or after 2 April 1998, unless the goods are required on or before 2 April 1998, which is the date that the original legislation dealing with this matter was introduced into the House. The proposal as drafted may result in some unfair outcomes—and this was raised in evidence to the committee that inquired into the bill—in particular, low margin fixed price contracts. For example, contracts relating to some Olympic projects were highlighted where the developer would have to pay the tax but not be able to pass on the cost to the owner of the infrastructure.

Given the recognition of this problem, the Labor Party recommended in its minority report of October 1999 that the bill be amended to ensure that it does not apply retrospectively to contracts entered into before 2 April 1998 but which would not be completed until after 2 April 1998 and would therefore incur the sales tax, although this would be nonrecoverable as it was not written into the contract. Accordingly, in the absence of any government amendment to rectify this anomaly, the Labor opposition—and I now emphasise the word ‘was’—was proposing an amendment to give effect to our recommendation. I say ‘was’ because a government amendment has now been circulated in the chamber and has just come to hand which incorporates all of the elements that I have just been speaking about and in fact opposes schedule 1. The impact document associated with the government amendment says:

Financial impact: The initial financial impact of this measure was costed at $10 million in 1998 and $50 million in subsequent years.

Because the costing seems to have been related to figures drawn in 1998 and, dare I say, this is 2001—some three years later—I will have a question in the committee stage to the government, and I foreshadow it now, about whether the original estimates of the cost of this measure remain true or whether they are adjusted because of inflation. The question of this backflip by the government and the revenue cost imposed is important in the general debate about the state of the surplus, given the other backflips that have had a significant revenue impact.

Let me proceed with the second part of this legislation. The other major item that this legislation deals with is arrangements treated as a sale and loan and limited recourse debt. The objective of the proposal is to prevent taxpayers obtaining deductions for capital expenditures in excess of their actual outlays. This situation can arise when the balance of a debt which has financed the expenditure is not paid and the financier can recover only a specific asset on the termination of the finance agreement. The types of financing arrangements covered are hire-purchase, instalment financing and nonrecourse debt. The provisions are, I have to say, highly complex and have been quite controversial with the accounting, legal and construction sectors.

An earlier draft of the provisions was referred to the Senate Economics Legislation Committee and the new bill has indeed been modified to take some of those concerns into account. In principle, the legislation is supported by Labor as it is aimed at ensuring that taxpayers do not receive windfalls simply due to the type of financing undertaken. However, it is important that legitimate transactions do not suffer from overzealous drafting. For example, under the provisions as originally framed in the original bill, all refinancing of debt on a gas pipeline would have been effectively taxed at the company rate. This would have apparently made such projects uneconomic. So, as I have said, we intend to support the bill.

Having dealt with those substantive issues contained in this bill, I would like now to make some general comments. Perhaps the first general comment I should make is that, in the previous legislation that was before the chamber, the parliamentary secretary in his summing up gave me, in his mind, a terrible bath about some of the comments I had made
in that debate. That is not relevant to this debate, but I just say for the record that I will reserve a time to comprehensively reply to and dismiss some of those arguments.

Let me turn to this legislation that is before us today and, again, out of fear of sounding repetitious, I must say: here we go again. Here we go again because, in this chamber, we are being asked, God knows, for the hundredth time to clean up the mess created that has been solely due to, I have to say, the bumbling incompetence of the Assistant Treasurer, Senator Kemp. I do not know how many more times we have to go about doing this, and it does reflect on the capacity and competence of the minister in his job of administering the tax laws of this country.

We are being asked to give, for example, legislative effect to a government tax change that applies from April 1998. That is a proposal which is now three years old. What is more, it involves a change to the then 1998 sales tax legislation. To put it bluntly, this is a fairly incompetent and disgraceful approach in simply keeping up to date with and across the timely amendment of tax laws, and it is about time that the government learned to manage its legislative agenda.

Tax is a controversial issue at the best of times, but to be legislating in March 2001 about sales tax laws that applied in April 1998 is a hell of a stretch when it comes to arguing that the government is managing its affairs on taxation anything like efficiently. We know that taxpayers who will be caught with this legislation are, in theory, supposed to know about all of these changes and be across them. Did you know in April 1998 that we would be legislating in this manner in March 2001? If you did, good luck to you, but I suspect that most taxpayers affected by these measures did not know about them then and did not know about them, for example, in March 1999 or March 2000. As a consequence, maybe retrospectively, they are caught in a situation which is not of their making, because they arranged their affairs without realising that they were going to be caught in March 2001 by the way this legislation, no matter how important it is, now applies.

What is worse is that the amendments in regard to limited recourse debt apply to debts that were terminated—and this is the second leg of the double—after 27 February 1998. That is what the government said in its second reading speech in the House of Representatives. Is it any wonder that the community is turning against this government and its ability to manage tax change in this country at a rate of knots? This highlights the incompetent management of the application of tax laws in this country, and notably by the minister responsible, Senator Kemp. This is, after all, the same minister who was responsible for the detailed implementation of the GST.

The standout performance of poor management in relation to the GST has to be the business activity statement. Small business told the government almost from day one that this was an unmanageable document. We raised it time and time again, and the government’s defence was that it was a simple, two-page document. A simple, two-page document that took 196 pages to explain how to fill out those two pages! But the government said it was a simple, two-page document, and in the face of real concern by the community, particularly by small business—the sector the government purports to defend—it defended the extra red tape it was ladling on the back of small business, the extra hours it was requiring small business to spend filling out these forms and the conversion of small business away from their core business interests into agents of the tax office. All of those things were resisted by the government and this minister until after a couple of state election results in which the Liberal Party was defeated in Western Australia and Queensland. Then, in the face of the impending political demise of the government, it suddenly found that what we had been saying and what small business had been saying for so long was true and backflipped. The trouble is that the government has not backflipped properly and there are still residual problems with the position it has taken, but that is a story for another day.

My point is that the legislation we are considering, particularly given the repeal amendment that has been circulated, once
again indicates that the government is legislating these things on the run. The government proposes to repeal a major part of its bill in the Senate. The government passed the bill in the House, but now that the bill is in here, the amendment is to knock that part out. What sort of grasp has this administration got on what it wants to do about tax? What responsibility does the government take for managing the tax affairs of this nation in a responsible manner?

Mr Acting Deputy President Lightfoot, not because you are in the chair—although I do acknowledge what I regard as a quite important and constructive role you as a senator have played in this—but because the second leg of the double in these tax amendments relates to non-recourse loans in part, I go to the inquiry by the Senate Economics Committee on what is euphemistically called mass marketed tax effective schemes. The use of the English language here is always something that I find fascinating. ‘Mass marketed’ means in this case promoting as widely as possible, and ‘tax effective’ means minimising your tax or avoiding taxation. These are mass marketed schemes to do that, and that is what the Senate committee has been inquiring into.

Non-recourse loans are part of the way some promoters are proposing to finance deductions claimed by taxpayers that it would seem temporarily advantage the taxpayer, massively advantage the promoters in most of the schemes I have witnessed, and ultimately lead to a tax liability being generated from the tax office. I have to say that is disputed by the advocates of these schemes—I do not necessarily say all of them—are being promoted in such a way that ordinary taxpayers are being gulled or their ignorance of tax laws is taken advantage of and they are being put in a situation of risk. I take the opportunity now to draw to the government’s attention the argument that exists here that the enforcement authorities do have access to the legal means to deal with ‘shonky promoters’, but another argument which also seems to be emerging is that those agencies—ASIC being the prime one—are not necessarily properly resourced to do the job. At this stage of the inquiry I make no judgment about that; I merely draw attention to the fact that a clear strand of evidence of that nature has emerged, and I think it is a matter of some consideration.

As I have said in my address, we had an amendment to the first section which the government is proposing now to repeal. That would make our amendment unnecessary and, as a consequence, at the appropriate time I will withdraw it. But we do support the remainder of the bill.

Senator MURRAY (Western Australia) (10.54 a.m.)—The Taxation Laws Amendment Bill (No. 5) 1999 in its current form contains measures to ensure that the sales tax exemption for goods placed in properties owned or leased by always exempt persons or foreign governments is only available for the purchase of goods acquired for their own use. It also contains measures to treat certain hire-purchase agreements as sale and loan arrangements for income tax purposes to ensure that excessive tax benefits are not forth. One cannot help but be moved by the fact that these people are facing in some cases quite severe economic impost, if not ruin. That is not to say that the tax office is necessarily wrong, and the question of who is right and who is wrong here is a matter that will eventually be determined at law, as it must.

But it does focus on a point which it is relevant to highlight, despite the fact that the inquiry is not complete and the committee has not formed its recommendations: that is, anyone listening to the evidence that has been generated could reasonably make the deduction that some of these schemes—I do not necessarily say all of them—are being promoted in such a way that ordinary taxpayers are being gulled or their ignorance of tax laws is taken advantage of and they are being put in a situation of risk. I take the opportunity now to draw to the government’s attention the argument that exists here that the enforcement authorities do have access to the legal means to deal with ‘shonky promoters’, but another argument which also seems to be emerging is that those agencies—ASIC being the prime one—are not necessarily properly resourced to do the job. At this stage of the inquiry I make no judgment about that; I merely draw attention to the fact that a clear strand of evidence of that nature has emerged, and I think it is a matter of some consideration.

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obtained. So in that respect, it is a tidying up bill.

I understand from communication between my office and the office of the Assistant Treasurer that the government plans to scrap the amendments dealing with sales tax set out in schedule 1 to this bill, and I understand that those amendments have now been circulated. The problem with those amendments is well set out in the Senate Economics Committee inquiry into this bill. The Democrats assisted in the initiation of this inquiry. Essentially the amendments would have disallowed certain sales tax exemptions in respect of dealings after 2 April 1998. The measures would not have applied to goods acquired on or before 2 April 1998 when the announcement was made.

The concern with the bill raised by the committee was that contracts may have been entered into prior to April 1998 with the knowledge that a sales tax exemption would be available and a price negotiated on that basis. But goods purchased subsequent to that date would have attracted sales tax, therefore affecting the contractual obligations and the return available to those carrying out the contracts. The result would have been that many subcontractors would have been liable to sales tax in respect of goods purchased where they priced their work based on being sales tax exempt. In many respects that could have proved quite disastrous to them.

The Democrats had planned to move an amendment to the bill in accordance with a suggestion by one of the submissions to the inquiry, and we had requested the Clerk to draft that amendment. I note that the ALP, the Labor Party, circulated an amendment this morning in the same form that we intended.

Earlier this morning we were informed that the government would not be proceeding with schedule 1. Our amendment and Labor’s amendment would have simply excluded dealings or goods acquired for the purpose of performing a contract entered into on or before 2 April 1998. That would have meant, if you were a subcontractor who had bound himself to a fixed price prior to 2 April 1998, that any goods you purchased after that date to fulfil the contract would have continued to be sales tax exempt. In other words, it was a transitional arrangement to prevent people being disadvantaged who were mid-contract.

I will be interested to hear the government’s rationale for completely abandoning schedule 1, particularly given that I believe it was known by them that the Labor Party and the Democrats were supportive of the schedule, if amended. The explanatory notes to the amendments state:

Given that sales tax ceased to apply from 1 July 2000 with the introduction of the GST, it is considered that the additional compliance burdens which taxpayers could face if the measure was passed outweigh the benefits that it could now provide.

The expected revenue loss as a result of the decision is $10 million in 1998 and $50 million in 1999. So what the government is saying is that $60 million of revenue benefits are outweighed by the additional compliance burdens which taxpayers could face. I struggle to believe that is the case, which can only mean that perhaps the expected revenue was overstated or else the government has taken a decision on principle grounds, not on revenue grounds. We are curious about the decision. We cannot but think that, had the government got itself in order and organised the House of Representatives and the Senate to deal with this bill more expeditiously, it may have been better placed to collect at least $50 million of that $60 million. The longer in terms of time we get from the now redundant sales tax regime the more ridiculous, legislatively speaking, it becomes to try to retrospectively collect tax avoided under that regime.

This bill was introduced into the House of Representatives on 11 March 1999—that is, two years ago—but these amendments were originally contained in Taxation Laws Amendment Bill (No. 4) 1998, and that bill
was introduced into the House of Representatives on 2 April 1998. It is astonishing that we are only dealing with the amendments three years later on 28 March 2001—hence, I suppose, the opposition referring to the progress of this bill as indicative of bumbling incompetence.

The Democrats are always supportive of the full consideration of legislation through committees and through this chamber and, hopefully, through the House of Representatives chamber. But for it to take three years for amending legislation to reach this stage is nothing short of ridiculous. I am sure that members of the coalition caucus will feel concerned at that state of affairs—and perhaps some judicious kicking of some attitudes in that process should occur. I am a little suspicious that the abandonment of the schedule has arisen from a degree of embarrassment on the part of government that they are trying to collect sales tax from three years ago—especially since sales tax is a tax which no longer exists. In any event, we will not oppose the government’s amendment to remove schedule 1 from the bill.

The other aspect of the bill deals with the treatment of hire-purchase or limited recourse finance arrangements as sale and loan agreements for income tax purposes, to ensure that excessive tax benefits are not obtained. I could give you my detailed summary of the case for that, but the case is pretty self-evident and the Democrats will support that. As the government says, the adjustment to taxable income will reflect the amounts that remain unpaid when the debt arrangement is terminated.

Senator Brown has suggested an amendment to the bill, which I now understand the Labor Party have issued as a similar amendment. The Australian Democrats have long favoured the use of taxation to achieve a favourable conservation outcome. I am reminded of former Democrats Senator Colin Mason, who successfully amended the income tax assessment bill in 1983, nearly two decades ago, to remove tax breaks for the removal of indigenous trees. I am also reminded of our move to reduce in 1991 the sales tax on recycled paper, which was taxed at 21 per cent—a ludicrous rate for an environmentally friendly product—and of our call in 1992 to remove barriers to investment in plantation forestry. Senator Brown will not be surprised to know that the Democrats will be pleased to support his amendment. We share common ground on this issue. So there you are: I am foreshadowing where we will be in the main debate.

The last issue is that which Senator Cook raised in his speech in the second reading debate. It does not directly relate to this bill but it is an issue on which we think the government needs to sit up and take notice, and that is the issue of the mass marketed schemes to which he referred. There are at least three members of that committee in the chamber at present, and we—and I can say ‘we’, because I know their views—are extremely concerned at some of the evidence which has been put before us. We think that action to address inequities will need to be taken in short measure. I am not going to pre-empt the committee’s considerations or views, merely to say that, if the government’s antennae are now a little cleaner and more alert than they have been, this is an issue on which they really do need to take care and be prepared to respond rapidly to, as soon as the Senate committee is able to give some indication of some relief that they believe should be exercised. With those remarks, I close my second reading views.

Senator BROWN (Tasmania) (11.05 a.m.)—As Senator Murray has mentioned, I foreshadow that I will be moving an amendment to the Taxation Laws Amendment Bill (No. 5) 1998 to bring some justice to Tasmanian landowners who want, in the public spirit, to protect their private forests because they have important environmental values and who want, in the process of doing that, to get government assistance for such things as fencing and management plans; but under the tax office ruling, if they get government assistance they will have capital gains tax placed on that assistance. This means that, of the $60 million or so set aside for the purpose of protecting high conservation value private forests in Tasmania, some tens of millions of dollars will go straight back to the tax office. That is in stark contrast to the taxing arrangements whereby, if the same
landowners want to bulldoze down their forests or send them off to the woodchippers and put in foreign plantations, that is a tax free investment. So the taxation system as it stands is very clearly oriented as an incentive to destruction of high conservation value forests on private lands in Tasmania.

I will come back to the regional forest agreement itself in a moment. I want to point out to the chamber that I moved this same amendment in December last year because it was clear that Tasmanian farmers who are doing the right thing should not be penalised in this way. But the amendment did not pass, because the Labor Party opposed it and joined with the government to vote down that amendment. Although you will not find it in Hansard, my recollection is that Senator Sherry on that occasion indicated that he had been in communication with Tasmanian Deputy Premier Lennon, who had said, ‘Don’t support the amendment.’ If that is the case—and Senator Sherry can speak for himself on the matter—it is a very clear case of politicians who are uninformed, who are ignorant of an important piece of legislation, doing in the rights of constituents to try to make a petty political score: that is, Deputy Premier Lennon’s anti-environmental and anti-green fixation getting in the way of looking at the substance of an important piece of legislation which he now agrees should have been passed.

Labor itself can explain why it did not support this amendment some months ago, why it has had to move now to fix this legislation up and why it has before the Senate today an almost identical amendment to mine. This should have been fixed in December. If, as a Greens senator who is concerned about the interests of Tasmanians, I was able to get my mind around it and move an amendment that was the right amendment, then it does not say much for the Labor Party, for its advisers in the Bacon government and, in particular, for the Deputy Premier of Tasmania that all of them put together got it so terribly wrong last December. It is an appalling piece of politics—and it is an appalling piece of politics as far as the Tasmanian constituency is concerned.

I did point out in the debate last December that landowners had approached me who certainly were talking with the people who were administering the regional forest agreement in Tasmania, and they were saying, in effect, that they were not going to protect their land, because they were not going to be penalised by a capital gains tax that would take away from government assistance being given to them for doing the right thing. You might get $10,000 to bring in a management plan, put up a fence or, for the next couple of decades, manage a piece of forest which has rare and endangered wildlife, forest species, plant species or orchids in it, but then find that the tax office reaches out and takes some thousands of dollars of that away. In other words, you would have to reach into your own pocket to implement that management plan, put up that fence or manage that piece of forest. It was very clear that that was unjust.

I had preceded my amendment in the parliament by flagging it publicly, and it had been reported in the Tasmanian media. Yet Deputy Premier Lennon and/or his colleagues in this place still did not have their minds around it when it was debated in here. I will not say any more on that except that, because of that failure to look at the issue itself, a great deal of inconvenience has occurred; there has been a great deal of confusion, and a great disservice has been done to Tasmanians who are interested in doing the right thing with their woodlands. Today, hopefully, we will move to rectify that.

However, that leads me to look at the government’s position on this. The Howard government last time opposed this, and I have heard nothing to change that. So we now have the situation where Labor has seen that it should have supported the Greens amendment last December. But there are half-a-dozen coalition senators in here representing Tasmanian farmers who believe that Tasmanian farmers should be taxed for doing the right thing. I draw that—and I will continue to draw that—to the attention of Tasmanian landowners. Those Tasmanian senators are doing the wrong thing by their constituency. They now have a double opportunity to look at the amendment and see how logical it is. They
will see that it is fair and it is fixing an anomaly—and they should be supporting this as well. The fact that they are not here engaging in this debate does not excuse them from their responsibility to know what this amendment is about and, in the interests of Tasmanian landowners, to be supporting it.

Just before I sit down, I want to make some comments about the regional forest agreement that this amendment refers to. Currently in Tasmania, the regional forest agreement which the Prime Minister signed in Tasmania in 1997—having never been to the Tasmanian forests—is creating the greatest rate of destruction in history. I was talking about this yesterday, and I am returning to it now on a different piece of legislation. There are, according to the Australian Bureau of Statistics this year, some 5.6 million tonnes of logs out of Tasmania’s grand forests going to the woodchip mills. If you are in downtown Launceston, Burnie or Hobart today, you cannot avoid the procession of log trucks coming out of our great forests and going to their doom through those Tasmanian cities. They are being exported to the paper mills of Japan. For those economic rationalists sitting opposite, let me point out that the destruction of these trees is being prodigiously supported by government handouts, under Mr Howard’s signature: tens of millions of dollars for roading and for replacement plantations of foreign species of trees being put in where these wild forests stand.

What do we get in return for it? The Tasmanian government gets a paltry $10 a tonne for these centuries-old trees that are being sold to the woodchip companies. What do the woodchip companies get? They get, as a rule of thumb, $100 a tonne. They get a 1,000 per cent mark-up. It is a little lower than that at the moment, but they get that simply for chainsawing down these trees and putting them through their woodchip mills. That is the freight on board mark-up for the destruction of these monumental, publicly owned forests of Tasmania. What do the paper millers in Japan get? They get $1,000 plus a tonne when the paper comes out of their mills—another 1,000 per cent mark-up. We get $10 a tonne for the trees which have been growing since before Abel Tasman was spotted floating down the west coast of Tasmania by the Tasmanian Aboriginals, and the Japanese millers get $1,000 a tonne for that product once it has been processed and put onto the markets, where later it will be dumped on the rubbish dumps and converted into greenhouse gases.

The public is funding this. Forestry Tasmania puts $20 million or so of its income revenue into the Tasmanian state government each year and has more than that given to it through state and federal funding. We are actually paying to have our trees cut down and destroyed, handed across to a very limited number of shareholders in the woodchip industry. I might add that the recent purchase of North by Gunns Ltd, headquartered in Launceston, makes that corporation the biggest hardwood woodchipper in the world. The board of Gunns is presided over by Mr Paisley, the former CEO of North. He is the man who poked me in the chest back in 1989 when the Greens had the balance of power. He was concerned about some areas of forest being protected. He said, in the lift at what was then the Sheraton Hotel, ‘Remember, Dr Brown, I am right.’ I invited Mr Paisley to look back through the history books at other people who had made that statement and see how they were judged in history. Also on the board of Gunns is Mr McQuestin, a very wealthy man who was very much part of the history of Tasmania during those Green-ALP accord years.

Senator Murphy—What about the bribery?

Senator BROWN—I am not referring, Senator, to the Rouse affair, although I think his name occurred, as did many people’s names at that time. Also on the board is former Premier Robin Gray, who left the state in massive debt, who mistakenly wanted to build the Franklin Dam—which would have left Tasmania quite needlessly in another billion dollars of debt—who even failed to get the half billion dollars then on offer from the Fraser government at the time of that furore because of his political ineptness and who went on to try to foist ancient technology on Tasmania in the Wesley Vale Pulp Mill, which would have put 13 tonnes a day of organochlorines into Bass Strait, when
Christine Milne and others were saying, ‘You have to use state-of-the-art technology and relocate that mill away from farmlands, because you can recycle and you don’t have to put chlorine into the environment where it is a potential poison.’

It was interesting to speak to some Swedish visitors a couple of weeks ago who pointed out that there is no pulp mill in Sweden any more that uses Kraft technology, which was the technology of the Wesley Vale Pulp Mill. It was outdated, it was dirty and it was environmentally second rate, but Robin Gray pursued it, backed by North Ltd which now is owned by Gunns, and they lost the 1989 election because of that. In the coming years Gunns is going to be under very intense scrutiny for its role in destroying Tasmania’s forests through the woodchipping industry. It is charged with the responsibility of doing the right thing by Tasmania, and if it is doing that it has nothing to fear. Economically as well as environmentally, its progress in Tasmania is going to be very much scrutinised.

A case in point is the current logging at Mount Arthur, near Lilydale, north of Launceston. A number of members here have been to see the site. It is on the slopes of Mount Arthur. It includes logging of some hundreds of hectares of what should have been the Mount Arthur forest reserve. When Prime Minister Howard flew to Tasmania he signed a regional forest agreement which included the indicative forest reserves, and the Mount Arthur forest reserve was then 1,866 hectares. It is now 866 hectares. Since he signed it, 1,000 hectares has been removed from that forest reserve without any reference to this parliament and without Prime Minister Howard even knowing about it. So much for quality control! And they are woodchipping it.

Prime Minister Howard says in Tasmania, ‘We have reached a balanced result here, where we are going to balance the environment with the needs of the woodchip industry,’ then goes away and leaves it to Forestry Tasmania and/or the Labor government in Tasmania to change the boundaries! I understand that some 10,000 hectares of what was promised by Prime Minister Howard to be forest reserve has now gone to the woodchippers. So much for Prime Minister Howard’s commitment to the environment and his whole government’s watching brief over the destruction of Tasmania’s forests. Along with environment minister Senator Hill, he has simply washed his hands of it and walked away from it.

Moreover, the regional forest agreement was supposed to be predicated on the employment of the forest practices code in Tasmania. If you go to Mount Arthur you will see what is happening in the Tarkine, the Styx Valley, the Huon Valley and everywhere where logging is occurring in the wetter areas of Tasmania, and that is: comprehensive breaches by loggers and by the woodchip industry—under the management of Forestry Tasmania—of that forest practices code. You will see illegal logging. At Mount Arthur you will see permanent streams which should have buffer zones of 20 to 30 metres either side of forest left under that code which they have logged right through.

Senator O’Brien and the member for Bass, Michelle O’Byrne, were in the area on the same day that I was last week. They would have seen trees cut off and left in the stream bed amongst the erosion that has come down off the abraded hillsides on either side and is now in the beds of these creeks which feed into Launceston’s water supply, despoiling that water supply and at the same time smothering the formerly clean rocky beds of those creeks which are the habitat of much of the aquatic fauna that gives those streams their naturalness.

Forestry Tasmania is acting reprehensibly under the pressure of the woodchip organisations. I can tell you this: there are good people within that organisation, but if they move to implement the forestry practices code according to the letter of the law, they get squashed. A number have left because head office has told them to lay off. I do not know whether that comes from CEO Evan Rolley’s office, from Deputy Premier Lennon’s office or from Premier Bacon’s office. Whatever, all three people are culpable for what is happening in the field as the forest practices code is comprehensively ignored.
Here we have the situation where I have brought in this amendment to ensure that those people who want to protect their forests in the private domain are not taxed for it. It has taken those three gentlemen I just mentioned some months to catch up with the fact that, through the Labor Party here, they were going to penalise these people through allowing the capital gains tax to apply to the small amount of money they get to help protect their lands. Good on those landowners; they are doing us all a service. They are in the minority, but they are doing the right thing. They should not be taxed for it. That is why this amendment should be supported.

Senator Murphy (Tasmania) (11.25 a.m.)—In speaking about the Taxation Laws Amendment Bill (No. 5) 1999 I will first go to our amendment which is what Senator Brown started talking about. The amendment he moved previously is slightly different. I would like to read a synopsis by Dr Steven Smith, who is the manager of the Private Forest Reserve Program. I think the synopsis explains very well the reason we need to have this amendment carried. It states:

The Tasmanian Private Forest Reserve Program is unique in Australia as it offers landowners cash ... as a consideration for placing a conservation covenant in perpetuity on their native forest. These forests have been targeted by a rigorous scientific process that identifies the highest priorities for forest conservation on private land in this State.

That is, in Tasmania. It continues:

The amount of money is relatively small (i.e. about one third of the market value of the land) compared to the potential earnings that have been foregone, for the public good. The landowners give up development rights, timber rights, gravel extraction rights etc., forever.

The Program has funds of $30 million set aside by the Commonwealth ($20 million in NHT funds, and $10 million transferred as a special grant to the State i.e. the Tasmanian Trust Fund). The $30 million was provided to secure adequate amounts of each targeted forest community in the Private Forest Reserve system – to underpin Tasmania’s RFA, i.e. to demonstrate that the forest industry is ecologically sustainable.

That might be a question that I would debate with Dr Smith. The synopsis goes on:

During development of the RFA, a consultant for the Tasmanian Farmers and Graziers’ Association independently estimated the amount actually needed to do this job at about $250 million. However, negotiations resulted in $30 million being provided. It was never intended that about one third of this amount would be returned to the Commonwealth Government Treasury through CGT.

In terms of the revenue that the Commonwealth would forgo if properties purchased prior to September 1985 were exempted from capital gains tax, the synopsis says:

Roughly two thirds of the properties that the Program deals with have been owned by the same owners since prior to 1985. Most of these landowners are agriculturalists, who would be eligible for the recent ‘Small Business’ taxation benefits, i.e. a reduction in CGT of 50% or more. Hence, assuming CGT at a standard rate of 50%, at present these landowners would pay back to the Commonwealth Government about 50% of 50% of $20 million or $5 million.

Hence, if these properties were exempted from CGT, the Commonwealth would have to forego about $5 million.

What revenue would the Commonwealth forego if all properties were exempted from CGT?

The one third of landowners, who have owned their land since after 1985, include a mixture of agriculturalists and people who have purchased land as an investment (e.g. doctors ... etc.), who do not earn income from their land. Current small business taxation benefits would only ... apply to the agriculturalists. Assuming they are in about equal proportions (i.e. 50% farmers and 50% non-farmers) then the farmers would, at present, be required to pay to the Commonwealth Government 50% of 50% of $5 million, i.e. $1.75 million. The non-farmers would be required to pay an amount of CGT of about 50% of $5 million, i.e. $2.5 million.

Hence if these properties were exempted from CGT, the Commonwealth would forego about $4.25 million—

that is, the sum total of $1.75 million and $2.5 million—

in CGT from the landowners who have owned their land since 1985 and about $5 million from the landowners who have owned their land since prior to 1985 i.e. the Commonwealth Government would forego about $9.25 million in CGT revenue from the landowners who participate in the
Private Forest Reserve Program - if they moved to exempt landowners involved—

that is, if this amendment is adopted—
in the Program from paying CGT on any financial considerations they receive.

The answer is really simple, and we have moved an amendment to that effect. It goes to the question of whether we are endeavouring to protect these lands. It was the intention of the Commonwealth from the outset that we protect these lands, and they provided some money, albeit nowhere near enough, to do that job. That is why the amendment ought to be adopted and supported by the government. Back when the RFA legislation was being debated, this issue was raised. Certainly it was my understanding that the Commonwealth were going to undertake to resolve the issue with the state government by one means or another so that the net effect would be that there would be $30 million for the intended purpose, not $30 million less capital gains tax or indeed any other tax. That is the reason this amendment should be carried. We should be doing what the national forest policy statement intended and what the RFA agreement put in place to achieve some protection of particular forest types and the ecosystems on private land. That is what the money ought to be there to do. It ought not to be there for the purposes of giving capital gains tax back to the Commonwealth.

Having said those things, I would now like to turn to the part of the bill that deals with sale, loan and limited recourse debt. In particular, I want to look at the aspect of limited recourse debt. It says in the second reading speech:

In those circumstances, an amount will be included in the debtor’s assessable income to compensate for excessive deductions that were allowed to the taxpayer based on the initial cost of the relevant capital asset or specified capital expenditure. The adjustment to taxable income will reflect amounts that remain unpaid when the hire purchase or limited recourse debt arrangement is terminated. The amendment applies to debts that are terminated after 27 February 1998.

I know that relates to the purchase of equipment, et cetera, but I am particularly interested in the allowance for limited recourse debt, which brings me to an inquiry that I have been working on with the Senate Economics References Committee. Many taxpayers who have become involved in mass marketed investment schemes of one type or another have often used limited recourse debt. They have now found themselves confronted with a tax office determination, which took effect from June 1998, that has ruled limited recourse debt ineligible for the purposes of tax deductibility.

Of course, the unfortunate thing for most of these investors is that these mass marketed schemes and projects were promoted to them by way of either newspaper articles, the advice of their financial planner or accountant, or legal advice. The thing that you have to consider in the circumstances that these people find themselves in is that they responded to an ad—and the ads were often run in papers where there were people working in the mining sector, particularly in Western Australia—that said they would pay $150 and get a tax deduction of $4,500. What the ad in the paper did not tell the potential investor is that the deduction that would be claimed would often be $14,500. The project developer or manager would take $10,000 and give back $4,500 to the taxpayer.

What interests me about this is that this bill appears to say that, if people change the nature of the debt that they have—that is, if they refinance it—they will not be subject to taxation on the amount that remains unpaid. I am not a tax expert and I find it very difficult to understand a lot in the taxation area, but I am intrigued. If that applies in the case of people in these circumstances, why might it not apply in other cases in respect of some of the people who find themselves in a bit of a confrontation with the tax office over their purchase of an investment that is in the nature of a mass marketed scheme?

One of the things that has happened in relation to the application of tax law is that, as of June 1998, the tax office implemented the product ruling system in the mass marketed or prospectus investment scheme industry. That still allows for a person to claim a deduction for the administrative costs and establishment costs of a particular project, whether it be in trees, viticulture, olives,
aloe, tomatoes or mushrooms. But in many instances the scheme designers, promoters and managers have been factoring in to the investment for the investor—that is, the taxpayer—the cost of the purchase of land. As I understand the tax law, for an individual such as me or anyone else who wants to buy land and establish a plantation of anything, the cost of the land is not a deductible item. Yet these people, who are often paying way above the market price for land, seem to be backdooring the tax law of this country by factoring in to the administrative cost—that is, your entry cost to an investment—the cost of the purchase of the land. Frankly, I do not agree with that. I think that provides a distinct advantage over other people in the community who may well seek to purchase land and establish the same sort of project. That has to be very seriously looked at, because there has been evidence to the Senate Economics References Committee that that is happening.

The other problem with that is this: when you have such high establishment costs—that is, an entry cost into an investment—the potential return from that investment is quite often marginal. Many of these agribusiness mass marketed schemes have a history of failure. There are numerous reports out about that. Indeed, the Rural Industries Research and Development Corporation recently put out a report talking about this exact thing, saying that many of these schemes are very poorly managed as well. So the more you front end load the costs of the investment to the investor—who claims this as a tax reduction, remember—that means that the taxpayers of the country—all of us—are contributing to this particular project.

It is done on the basis that that is a deferred tax deduction, with the tax office taking into consideration that at some point in time a project will return a profit that will become taxable. My concern with regard to some of the things that are currently happening goes to this question: if you front end load the cost of getting into an investment such that it includes the purchase cost of land, that can pose a threat to the long-term viability of the project. It is becoming clear in many cases that that will happen. As I said, I do not believe that to be a fair position: for a person or a company to set up a project and purchase land that other individual people or individual companies cannot and claim that land as a deduction through a backdoor method by factoring it into an investor’s administrative costs or entry costs for an investment.

The other area of the matters here goes to whether or not there is sufficient protection for investors. Under the current law—be it the Corporations Law or the Managed Investments Act—it would seem that, despite those acts being clear in some respects, it is very difficult to actually bring about an action against somebody who has potentially misled you or deceived you with regard to information that they have provided to you. That is another area that has to be significantly tightened. It is very important, when people are supposedly giving professional advice to the general public, that the general public should be able to feel secure that that professional advice is sound.

I will go back to the case of some investors who have been dealt with by the Ombudsman. People entered into an investment scheme where they had limited recourse finance arrangements and/or non-recourse finance arrangements. The tax office have now determined that they are not eligible for deduction. The tax office have subsequently gone back up to four or six years, depending on whether they have applied part 4A or not. They have gone back a long period of time. At that time it would appear that the tax law was such that these deductions were okay and it was okay for a limited recourse finance arrangement to be in place.

I am interested as to how the limited recourse debt arrangements worked under the arrangements that we are dealing with today prior to this bill coming into this parliament, and whether or not these things—and it appears to be the case by all accounts from the second reading speech—were allowable tax deductions prior to this amendment being moved. I would be very interested in the government informing me as to whether or not that was the case. It seems to conflict to some degree. I might be wrong because, as I said before, I do not necessarily understand
the context of the tax law. But I would be interested to hear whether or not limited recourse debt was eligible for deduction prior to and up to this amendment bill being passed for the purposes set out in the second reading speech and as set out in the bill. That would make for very interesting reading to some people who have been the target of the tax office in respect of the limited financing arrangements that they had.

As I said, it is very interesting that people who sought legal professional advice back in, say, 1992, 1993 or 1994 and embarked upon investment programs now find themselves subject to the tax office saying, ‘Sorry, but what we said back then doesn’t apply now.’ Indeed, in some cases there are some schemes that fell out of the time limit under the statute of limitations and they cannot be attacked. Indeed, the tax office issued private binding rulings in some instances for exactly the same arrangements. This brings into question the treatment of the general public from an equitable point of view with the tax laws of this country.

It is a fundamental principle in the tax charter that all people must be treated equally. If that is not the case then there is a real problem. It appears not to be the case. Under the self-assessment tax system—which I think has been around since about 1985, although I cannot remember the exact date now—the taxpayers are required to themselves ensure that they can comply with the tax laws. How does a taxpayer do that? One assumes that they seek—as we all do if we are unsure—the advice of their accountant. In most cases, that is what people did.

If people cannot rely on that, there is either a problem with the tax law and the way it is written—and it should be changed or amended—or a problem with the tax office, if it is going to take a retrospective view. It is okay to take a retrospective view if the case is that there has already been an income tax ruling. But it is very difficult if the tax office is going to take a retrospective view where there has been no determination until much later. As I said, I would be very interested to hear from the government when we get into committee as to whether or not limited recourse debt under these circumstances was an allowable deduction.

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (11.45 a.m.)—I thank all honourable senators for their contributions to this debate on the Taxation Laws Amendment Bill (No. 5) 1999. I think, although it has ranged far and wide, it has been an interesting and constructive one, generally speaking. It seems to me that the key issues that have been raised, with the exception of one or two, are probably best dealt with at the committee stage. They have tended to focus on the amendment moved by Senator Brown and a very similar amendment to be moved by the opposition in relation to the treatment of capital proceeds regarding particularly the private forest reserve program in Tasmania. I will restrict my remarks on the amendments to the committee stage of the debate because some of the reasons why the Commonwealth remains opposed to the particular amendments go to some technical and constitutional aspects.

I will reiterate what was said by Senator Kemp, as I believe it was, in the debate on the RFA bill in December. He said, ‘The government is carefully considering the complex policy issues of the capital gains consequences for landowners of adopting covenants upon RFA private forest reserve program land.’ I reiterate that that remains the government’s position. It is something that is under active consideration, and the Commonwealth will be concluding a policy position on that, we expect, fairly shortly. It is obviously fraught with danger to pre-empt what may go to cabinet, when cabinet may discuss these things and what cabinet will actually discuss, but I can certainly assure the Senate that this matter is under active consideration. I am sure it is frustrating for people such as Senator Brown to see a representative of the government come in here and give those sorts of assurances because he can say, ‘Why don’t you just do this?’ I will go into detail in the committee stage, as it is more appropriate to do so there.

I do not want to sound too much like Sir Humphrey Appleby when I say this, but
there are some technical and constitutional problems with both the Tasmanian Green amendment moved by Senator Brown and the amendment which I presume will be moved by Senator Cook which seeks to do the same thing. In relation to the opposition amendment in particular, and I think the Green amendment will fall into the same trap because it does relate quite specifically to Tasmania, and potentially one particular part of Tasmania, prima facie—I am not a constitutional lawyer, and I am certainly not a tax expert, Senator Murphy—it would be in breach of section 51(ii) of the Constitution, regarding the taxation power, which says, in part—and I paraphrase here—that the Commonwealth cannot levy a tax that would discriminate between states or parts of states. That is one of the problems with the amendments. Of course, it is open to the Senate to make any decisions but that is one of the problems. I will go into the other problems in the committee stage.

Senator Murphy asked me for some advice in relation to non-recourse loans. I may respond to that in the committee stage as well. In fact, I think it was a pretty detailed question, so I am happy to do so there. I am having a detailed response prepared by the relevant officers.

Having said that, in concluding the second reading debate, it is important to respond to the issues raised by Senator Cook which relate specifically to the fact that the Commonwealth government is moving to oppose schedule 1, items 1 and 2. As all honourable senators who have been involved in this debate know, the Commonwealth was moving to ensure that the tax exempt status of bodies which were receiving benefits, particularly in construction contracts, were only to receive those benefits where the property was principally occupied by what is known as the AEP, the always exempt person, under the law—in other words, so that the sales tax exemption would go to benefit that person. As those of us who have been involved with this and have followed the progress of this policy measure through the processes of the government and the legislature would know, as Senator Cook said quite accurately, this was brought about in around April 1998. The legislation was introduced shortly after that. The parliament was of course prorogued just prior to the 1998 election.

I think the measure prior to the 1998 election was called TLAB No. 4, or Taxation Laws Amendment Bill (No. 4) 1998. After the 1998 election it re-emerged as Taxation Laws Amendment Bill (No. 5) 1999, for some arcane reason. The Commonwealth negotiated through the committee process—as Senator Cook and others have indicated there was a committee reference on this matter—and concerns were raised by people who had entered into contracts prior to April. We had been seeking to convince other honourable senators of the wisdom of the Commonwealth’s view. Things have changed further since those discussions took place. We could not get agreement from the opposition or the Democrats to proceed with the commencement date of April 1998. I am informed that the significant focus of this measure was in relation to a number of large building contracts that had in fact been signed prior to April. So, had the Labor amendment been successful, it would have significantly eroded the financial impact and anticipated revenue as a result of the measure.

Senator Cook quite properly asked, ‘What is the impact of us now effectively walking away from this measure?’ It is a very fair question. I have sought to give a very accurate answer. The fact—as we all know in this place better than just about anybody else in the world—is that wholesale sales tax was abolished on 1 July last year. It was a historic achievement for this government to get rid of that ramshackle tax system. So, quite clearly, there are no financial implications beyond 1 July 2000 because there is no wholesale sales tax. Mr Acting Deputy President Sherry, it is a bit like your reference to leaded fuel in a previous debate: it is hard to raise excise on a fuel that does not exist anymore.

To bring this to a slightly more concise point, because most of the revenue was expected to be received from pre-April contracts, and because the measure would not find its way through this place because the Democrats and the opposition have made it quite clear they would not support April as
the start-up date, the government made the pragmatic decision that it is not worth proceeding with the measure. I am assured that the financial impact on the forward estimates will be zero and that overall it will be negligible, or we certainly have no measure of it. I cannot add much more to that.

I hope I have responded in detail to those matters that were raised in the second reading debate, apart from those issues that I have said I will refer to in the committee stage. I again thank honourable senators for their contributions and commend the bill to the Senate.

Question resolved in the affirmative.

Bill read a second time.

In Committee

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (11.55 a.m.)—I table the supplementary explanatory memorandum, which relates to the government amendment to be moved to this bill. I am informed the memorandum was circulated in the chamber today. The government opposes schedule 1 in the following terms:

(1) Schedule 1, page 3 (line 1 to line 32), to be opposed.

The CHAIRMAN—The question is that items 1 and 2 stand as printed.

Question resolved in the negative.

Senator BROWN (Tasmania) (11.56 a.m.)—I move Greens amendment No. 1:

(1) Page 57 (after line 21), at the end of the bill, add:

Schedule 3—Capital proceeds

Income Tax Assessment Act 1997

1 Section 116-25 (cell at table item D1, fourth column)

Omit “None”, substitute “See section 116-82”.

2 After section 116-80

Insert:

116-82 Special rule for amounts received under RFA Private Forest Reserve Program

If you, as a landowner, receive an amount under the Regional Forest Agreements Private Forest Reserve Program as consideration for placing a restrictive covenant on your land title, the amount is not capital proceeds for the purposes of this Part.

3 Application

The amendments made by items 1 and 2 apply to assessments for the 2000-2001 income year and later income years.

As I explained in the second reading debate, this amendment removes the capital gains tax from landowners under the regional forest agreement in Tasmania who get some government money to protect their private forests because there are important environmental values attached to those forests. Maybe the government can say that if grants that go to people under the Natural Heritage Trust Fund to plant trees, for example, are taxed. I think this is anomalous. As I explained earlier, if you flatten your private forest and send it to the woodchippers and then you put in a plantation of fast-growing pinus radiata, the investment for replacing the forest with a plantation is tax free, but if you protect the forest and you get some money from the government under this scheme to put up a fence, for example, to keep out cattle, or whatever it might be, you get taxed on that—that is, it will cost you money to protect your own forest because you will have to put in the amount of money that you will be taxed for capital gains to carry out the management plan required to protect that forest lot.

I explained this to the Senate in December and, at that time, it was voted down by the opposition, who had been in consultation with the Tasmanian government. I am pleased to see that they have an almost identical amendment back here today and are rectifying that mistake. This is just commonsense. I note that the government leader, Senator Ian Campbell, said that there might be a constitutional concern here because the Commonwealth cannot levy a tax that discriminates against a state or part of a state. But this is not discriminatory; it is the regional forest agreement signed by Mr Howard with Tasmania—unless you take the view...
that that agreement itself is discriminatory in that it applies to one state which has a woodchipping industry but not to other states in the same way. You get into a very big tangle once you go down that track. I would be interested to ask the government if it would care to table the advice it has about the potential constitutional problems with this amendment. I do not see them; but, if they are there, I ask the government to elaborate on the legal advice it has that this amendment could be unconstitutional. As I have indicated, I think it is discriminatory against Tasmanian farmers and, quite the reverse: if anything is unconstitutional, that is.

I commend this amendment. It is a very important one. Tasmanian farmers—particularly those on family farms—are having a hard time of it. They are at the lower end of the income scale in terms of Australians generally. Those who want to do the right thing by the public by protecting forests, because they contain rare and endangered species or have other environmental values, should not be penalised for doing so. In fact they should be rewarded. This is not a reward system. It is simply a means of the government paying for the management of those forests, and the farmers are forgoing the windfall profit that they would otherwise get if they said, 'Let's just woodchip it.'

I point out to honourable senators that the runaway woodchip industry in Tasmania gives very big incentives to farmers to do just that. You can earn up to $100,000 for flattening a forest on 100 or 200 hectares and that is the end of it. You can never get that forest back. So farmers who are public-spirited enough and who think about future generations or who just love the bush on their land—which in some cases may have been there and protected as such as part of a family farm for generations—are already being penalised because they are forgoing that windfall profit. They are providing a terrific public service. They are doing the right thing. They ought to be assisted in that and they ought not be penalised by capital gains tax such as exists under Mr Howard's current arrangement.

I do not think the government has been able to argue against this amendment. The Labor Party has now backed the Greens' amendment, essentially as I brought it forward last December. The Democrats supported it then and they are supporting it now. They were able to see the sense in this arrangement at a time when the opposition did not. But that said, I welcome the opposition's change of heart and I am looking forward to this amendment rectifying an obvious anomaly which was harmful not just to a handful but to hundreds of Tasmanian landowners.

Senator Sherry (Tasmania) (12.02 p.m.)—I want to respond to some remarks made by Senator Brown to give an accurate picture to the Senate with respect to the background to the amendment we are considering. I do not know whether Senator Brown in his zeal has deliberately obscured the background to his amendment, but I just want to explain how and why this matter was dealt with as it was last year and why Labor has put forward its own amendment with respect to the tax treatment of forest areas that are on private land under the Regional Forest Agreements Private Forest Reserve Program.

Senator Murphy has accurately outlined the RFA process with respect to reserving forest areas in Tasmania on private land. It was part of the RFA agreement. Certainly it was clearly understood up until the signing of the RFA agreement in 1997 that there would be a tax preferred agreement for such lands in private ownership. That was clearly understood, and it was clearly understood that they should not be penalised through the tax system for being involved in important conservation work. Senator Murphy outlined the background very well. The state Labor government, that I have contact with from time to time, then entered into negotiations with the current federal Liberal-National Party government and, I understand, specifically with Senator Hill, the current Minister for the Environment and Heritage.

By way of background, the amendment moved by Senator Brown and the amendment that will be moved by Senator Cook can be moved to any number of tax bills that come before the Senate. Senator Brown moved an amendment last year during the last week of sitting in the Senate to, I think,
tax bill No. 7, which I dealt with on behalf of the Labor opposition at that time. Senator Brown moved an identical amendment to that bill. I do not believe that Senator Brown consulted with the Labor Party about moving his amendment, which is fairly typical of Senator Brown. The press release goes out and grandstanding occurs and he forgets to call the Australian Labor Party, whose support in this Senate chamber is necessary to ensure the passage of the legislation—providing the Australian Democrats support it as well.

Senator Brown interjecting—

Senator Sherry—I think Senator Brown is acknowledging that he did not contact the Australian Labor Party. The negotiations that were occurring between the Tasmanian Labor government and Senator Hill—as Senator Hill reported to the chamber—were still occurring. And I note that Senator Ian Campbell, in a vain attempt to prevent this amendment being passed—the amendment that Senator Cook will put forward—said that this matter was still under ‘active consideration’. But the difficulty is that this matter has been under consideration and has been discussed by the Tasmanian state Labor government and the Commonwealth government for almost two years.

Senator Brown put out a press release yesterday, I think, alleging that the state Labor government had instructed the federal Labor Party not to support his amendment. That is simply untrue. At the end of last year the federal Labor Party had no request from the state Labor government to support this particular amendment, because the state Labor government was quite rightly involved in negotiations with the federal minister Senator Hill. However, the negotiations have been going on for some two years, as I understand, and ultimately you have to ask: what constitutes negotiation? At some point you have to come to the conclusion that the negotiations have not been successful.

That is now the conclusion that the Tasmanian Labor government has come to. It came to the conclusion that Senator Hill and Senator Ian Campbell, whilst they say that this matter is under active consideration, are never going to agree to such a tax treatment of lands under the Regional Forest Agreements Private Forest Reserve Program. So the state Labor government, quite correctly, in January this year requested the federal Labor Party to now proceed with an amendment to ensure this particular outcome. That is why we will be putting forward our own amendment on this matter here in the Senate today.

Senator Brown has been inaccurate with respect to his background of this particular matter. The amendment that Senator Cook will be moving on behalf of the Labor opposition, which we will be considering shortly, is more accurately worded than Senator Brown’s, and that is one of the reasons why we will move our own amendment. In the context of tax treatment and tax concessions, it is important, Senator Brown, to accurately word your amendment. The Labor amendment is more precise and accurate in its terminology.

Aside from the criticisms that I have made so far, I find it somewhat hypocritical of Senator Brown and somewhat intriguing to see him embracing one aspect of the regional forest agreement. Senator Brown is ideologically opposed to logging in old-growth forests in Tasmania, and that is well known. Senator Brown does not support the regional forest agreement process. He does all he can, effectively, to sabotage it. That is another debate for another time, and Senator Brown and I have often exchanged views on that matter. But I do find it somewhat intriguing and certainly hypocritical that Senator Brown is in here today moving an amendment to one aspect of the regional forest agreement—the one aspect that he happens to agree with. I do not know of any other area of the regional forest agreement process that Senator Brown agrees with.

I believe I have given an accurate account of the background of Labor’s treatment of this particular issue. It is consistent with the regional forest agreement process. Labor is a strong supporter of that process, unlike Senator Brown who tries to pick and choose particular issues that he wants to support or oppose. The regional forest agreement is particularly important for my home state of Tasmania. The issue of the tax treatment of
private lands set aside under a restrictive covenant is a particularly important aspect of the total package of the regional forest agreement process.

I conclude my remarks by just reminding the Senate that the logging of old-growth forest areas in Tasmania under the regional forest agreement is a particularly important issue to Tasmania. What has occurred under the RFA process is the identification of those lands that should be set aside, that should not be logged; and, in Tasmania's case, 40 per cent of the land area has been put aside in reserves, national parks and world heritage areas and cannot be logged. The remainder can be subject to logging under the RFA process. It is subject to a range of controls with respect to how that logging takes place.

As I said earlier, Senator Brown is ideologically opposed to any logging whatsoever. He does not agree with touching or chopping down one single tree. The impact of that approach by Senator Brown, if it were implemented in Tasmania, would be catastrophic. Areas set aside for logging are subject to appropriate guidelines. Forestry in Tasmania contributes to approximately 18 per cent of the state's economic output—that is, 18 per cent of Tasmania's economy is based on forestry. I might say that it is forestry which is sustainable—it is a sustainable industry. Forestry and associated industries in Tasmania employ directly 6,000 people; indirectly, they employ approximately 20,000 people. Senator Brown claims that the total number of people involved in forestry industries in Tasmania is declining, and he then argues that we should do away with the industry altogether because it is declining. If you agree with that view—and I do not—then you would shut down the Tasmanian logging industry tomorrow, on the basis of Senator Brown's argument. The impact of that on the Tasmanian economy would be truly catastrophic. To remove 18 per cent of the economic production of Tasmania and to put out of work 6,000 people, who are directly employed in the industry, would be absolutely catastrophic—and that is what Senator Brown is advocating.

One other point: Senator Brown and the Greens over many years have argued that we should move out of logging in old-growth areas and establish plantations. Senator Brown is on the record—at least he was four or five years ago—along with his Green colleagues in the environmental movement in Tasmania, arguing fast and furiously for plantations to be established. They said that the forestry industry, if it is to continue to exist, should be based on plantations. These plantations, according to Senator Brown and his Green colleagues, should be encouraged by tax deductions. That was their argument four or five years ago, but the argument has changed. In the last three or four years we have seen a very major expansion of plantations in Tasmania, particularly on the northwest coast where I live, but the green movement have changed their position. The green movement now oppose plantations. This is not commonly known in the rest of Australia. So when you listen to Senator Brown and his Green colleagues and accept that we have to move out of old-growth logging into plantations and start to do it, Senator Brown and his Green colleagues change their position. They now oppose plantations.

That is another example of the hypocrisy of Senator Brown in respect of forestry in my home state of Tasmania. I respect Senator Brown's position on forestry issues, but I do not agree with it. I respect his basic bottom line that you do not touch any tree whatsoever—although, as I say, I do not agree with it, because the impact in Tasmania would be truly catastrophic. But Senator Brown is in the habit of putting out incorrect press releases; he is in the habit of not consulting the Labor opposition when he wants support; and he is in the habit of grossly misleading not only the Senate chamber but the public at large in respect of what goes on in forestry.

I could say more but I will not. We can debate the various aspects of forestry activity, as I am sure we will from time to time, in this chamber on future occasions. But that is the background to the events leading to the Labor amendment being presented in this chamber and the background to the sort of hypocrisy and, frankly, grandstanding we have seen from Senator Brown on this issue in recent months.
Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (12.16 p.m.)—I would like to respond to a couple of issues that were raised, firstly, by Senator Brown in relation to constitutionality. I do not have constitutional advice on this. I am just saying that I picked it up as an issue I have had to deal with before, and it struck me, on the face of it, as being a problem. I would think, for example, people in south-west Western Australia who had private forests on their farms that they sought to protect and who turned to the taxation act to find out whether they were going to get relief from capital gains tax that may be paid under some scheme would certainly be disappointed if they found that the Tasmanian RFA program mentioned in the act excluded them. So I think you would have to admit that—

Senator Murphy—There is a difference.

Senator IAN CAMPBELL—I am sure there is, but I think the reality of the situation is that, if the Commonwealth is to move in this area—and I have given assurances that we are considering the issue—everyone would expect that any movement in this direction would in fact benefit all landowners, no matter where they live. That is one issue, and I cannot give you any better advice on that at the moment. Clearly, it seems that the opposition amendment—and you guys will have to talk about who supports whose amendment—has the required votes to find its way through, but I will put the Commonwealth’s position. We will not accept it partly for that reason, and partly because I think there is an unintended consequence—certainly in relation to Senator Brown’s amendment, and I think the problem may apply to the Labor amendment—and I will try to put it in the clearest terms possible; that is, the effect of the amendment would be to create, in relation to some of the associated expenses of putting in place the covenant, a double tax benefit for the landowner.

I have worked out an example I can understand which works on the basis that you want to give the landowner the benefit for the net capital gain. Let us say a landowner is paid $1 million to preserve in perpetuity or to hand over to the state government the rights to use that forest and that there were in the order of $10,000 in expenses in relation to that. The way that both the Labor and Greens amendments are set out at the moment would mean that the landowner would get a capital gains tax exemption for the value of the $1 million and then also have other tax benefits in relation to all of the expenses of putting the covenant into place. Legal expenses are a good example in that case. If you put in place a covenant, you have to basically employ lawyers to draw up the covenant, you need conveyancing and so forth.

This is one of the technical issues where we find problems with the proposed amendments from both Labor and the Greens: that is, under the income tax assessment act, the taxpayer can then seek further deductions in relation to that expenditure. So the taxpayer will be getting a tax benefit in relation to a portion of the capital gain that the landowner makes by way of the grant from the fund and then they will have open to them an exemption. So in relation to that portion that is not the net capital payment or the net gain, they will get what is unarguably a double dip. That is not to say that that problem cannot be solved.

Senator Murphy—I don’t see how it can happen, frankly.

Senator IAN CAMPBELL—Through you, Madam Chair, to Senator Murphy, I have been given this advice by tax advisers and tax officials, and I have been informed that that is actually the effect of the amendment. The government gets criticised from time to time for its administration of the tax act and its tax reform program. The most prudent and responsible thing to do is to look carefully when designing measures to assist taxpayers, and in this case to assist landowners who are doing the right thing in relation to the environment. If the government and ultimately the parliament decide that we should give them assistance—either through the tax act or some other means—I think all honourable senators would agree that the best way to do that is with the best advice and by ensuring that there are not unintended consequences or constitutional problems. It is clear to me that neither the Labor Party nor
the Greens will accept on face value my undertakings that the Commonwealth is looking at this issue, and I respect their decision to do that. I guess when someone says, ‘I’m from the government. I’m here to help you and the cheque is in the mail,’ you tend to be cynical about those undertakings, so I respect that. But the Commonwealth’s position, which I am required to put here, is that we will not be able to accept this amendment. What the government does in the other place, I cannot predict. There are two reasons at the outset that we will not accept the amendment in its current form.

While I am on my feet, Senator Murphy did ask me a question in relation to non-recourse loans and he was quite clearly, in his own words, referring in particular to the situation in relation to non-recourse loans used to finance the mass marketed so-called tax effective schemes, and particularly, in Senator Murphy’s case, agricultural schemes that are quite properly causing a lot of political attention and, in fact, have been for some years now. I remember that was an issue that caused a lot of correspondence when I was the parliamentary secretary with responsibility for the Securities Commission. That has heated up recently as the tax treatment of those programs attracts more attention from more people—and particularly, we would hope soon, from the courts. The issue of non-recourse loans is, in the context of this bill, unrelated to the instances you raise. In some respects, I believe you are asking for advice in relation to how they apply to the mass marketed so-called tax effective schemes.

Senator Murphy—No, that wasn’t what I asked.

Senator IAN CAMPBELL—I am happy for you to ask it again. It is a complex issue, and it is the case that to answer the question accurately depends very much on the individual circumstances not only of the scheme but also of the taxpayer. I do not think it is appropriate at this stage to be any more specific than that.

Senator BARTLETT (Queensland) (12.24 p.m.)—I want to briefly outline the views of the Democrats on the question before us at the moment, which is the amendment moved by Senator Brown, and the general thrust of the intent behind the opposition amendment as well. As Senator Brown kindly put on the record, the Democrats supported his amendment when he first moved it last year and support it again at this time. We do so for a couple of reasons, and I think they are worth expanding. The specific instance that has been outlined that this intends to address is one where quite clearly it presents an anomalous situation: if you are providing assistance to someone where they are going to undertake conservation measures or undertake a covenant to protect the conservation values of land, it is counterproductive to have the value of that subject being wound back through a taxation impact. But there is, I think, a broader principle being put forward here that the Democrats have strongly promoted for some time: indeed, the Democrats have been successful with amendments to the tax act in recent times as well in relation to using the tax act more constructively to encourage conservation activities and other positive social and environmental activities.

The minor differences between the ALP amendment and Senator Brown’s amendment are probably not nitpicking. But certainly in relation to Senator Campbell’s—I think fairly dubious—query about constitutionality, I note that Senator Brown’s amendment does not actually mention the word ‘Tasmania’; it is simply to do with a program which may only operate in Tasmania, but it does not constrain it in that regard which the ALP’s amendment does. So, in that sense, I suppose it is an extra argument in favour of the variation of wording that Senator Brown has put forward. If his amendment is in some way broader than the ALP one, that does not particularly concern the Democrats either, because we have pushed in the past for more amendments to the tax act to encourage conservation measures. We got amendments through this place in late 1999 to another tax amendment bill—I think it was tax amendment bill No. 8—which provided tax incentives for people who undertook conservation measures, including people who put a covenant over areas of their land to protect the conservation value of their land, enabling
them to get a tax benefit from any loss of value of the land as a consequence.

The general principle that is specifically applied in this amendment is one that the Democrats tried to get through on a broader scale to all conservation covenants in an amendment to the tax act in 1999. On that occasion, the ALP supported that Democrat amendment. Unfortunately, the government refused to accept it as it stood. After some negotiation, some other amendments were put forward which were not as strong. Nonetheless, they at least initiated the principle of providing tax deductibility and tax incentives for people who donated land for conservation purposes. That is now in force under the tax act: people who donate land for conservation purposes to a relevant organisation can claim that as a tax deduction and spread it out over five years. That is a small but significant advance in using the tax system in a positive way, at very small cost to the public, producing very positive conservation outcomes. The Senate has already accepted that principle; indeed, the government has, to a lesser extent, accepted that principle.

I would remind the government that, at the time of those amendments finally going through in about April last year, they undertook to further examine through the Prime Minister’s Community Business Partnership ways of using the tax act to encourage conservation measures and other positive social activities amongst the general public and the private sector. The Democrats certainly have not forgotten that. We have had a couple of meetings with the Prime Minister’s Community Business Partnership people and also have seen a range of submissions put forward—not just by environment organisations but by other community organisations—to the Community Business Partnership looking at ways to further expand positive use of the tax act to encourage useful contributions from the general public whether in the area of conservation and the environment or in other areas. We will continue to pursue that.

This amendment that we are discussing today is a useful reminder that that is work in progress from the Democrats’ point of view, and we would welcome the support of the government and all other parties in further amending the tax act to produce positive behaviour outcomes by the general community. It is an area where a very small investment in terms of forgone tax revenue can produce enormous benefits—much greater benefits, in the long term—whether you are talking about preserving environmental values, preventing environmental damage or other areas. So the broader principle has already been accepted, certainly by the Democrats and, to varying degrees, by both the ALP and the government.

The very specific situation that is being addressed here through Senator Brown’s amendment is, in a way, a reflection of that: although it is focused on correcting an anomaly it is specifically recognising, nonetheless, that putting a restrictive covenant on your land for the purposes of conservation—in this case, protecting valuable forest areas—is something that is worth while recognising. If there is some inadvertent double dipping consequence, as Senator Campbell has suggested there may be, again that does not personally concern me greatly: the cost would be minimal, and providing a bit of extra revenue or taxation assistance to protect forests, be they in Tasmania or elsewhere, is something that the Democrats would strongly support. So even if there is some validity to that criticism it is not one that concerns the Democrats greatly.

I will not address some of the broader issues that Senator Sherry went into about Tasmanian forestry more broadly and plantations. There is a range of interesting and complex issues there that we would actually welcome the opportunity to debate further in this chamber, because it is important not just for Tasmania but for future directions of forestry policy more broadly. Perhaps we could have a matter of public importance debate on that one in the next week or so. That might be useful. But, in the interests of enabling contributions from some other senators who I am sure would also like to put forward some views on this—whether on the narrow specifics of the amendment or on some of the broader issues in terms of Tasmanian forestry—I will leave some space for them. Suffice it to say that the Democrats support the
amendment moved by Senator Brown. If that is not successful, we would support the ALP version as a fall-back option.

Senator COOK (Western Australia—Deputy Leader of the Opposition in the Senate) (12.32 p.m.)—I want to indicate the Australian Labor Party’s attitude to the amendment moved by Senator Brown and foreshadow that, should Senator Brown’s amendment not succeed, I would move the amendment circulated on page 2134 in my name, which would be aimed at achieving the same principle as Senator Brown has enunciated and as the Democrats have now supported—and as the government by inference suggests it supports, although it reserves its position to vote for it, on the basis that it still needs to consider the implications further—and which, if our amendment were carried, would more adequately deal with resolving the problem. I want to come in a minute to the technicalities of why we think our amendment better resolves the problem than does the amendment moved by Senator Brown.

Having said that, let me say a few things about what the government has said to the principle. We all are aware of what we are trying to achieve here, and the tax act now provides an inbuilt disincentive for farmers who want to conserve old-growth forest—or new-growth forest, for that matter—on their properties. We seem to have a common view in this chamber, quite reasonably and quite laudably, that the tax act should not so discriminate and we all have a seemingly common purpose that we should remove that discrimination. That is the purpose of this debate. It is good that we have arrived at that position.

The government says, inferentially, that it too shares all these views but that it requires more time—and I have taken down the words used by the parliamentary secretary when he quoted Senator Kemp when this was debated last December—and that the government is ‘carefully considering’ its position and that its position is ‘still under consideration’. As Senator Sherry said, it has been carefully considering it and has still had it under consideration for two years up until this point. The parliamentary secretary says, ‘Well, people are cynical about the answer that we are carefully considering it.’ Too damned right they are, when you have been carefully considering it for two years. I do not want to draw on this point exhaustively other than to say that sooner or later there has to be an end to careful consideration and there has to be a time in which you announce your position. To fend off legislative initiatives by saying, ‘Oh, this is all mysterious and more complex than you seem to know and we are still carefully considering it,’ is not an answer, particularly when there is widespread affirmation of the principle that we are trying to achieve. There comes a time at which the government has to fess up, face the facts and deal with it.

It is secondly said that there are constitutional matters here at play. Obviously, when the constitutional card is played in a parliamentary debate, it gives pause to the chamber to go back to the heads of authority to see whether or not we have constitutional coverage to legislate here. It would seem—although this has not been specifically articulated—that the constitutional issue relates to the ability not to discriminate in the imposition of taxes between specific states or regions. My understanding of that constitutional authority—and I make these remarks now—is that we are trying here not to impose a tax but in fact to remove one. Therefore, without going further into this debate, unless the government can produce a more compelling argument, on the face of the explanation it does not seem to me that the constitutional argument stands up.

It is common for governments—they do not exclusively do it—to provide, through the taxation system, incentives to industry which are selective modulations of how tax is imposed or not imposed; and one can look at this issue from exactly that perspective. To further go to my point, given that dealing with tax law often means dealing with exemptions to principles, and given that governments want to limit tax in some areas or impose tax more heavily in other areas to encourage or discourage industry, it seems to me that we are talking here about encouraging the conservation properties of old-growth native forests or regrowth forests on farm-
land; and there is no distinction here between practice on industry incentives through the tax system and industry incentives for the environment and conservation values of our national heritage. So, on the constitutional argument, I raise those two considerations.

The next argument that the government puts is, ‘Well, we’re not sure how all of this applies.’ That is why, when we come to the technical description in our amendment, I think we have covered the points that the government is concerned about. I take on good faith the inference from the government that it does support this principle. The government appears to be not able to go to the extent of saying that it does support the principle, but it is certainly leaving with us the strong impression that it is sympathetic to the principle. Should the wheels of its decision making machinery creak over, in due course it is likely—this is the inference I draw—that it will announce support for the principle: ‘Just give us a bit of elbow room to get the decks cleared and make these decisions.’ That is the inference I draw. Sooner or later you have to rule this off. This has been two years in the making, and just being fobbed off today by a recycling of that old explanation does not seem to me to be good enough. Also, to cite unspecified unintended consequences as the final argument does not seem to be good enough either when we have looked at this and we think the amendment that we have drafted adequately covers it. So much for what the government’s position is.

We will vote for our amendment. For the reasons I am now about to go into, we will not vote for Senator Brown’s amendment. The first thing about Senator Brown’s amendment that requires comment in terms of its technical application is the comment just made by the Australian Democrats: on the face of the two amendments, holding them both up to the light, what is different? On the face of those two amendments, ours mentions the Tasmanian Regional Forest Agreement; Senator Brown’s is silent. On the face, that seems to lend some credibility to the government’s argument about the constitutionality of these changes. The problem we face here is that there is only one regional forest agreement in Australia, and that is the Tasmanian Regional Forest Agreement. So, whether or not you mention it, you catch by the description of it that agreement.

Senator Brown—No, there are a number of regional forest agreements.

Senator COOK—Not with this problem in them. I take that interjection.

Senator Brown—That is true. There are a number of regional forest agreements, however.

Senator COOK—Let me amend that and say that I should have said ‘not with this problem embedded in them’. Certainly in other states a way around this problem is by casting the regional forest agreement to avoid this problem. I am not certain whether I need advice on this point, but it does appear to me that maybe a way of resolving the Tasmanian problem is to recast that forestry agreement. But that is an intergovernmental issue that is beyond the competence of this chamber and it is something for the two governmental authorities to direct their attention to.

My point here is on the constitutional argument: the Democrats say that the Brown amendment looks better for this reason. But I am saying that, whichever way you do it—whether you actually name the Tasmanian agreement or leave it silent—the effect is that it only applies to the Tasmanian agreement and, therefore, the constitutional argument is valid. I do not think the constitutional argument is valid but, looking at the technical description, I think that is the consequential issue here. Therefore, the argument being put—which was not an argument pursued or forced—was really more like a question mark being raised. But we do not see that question mark as standing. We say that it should now be removed because the technical expression of what we have put is superior in that it is a bit more precise than that in the Brown amendment. But it is a closely run thing. I would not want to push the argument absolutely to the end point, other than to say that our preference certainly is that the form of words we have is better.

There is an element of this debate which, in political terms, ought to be identified. It is true that proposed legislation was raised by
Senator Brown last December, and a lot has now been made in this discussion about why we did not support it then. I can say this: Senator Brown comes into this chamber out of the blue and, without consultation, lobbs an amendment on the table and then sort of says, ‘Support it!’ We say, ‘Hang on, let’s have a look at it; let’s study the implications. This is a complex area of tax law,’ and he says, ‘You’re running away from the principle.’ If the principle is important, then surely a little bit of consultation is important to win the principle. Otherwise, you are setting us up for a fall in order to grandstand for the publicity: there is one pure person on these issues, and that is Senator Brown.

That is politics, and from time to time these things happen. We just get on with the job and learn to live with it, and we do not want to make a petty argument about who has the bragging rights on this. If we are ambushed and required on the spot to answer, a prudent and responsible opposition will say, ‘Well, just a minute, give us a moment. This is a complex area of tax law; let’s see what the wider implications are and come back and announce our position.’ We were ambushed in December. This is now March, we have had a chance to work through our position and we can answer. We are answering that we agree with the principle raised, but we do not agree with the way in which the principle is applied in the technical expression of the amendment.

Progress reported.

MATTERS OF PUBLIC INTEREST

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

Human Rights Abuses: Women

Senator PAYNE (New South Wales) (12.45 p.m.)—I come to the chamber to make some remarks from a very productive meeting today of the Human Rights Subcommittee of the Joint Standing Committee on Foreign Affairs, Defence and Trade held with the Human Rights Commission of the Grand National Assembly of Turkey. I think I can speak reliably on behalf of those of our colleagues who were there and say that we were very impressed by the scope and responsibility of that Human Rights Commission. A lot of their work is very relevant to some of the remarks I wish to make today.

In the Centenary of Federation year, Australia is in a position to celebrate its increasing prosperity as well as the tremendous social gains that we have achieved over the past 100 years. But as we take pride in the successes of our nation, we should not be blinded to the atrocities that are being committed across the globe as millions and millions of people continue to endure deprivation, violence and discrimination at the hands of dictatorial rulers.

I want to speak particularly about Afghanistan. International publicity recently about the activities of extremist factions in Afghanistan has drawn attention to threats to the fundamental rights of the people of that nation. Typically it is women who are the prime target of these groups, as they are forced to endure physical, social and emotional punishments inflicted upon them in the most extraordinarily tyrannical fashion. While media attention has recently been centred on the Taliban’s shocking destruction of Buddhist icons, the militant body’s despicable human rights record, especially pertaining to women, cannot be overlooked and should be examined.

Since the ultra-orthodox Taliban took control of parts of Afghanistan in 1996, it has been a country mired in poverty and destitution. Constant civil war combined with a recent three-year drought has left over a million people on the brink of starvation. Afghan children in particular have become the innocent victims of the Taliban’s imposed terror. For example, the group continually refuses to fund much-needed childhood immunisation. A country which has suffered the deaths of fathers in war now says that women, in particular widows, are not allowed to work. The children of those people are continually being injured by landmines buried throughout Kabul and surrounding regions.

More than two million people have sought escape from the country but unfortunately most still reside in refugee camps where conditions are comparable to or worse than
the situations they were initially fleeing. The deplorable living standards in Afghanistan are just one physical consequence of Taliban rule. The fundamentalist regime’s strict moralistic interpretation of Islam has resulted in the oppression of basic human rights. Freedom is nonexistent for women under Taliban rule. Independence and autonomy are continually struck down by the brutal hands of the governing body. The position of women has been most dramatically changed by the extremists. Life for women has come to a virtual halt in Afghanistan as the government has figuratively ‘imprisoned’ women with its rules and with the application of sharia law. They are banned from the workplace. They are banned from most forms of education. They are essentially excluded from participation in all sectors of life.

Although the main Islamic text, the Koran, grants property and economic rights to women, the Taliban has ignored that and continues to sanction severe forms of discrimination against women. Their freedom of mobility is limited. They are forbidden to leave the home unless accompanied by a male relative and fully dressed under the cover of a burqua, a garment concealing all but the eyes. There is no opportunity for dissent, as the Taliban government inflicts punishment with unabated severity. Public stonings, lashings and beatings for violations of the fundamentalist rules are not uncommon. In one well-accounted case, a woman who dared to defy restrictions on education by running a home school for girls was shot and killed in front of her family and her students. The legal rights of women have been severely limited, which perpetuates the cycle of abuse. You can take no recourse to end the gender bigotry. Victims of rape, for example, are required to provide the testimony of four witnesses and they ultimately face punishment if their case is not proven valid in the eyes of the court.

Under the Taliban’s extremist rule, women have been reduced to invisibility, with no means of protest—no voice. Increased feelings of hopelessness and despair have resulted in extraordinarily high levels of depression and suicide throughout the country. In 1998, Physicians for Human Rights conducted a study that found that 97 per cent of the 160 Kabul and refugee women they examined exhibited signs of major depression, a highly disturbing statistic. More recently, there are problems with forced marriages and prostitution increasing, especially in conjunction with the Taliban’s issuing of an edict, after UN pressure, purporting to ban the cultivation of opium poppies. Until the restriction of narcotic production, opium production was the main source of revenue for both many Afghan farmers and the Taliban government, given that the Taliban collected a 10 per cent tax on all agricultural crops, including opium. To indicate the importance of that production to the world drug trade, Afghanistan was estimated to have supplied over 70 per cent of the world’s heroin in the year 2000. Now, with the restrictions, farmers are faced with increasing economic hardship so in some cases they are now selling their daughters, some as young as seven, to obtain dowries and loans to ameliorate their own financial situation. So, ironically, attempts at improving the state of life in Afghanistan have actually resulted in a further weakening of human rights.

The Taliban’s recent destruction of Buddhist statues at Bamiyan is an extraordinarily bold manifestation of the extremist policies practised by the group since they first came to power. Over 1,500 years old, the statues were important to the development of both Buddhist theology and art. These immense figures represented a valuable part not only of Afghanistan’s history but also of the world’s. One of the statues was believed to be the tallest standing Buddha found throughout the globe. They had managed to survive attacks from Genghis Khan’s cannon fire 800 years ago, but apparently not the 21st century version. The Taliban’s refusal to listen to the pleas of the international community and halt demolition of the cultural artefacts is fundamentally a breach of respect towards humanity, history and religion. Their minister of information and culture even declared that the statues would be broken with profound ease for ‘it is easier to destroy than build’.

This is rhetoric which stands in sharp contrast with the generally more constructive
goals of civilised nations. But, essentially, destruction is what the Taliban are doing on a daily basis in Afghanistan. They are implementing their own form of genocide, shattering the people and the culture of their nation. Women in particular have been attacked, excluded and left to linger in the shadows. I applaud the stand of the Australian government for supporting UN sanctions and refusing to recognise the Taliban as the legitimate governing body of the country.

While I have focused some attention on the appalling abuses taking place in Afghanistan, I think it is important—but disappointing—to note that similar atrocities are being carried out in several other areas of the world, in some cases almost routinely. Human rights violations which are committed during political strife continue to occur across the world but violence against women, particularly in the form of rape, is now more often used as a strategic tool or a weapon of war within the general framework of civil conflict. Women, and therefore their children, have become unwilling pawns in the power struggles erupting between divergent political and religious factions in many places. I, as President of the Parliamentary Association for UNICEF, am acutely aware of the position of children in many of these cases.

Figures taken from Rwanda, for example, are staggering. An Organisation of African Unity report has concluded that every female over the age of 12 who actually survived the 1994 genocide was raped. During the crisis in the former Yugoslavia, an estimated 20,000 Muslim women were victims of sexual assault as militant forces embarked upon their agenda of ethnic cleansing. It was gratifying to see, in February of this year, a ruling by the International Criminal Tribunal for the former Yugoslavia recognise these assaults as crimes against humanity when it found three ethnic Serb soldiers guilty of using rape as an instrument of terror during that brutal conflict. I refer to my remarks previously on the International Criminal Court and what Australia’s ratification of that treaty could do in lending a permanent body to assist in this process and to address these questions. Mosques and other religious symbols were also viciously destroyed by rebel insurgents during that Bosnian conflict, which bears a fateful similarity to the Taliban’s most recent actions.

In our own backyard—and equally distressingly—efforts at democratic independence in East Timor have been darkened by the systemic violence that was perpetrated on women by opponents of East Timorese independence. During the period before and after the vote in 1999, women were often raped as punishment for voicing their pro-independence views and as a form of control of them and of their families. This violence was often compounded by the fact that the attackers committed the crimes in front of other family members, attempting to publicly humiliate those who disagreed with their policies.

Today, those women in East Timor are fighting an uphill battle to overcome the horrors and shame that they experienced. Groups such as ETWave—East Timorese Women Against Violence—and FOKUPERS, which I visited on my last visit to Dili, have established shelters for women and children who have been victims of incest and violence. FOKUPERS has in fact started a newsletter called Babadok which educates women on their rights and provides advice to survivors of rape and assault.

It is not merely in regions, though, that undergo civil war that gender violations are occurring. ‘Honour killings’—the murder of women who purportedly ‘shame’ the family—are not rare in many Middle Eastern countries. In Kuwait, there is even penal law that validates these crimes, setting a maximum sentence of only three years for a man convicted of killing a female relative in the name of ‘honour’.

I think it is beyond a travesty that these violations continue to occur in this new millennium, especially the widespread use of violence against women as a tool for achieving political and religious objectives. Aggression, though, is often symptomatic of a wider range of social violations. According to a recent UN report—and in fact according to commonsense—for women to be truly free from violence they have to enjoy equal rights in the economic, political and social sectors.
That being said, connections between gender and poverty in fact magnify the problem. Over 70 per cent of the world’s impoverished are women.

We are an advantaged democratic society and Australia can play a vital role in acting to end inequalities and aggressions so that human rights—especially women’s rights—can be upheld throughout the broader global community. As a country, I think that we should condemn the minority of extremists who commit atrocities in the name of politics and religion. We should support those countries who attempt to break forth from the chains of oppression and instil democratic values within the hearts of their citizens. In fact, with many of our good governance programs—supported by the Department of Foreign Affairs and Trade—we do just that.

I am reminded of a quote by the late theologian Reinhold Niebuhr who, post World War II, founded Americans for Democratic Action. He said:

Man’s capacity for justice makes democracy possible, but man’s inclination to injustice makes democracy necessary.

I think that Australia’s support of East Timor has been a shining example of our efforts to foster notions of tolerance and equality in nations that are beset by repression. There is still much to be done in areas like East Timor: the challenges of continuing social ills and disparities, for example. With the alien presence of the UN and NGOs—which are of course integral to their future—there is an added complexity.

Here, we can educate for tolerance and gender equality and we can encourage all citizens to fully participate in the development of the country. We should support humanitarian efforts internationally so that the vulnerable do not suffer both at the hands of extremist rulers and from the international community not supporting their plight. Australian programs like Australian Youth Ambassadors for Development and Australian Volunteers International further serve to benefit both the broader community and our own nation.

Closer to home, there are still discrepancies, though, between gender and race that exist here. It is said that violence and extremism often arise from unequal economic, social and political structures, so we as a nation can subdue incipient radicalism within our own community as we remove inequalities. Violence against women, for example, is not a crime committed solely outside our borders. According to the most recent statistics released from the Commonwealth Office of the Status of Women, 38 per cent of Australian women have experienced an incidence of violence since the age of 15.

It is really only through education and dialogue that social problems such as violence against women can be eradicated. Teaching young people the values of tolerance and compassion helps them to make a vital contribution to the development of our nation. Simple programs—like the Commonwealth department of education’s Discovering Democracy, which instils the values of democracy in students across this country—are one very important means of transmitting this wisdom. We can make extraordinarily beneficial use of new technology and support local efforts at advancing public knowledge.

Australia is proud of its heritage and of the advances we have made over the past century. We will continue to move strongly into the future to encourage the growth of a diverse and multicultural society that values all of its members equally. I was proud, along with other members of the Human Rights Subcommittee of the Joint Standing Committee on Foreign Affairs, Defence and Trade, to hear the approbation of the Turkish visitors to our parliament today but, as we progress, we cannot afford to overlook human rights violations that are occurring in other areas of the world. As a nation, we should set a shining example that other countries can emulate and follow.

**Forest Industry**

*Senator MURPHY (Tasmania) (1.00 p.m.)—* Today I will say a few words about Australia’s forest industry, the process that the government has embarked upon and the success or otherwise of the government’s objectives to date. The former Labor government started much of the shift towards the conservation values of forests, and it deter-
mined which forests should be commercially available. The objective of that industry development must continue.

Prior to and after the 1996 election, the coalition government gave a significant commitment to many of the objectives that were set out by Labor. The Minister for Forestry and Conservation, Mr Tuckey, has embarked upon what he sees is an action plan. The Plantation 2020 Vision was the long-term plan for Australia’s industry, and one of the principles of that was to shift the industry from native forest harvesting to plantation supplied wood.

Primarily we are dealing with the sawmilling industry. The sawmilling industry suffered the most as a result of the conservation of many of the native forests of this country. So you would have thought that the strategy of the government should have been to ensure that the plantation development in this country had some focus in that respect. But that is not the case. The vast majority of plantations in this country today are being planted with trees that will be of no use from a sawmilling point of view because genetic modification has rendered them useless. Some people in some parts of the industry have worked very hard to develop new products to the extent that we would be able to use plantation timber.

The minister has been out there, up-front, supporting the development of the plantation industry, which has developed primarily as a result of tax deductibility through prospectus based companies, where investors can invest small amounts of money and achieve a tax benefit. It is unfortunate that the bulk of these plantations were planted with genetically modified trees, which will produce a wood fibre suitable only for the purposes of woodchip, pulp and paper. Secondly, many of the trees have been planted on poor sites. Thirdly, there is an ad hoc approach to the planting of these trees around this country, with none of the managers of these plantations having any idea about the future of our markets.

It is not just me saying that. I have here a copy of the papers from the second International Wood Markets Conference, which was held in Melbourne last year on 9 and 10 October. I would like to read from one of them, in respect of the views that I have expressed, as far as they relate to the management of these plantations. This paper was presented by a fairly well-known forestry consultant, Mr Evan Shield, who has done a lot of work in Tasmania and around this country. He is the principal consultant from Economic Forestry Associates. In his paper he says:

Selection of marginal sites—
he is referring here to South America—is not a substantial current problem.

He goes on to say:

Public subsidies—
the public subsidies in this case are the tax effective arrangements for people to be able to invest in plantation schemes—have been framed with highly detailed land use classification schemes indicating priority areas for plantation establishment. However, elsewhere in the world there would be no denial that marginal sites are often used for plantations eucalyptus. To a large degree, poor management practice in these areas seems to be found predominantly in plantations owned by those whose motivations for establishing plantations are recently discovered ones. They are indeed ‘recently discovered’ because there are a few people around this country that have got involved in entering into the business of forest plantation development that have no history of association with the forest industry, with the downstream processing industry. He further says:

Importantly, in some cases better not identified here, these plantations include substantial ones, even those possibly regarded as being nationally significant. Correcting poor practice in plantations owned and managed by such people is difficult, perhaps an impossible objective. In some cases this is because establishment, even bad establishment, has satisfied their objectives.

That is the sort of thing that the government has not addressed in its action agenda. Rather, the minister, Mr Wilson Tuckey, has been totally supportive of this type of practice. He has written letters to that effect, and he has had letters published in some of the national newspapers to that effect.

I say to the government: how do you expect us, with such a major trade deficit in forest products, to ever address that problem
if you do not get on top of the real issue, if we do not have a strategy that is designed specifically to overcome the fundamental problem or if we are prepared to allow the industry to develop in such a way that it will never be able to deal with the trade deficit that we have in forest products? It is just a ridiculous set of circumstances.

The minister is used on many occasions by some of these prospectus companies to promote their plantations and their investment opportunities to the taxpayers of this country. As I said earlier, there are some very concerning aspects to the approaches taken by some of these companies. History shows us that these types of activities have generally failed. The Rural Industries Research and Development Corporation have also written a paper on this matter which says similar sorts of things to what Mr Shield is saying.

What of the markets? We know—and this conference identified clearly—that there are huge plantations being developed around the world in both hardwood and softwood. Looking particularly at those involved in hardwood, which are very relevant to our own forest industry in this country, there are huge plantations in Brazil, Chile, South Africa and a whole range of other countries which will all be developing their plantations to compete in the global marketplace.

In respect of pulpwood or woodchips for pulpwood, where is the principal market? The principal market is in Japan. Another thing that this conference found was that there is not expected to be any growth, at least any significant growth, in the industry. In fact, some people are predicting that there will be a decline in growth in the Japanese pulp and paper industry.

What does that mean for all the people who have invested in Mr Wilson Tuckey's forestry agenda and the plantations around this country? Most of these have been established and funded by way of tax deduction—that is, the taxpayers of this country have made a contribution towards the establishment of these plantations. What does it mean? I will tell you what it might mean in most cases: there will not be a profit derived from those plantations which will pay back to the taxpayer the money that they gave in the first place. That is what will happen. How does it help the sawmilling industry? It does not help it at all, because, as I said, most of the plantations have been planted with hybrid species that do not have the sawing qualities within the wood fibre. That is a clear fact. Yet Mr Tuckey wants to plough on, oblivious to all of these things. It makes me wonder where we really got to with this process.

There are significant opportunities for Australia in the hardwood industry. I have here a piece of what is called 'laminated structural lumber'. It was made from 19-year-old eucalypts and low quality eucalypts. This is the sort of thing that can be achieved if we get the right sort of practices, the right sort of focus, into this forest industry. And it will take a national government to provide the lead for the rest of the country. That has been evident for many years, and yet we are not getting that lead from this government. The minister seems to be quite happy to support the planting of trees, willy-nilly all over the place, with no real strategy—no market strategy and no strategy for downstream processing whatsoever. Might I add that this beam can be made to any length you want. You can cut it as short as you want or as long as you want. So some parts of the industry have been finding ways of dealing with plantation timber, yet the trees being planted for plantation timber are not going to be suitable because they are of a hybrid nature.

Then there are the other aspects of the forest industry. I have been, on many occasions, an advocate of better forest practices. There are any number of examples of breaches of the forest practices code in a number of states—not the least of which is my own state. I took the opportunity to ring the Regional Forest Agreement Monitoring Unit, which is part of the regional forest agreement process, and I asked them if they had ever taken a field trip to do any inspections, given that their purpose is to monitor whether or not there were any breaches of the forest practices code, particularly as it relates to the ecologically sustainable management of the forests that have been commercially used—because that is in the agreement. It is in an
They said, ‘No, we have never been to Tasmania.’ Indeed, they have not been anywhere to have an inspection. So I asked Mr Michael O’Loughlin, who is the head of that unit, if he would please come to Tasmania so I could take him out and show him some forest activity and ask him whether or not it was in breach of the ecologically sustainable development aspects of the regional forest agreement. He said, ‘I will have to get permission from a higher authority.’ I did not hear anything from Mr O’Loughlin for a little while, so I wrote to him and asked him whether or not he would be coming to Tasmania. I subsequently got a letter from the minister. I would like to read that letter, because I think it demonstrates the capacity of this minister to understand the forest industry of this country and, indeed, the necessity for us to manage it on an ecologically sustainable basis. The minister’s letter says:

I refer to your letter of 19 October 2000 to Mr Michael O’Loughlin of my Department, which has been passed to my office. It is entirely inappropriate for you to attempt to directly contact my officials and badger them in this way. Please follow proper procedures in future and pass any such requests through me.

In relation to your request for the RFA Monitoring Unit to inspect Tasmanian forestry operations, I have not received any expert advice that the sustainable yield criterion is being breached and until I do I see no reason to conduct a separate inspection.

If you have any evidence to the contrary, I would be pleased to see it. I would then decide whether any inspection tour is warranted and who should participate.

In the meantime, I suggest that you direct your efforts to convincing your colleagues to support the RFA Bill and provide security to the Tasmanian forest industry and its employees.

I raised an issue about ecological sustainable management. (Time expired)

Environment: Sandmining

Senator WOODLEY (Queensland) (1.15 p.m.)—I congratulate Senator Murphy on his speech. He has had a longstanding interest in the forest industry, and I have followed his speeches and other activities on a number of occasions. I am very much in support of his attempts to have value added forest products, rather than simply going down the road of chipping every bit of timber that you can lay your hands on. I congratulate him for continuing to put before this chamber, in such a convincing way, the particular interest that he has. Thank you, Senator Murphy.

However, I want to talk about another environmental issue that concerns my own state. It is one that I have, over a number of years, brought to the attention of this chamber—that is, the attempt by CSR to conduct a very large sandmining operation on the banks of Pumicestone Passage in southern Queensland. This sandmine has been opposed almost unanimously by the Caboolture Shire Council, by Sunfish—the recreational fishers association—by environmentalists and by residents, by the Democrats and by many other people. Over 3,000 signatures were collected on a petition. Despite that and despite the fact that the Caboolture Shire Council voted down the application six to nil, the CSR has continued to press this particular development. They appealed to the Land and Environment Court in Queensland and, much to the surprise of those groups which were in fact co-respondents to the Caboolture Shire Council’s attempt to uphold the wishes of local people, the Land and Environment Court did approve CSR’s application and overturned the council’s prohibition.

I was very disappointed by that, as were all of the people involved. Most of those involved as co-respondents are certainly not convinced that they should allow that court decision to overturn all the work that has been done over the last few years in opposing what is a very foolish development indeed. It is quite clear that there are legal avenues open for appeal. It is also clear that the Environment Protection Authority in Queensland has yet to approve or not approve this particular development. But I bring it to this particular chamber today because it also involves the federal government. Under the Environment Protection and Biodiversity Conservation Act it is quite clear that the Commonwealth government will have to make some decision about whether or not it sees this in the same light as those people in
Queensland who are opposed to the development.

I need to describe to you why it is that people are so concerned. This sandmine is only 200 metres from Bullock Creek, which is a tributary of the Ramsar listed Pumicestone Passage—an area which has been declared and constantly referred to in the Queensland press as an area under great threat. Pumicestone Passage is part of Moreton Bay and the site is the location of a 40 square kilometre toxic blue-green algae bloom, which devastated fish stocks in Moreton Bay in April last year. We are concerned that Moreton Bay is suffering under unacceptable environmental pressures. If this sandmine goes ahead, it could be the straw that breaks the camel’s back.

It is really a case of a whole lot of ordinary Australians trying to protect the environment from a large multinational company. I do not even understand why they are so insistent on going ahead against so much opposition. It would be different if we were just talking about a few mad greenies like me who are opposed to this development, but we are actually talking about almost universal opposition, from local government through to the recreational fishers association, ordinary residents, and many other people. Not only that, it seems as though the economic viability of this development is very questionable.

At one of the nearby sandmining developments at Beachmere, the company itself has also joined in criticising this development because of the incredible environmental restrictions which that particular company had to fulfil in a much less sensitive area than this. It is in an area that is only 200 metres from Bullock Creek, and that is a tributary of the Ramsar listed Pumicestone Passage. I might add that it is not only that creek, which is on one side of the development, but also another creek on the other side—Elimbah Creek—and they have identified five underground streams that travel just below the surface of the ground in the same area. The proposal is to mine to a depth of 18 metres, which will go below those underground streams. It is projected that the metals that have been identified in the area, the acid sulfate soils and any other damaging material will be ponded. But it is quite clear that this area is regularly flooded, and it will be impossible to hold that damaging material in those ponds. And, in fact, when this was challenged in the court, one of CSR’s expert witnesses said, ‘We’ll pump out the ponds to relieve the pressure.’ How can you pump out a pond which is flooded? Where are you going to pump it? Up into the air? The whole proposition just seems to be totally ridiculous.

However, as I said, the people who are opposed to this development are not going to go away. In fact, they have already written to the federal government and asked them to intervene in terms of the responsibilities they clearly have. However, before I talk about that, I want to read to you from the recent study into Moreton Bay, particularly into Pumicestone Passage, by Sunfish, the recreational fishermen’s association. Some of the quotes from this study are very interesting. Sunfish says:

We are becoming increasingly aware that our fisheries are under pressure from over fishing, pollution and the adverse effects of agriculture and development adjacent to our waterways. Over recent years numerous studies have been conducted to gather evidence on the rate and amount of degradation of water quality and fish stocks. The evidence gathered has been of assistance in making decisions concerning the fishery and implementing some management decisions to both the commercial and recreational fishery. Unfortunately, until recently, most of the fish capture numbers have been collected from commercial fishermen’s log books but their captures are not necessarily representative of the fish stock levels.

They then go on to talk about the studies they have done. They also describe the region around Pumicestone Passage in these terms:

The region around Pumicestone Passage is one of these areas.

That is, it is an area under threat. They continue:

It is under increasing pressure because of its close proximity to the major population centre of Brisbane. Increasing population, expanding recreational use, canal development, acid sulphate leachate, poor development management, agricultural activities and runoff, urban runoff, sew-
age, logging and continued pollution problems demand that the area be managed to maintain or improve its present state.

Pumicestone Passage is the waterway that separates Bribie Island from the mainland and stretches from Deception Bay in the south to Caloundra in the north. It is approximately 30 kms long and 3 kms wide at its widest point.

They then go on to describe some of the geography of the area. They also say:

The extensive intertidal wetlands has brought about the inclusion of this area on three international environmental treaties: CAMBA, the Chinese migratory bird agreement, JAMBA, the Japanese migratory bird agreement and the Ramsar convention.

It is because of those three conventions that, quite clearly, the Commonwealth government will have to take action with regard to this particular development. It is quite clear that to mine—or I suppose a better description would be to quarry—this area for sand and gravel when it is so close to areas for which the Commonwealth government is responsible would be extremely irresponsible, to say the least.

I appeal to CSR, as a large international company that surely has some regard for local sentiment and local concerns, to back off from this particular development and to allow this area to be protected. I appeal to Senator Hill to take an interest in this particular development because I do believe that he has responsibilities under the Environment Protection and Biodiversity Conservation Act 1999 which he cannot avoid. I will be pressing him to take action and acquaint himself with the details of the concerns that have been expressed, with the details of the court case and with information which I and others can certainly make available.

The scale of the proposed mine is that about three million tonnes of sand and gravel would be extracted over 22 years. Its close proximity to the boundary of the adjacent Ramsar listed wetland and waterway, together with the irreversible nature of the sandmine’s impact on the area’s hydrology, demand that we take action. As I said, I appeal to the company to back off from this particular development and I appeal to Senator Hill to take action so that sanity prevails in this case. I note that CSR, according to the barrister who represented a number of groups, has spent in the order of $1 million in progressing this. In contrast, the Wetlands Association, which is a comprehensive group of a number of people who are concerned, has spent $5,000. This means that it is a bit of a David and Goliath struggle, but one in which I hope sanity and commonsense will prevail rather than a large international company which has deep pockets and can continue to pursue its particular development over and against the wishes of so many people.

Sitting suspended from 1.29 p.m. to 2.00 p.m.

QUESTIONS WITHOUT NOTICE

Goods and Services Tax: Small Business

Senator HUTCHINS (2.00 p.m.)—My question is directed to Senator Kemp, the Assistant Treasurer. What is the minister’s response to the survey conducted this month by the New South Wales branch of the Australian Retailers Association, which found that the introduction of the GST had cost retailers their profit margin and additional expense and personal time to implement the GST? Didn’t the survey also find that 87 per cent of respondents have had to spend more on financial systems than they otherwise would have due to the introduction of the GST? Is this what the Prime Minister meant by the GST being good for small businesses: slashing their profit margins, costing them more and taking more of their time with their families away in order for them to become unpaid taxpayers for the Howard government?

Senator KEMP—I appreciate that question from Senator Hutchins, who I know takes a keen interest in these matters, but let me make a couple of points which I think give some perspective. The question he asked begs the question: if the GST has had all the effects that you have outlined, why is the Labor Party proposing to keep it? Why is the Labor Party proposing to keep it if in fact, as Senator Hutchins says, it has had all these effects? That is the first point I would make.
The second point I would make is that there have been a variety of surveys. Senator Hutchins, one survey that I would draw your attention to is the survey of small business which shows how worried they are about the Labor Party’s roll-back. If you like, I will attempt to get the figures for you. The survey showed that there has barely been a more unpopular policy than the Labor Party’s roll-back. The reason for that is that roll-back will create more complexity for Labor. That is why I think that policy of the Labor Party has no support whatsoever. I think it is a pity that the survey that was referred to by the senator did not deal with that issue.

As Senator Hutchins knows, there have been a variety of surveys—I guess we can all produce surveys. One survey which has come to my attention was carried out for the Business Review Weekly. This is directly relevant to your comment, Senator. This is a survey of chief executives. The question was: who is the better manager of the economy? The Liberal-National Party got 87 per cent; the Australian Labor Party got four per cent. As I said, there are a variety of polls, but we can all throw our polls out. Now I am providing another survey which may be of interest to the senator. Interestingly, in a head-to-head comparison with his counterpart in the opposition, the federal Treasurer, Peter Costello, wins convincingly as the preferred Treasurer. He has 77 per cent support compared with Mr Simon Crean with eight per cent. The point I am making is that there are—

Opposition senators interjecting—

The President—Order! There are senators on my left who seem to be shouting. It is disorderly to intervene in that way.

Senator Kemp—The point I am making is that there is a fundamental flaw in the question which has been asked by the senator. I repeat what I said at the start of my remarks: if the GST is as bad as alleged by the senator, why is the Labor Party proposing to keep it? The second point I would make is that there have been many concerns expressed by small business about the policy of roll-back. We have had roll-back on the agenda for well over 12 months. No-one in the Labor Party can tell us what roll-back is. No-one in the Labor Party can tell us how much roll-back will cost. But the thing which I think worries small business the most—(Time expired)

Senator Hutchins—Madam President, I ask a supplementary question. How does the minister explain why 70 per cent of businesses have incurred additional expenses in order to complete the business activity statement, with the average expense being $2,300 per statement? Didn’t this survey of New South Wales retailers find that the average amount spent per business to introduce the GST was $11,700, making an absolute mockery of the Howard government’s $200 voucher per business—a mere 1.7 per cent of the actual cost per business?

Senator Kemp—I think the truthful response to the question is that there are, of course, a variety of experiences in small business. Some had the systems in place, and that effectively cut the cost rises that were involved. Others needed to upgrade their accounting systems and computer systems, and that would have added to costs. The government, through a variety of means, has helped to cut the costs of those particular compliance issues. The cost to small business will pale into insignificance compared with the cost of having the Labor Party as the government of this country. Small businesses remember what it was like when they had to pay interest rates of 20 per cent plus. Small businesses remember what it was like when we had the recession we had to have. (Time expired)

DISTINGUISHED VISITORS

The President—Order! I draw the attention of honourable senators to the presence in the chamber of a parliamentary delegation from Vietnam, led by Mrs Nguyen Thi Hoai Thu. On behalf of honourable senators, I welcome you to the Senate. I trust that your visit here will be informative and enjoyable.

Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE

Problem Gambling: Government Initiatives

Senator Lightfoot (2.07 p.m.)—My question is addressed to the Minister for Communications, Information Technology
and the Arts, Senator Richard Alston. What strong and decisive action is the government taking to protect Australian families from the economic and social hardship caused by problem gambling? Is the minister aware of any alternative approaches to this important social issue? Would they be effective in curbing problem gambling?

Senator ALSTON—If there is one thing that we are pretty good at in this country, it is gambling. In fact, we are one of the world leaders when it comes to poker machines. We have over 20 per cent of the world’s poker machines in Australia. We have 290,000 problem gamblers—130,000 of those in the severe category. The average problem gambler loses about $12,000 a year compared with about $650 for ordinary gamblers. In other words, this is a one-way street. Everyone loses; it is just a matter of how much you lose. Nearly three-quarters of Australians believe that gambling does more harm than good and more than 90 per cent do not want any more poker machines. So what is the Labor Party’s policy? A poker machine in every home—that is their approach.

There are already countless ways of gambling if you want to really go down that path. You have poker machines in every pub and club; you can go into TABs on every street corner; you have racetracks in every city; there are casinos spread around the land; there are lottery outlets at every newsagent; you can make a phone call to a bookie whenever you feel like it. There are endless opportunities out there. We are facing now, according to the Productivity Commission, a quantum increase in accessibility. In other words, an industry that is just about to get off the ground can be nipped in the bud or you can simply sit there and watch it build so you get a quantum increase in misery and despair.

All those Australians who now suffer enormously from gambling are going to have endless opportunities to gamble 24 hours a day in their own homes. Is that in the national interest? I would not have thought so. What is required is strong action to ensure that we minimise those opportunities wherever we can, and we need to look at what is technically possible and what is socially desirable. There is no problem at all about legislating to ban that in Australia. We have the constitutional power to do it. We put a moratorium in place; it killed it stone dead.

There is no IT issue here, Senator Lundy; this is a social issue. Look at what Mr Beazley has had to say about it. He has called this a stunt and said, ‘We would rather protect Australians.’ How does he propose to do that? Essentially, by sitting back, doing nothing and urging the states to come up with some sort of controlled environment, which presumably means that people might take a bit longer to lose their money. But there has been no attempt to somehow shut the door on what is a very insidious form of social activity.

We had Senator Conroy yesterday make an enormous admission on the lack of consultation with the banking industry. We had this morning an absolute shocker from Senator Lundy on AM. She was asked about the argument—

Opposition senators interjecting—

Senator ALSTON—No, it is all out of her own mouth. The reporter said:
But Senator Alston argues that Australians will be very reluctant to gamble on Mafia.com or Dodgeybros.com because they mightn’t get their money back. That’s a fair point.

Senator Lundy said:
Again it is, but ... governments, both state and federal, can ... provide a safe, regulated, licensed environment for interactive gambling.

They have not; the states have been dithering for years. You know what the Labor Party have come up with. Senator Lundy’s answer to this problem is that, rather than an ineffective and misleading ban, Labor propose a range of principles and directives.

This is how you control the problem. This is how you meet Mr Beazley’s desire to protect Australians: have a series of directives and principles. It is an absolute nonsense. Why are they in bed with the gambling industry? Why aren’t they putting Australian families first? Why aren’t they prepared to do something about a very serious social problem? Basically, because the only policy they have is a casino in every home. (Time expired)
DISTINGUISHED VISITORS

The President—Order! I draw the attention of honourable senators to the presence in the chamber of a parliamentary delegation from the Republic of Korea, led by Mr Kim Tai Shik. I trust that your visit here will be informative and enjoyable. On behalf of the Senate, I welcome you to the chamber.

Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE
Goods and Services Tax: Small Business

Senator McKiernan (2.12 p.m.)—My question is directed to Senator Kemp, the Assistant Treasurer. I ask: what is the minister’s response to the recent survey by Australian Business Ltd, which found that 65 per cent of respondents reported that the GST was having a negative effect on cash flow and that the problem was most evident in businesses employing fewer than 100 people? Didn’t the Prime Minister promise that the GST would be good for small business cash flow? Isn’t this survey just further confirmation of the disastrous impact the Howard government’s GST is having on small business?

Senator Kemp—Let me make the point again—and I have made this point in relation to a number of questions which have been posed to me in recent days. Senator, if you believed that the GST has, as you say, ‘disastrous’ effects on cash flow, what would be the response of a reasonable person? The response would be: ‘If that is the Labor Party’s belief, why is the Labor Party proposing to keep the GST? That is a perfectly reasonable response to that sort of question. The Labor Party gets up here question after question attacking the GST and the alleged effects on the economy and small business, one wonders why the Labor Party propose to keep it rather than scrap the system altogether. Of course, that is not Labor Party policy. What we are seeing again, as we saw yesterday, is an exercise in complete Labor Party hypocrisy.

Senator McKiernan—Madam President, I ask a supplementary question. After that convoluted answer that the minister proffered to me, can I firstly state that my name is McKiernan, not Hutchins. It ought to be self-evident.

Honourable senators interjecting—

The President—Order! I need to hear the supplementary question.

Senator McKiernan—Can I take it from the convoluted answer, Minister, that you are supporting the findings of Australian Business Ltd?

The President—Senator, your question.
Senator McKIERNAN—My question was: can I take it from your convoluted answer that you are supporting the findings? That is the question. Can I further ask: is the government concerned by data from ASIC which shows a 139 per cent increase in the appointment of receiver-managers in the past 12 months, with accountants pointing to the GST-induced cash flow problems small businesses have had to face as one of the main reasons?

Senator KEMP—I thought I gave the senator a very straightforward and clear answer. I said to the senator that many companies will benefit from cash flow advantages for the reasons, Senator, which I so carefully explained to you. I am sorry if you were talking to your neighbour and you did not happen to listen to those points that I made. I thought that was a very appropriate and adequate response to your question. Equally, I said that companies which have problems with cash flow are able to plan their purchases to ensure that those problems are minimised. Equally, I pointed to the PAYG system. As I said, to prevent the cash flow problems that some companies have faced, the pay-as-you-go legislation will enable companies to defer all or part of their income tax liability for 1999-2000. That was the point I made. I thought that was a very comprehensive and detailed answer to your question. (Time expired)

Goods and Services Tax: Small Business

Senator WATSON (2.20 p.m.)—My question is also directed to Senator Kemp, the Assistant Treasurer. It is about a positive outcome of the GST for small food retailers. Will the Assistant Treasurer outline to the Senate measures taken by the Howard government to simplify accounting methods for small food retailers under the new tax system? Is the Assistant Treasurer aware of any alternative policies in this area?

Senator KEMP—Thank you, Senator Watson, for that important question. Yes, Senator Watson, I am able to say that under our tax reform measures the government has taken significant steps to minimise the impact of the compliance burden on small businesses. Some $500 million was set aside to assist small and medium enterprises, along with the community sector, to prepare for the GST. The government and the ATO have also conducted extensive education and information campaigns to enable taxpayers to meet their compliance needs. It is true that these measures were often very forcefully opposed by the Labor Party in this chamber.

Recently the government announced moves which I have mentioned in this chamber to simplify the reporting requirements associated with the business activity statements for small businesses. I am pleased to report to the Senate that a further initiative was announced yesterday by the Prime Minister. He announced that the simplified accounting methods for food retailers with an annual turnover of between $1 million and $2 million will now become a permanent feature of the new tax system. This was originally a transitional measure for those particular concerns to have access to the snapshot and analysis of purchase simplified accounting method for the first year of the new tax system. The $2 million threshold will now be maintained on a permanent basis. This is positive news, I believe, for those businesses like bakeries and convenience stores right across Australia that could have perhaps faced a more difficult compliance burden as a result of the exclusion of some food from the GST.

The question a lot of people have posed is: what exactly is the Labor Party policy now? We know that the Labor Party is proposing to keep the GST—

Senator Cook—It is not.

Senator KEMP—You can always draw Senator Cook in! Despite the fact that, in question after question, the Labor Party senators stand up and attack the GST, the fact of the matter is that the GST remains part and parcel of the Labor Party policy, as we all know. There is, however, just one small caveat to that, and I have mentioned this before: the Labor Party is proposing a roll-back. We do not know how much that roll-back will be, how much that roll-back will cost. It may cost $5 billion, it may cost $6 billion, but we do not know what the figure is because the Labor Party refuses to level with the Australian public.
Equally, we know that a roll-back will increase the complexity of the tax system. It is not surprising that the spokesman for small business in the Labor Party has proposed some way to attempt to compensate small business for the additional complexity that roll-back will undoubtedly bring if Labor ever have that opportunity. An estimate has been made of the cost of the proposal that Mr Joel Fitzgibbon announced. One estimate suggested this could be anything between $300 million and $500 million per year. That is in addition to the proposed cost of rolling back the GST. (Time expired)

Business Tax Reform: Proposed Changes

Senator SHERRY (2.24 p.m.)—My question is to Senator Kemp, the Assistant Treasurer. Can the minister confirm that the Howard government’s proposals on taxing big business, such as taxing financial arrangements, taxing gains on the disposal of non-resident interposed entities, transfer pricing arrangements and changes to the rules applying to foreign trusts, would all have had significant impacts on the big end of town? Can the minister now confirm that the government has formally decided to dump these proposals? Isn’t this just another example of the Howard government being soft on its big business Liberal mates while choosing to claw back GST compensation from pensioners?

Senator KEMP—My response to the Labor Party is: if the Labor Party does not accept these changes and proposals, the Labor Party had better say it. Then we can perhaps have a good debate. In response to Senator Sherry’s question, the government has outlined a timetable to allow a more orderly implementation of the remaining business tax measures. The timetable will allow business to bed down the current tax changes. The government has consulted—this will be of particular interest to Senator Cook—the Board of Taxation on progressing further measures and the board has recommended staging implementation. Deferral of some of these measures will also allow more time for important consultation to finalise the details of those measures.

Senator Sherry, it is important that we do not forget what has already been achieved in this area. I will mention a number of these achievements, and if the Labor Party is not happy with these measures it would be of great interest to the public and to business to hear that. First of all, under the government’s policy we have reduced the company tax rate to 30 per cent from 2001-02, and that will provide Australia with a rate that is amongst the lowest in the region. I regard this as a major achievement; certainly it is a major achievement for small, medium and large business and, indeed, widely welcomed. If the Labor Party is opposed to that policy, Senator Sherry, I think you should stand up and make that clear. Eighteen months ago, Australia had one of the highest capital gains tax rates in the world—effectively, I am advised, double that of the UK and the US. It is now comparable to that of many other countries. Our venture capital and scrip for scrip measures will expand investment in start-up and innovative enterprises and provide a clear pathway for growth in industries based on innovation and the development of new markets.

The suggestion that the government has gone soft on tax reform is quite wrong. I have announced the reasons why some of the measures which were referred to by Senator Sherry and others have been deferred. They were deferred for very good and sound reasons. I would hope that the Labor Party, rather than constantly carp and attack, would recognise the important reasons why these measures were deferred.

Senator SHERRY—Madam President, I ask a supplementary question. Given that the minister has confirmed a deferral and backdown, and given that the estimated revenue is included in the forward estimates, can the minister inform the Senate of just how much Commonwealth revenue has been forgone in this backdown to the big end of town?

Senator KEMP—This was not a backdown to the big end of town, Senator Sherry—you are quite wrong. The final revenue outcome of business tax reforms will only be known, of course, once the details of the remaining elements of the package are finalised. The Treasurer has announced a revised timeline for the remaining business tax reforms. This timeline will, as I said, al-
low greater adjustment time for business as well as further consultation on the implementation details. The government has already legislated many of the revenue raising measures that Mr Ralph recommended—

Senator Sherry interjecting—

Senator KEMP—Well, just listen to what I said at the start, Senator Sherry. (Time expired)

International Treaties: Impact on Domestic Law

Senator GREIG (2.30 p.m.)—My question is directed to Senator Chris Ellison, representing the Attorney-General, Minister, given the Australian government’s recent discomfort over the international exposure of mandatory sentencing laws in this country and the embarrassment caused by the government’s refusal to sign the Convention on the Elimination of Discrimination Against Women, is the government reconsidering its commitment to international treaties and their possible influence on Australian domestic law? Does the government believe that treaties it has signed should, therefore, have domestic effect?

Senator ELLISON—Senator Greig would know that we have the administrative decisions bill which I think the prior government may have had on its agenda too. That is something that we are looking at. That is basically the flow-on from the Teoh decision whereby there was some impact of international treaties on domestic decision makers. This is of great concern to the government and the wider community in Australia because, quite frankly, I think all Australians believe that laws for Australians should be made by Australians within Australia. That is something which really is a basic tenet of our system in this country. Australia is not shirking its international obligations one bit. The fact is that we have looked at things like the International Criminal Court; we have looked at a whole range of human rights initiatives. In fact, Australia has an excellent reputation over the years for the role it has taken on the international stage in relation to human rights. To say that international treaties should thereby have an automatic effect on domestic legislation would be wrong.

It was this government which set up the joint treaties committee, which was an excellent process. I remember chairing that inquiry. Senator Cooney was on that inquiry. I think the report was called Trick or treaty? It was a very good inquiry which led to a process which made our ratification of treaties much more transparent and available for the community to have some input. Senator McKiernan was on it too. He is nodding to agree with me. I think that this is an essential aspect in relation to Australia’s role in international human rights. But, at the end of the day, domestic laws are just that: laws for Australians made by Australians.

Senator GREIG—Madam President, I ask a supplementary question. Is it not a fact that findings by international committees through international treaties are not binding on Australia and, therefore, for many Australians, the only recourse they have—given that there is no domestic bill of rights in this country—is through international treaties?

Senator ELLISON—What we have is a very good system of law in this country which addresses individual liberties with unequalled reference across the international community. We can be proud of the legal system that we have.

Senator Abetz interjecting—

Senator ELLISON—As I am reminded by Senator Abetz, who participated in that Trick or treaty? inquiry as well, Australia does have a legal system which it can be proud of and which does accommodate the ability for an individual to challenge any aspect of law and to be defended. We have an excellent record on individual and human rights in this country.

DISTINGUISHED VISITORS

The PRESIDENT—Order! I draw the attention of honourable senators to the presence in the chamber of a parliamentary delegation from the National Assembly of Turkey led by Mr Huseyin Akgul. On behalf of honourable senators, I have pleasure in welcoming you to the Senate and I trust that your visit will be both informative and enjoyable.
Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE
Small Business: Taxation

Senator BUCKLAND (2.34 p.m.)—My question is directed to the Assistant Treasurer, Senator Kemp. How does the Howard government propose to respond to those many small businesses in this country who have been left high and dry by the government’s backdown on entity taxation measures? How will the government ensure that businesses which had begun preparations to make the necessary changes to their business structures to comply with the now dumped entity taxation regime will not be financially or competitively disadvantaged through yet another Howard government tax backflip?

Senator KEMP—Let me respond to the question. I think this was another measure that was certainly welcomed by the wider public. I am not sure whether the Labor Party proposes to proceed with the exposure draft of legislation that was before the parliament. If it does, I think that would be a very interesting topic of debate. Perhaps in taking note after question time we may well deal with that. In October last the government released an exposure draft for legislation providing for the taxation of trust-like companies. Following the release of this draft, the government received a large number of submissions which raised technical problems, particularly on distinguishing the source of different distributions and valuation and compliance issues, which meant that the draft was not workable.

Opposition senator interjecting—

Senator KEMP—We are a consultative government, Senator. We go out and talk to people. Furthermore, we not only talk but also listen; we hear what people say. Where the case is made, of course, the government take action. The government also took advice from the Board of Taxation, which recommended that this bill, which the senator seems to be supporting—and I take that as correct, Senator, that you are supporting this bill; is that right—

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

Senator KEMP—Thank you, Madam President. I noticed that a look of total confusion came across the face of the senator when I asked him that. I do not think the senator knows whether the Labor Party supports the bill or not. To be quite frank, that is not about outcomes, Senator, because I do not know either. It would be very handy if someone would clarify the position for us.

The point I am making is that this action by the government was very widely welcomed. I could draw up for you a very large number of quotes from people in business, including accountants, who welcomed the government’s action. The Treasurer announced that the government is withdrawing the draft legislation and will not be legislating it. The Treasurer indicated that he will begin a new round of consultations on the principles which can protect legitimate small business and farming arrangements, while addressing any tax abuse in the trust area. I think that was a very important measure taken by the government. It was one which was widely welcomed by the public. If the senator thinks that the government’s action was wrong in this area, a statement along those lines would be of particular interest to business and to voters. If the senator can ask me a supplementary question, perhaps in the course of that he may be able to clarify the Labor Party position.

Senator BUCKLAND—Madam President, I ask a supplementary question. How does the government respond to Ernst and Young tax partner Mr Tony Cooper when he points out that it is clearly unfair for businesses to ‘find they have incurred a CGT liability, not to mention stamp duty, legal fees and tax consultants’ fees. It’s no good for the Treasurer to say that businesses should have been aware of the risks’? Isn’t this just another example of the government forcing businesses to unnecessarily incur thousands of dollars in compliance costs, only to have the government bungle the implementation of these tax changes?

Senator KEMP—If you feel that the government bungled this, Senator, the Labor Party should say that it will proceed with the exposure draft. I do not agree that this was bungled. I believe that the government acted
in a most responsible manner. We had an exposure draft. We heard the views of the public on this exposure draft and, in the light of those views, the legislation was withdrawn. As I said, we can produce many quotes from a wide range of accountants and people in business which strongly welcome the government’s strong action in this area.

**Prawns: White Spot Virus**

Senator WOODLEY (2.40 p.m.)—My question is addressed to the Minister for the Environment and Heritage, Senator Hill. Minister, is the government aware of reports that the white spot virus has been discovered in the Gippsland Lakes in south-east Victoria? Is this incursion the result of infected prawns imported from Vietnam for human consumption being used as bait in recreational fishing? Has the company responsible for the Vietnamese imports also distributed infected prawns through retail outlets in New South Wales and to the Manly Aquarium World in Sydney? Why are the protocols worked out in close consultation with the Thai government and others not working?

Senator HILL—I was unaware of this claimed outbreak in the Gippsland Lakes, and I am seeking information on that issue. In relation to the importation of green prawns, as the honourable senator would know, green prawns have been imported for decades. They constitute about five per cent of all prawn imports. I understand that the use of uncooked prawns as bait was identified as a quarantine risk in 1996 and was banned at that time. After that, an import risk analysis was commenced. That draft IRA report was released in August last year and recommended tighter controls. I understand that those controls were announced as interim measures on 15 December 2000 and that new measures even further tightening the controls were announced on 5 February this year. I can provide details of those restraints to Senator Woodley, if he wishes.

These interim measures are to remain in force until the risk assessment analysis of prawns and prawn products is completed. I am advised that the analysis is well advanced. Further work is being done to help the risk analysis panel finalise the process as quickly as possible. The advice of the Director of Quarantine, however, is that, while these controls address the quarantine risks, it is important to emphasise that prawns have been imported, as I said, for decades, and that there is no scientific evidence to suggest that the use of green prawns as bait has led to the introduction of disease. As I outlined, interim additional restraints were put in place both late last year and early this year in relation to the specific issue of imports from Vietnam allegedly causing problems. I hope I can get more information on that in the near future and will report further to the Senate.

Senator WOODLEY—I thank the minister for his answer, particularly in relation to the import risk analysis. I would just like to press that a little further in my supplementary question, Madam President. Is it true, Minister, that the import risk analysis for prawns was developed during consultation between AQIS and the Thai government prior to its release in Australia? Is this another example of trade considerations being given more weight by AQIS than protection of the Australian environment and our own domestic prawn industry?

Senator HILL—Not according to my brief. It was commenced after the use of uncooked prawns as bait was identified as a quarantine risk in 1996. According to this brief, a process has been developed since. So the objective has been primarily to ensure that products that are imported to Australia are safe both for human consumption and in terms of the broader environment.

**Trade: Tariffs**

Senator GEORGE CAMPBELL (2.44 p.m.)—My question is addressed to Senator Minchin, Minister for Industry, Science and Resources. In view of the Howard government’s proposal for a free trade agreement with the United States, what assessment has the minister or his department made of the impact on the Australian car industry of abolishing automobile tariffs, something a free trade agreement would require with regard to imported US motor vehicles? If such an assessment has been undertaken, will the minister table it and, if it has not been undertaken, why not?
Senator MINCHIN—I am grateful for that question from Senator George Campbell. While I am a very strong supporter of the Australian car industry I am not sure that that can be said of the Australian Labor Party, given their determination to retain the wholesale sales tax on this great Australian industry. Anything they say about the car industry should be viewed in the light of their determination to continue to have the car industry pay nearly one-quarter of Australia’s indirect tax.

On the question of the free trade agreement, as you know, we are at an extremely early stage in that. As I understand, Senator Cook, on behalf of the opposition, has joined Minister Vaile in expressing in principle support for Australia pursuing the proposition. As I say, it is at an extremely early stage, and is being handled by Minister Vaile and Minister Downer. Clearly, there will be implications for a whole range of Australian industries that would need to be investigated as we move down the path. At this stage we have not commenced an investigation of that matter, although I am happy to say I raised that matter directly with Toyota’s senior management when I met with them just this week. So it is certainly an issue on my mind and one that I agree with Senator Campbell would be extremely important in furthering the question of a free trade agreement. But any number of Australian industries will need that sort of assessment made and, at a particular point in the process, that sort of assessment will have to be engaged in. But, as I say, we are at an extremely early stage of the negotiation.

Senator GEORGE CAMPBELL—Madam President, I ask a supplementary question. Minister, before the Howard government proposed a free trade agreement, did the minister discuss the issue with the Australian automobile industry and the component parts manufacturers? Can the minister inform the Senate just what impact a free trade agreement would have on these firms, on jobs, on R&D and on auto exports generally?

Senator MINCHIN—I can say that under our policies the Australian car industry is doing better than it has ever done and than it ever did under the Australian Labor Party. The party that wanted to keep a 22 per cent wholesale sales tax imposed on the Australian car industry now intends to get up and lecture us about the Australian car industry. It is absolutely outrageous. This industry is doing brilliantly under our government. Sales are at record levels and exports are at record levels. We are the champions of the Australian car industry, and the Australian Labor Party has nothing to tell us about how to make sure that industry succeeds.

Australian Electoral Office: Provision of Information

Senator MASON (2.48 p.m.)—My question is addressed to the Special Minister of State, Senator Abetz. Has the minister examined any of the funding and disclosure documents posted on the Australian Electoral Commission’s web site? Will the minister explain the implication of their contents and, in particular, union donations?

Senator ABETZ—I thank Senator Mason for his ongoing interest in this matter. The public disclosure of political donations was introduced by Labor in the hope of intimidating donors from giving to the Liberal and National parties. But Labor’s stunt has come back to haunt them as public disclosure reveals how Labor does business. As we have seen of late, Labor’s own public disclosure rules are being circumvented by Labor themselves through their grubby deal with Markson Sparks, who basically act as the money launderers for the ALP so that the ALP does not have to disclose the dubious origins of approximately $1 million in donations—a Labor scam invented to circumvent Labor legislation. And all the while Mr Beazley stands by, doing nothing.

One wonders whether the money paid by Labor’s Mr Swan to the Democrats in the seat of Lilley originated from one of these Markson and Sparks fundraisers. After all, why would Mr Swan pay the Democrats? It was undoubtedly a genuine act to enhance our democracy, and I suppose that is why the money had to be paid by Mr Swan in notes, in a brown envelope, and transferred through a Labor rotor as the courier. The architect of this scam, Mr Swan, remains on the Labor
Party’s frontbench: Mr Beazley does not have the ticker to remove him.

Why did the Labor Party’s master, the trade union movement, help fund the Greens to the tune of thousands of dollars? How absurd is that? The workers who sustain their families by their gainful employment are, through their trade union ‘conscription’ fees to the CFMEU, funding the political party dedicated to the destruction of their families’ livelihoods. Why would the honest forest workers and mine workers want to fund the Greens? In fact, they do not; it is only the trade union leadership that does. So why would the CFMEU do this? To help gain preferences for their subsidiary, the ALP. Is it a coincidence that the Greens preferenced the ALP in Ryan, despite Labor’s appalling environmental record in Queensland? The Greens, who portray themselves as a party of integrity, should know better than to accept funds from the workers whose jobs they are committed to destroying.

The scenario that we have is the unions taking from the workers, the Greens taking from the unions, Labor taking Green preferences and the workers whose money and livelihood are at stake being taken for a ride. They lose their money and their jobs whilst the trade union officials overseeing these scams take their seats in parliament.

Opposition senators interjecting—

The PRESIDENT—Order! There is too much noise in the chamber.

Senator ABETZ—People giving money in good faith to Labor see it going to the Democrats. Unionists see their fees employed in supporting the party committed to the destruction of their jobs.

Public disclosure of political donations has revealed a cesspit of funny money deals between Labor and the Democrats and the union movement and the Greens. Before Mr Beazley can portray himself as a would-be Prime Minister he needs to clean out his frontbench, the Labor Party and the trade union movement. But we all know that he does not have the ticker to do it. And if he does not have the ticker to do that, he does not deserve to be the Prime Minister of this nation.

Senator Brown—I raise a point of order, Madam President. I draw your attention to standing order 187, which says that speeches shall not be read. This is question time, and I draw your attention to that because I would not want to see question time turned into a five-minute-speech reading session by a series of ministers. That is not what it is about.

The PRESIDENT—It has been a custom for a long time that ministers are able to read matters; that would not be the case for backbench senators.

Kyoto Protocol

Senator COOK (2.53 p.m.)—My question is addressed to Senator Hill. When the foreign minister, Mr Downer, came out strongly last week—

Opposition senators interjecting—

The PRESIDENT—Senators on my right will come to order. Senator Cook, start again. I have not heard anything you have said.

Senator COOK—My question is to Senator Hill, representing the Minister for Foreign Affairs. When the foreign minister, Mr Downer, last week came out strongly in support of President Bush’s backflip on greenhouse policy, which even President Bush’s national security adviser has confirmed means that the Kyoto process is dead, was Mr Downer acting in accordance with a briefing from the environment minister or his department? If Mr Downer was speaking on behalf of the government, how does Minister Hill explain his claim to the Senate yesterday that the Australian government is ‘keen to get the Kyoto protocol implemented’?

Senator HILL—I read some comments attributed to Mr Downer that are not inconsistent with Australian government policy, and the way in which they were characterised in the article was therefore somewhat misleading. I think that was confirmed, in effect, by comments subsequently made by the Prime Minister when he was questioned at a press conference on this particular issue and stressed the fact that the Australian policy is not that of the United States. We have our own position on this matter. Despite the fact that we obviously see benefit in working collaboratively with all developed countries towards achieving the historical gains that
we can potentially achieve as a result of the Kyoto protocol, Australia will do it in its way and, presumably, the US will do it in the way that best suits its circumstances.

But let us concentrate on the facts. The facts are that the Australian government supports the Kyoto protocol. That protocol is designed to lead to a five per cent reduction in greenhouse gas emissions by developed countries off a 1990 base. Australia is committed to resolving the issues that were not settled at Kyoto, including detail of the flexibility mechanisms, details in relation to sinks, matters such as whether sinks should be included within the CDM compliance matters, and the like. We sought to make progress on those issues at COP6 in The Hague late last year and we will continue in our efforts in Bonn at the resumption of that meeting in July of this year. In the meantime, we will work with our partners within the umbrella group to advance resolution of these issues, and I will be hosting a meeting of that group in a fortnight’s time. We will be working with the Europeans to try to reduce the differences that currently exist between the two groups that make up the developed nations; and, as I said in answer to a question here yesterday, we will be working with the developing world as well, because to settle the issues of Kyoto will require all nation states that were party to the Kyoto protocol to agree.

So Australia’s position has not changed at all, I have to advise Senator Cook; and there has not been a suggestion by Mr Downer that Australia’s position has changed. We would urge the United States to recognise the potential that the Kyoto protocol provides but we also recognise that they are a new government and that they have every right to review the previous government’s energy policies and to look for ways in which they can best promote energy policy within the US—which no doubt covers the provision of energy for commercial purposes, but in a way that achieves best environmental outcomes.

Senator COOK—Madam President, I ask a supplementary question. In view of that answer in which the minister said that you have seen a statement by Mr Downer that is ‘not inconsistent’ with Australian policy, does the minister agree with Mr Downer that the Bush administration is ‘absolutely right to take a very strong position’ and that greenhouse negotiations may have to move outside of the Kyoto protocol? In view of the other part of your answer, what will the minister do to correct the international record that has our foreign minister endorsing a position that the Kyoto protocol is ‘dead’, the word used by the American administration?

Senator HILL—Mr Downer did not use that word and, unfortunately, Senator Cook is misleading the Senate in the way he puts this matter. What Mr Downer said was that to get the best global outcome requires the participation of developing countries and ultimately requires developing countries to accept a target as well—because emissions from developing countries, I have to advise Senator Cook, are about to pass emissions from developed countries. I am sorry I have to lecture Senator Cook in this way, but the Kyoto protocol does not provide legally binding targets for developing countries. So what Mr Downer was saying was not only consistent—

Senator Cook—Madam President, I raise a point of order: the quote that I put to the minister was Mr Downer saying, ‘The Bush administration is absolutely right to take a very strong position,’ which is an endorsement of the American position. Will he answer that question and not dodge it?

The PRESIDENT—There is no point of order.

Senator HILL—What Mr Downer was saying was not only consistent with Australian policy; it was consistent with what everybody who knows anything about this issue knows—that is, participation by developing countries is necessary to get the best outcome. I am sorry that the Australian Labor Party does not understand that, because anybody who understands this issue does. Madam President, I ask that further questions be placed on the Notice Paper.

ANSWERS TO QUESTIONS WITHOUT NOTICE

Parliament House: Greenhouse Advertising Program

The PRESIDENT (3.01 p.m.)—On 27 March, Senator Brown raised with me questions relating to greenhouse gas emissions
from Parliament House. I have previously referred to the record of Parliament House relating to energy consumption. With the leave of the Senate, I will incorporate the answer to the question in *Hansard*.

Leave granted.

The answer read as follows—

**QUESTION WITHOUT NOTICE TO PRESIDENT OF THE SENATE BY SENATOR BOB BROWN ON PARLIAMENT HOUSE GREENHOUSE ADVERTISING PROGRAM**

( Senate Hansard 27 March 2001 p.23028)


As I have previously advised the Senate, Parliament House—through JHD—has a proud record in the field of minimising electricity and gas consumption, and consequently reducing greenhouse emissions.

During the 2000 calendar year, Parliament House won two major awards—one awarded by Greenhouse Office and one awarded by the Institute of Engineers Australia—to recognise major energy and greenhouse emission reductions. Since 1988, energy consumption at Parliament House has been reduced by 52% and greenhouse emissions by 46.6%.

In order to build on the above achievements, JHD recently advertised for an Energy Manager for Parliament House, and that position will be filled from early April 2001.

Part of the role of the position will be to address the matters raised in the Greenhouse Office advertising program and consider their applicability to Parliament House.

In addition to the Energy Manager position, JHD has many other major initiatives being implemented to build on its proud record, such as:

- progressive introduction of automated sleep mode by the Department of the Parliamentary Reporting Staff for computers in Parliament to save some 80% of consumption if units are not turned off;
- utilisation of waste heat from the main computer room to heat the swimming pool;
- upgrading airconditioning controls in a further 400 suites to reduce energy consumption;
- replacement of electric steam generators with natural gas-fired units leading to significant greenhouse gas emission reduction;
- lighting control upgrades to reduce energy consumption;
- progressive installation of control mechanisms on continuous hot water boiling units (some 400 in Parliament House).

I believe the information supplied is a more-than-adequate response by JHD on behalf of the Parliament to further improving the Parliament’s record in reducing greenhouse emissions.

In relation to specific questions asked by Senator Brown, which will be further addressed by the Parliament House Energy Manager, I provide the following information.

Q. Is it true that there are some 500 television sets which could be turned off at the wall each night in Parliament House but which may not be?

A. There are approximately 1 000 television tuners in Parliament House.

Q. Are there 300 shower heads in Parliament which are not AAA shower heads?

A. There are approximately 300 full flow shower heads installed during construction of Parliament House which are not AAA.

Q. Are there 500 or more fridges in Parliament House which could be turned up one degree, which, according to the advertising, would save 50 kilograms of greenhouse gases for each fridge? That is about 25 000 kilograms of greenhouse gases per annum?

A. There are approximately 440 fridges in Parliament House. The great majority are small office fridges with high energy efficiency ratings. The Energy Manager will be further addressing this issue.

**Goods and Services Tax: Small Business**

Senator HUTCHINS (New South Wales) (3.02 p.m.)—I move:

That the Senate take note of the answers given by the Assistant Treasurer (Senator Kemp) to
questions without notice asked today relating to the goods and services tax.

The point I would like to raise in taking note of Senator Kemp’s answers is this: if we in the Labor Party treated what I believe would be our natural constituency the same way the government is treating what might be regarded as its natural constituency—that is, small business—we would be hounded out of our movement and hounded out of government. The actions that the government has been taking in the last few months suggest to me that it is a government in decline, a government that is making way for us to resume the benches of power.

I can tell you this: if small business is your natural constituency—which is the claim the government makes—why is it that the Australian Retailers Association found that 87 per cent of respondents to a survey of their membership said they had to spend more on financial systems after the introduction of the GST than they otherwise would have had to? Why is it that the New South Wales branch of the Australian Retailers Association found that the introduction of the GST had cost retailers profit margins, additional expense and extra personal time?

Why is it that Australian Business Ltd, a group which one might regard as being more sympathetic to the coalition side of politics than ours, found that 66.5 per cent of firms with fewer than 25 employees were forced to seek extra bank finance or inject their own money into their businesses? Why are all these things happening? Why is it happening to the people that the coalition over the years has lauded as being the group that it particularly wants to respond to? Because the government has stuffed up the introduction of the GST. It has a system in place now which is punishing small business and making them become the unpaid tax collectors in this country. Why has the Australian Securities and Investment Commission reported a 139 per cent increase in the appointment of receivers over the last 12 months? Why has that occurred? Madam Deputy President, you can only come to one conclusion: this so-called tax reform that was introduced with the assistance of the Democrats last year has meant nothing but the imposition of more difficulties, more costs and more time on small businesses in this country.

We are talking about people who essentially either work for themselves or have a small number of employees. If you wander around the suburbs of Sydney, Melbourne or anywhere else in this great country of ours, you will see that milk bars, cake shops, dress shops, mechanics or lorry owner drivers, which I have a particular interest in, which were operating profitably 12 months ago have gone. Where have they gone? They have gone out of business essentially. As I said, the Australian Securities and Investment Commission has proved that by saying that there has been a 139 per cent increase in the appointment of receivers.

All I would say is: why is it so? We cannot get an answer from the government. We cannot get a straight answer from the Assistant Treasurer about what they are going to do to fix these problems of small business. All we get are diatribes going back prior to 1996. I can tell you, Madam Deputy President, that whenever you get an opportunity to talk to small business owners, you know that they are carrying the additional costs of this impost and this tax. They know that there is no direction from this government. They have got little or no assistance. As I said in my question at question time, the measly $200 they got to set up this system was not enough. I know from personal experience because members of my own family have had to put aside extra parts of their household, learn to operate computers and spend more than the money allocated by the government for the introduction of this tax. There is only one way that the people of this country will get any direction out of this, and that is to support Kim Beazley for Prime Minister. (Time expired)

Senator BRANDIS (Queensland) (3.07 p.m.)—How implausible it is hearing Labor senators crying crocodile tears for small business—Labor senators who supported and were members of a government which drove interest rates to 17 per cent. Let it never be
forgotten that, when the Australian Labor Party was last in charge of the economic affairs of this nation, housing interest rates were at 17 per cent and business interest rates were at 22 per cent. Nothing is more destructive to business, nothing is more destructive to family budgets and nothing is more destructive to employment than a high interest rate regime, fuelled by the $80 billion deficit which existed when Mr Beazley was the Minister for Finance and when the Labor Party was in control of the economic affairs of the country.

Let us look at the record of the Howard government on economic management. Whereas—it cannot be said often enough—under the Labor Party housing interest rates were 17 per cent and business rates were 22 and 23 per cent, today under the Howard government housing interest rates are 7.3 per cent. Of all the accomplishments it can boast, one of the Howard government’s proudest boasts is this: it has created, and it has sustained, a set of economic circumstances in which interest rates have been kept low and have stayed low.

Senator George Campbell—It has absolutely nothing to do with your government.

Senator BRANDIS—Senator George Campbell, you have form on this. I would not be too swift to interject, if I were you, because you were the person who led a trade union, during the Hawke and Keating years—

The DEPUTY PRESIDENT—Order! I would ask Senator George Campbell to come to order, and I would ask Senator Brandis to address the chair, thank you.

Senator BRANDIS—I am responding to an interjection, Madam Deputy President.

The DEPUTY PRESIDENT—All interjections are disorderly, Senator Brandis, and I have asked Senator George Campbell to cease interjecting. If you ignore interjecting senators and address the chair, you will find that life is much easier for all of us.

Senator BRANDIS—Thank you, Madam Deputy President. I am delighted to hear that Senator George Campbell will cease interjecting so that I can continue to address the good news of the Howard government’s economic achievements. Since the Liberal Party took over the government of Australia more than five years ago, 800,000 new jobs have been created. Unemployment has fallen to below seven per cent—it is now 6.9 per cent—compared with a peak of 11.3 per cent while the Labor Party was in office. While this government has been in office, real wages have increased compared with real wages having fallen when the Labor Party was in office. Isn’t it a sad thing to recall that one of the actual boasts Mr Keating, a Labor Prime Minister, articulated was that, under his government, real wages had fallen? That is right, Madam Deputy President: at a time when two successive Labor Prime Ministers, Mr Hawke and Mr Keating, made themselves multimillionaires in the job, Mr Keating boasted that under Labor’s policies real wages had fallen. What a sad and sorry boast for any Australian government—but, in particular, what a sad and sorry and pathetic boast for a Labor government.

The Howard government is proud of its economic record. It is a record that continues to command the confidence of the Australian people, it continues to command the confidence of markets, it continues to command the confidence of business and it continues to be a record which will keep Australian families, Australian businesses and the Australian economy secure and safe for years and years to come.

Senator McKIERNAN (Western Australia) (3.12 p.m.)—I am always pleased when Senator Brandis gets to his feet and speaks in this place. He made a number of contributions prior to the Queensland state election, and our polls went through the roof. He was consistent in that because, during the last session of the parliament, he made another couple of contributions and, again, we increased our vote. And he helped us again when he went out doorknocking in Ryan and discovered that that seat had not been properly represented by its Liberal member for 25 years. But do we hear any talk about that?

Senator Calvert—Relevance?

Senator McKIERNAN—I am responding to what was said by the earlier speakers.
The DEPUTY PRESIDENT—Address the chair please, Senator McKiernan.

Senator McKIERNAN—I will indeed address the chair, Madam Deputy President. I commend the previous speaker on our side for moving this motion to take note of answers, but I think he made an error in saying that he was taking note of the answers provided by Senator Kemp.

Senator Faulkner—He meant waffle.

Senator McKIERNAN—It was indeed waffle, but I suppose he had to be proper in moving the motion to take note. Quite frankly, when you analyse what Minister Kemp is doing in this place, you can see that it is an absolute waste of taxpayers’ money. Firstly, we should address this question: what does an Assistant Treasurer do? Certainly he does not respond to questions in this place. Here we are—and let me remind those on the other side—actually in 2001. We are not living a decade ago; we are living now, and we are talking about the problems of small businesses in 2001, in the third millennium. We ask from this side of the chamber: what is happening with the GST on small businesses?

Can we get the Assistant Treasurer, Senator Kemp, to respond to those very clear and very basic questions? No. We do not get responses. We could be kind to the minister and say that he does not understand what the questions are about. This minister is paid in the region of $200,000 per annum by the taxpayers in order to represent the decisions of government in this place, and he clearly does not respond to questions that are asked within his portfolio. I can only come to the conclusion that this minister is lazy. It is just absolute laziness on behalf of the minister that he will not respond. When he is asked a basic question like the one I asked today about the response to the recent survey by Australian Business Ltd, a very important survey to small business, what does the minister do? As Senator Faulkner said earlier, he waffles. Is it because he does not have the time or the ability to get his staff to do the analysis so he can bring the details in here? He is incompetent.

The DEPUTY PRESIDENT—Order! Senator McKiernan, I really think that is reflecting too seriously, and you should withdraw.

Senator McKIERNAN—Sorry. If I said something that offends, I withdraw. I did not mean to. I do not withdraw the fact that I think he is lazy. I have reached that conclusion. I am putting that forward as a debating point. Very straightforward questions are addressed to the minister and we do not get responses to those questions. I am being kind to him in saying that I think the minister is lazy. I think that the big army of staff who come into this place and sit in the advisers box, and who are also paid enormous amounts of money, are probably being lazy too.

Senator Faulkner—No, don’t blame the staff.

Senator McKIERNAN—You have to blame the staff, Senator Faulkner, because the staff have some obligations. They too are funded by the taxpayers of Australia to do the job and provide the minister with advice—as we see happening all the time with Senator Hill. As soon as a question is addressed to Senator Hill, you see the papers flutter from the advisers box straight over to Senator Hill and he gets up and reads in parrot fashion the answer to what is asked of him. It happens continually. At least your advisers, Senator Hill, are earning their money. One cannot say the same thing about Senator Kemp’s staff. We on this side of the chamber will continue to put pressure on the government and force the government to respond to our questions. (Time expired)

Senator CHAPMAN (South Australia) (3.17 p.m.)—Nothing epitomises more the gulf of difference between the Liberal and National Party government and the Labor opposition than this debate today on taking note of answers. That difference is very clear and very stark. That difference is that the government leads and also listens to the community, whereas Labor neither lead nor listen. We have seen the fact that Labor do not lead re-emphasised with the admission by the Leader of the Opposition, Mr Beazley, that they have no policies. When questioned on this matter recently he said:
If you don’t have any policies, the issue of how you can afford them doesn’t come up.

In other words, he was being criticised on whether or not Labor’s policies could be afforded and he said, ‘Well, that is not an issue because we don’t have any policies,’ a clear admission that Labor refuse to lead.

Of course, the issue of tax reform is a prime example of where this government has provided leadership and Labor has provided absolutely no leadership at all. The government knew that tax reform and the benefits to be given through that to the Australian people were absolutely essential for the Australian economy. It was essential to remove the ramshackle wholesale sales tax system that had been in place since the 1930s. That system was completely out of kilter with the changes in consumption patterns and the developments of a modern economy. It was absolutely essential that the Australian people be given the substantial income tax cuts, of the order of $12 billion a year, that the government have delivered. We have led on that; we have led with that significant reform. We have listened to the community, and in particular we have listened to the small business community about the effect of those changes on their administration of their businesses and on their capacity to administer the new system. As a result, we have introduced a number of changes which have eased the compliance burden on small business with regard to the new tax system. In particular, we have eased the compliance burden with regard to the business activity statement provisions.

The issue of entity taxation was raised as part of this question time response. The government, again to its credit, has abandoned the proposals by the Ralph committee for entity taxation. It needs to be remembered the Ralph committee had, as its personnel, people who came from big business and from the Australian Taxation Office. They had no experience of nor empathy with small business. Indeed, I believe that committee lacked awareness of the needs of small business. But the government was very much alert to the needs of small business, and that is why the proposals put forward by that committee for entity taxation have been abandoned and will not proceed.

Again, that is a very important initiative as far as small business is concerned. Again, it contrasts markedly with the position the Labor Party, who have again today criticised the government for its changes in relation to this entity taxation proposal. It is to be assumed, therefore, that the Labor Party, if they were ever to win government, would proceed with those entity taxation proposals. It is important that small business recognises that. It is important that small business understands that the Labor Party have absolutely no empathy with them and would implement a tax system which is very much to their detriment. Again we see the Liberal Party and the National Party in government leading and listening, and the Labor Party doing neither.

In addition, the government set aside some $500 million to assist small and medium enterprises to prepare for the new tax system. We initiated extensive education programs. Another initiative announced only yesterday by the Prime Minister to assist small business in complying in a simple way with the new tax system was to allow the continuation of the simplified accounting methods for food retailers with an annual turnover of between $1 million and $2 million to become a permanent feature of the new tax system. This was originally a transitional measure for those businesses—to have either a snapshot or analysis of purchases simplified accounting method applied for the first year of the new tax system—but that $2 million threshold will now be a permanent feature of the new system. This is positive news for all small businesses that deal in the food industry. Whether they are milk bars, convenience stores or bakeries, right across Australia that more simplified compliance system will now be a permanent feature of their part of the new tax system. That sort of complexity, for which relief has been provided, was brought about by Labor’s opposition to the new tax system and their failure to lead.

Senator GEORGE CAMPBELL (New South Wales) (3.22 p.m.)—It is interesting that in Senator Chapman’s contribution he said that the Liberal Party were leading and listening. The trouble is they have been
leading from the rear and they have been
listening with their hearing aids switched off.
That is self-evident when you talk to the
myriad of people running small businesses
around this country and you see how they
have reacted to the way they have been ab-
solutely monstered by the introduction of the
GST. Do not take our word for it. We do not
expect you to take our word for it. We do not
expect you to listen to much of what we say
here—though you are pretty quick off the
mark stealing our policy in terms of how we
would deal with relief for small business and
implementing it as our own policy to try to
deal with the mess that you have left small
business in. Do not take our word for it. Take
the word of the Deputy Governor of the Re-
solve Bank. In an article in the Sydney
Morning Herald on 24 March, he said:
The Reserve Bank has laid the blame for the eco-
nomic downturn on the GST—which it says has
hit not only housing but confidence—and rejected
suggestions that higher interest rates were the
cause.

Dr Grenfell said the bank believed the GST not
only hurt the construction sector but also business
confidence.

He said businesses faced a squeeze on profits and
cash flows as a result of price pressures from the
GST, the exchange rate and oil prices. In a low-
inflation environment, they were not in a position
to pass these on he said.

‘When this is combined with the disruption and
general choler associated with the introduction of
the new tax regime, small and medium business
confidence took a hit,’ Dr Grenfell said.

Following that, an article which appeared in the
Australian on Monday, 26 March under the by-line of Samantha Magnusson with the heading ‘GST Jams Company Cash Flow’ said:

A crisis of confidence is sweeping corporate
Australia, with companies increasingly delaying
payments to suppliers as they struggle to meet
their GST obligations.

A survey by Australian Business Ltd found that
the GST was disrupting normal business transac-
tions, forcing large and small businesses to juggle
the timing of receipt of payments and the receipt
of funds.

‘Normal payments are not getting paid in the
normal time frame they expect,’ Australian busi-
ness Ltd economics adviser Jeff Schubert said.

More than 65 per cent of the 775 businesses can-
vassed said the GST had a direct negative effect
on their cash flows, overwhelmingly because
customers were delaying paying their bills.

‘Because so much of the business sector is at-
tempting to do this, the process is having a very
cumulative and disruptive impact on the normal
flow of inter-business payments,’ Mr Schubert
said.

Many businesses also found they were unable to
pass the full amount of the tax on to their custom-
ers, reinforcing the view that the GST is a tax on
suppliers, not consumers.

More than a third of those surveyed found the
new tax had ‘significantly’ changed demand for
their products, while 26 per cent said they were
unable to recover the full amount of the tax in
selling prices.

This is not coming from the Labor Party; this
is coming from the business community.

This is coming from people who are out
there trying to operate businesses in an envi-
ronment that has been created for them by
this government by the implementation of a
goods and services tax, a tax regime which
has thrown business—particularly small
business—into absolute chaos. It has im-
acted on them substantial costs beyond
which they could reasonably have expected,
costs that many small businesses are not able
to meet in setting about and doing business.

That is the impact of the goods and services
tax on the small business community.

That demonstrates more than anything
else that this is a government that does not
know how to listen and certainly does not
know how to lead. This is a government that
has set about with an ideological obsession
for a tax regime that may have had some
relevance in the 1970s and 1980s but cer-
tainly has no relevance in the community we
are living in now in the 21st century. It has
set about imposing that on the Australian
people without proper and due consideration
of the impact and, as a consequence, it has
had a major impact upon the business com-
unity in this country—particularly on small
business—to the extent of an article appear-
ing in the Australian Financial Review today
under the heading ‘Life is Taxing for the Easter Bunny’. Even Easter eggs and the Easter bunny are going to be impacted upon by the GST.

_Senator Hill interjecting—_

_Senator GEORGE CAMPBELL—They are going to be hit by your tax regime, Senator Hill._

(Time expired)

Question resolved in the affirmative.

**International Treaties: Impact on Domestic Law**

_Senator GREIG (Western Australia) (3.28 p.m.)—I move:_

That the Senate take note of the answer given by the Minister for Justice and Customs (Senator Ellison) to a question without notice asked by Senator Greig today relating to international treaty obligations.

The minister referred to the Teoh bill in his answer. I ask the Senate take note of the minister’s answer principally because of the many flaws in it, and I want to address some of those here to set the record straight. Senator Ellison principally said—and there was a chorus of support from ministers and backbenchers—that laws ought to be made here, that we ought to be able to set our own domestic agenda and not have, as he indicated, a kind of international interference. It is very important to make the point that we do have the right, the authority, the mandate and the opportunity to make laws here—that is, after all, why the Senate exists and why the House of Representatives exists.

We are not interfered with internationally. In fact, we solicit international intervention. We invite international intervention when we sign international treaties. We have the option not to sign. In signing those treaties, we are not asking for international interference but establishing or attempting to set a series of benchmarks or guidelines within which the Australian government will indicate it will commit itself in terms of human rights and, in some other cases, the environment. Minister Ellison said that we have a legal system to be proud of. I do not dispute that. I think the Australian legal system is very good, but others are better. I point, not exclusively but in part, to Canada, South Africa and, interestingly, more recently Britain, all of which either have a bill of rights or a human rights act. Britain in particular has a human rights act. I had the privilege of meeting with the Home Office in London roughly a month ago to talk about their system, and it drew to my attention the further inadequacies of ours.

As I said in my question to the minister, we do not have a bill of rights in this country, which means that domestically there are many scandalous gaps in our antidiscrimination legislation in particular which are not covered by any domestic jurisdiction. There are several examples to point to where that is the case. The most recent one, of course, was through Mr R. He remains anonymous, but we understand him to be an Aborigine from the Northern Territory who, through the Northern Territory Aboriginal Legal Service, took his claim of discrimination to the UN, arguing that his detention under mandatory sentencing in the Territory was in breach of the International Covenant on Civil and Political Rights in relation to sentencing and a fair trial. After consideration and a report, the particular UN committee looking into that advised that that was the case. It found that his human rights had been breached according to the ICCPR, and the Attorney at the time made the point that the finding, like all findings from international conventions, was not binding in Australia. But they do have moral persuasion.

The more interesting and perhaps more celebrated case that illustrates this was of course the Toonen case, which principally related to the anti-gay laws in Tasmania and the 10-year campaign by the Tasmanian Gay and Lesbian Rights Group to address that issue. They could not do so through the state legislature, because the parliament repeatedly refused to repeal those laws. They had absolutely no alternative and no choice but to take their case international. It was found in article 26 of the International Covenant on Civil and Political Rights relating to the arbitrary interference with privacy that not Tasmania but Australia was in breach of that human rights benchmark. Considerable time passed before the then government decided to introduce Commonwealth legislation which would have the effect of invalidating
that. Interestingly, the Tasmanian state government moved to repeal those offending laws before the now Commonwealth law, the Human Rights (Sexual Conduct) Act, was ever tested in the High Court. It did reach as far as standing in the court but was never tested in a case as such.

The Teoh bill, which is now on the Notice Paper and which will be dealt with in the next few hours or days, is designed to completely undermine that by ensuring that government departments do not have to take into consideration international treaty obligations to which Australia has become a signatory. So, in his answer, the minister demonstrated a lack of understanding both of Australia’s current jurisdiction and of the fact that those findings from international committees are not binding on Australia and we do have the right and the obligation to make our own laws. (Time expired)

Question resolved in the affirmative.

PETITIONS

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

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

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

by Senator Bartlett (from 40 citizens).

Australia Post: Deregulation
To the Honourable the President and Members of the Senate in Parliament assembled.
The Petition of the undersigned shows that we are opposed to the National Competition Council Report proposals to deregulate Australia’s postal service as they will drastically reduce the revenue of Australia Post resulting in adverse impacts for most Australians including increased postal charges, reduced frequency of services, a reduction in counter and other services currently provided and a loss of thousands of jobs.

Your petitioners request that the Senate reject the NCC Report proposals and support the retention of Australia Post’s current reserved service and the uniform postage rate, the existing cross-subsidy funding arrangement for the uniform standard letter service and require a government assurance that no post office (corporate or licensed) will close due to these proposals.

Further we call on the Senate to support the expansion of the existing community service obligation of Australia Post to encompass a minimum level of service with respect to financial and bill paying services, delivery frequency, a parcels service and access to counter services, whether through corporate or licensed post offices.

by Senator Mackay (from 43,603 citizens).

Petitions received.

NOTICES

Presentation

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

That the Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund be authorised to hold a public meeting during the sitting of the Senate on 2 April 2001, from 8 pm, to take evidence for the committee’s inquiry under section 206(d) of the Native Title Act.

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

That the Senate—

(a) notes the false claim made by the Minister for Family and Community Services (Senator Vanstone) on the 7.30 Report on 20 March 2001, that ‘Labor was never prepared to … make sure that pensioners will have 25 per cent of male total average weekly earnings’;

(b) recalls that it was the Labor Government that introduced the benchmark of 25 per cent of male total average weekly earnings in 1990 and kept the pension above that benchmark at every adjustment between 1990 and 1996;

(c) notes that it was the Howard Government that allowed the standard rate of pension to drop below the 25 per cent benchmark in March 1998;

(d) reminds Senator Vanstone:
(i) that it was the National Commission of Audit (established by the Howard Government on taking office) which, in June 1996, recommended removing this benchmark, and

(ii) that it was only when challenged by the Opposition about its intentions in the light of the recommendation by the National Commission of Audit and when threatened in the Senate with an opposition amendment to prevent government backsliding, that the Government agreed to bring forward its own legislation to give the 25 per cent benchmark a legislative basis; and

(e) urges Senator Vanstone to brief herself on the facts, desist from making any further such false claims and take action to correct the public record at the earliest opportunity.

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

That the Senate—

(a) notes the announcement by Rio Tinto in the week beginning 18 March 2001 that it would not support mine owner Energy Resources of Australia’s development of Jabiluka in the short term;

(b) advises the Government that it is unacceptable for this major mine site including retention dams, mine construction and associated works to remain in this state for any length of time; and

(c) calls on the Government to commence discussions with Rio Tinto immediately with a view to an early rehabilitation of the site and for it to be handed back to the traditional owners as soon as possible.

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

That the Legal and Constitutional Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on 2 April 2001, from 7.30 pm, to take evidence for the committee’s inquiry into the provisions of the Customs Legislation Amendment and Repeal (International Trade Modernisation) Bill 2001 and two related bills.

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

That the time for the presentation of the report of the Select Committee for an inquiry into the contract for a new reactor at Lucas Heights be extended to 24 May 2001.

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

That the following bill be introduced: A Bill for an Act to amend the Australian Broadcasting Corporation Act 1983 in relation to the provision of online and multichannelling services, and for related purposes. ABC Amendment (Online and Multichannelling Services) Bill 2001.

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

That the time for the presentation of the report of the Rural and Regional Affairs and Transport Legislation Committee on the import risk assessment on New Zealand apples be extended to the last sitting day in June 2001.

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

That the Senate—

(a) notes that:

(i) the Victorian Minister for the Environment and Conservation (Ms Garbutt) has gone against the advice of her scientific committee and decided not to list the grey-headed flying fox as a threatened species under the Flora and Fauna Guarantee Act 1998 (Vic.),

(ii) this is the first time a Victorian Environment Minister has not accepted the advice of the scientific committee on the listing of a threatened species under the Act,

(iii) the species was classified as ‘vulnerable to extinction’ in the Action Plan for Australian Bats, produced by the Natural Heritage Trust,

(iv) there is no other permanent breeding colony for the species in Victoria apart from the Royal Botanic Gardens site, and

(v) the Royal Botanic Gardens, with the approval of the Minister, will shortly begin culling 1 000 of the bats using either lethal injection or low velocity short-range weapons;

(b) condemns the Minister for rejecting the advice of her scientific committee;
(c) calls on the Minister to adopt the Royal Society for the Prevention of Cruelty to Animals’ suggested ways to manage the bat population without culling; and

(d) calls on the Federal Minister for the Environment and Heritage (Senator Hill) to consider the listing of the grey-headed flying fox under the Environment Protection and Biodiversity Conservation Act 1999 as a matter of urgency.

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (3.33 p.m.)—I give notice that, on the next day of sitting, I shall move:

That the provisions of paragraphs (5) to (7) of Standing order 111 not apply to the Sydney Airport Demand Management Amendment Bill 2001, allowing it to be considered during this period of sittings.

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

Leave granted.

The statement read as follows—

SYDNEY AIRPORT DEMAND MANAGEMENT AMENDMENT BILL 2001

Purpose of the Bill
The purpose of the Bill is to amend the Sydney Airport Demand Management Act 1997 to provide that Part IIIA of the Trade Practices Act 1974 has effect subject to the provisions of the Sydney Airport Demand Management Act 1997 and the Slot Management Scheme.

Reasons for Urgency
It is proposed to amend the Slot Management Scheme, established under the Demand Management Act, to cap peak hour regional service slots at current levels and to implement measures to encourage the airlines to introduce larger aircraft. Advice on co-ordination criteria for the Winter 2001 scheduling season will be sent to the airlines on 10 April.

An amendment to the Demand Management Act is required in order to enable the measures to be implemented in the Slot Management Scheme, but without triggering a right to use the access provisions of Part IIIA

(Circulated by authority of the Minister for Transport and Regional Services)

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (3.34 p.m.)—I give notice that, on the next day of sitting, I shall move:

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

Excise Tariff Amendment Bill (No. 1) 2001

Customs Tariff Amendment Bill (No. 2) 2001.

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

Leave granted.

The statements read as follows—

EXCISE TARIFF AMENDMENT BILL (No. 1) 2001

Purpose of the Bill
The bill will enact excise tariff duty rate changes resulting from tax reform and Budget measures relating to the taxation of aviation kerosene, alcoholic beverages and petroleum.

Reasons for Urgency
Once a tariff alteration is proposed in the Parliament, certain sections of the Excise Act 1901 operate to provide protection to officers to enable the collection of duty at the proposed rate. The protection lapses if a ratifying bill is not passed within 12 months of the date the proposal was tabled.

(Circulated by authority of the Treasurer)

CUSTOMS TARIFF AMENDMENT BILL (No. 2) 2001

Purpose of the Bill
The bill will incorporate into the Principal Act, tariff alterations that have been introduced in the House of Representatives by Customs Tariff Proposals Nos 2 and 4 of 2000 as a consequence of the GST:

• a new tariff structure and new customs rates of duty for beer and mixed alcoholic beverages;
• new customs rates of duty for petroleum products; and
• an amended tariff structure for the commencement of the wine equalisation tax.
The bill also incorporates those tariff alterations that were introduced into the House of Representatives by Customs Tariff Proposal No. 3 (2000) which gives effect to a measure announced in the budget to increase the customs duty on aviation kerosene.

The bill also incorporates those tariff alterations that were introduced into the House of Representatives by Customs Tariff Proposal No. 2 (2001) which give effect to measures, announced by the Prime Minister on 1 March 2001, to reduce customs rates of duty for leaded and unleaded petrol and diesel fuel and to proportionally reduce rates of duty for aviation and burner fuels.

Reasons for Urgency
Once a tariff alteration is proposed in the Parliament, certain sections of the Customs Act 1901 operate to provide protection to officers to enable the collection of duty at the proposed rate. The protection lapses if a ratifying Bill is not passed within twelve months of the proposal being tabled. Royal Assent of this Bill is required by 5 June 2001 (ie twelve months after the tabling of the first of these Proposals—Customs Tariff Proposal No. 3 (2000)).

(Circulated by authority of the Minister for Justice and Customs)

Senator Conroy to move, on the next day of sitting:
That the Senate—
(a) notes that since 1996:
(i) more than 1 500 bank branches have closed throughout Australia, reducing community access to financial services, particularly in regional Australia, and
(ii) the fee for a transaction conducted in a banking branch has increased by as much as 400 per cent and that since 1997 banks’ fee income from households has increased by 53 per cent; and
(b) urges the Commonwealth to immediately begin discussions with the banks on establishing a banking social charter to ensure that banks meet their social obligations to the community.

COMMITTEES
Selection of Bills Committee
Report
Senator CALVERT (Tasmania) (3.35 p.m.)—I present the fourth report of 2001 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. 4 OF 2001
1. The committee met on 27 March 2001.
2. The committee resolved to recommend—
(a) That the provisions of the following 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>Copyright Amendment (Parallel Importation) Bill 2001</td>
<td>Immediately</td>
<td>Legal and Constitutional</td>
<td>23 May 2001</td>
</tr>
</tbody>
</table>

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

- Electoral and Referendum Amendment Bill (No. 1) 2001
- Prime Minister and Cabinet Legislation Amendment (Application of Criminal Code) Bill 2001
- Social Security Legislation Amendment (Concession Cards) Bill 2000 [2001]
- Taxation Laws Amendment (Excise Arrangements) Bill 2000

The committee recommends accordingly.
3. The committee deferred consideration of the following bills to the next meeting:
(deferred from meeting of 15 August 2000)
- Treasury Legislation Amendment (Application of Criminal Code) Bill 2000
(deferred from meeting of 5 September 2000)
- Maritime Legislation Amendment Bill 2000
(deferred from meeting of 3 October 2000)
- Human Rights (Mandatory Sentencing for Property Offences) Bill 2000
(deferred from meeting of 6 February 2001)
- New Business Tax System (Simplified Tax System) Bill 2000
(deferred from meeting of 27 March 2001)
- Excise Tariff Amendment Bill (No. 1) 2001
- Customs Tariff Amendment Bill (No. 2) 2001
- Sydney Airport Demand Management Amendment Bill 2001
(Paul Calvert)
Proposal to refer a bill to a committee

Name of bill(s):
Copyright Amendment (Parallel Importation) Bill 2001

Reasons for referral/principal issues for consideration
To consider the impact on consumers and copyright owners of allowing parallel importation and subsequent commercial distribution of computer software products (including interactive computer games), books, periodical publications (such as journals and magazines) and sheet music.

Possible submissions or evidence from:
Australian Copyright Council (ACC)
Australian Publishers Association (APA)
Business Software Alliance (BSA)
Australian Competition and Consumer Commission (ACCC)
Australian Consumers Association (ACA)
Australian Chamber of Industry and Commerce

Committee to which bill is referred:
Legal and Constitutional Legislation Committee

Possible hearing date:
To be determined by the committee.

Possible reporting date(s):
23 May 2001

Paul Calvert

Rural and Regional Affairs and Transport Legislation Committee

Meeting

Motion (by Senator Calvert)—by leave—agreed to:
That the Rural and Regional Affairs and Transport Legislation Committee be authorised to hold two public meetings during the sitting of the Senate on Thursday, 29 March 2001, from 9.30 a.m., and from 4 p.m., to take evidence for the committee's inquiry into the import risk assessment on New Zealand apples.

NOTICES

Postponement

An item of business was postponed as follows:

General business notice of motion no. 869 standing in the name of Senator Brown for today, relating to microcredit programs, postponed till 29 March 2001.

Presentation

Senator Brown—by leave—to move, on the next day of sitting:
That the Senate—
(a) notes the increased prevalence of hand guns in Australia; and
(b) calls on the Government to immediately implement measures to reduce the number and tighten the conditions for ownership of hand guns in Australia.

COMMITTEES

Rural and Regional Affairs and Transport References Committee

Extension of Time

Motion (by Senator Woodley) agreed to:
That the time for the presentation of the report of the Rural and Regional Affairs and Transport References Committee on air safety be extended to 5 April 2001.

Foreign Affairs, Defence and Trade References Committee

Extension of Time

Motion (by Senator O'Brien) agreed to:
That the time for the presentation of the report of the Foreign Affairs, Defence and Trade References Committee on the disposal of Defence properties be extended to 24 May 2001.

MATTERS OF PUBLIC IMPORTANCE

Australia Post: Deregulation

The DEPUTY PRESIDENT—The President has received a letter from Senator Mackay proposing that a definite matter of public importance be submitted to the Senate for discussion, namely:

The government's proposal to deregulate Australia Post, which will have a disastrous impact on rural and regional Australia.

I call upon those senators who approve of the proposed discussion to rise in their places.

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

The DEPUTY PRESIDENT—I understand that informal arrangements have been
made to allocate specific times to each of the speakers in today’s debate and, with the concurrence of the Senate, I ask the clerks to set the clocks accordingly.

Senator MACKAY (Tasmania) (3.39 p.m.)—I speak on this matter of public importance after tabling a petition in the Senate today signed by 43,603 people opposing the deregulation of postal services. The size of the petition, which I think is extremely substantial, indicates the level of concern in the community with regard to this government’s proposal to deregulate Australia Post. Tens of thousands of petitioners recognise that deregulation, as the petition says:

... will drastically reduce the revenue of Australia Post resulting in adverse impacts for most Australians including increased postal charges, reduced frequency of services, a reduction in counter and other services currently provided and a loss of thousands of jobs.

The deregulation proposed by this government will hit remote, rural and regional Australia particularly hard. It can only lead to an increased focus by postal operators on profitable areas, with a corresponding decline of services or increase in the cost of non-reserve services in less profitable regional areas. Outer suburban areas will also suffer because they too lack the profitable business markets of the inner cities and, as is the case with outlying areas, they are less profitable to deliver services to.

Even the majority report of the Senate Environment, Communications, Information Technology and the Arts Committee inquiry into the bill last year—this is the majority, including members of the coalition—found:

Concern about the maintenance and viability of the CSO—community service obligation—was strong among witnesses representing country people.

Amongst those witnesses we had the National Farmers Federation, the Country Women’s Association and the Isolated Children’s Parents Association—hardly hotbeds of Labor Party support normally. They indicated that they were very concerned about the implications of the bill and emphasised that delivery of mail as a basic service is of paramount importance to them.

Even the government itself is unable to deny the impact this legislation will have on Australia Post. The explanatory memorandum to the deregulation bill states:

It is not possible to quantify—

with certainty—

the costs and benefits ... from the reduction in the reserved services and the postal services access regime.

That is from the government’s own explanatory memorandum. It does not require too much imagination to think of the cost to rural and regional Australia from this deregulation. The benefits will flow only to the big end of town, not to local communities deprived of postal services. Australia Post services are an important part of our national communications infrastructure and a necessary part of social and economic life. Australia Post is a robust local presence in regional areas for the provision of existing and emerging services that will help to bridge the growing communications divide between rural and regional and urban communities.

The deregulation changes would significantly reduce the capacity for Australia Post to provide existing and potential communications services in the new economy.

Australia Post operates through 4,500 outlets, and more than 2,500 of these are in rural and remote areas.

Senator Ian Campbell interjecting—

Senator O’Brien interjecting—

Senator MACKAY—This is a powerful network capable of delivering face-to-face and online services to communities—

The DEPUTY PRESIDENT—Order! Interjections are disorderly, and I would prefer none, thank you, Senator O’Brien and Senator Campbell. Cease interjecting.

Senator MACKAY—but the coalition’s deregulation plans put that network in danger. Let us have a look, for the benefit of those opposite, at the financial implications of this on Australia Post. It has been estimated by Australia Post itself that the proposed deregulation will result in a loss of $200 million in revenue. Australia Post is
saying this, not the Labor Party. This comes on top of the $90 million to $100 million that Australia Post has already lost through the government directing it to absorb the impact of the GST. The loss of another $200 million through deregulation would mean that Australia Post’s profit would decline by over $200 million if this government proposal goes ahead.

When you look at the fact that Australia Post’s record profit in the 1998-99 financial year was $370 million, this would leave less than $80 million for Australia Post to reinvest in infrastructure or to subsidise its community service obligations, which Australia Post told the Senate inquiry last year into this bill cost $70 million a year in 1998-99. This government has said that no postal outlet will close in regional Australia as a result of this deregulation. When you look at these facts, who is this government trying to kid? When you have a profit of $370 million, when the deregulation bill is in fact going to cost Australia Post $200 million and when Australia Post is already $100 million out of profit as a result of absorbing the GST, who is this government trying to kid?

I will tell you what, Madam Deputy President: nobody in regional Australia is convinced by this, particularly the 43,000-odd people who took the time and the effort to sign this petition which was tabled in the Senate today. Members of the government can continue to deny this, they can continue to say black is white, but they know that the deregulation of Australia Post is a vote killer for them out there in regional Australia. They know it, and we in the Labor Party will continue to pursue this until such time as the government makes its position in relation to this matter completely clear and takes the bill off the Senate’s agenda.

Senator Ian Campbell—It is not on the Senate agenda.

Senator McGauran interjecting—

Senator MACKAY—I notice that government senators opposite are saying that it is off the Senate agenda. That is very interesting because in the House of Representatives the other day Minister Anderson denied that the government had any plans at all to deregulate Australia Post. However, what has happened to this legislation? I can recall—and I think Senator Bishop was one of the people who was there—this matter being considered by a Senate committee. If the government does not intend to proceed with this legislation, I would appreciate Senator Ian Campbell getting up here today and indicating that, because there are 43,000 people who want to know. So, Senator Campbell, please get up—

The DEPUTY PRESIDENT—Address the chair, please.

Senator MACKAY—Through you, Madam Deputy President, I would appreciate Senator Campbell—and also Senator McGauran—getting up here today and saying that the government has killed the proposal to deregulate Australia Post.

Senator Crane—It was never on.

Senator MACKAY—I would really appreciate that, and I am sure people in regional and rural Australia will as well. I look forward to the contribution from Senator Crane in respect of that as well. If the government says that no postal outlet will close as a result of the deregulation—

Senator Ian Campbell—I rise on a point of order, Madam Deputy President. Quite clearly, if the bill that the senator opposite is referring to was in fact on the Senate Notice Paper—which it is not, although I understand it is on the Notice Paper in the other place—the senator would have been out of order under standing order 194. She should be informed that it is not on the Senate Notice Paper, and that is the only reason in fact why she is allowed to speak today.

The DEPUTY PRESIDENT—Order! Senator Campbell, that is a spurious point of order and you know it.
Senator MACKAY—Thank you, Madam Deputy President. I must say we seem to have touched a bit of a soft spot or a sore point over there in relation to regional Australia and the proposed deregulation of Australia Post. I say this to Senator Campbell: you get up here today and you—

Senator Ian Campbell—You should read the Notice Paper.

The DEPUTY PRESIDENT—Order! Senator Campbell, you should cease interjecting.

Senator MACKAY—You should clarify the situation with regard to this government’s agenda on the deregulation of Australia Post.

Senator Ian Campbell—You should address the Notice Paper. You are out of order again.

The DEPUTY PRESIDENT—Order! I will have some order. Senator Campbell, if you wish to participate in this debate put your name on the speakers list. Otherwise I will have silence, please.

Senator MACKAY—Madam Deputy President, I apologise for that. This commitment that no postal outlet will close in rural and regional Australia—

Senator Ian Campbell—You closed 270 post offices.

The DEPUTY PRESIDENT—Order! Senator Campbell, if you wish to participate in this debate put your name on the speakers list. Otherwise I will have silence, please.

Senator MACKAY—Thank you, Madam Deputy President. Senator Campbell does not have the intestinal fortitude to contribute to this debate. That is why his name is not there.

If the government is serious about the commitment that no postal outlet will close in rural and regional Australia, I suspect that this will go down in history, along with the ‘never ever GST’ and ‘petrol prices will not increase as a result of the GST’, and come back and haunt this government. There is no doubt that this deregulation which the government is intent on pursuing—as confirmed by Senator Alston in the Senate yesterday—is the first step in the privatisation of Australia Post. There is no doubt that is what this government intends to do. It can deny it until it is blue in the face but everybody in regional Australia knows it.

At present, as part of Australia Post’s reserved services that enable it to subsidise services in non-profitable areas of Australia, the minimum charge for these items is $1.80. Senator Alston’s office has said that the government has no plans currently to introduce amendments, which are in fact secret, with regard to the deregulation of part of the business mail market as revealed by the shadow minister for communications, Stephen Smith, last week. This will allow document exchange services to collect and deliver mail with no minimum cost. So, all of a sudden, at the death knell, we have not only the proposed deregulation of Australia Post but also secret amendments that Minister Alston says just happen to be out there for discussion that will in fact facilitate it and make it worse.

Let me make it clear in the time remaining to me: the situation is very obvious. Australia Post has been told to absorb the GST. That is costing it $100 million. They have said that the deregulation of Australia Post will cost it $200 million. Australia Post’s profit is $370 million. Do the maths, I say to senators on the opposite side. And I say this: everybody in regional Australia knows that this is step one in the full privatisation of Australia Post and that this is the same agenda you have got in relation to the full privatisation of Telstra. Nobody is being fooled. I would appreciate it if somebody from the government—soon-to-be opposition, hopefully—would stand up and say that this government will not proceed with this legislation. (Time expired)

Senator CRANE (Western Australia) (3.50 p.m.)—Through you, Madam Australia)
Post has long been run on the basis of public ownership and a partnership with contractors. I know that for the last 59 years of my life I have received my mail on a contract arrangement, delivered by a truck or a van run by private enterprise. So to talk about deregulation as being something new for the postal services in this country is absolutely and totally wrong. I am going to say a little bit more about this. We have made commitments and delivered postal services in Australia that you were never prepared to do.

The DEPUTY PRESIDENT—Would you address the chair, please, Senator Crane?

Senator CRANE—You have not communicated to anybody that you are going to provide the types of services we are going to provide to the Australian outback. So much of our mail today, through Madam Deputy President—

The DEPUTY PRESIDENT—To Madam Deputy President, thank you.

Senator CRANE—And you know this, Madam Deputy President—

The DEPUTY PRESIDENT—To Madam Deputy President, not through. Just address the chair.

Senator CRANE—To Madam Deputy President—I apologise for a word. You know, as the others should know, that in places like Orange your mail comes on private aeroplanes. Yet you talk about deregulation. It is a component part of providing postal services to this nation.

Let me tell you a few things, Madam Deputy President. The government is committed to ensuring that all Australians continue to enjoy the widest range of postal and related services and that Australia Post and its competitors continue to provide efficient and affordable services. We will not be closing 277 post offices as the Labor Party did in its last term of government. In fact, we have increased the number of post offices in Australia, particularly in rural and remote areas. There are places today that have postal services, post offices and a means of getting parcels 24 hours a day that you people could not even dream about—and you did not dream about. You did not even try to dream about it. You delivered worse services to the people of Australia in your term in government. For you to run these types of scare campaigns is a disgrace. People deserve better.

The government has guaranteed to retain Australia Post in full public ownership—will you do that or will you do a Commonwealth Bank?—and to continue provision of the standard letter services at a uniform rate for all Australians. To you, Madam Deputy President, did the Labor Party have a community service obligation with Australia Post? The answer is no—absolutely no. Australia Post is required to deliver a letter across the nation for a set rate, currently frozen at 45c, including GST, until 2003. Will you give the same commitment? I have not heard it.

The government has already introduced, for the first time ever, a postal service charter to promote and protect consumer rights. The service charter is underpinned by a set of performance regulations that require Australia Post to meet the following performance standards: 94 per cent of letters to be delivered on time by ordinary post; 98 per cent of delivery points to receive a minimum of five deliveries a week and 99.7 per cent to receive no less than two deliveries a week; a minimum retail presence of 4,000 postal outlets, of which at least 2,500 must be in rural and remote areas and a minimum dispersion of street post boxing of 10,000. That is our position. You wanted to know? I challenge you to meet it. I do not believe you would even consider meeting it, let alone delivering it.

In addition, the government is ensuring that Australia Post continues to provide vital subsidies to 700 licensed post offices in regional and rural Australia and is maintaining current concessional rate arrangements for the delivery of distance education material to isolated children. GiroPost, which provides face-to-face banking and bill paying services through 2,800 postal outlets, has recently been upgraded, after negotiation with the coalition government, to provide for business banking transactions in 200 post offices throughout regional Australia. And the list goes on of our commitment to postal services in this country—a commitment and perform-
ance that are unparalleled anywhere else in the world. You want to think about that—

The DEPUTY PRESIDENT—Senator Crane, whenever you use the word ‘you’ you are referring to the chair.

Senator Calvert—I thought he was referring to sheep, actually.

The DEPUTY PRESIDENT—This time, it is referring to the chair, not sheep, Senator Calvert. Senator Crane, would you please use the third person—they, not you—when you are referring to the opposition?

Senator CRANE—The business banking service will effectively be fully rolled out across regional Australia by June this year. In the remaining time I have I want to look at a few points from Labor’s record, because the test of performance in postal services in this nation is our services against the previous government’s services. Labor’s record on postal services is that they closed 277 outlets in their last six years of government. We have opened 105. That is a stark comparison.

Senator McGauran—Is that true?

Senator CRANE—That is absolutely true.

Senator McGauran—What a top record! I don’t know how you can come in and debate the matter. What are we debating?

Senator CRANE—They have consistently opposed the RTC program, even though it is providing for the roll-out of online banking services. They failed to introduce any form of service charter or performance regulation for postal services—we have. Labor’s position on postal issues is clearly hypocritical, given that they were the last government to introduce further competition into the postal market, including legitimising the operations of document exchange providers. As we look at our performance in government on postal services in this country and compare it with the previous government’s, we are so far in front it is not even funny. And it is actually tragic when you play scare games and frighten people that things are going to change dramatically.

Senator Mackay—It is—you are going to deregulate Australia Post.

Senator CRANE—Through you, Madam Deputy President, to the chirping parrot on the other side, I just want to say quite clearly—

The DEPUTY PRESIDENT—Order! Senator Mackay.

Senator CRANE—Well, I sat here and listened and never bleated a word.

Senator O’Brien interjecting—

The DEPUTY PRESIDENT—Order! Senator O’Brien and Senator Mackay will come order. Senator Crane, continue your remarks.

Senator CRANE—I am continuing my remarks, thank you, Madam Deputy President. While we remain in government, people in rural and remote Australia can rely absolutely and totally, as can their city cousins and those in regional areas, on the postal services we will provide.

Senator Mackay interjecting—

Senator CRANE—We are proud! I take that interjection, because you were the government who said you would never sell the Commonwealth Bank. I understand you said some similar things about Qantas and TAA and a number of others—I do not have the exact records in front of me. But, as I said at the beginning of this speech, you speak with a forked tongue. You continue to speak with a forked tongue.

I do not know why anybody would want to come out and scare people—they are absolute scare tactics—when the facts are dead opposite. I have put the facts here on the table. I cannot do it all in the time that I have but certainly my colleagues will continue to put more information. I can, however, say quite categorically to the people of Australia that whether they live in the centre, live on the coast or live in remote and regional areas, they will continue to enjoy under this government the best postal services in the world and the best postal services that a government can deliver. Their reliability is improving, the services provided are getting greater in number and the majority of those services are getting cheaper.

As you add the whole list up—and I can speak from experience because I have lived
in rural, regional and remote areas most of my life—what we have today is significantly better than it was 50 years ago. What we have today, as against five or six years ago, is monumentally better—there are more services and they are more reliable. A letter just six or seven years ago was taking five days to get to where we live. Today, it takes a day. There is a direct service running through, believe it or not, in a private motor car. This is an integral part of providing the service required.

Senator Mackay—So why change it?

Senator CRANE—Why would Senator Mackay come into this place and scare ordinary Australians? (Time expired)

Senator BOURNE—(New South Wales) (4.00 p.m.)—The Democrats oppose any proposal to deregulate, privatise or do anything like that to Australia Post.

Senator McGauran—We are all in agreement.

Senator BOURNE—I am glad to hear we are all in agreement, Senator McGauran. I will keep you to that if a bill does happen to come up that would do it. The government, of course, will deny—let me see: I think they have denied—that it is seeking to deregulate Australia Post services. However, the government has failed to clearly demonstrate that this is not the case. Since the coalition have been in government, they have undertaken a review into the services Australia Post provides, in the form of the National Competition Council. We all remember that review. They have also had two separate legislative packages drafted to deregulate postal services, each designed to end what the government refers to as the ‘monopoly position’ of Australia Post.

The government wants to amend the Australia Postal Corporation Act to provide additional exemptions to the reserved service for document exchange organisations, as far as we understand. But the amendments go further. Those amendments to Australia Post’s services, we think, would establish a new access regime, with more power given to the ACCC to set prices and conditions and to resolve disputes. They would establish a new provision for allowing other service providers to aggregate mail. That refers to the process of combining groups of mail into a large bulk and putting it through the postal system at a reduced rate.

While these amendments appear to target Australia Post’s business mail, if they are passed in their current form, as we understand it, their effect will be much broader. Business mail is the most lucrative component of postal services and accounts for approximately 85 per cent of all Australia Post’s letters. That is a massive part of the postal network. Naturally, it is also the most profitable sector of Australia Post’s services. There is little wonder, therefore, that other postal service providers are seeking access to this lucrative network.

As we said in our minority report to the Senate committee which inquired into the deregulation of Australia Post last year, we believe that wholesale deregulation is purely an ideological exercise. The government clearly has a dislike for agencies which deliver services in the public interest. Successful governments have sold, privatised or deregulated public sector agencies. The funds generated by these agencies are then diverted away from the things governments must fund and into the private sector. The more lucrative aspects of business mail provide Australia Post with the funds it requires to deliver services across all Australia, to and from both residential and business addresses. Residential mail services are unique in Australia. The customer service obligation requires that Australia Post delivers to all Australians at least once a week, no matter where they reside.

Unlike other postal service providers or other courier services, for example, Australia Post is subject to a wide-ranging customer service obligation. So, if you live on a remote cattle station in the middle of the Northern Territory or in the north-west of Western Australia, you still—as Senator Crane told us—receive a regular mail service. But if the business mail activities of Australia Post are undermined or deregulated to such a degree that their revenue stream is jeopardised, then those living in rural and regional centres and in remote areas of Aus-
tralia will be the first to have their services disappear.

The Democrats believe all Australia Post's current services must remain in public hands. We do not believe any postal service can be substantially diverted to private ownership. Taxpayers fund Australia Post and they should continue to receive all the benefits to which they are entitled. Australia Post must continue to provide all its current postal, retail and financial services and be encouraged to provide emerging digital data services, particularly in rural and regional areas. These areas have been the hardest hit by the withdrawal of government and private sector services. Banks are probably the most noticeable service to have withdrawn significantly from rural centres over the last decade. In their place, Australia Post outlets have introduced banking and bill paying services and are often the centre of community exchange and community focus.

No matter where Australians live, Australia Post provides efficient postal, electronic, and bill paying services. In fact, international comparisons have shown that Australia Post services are in the top two or three in the world for speed, cost and reliability. Why any government would want to jeopardise any of that is beyond all comprehension. We hope the government is committed to supporting Australia Post's community service obligations rather than jeopardising the revenue stream which Australia Post uses to deliver these services.

But rather than provide funds—from the Natural Heritage Trust, for instance—for more expanded Australia Post services, the government proposed to duplicate services in the form of rural transaction centres. This is public money being put by a government into something which is not a public service. We cannot understand why they would want to duplicate existing services when Australia Post services could quite simply be expanded. The infrastructure is already there. A clever government would build on this infrastructure and not seek to duplicate it unnecessarily. We also fear that any deregulation of Australia Post’s postal system would see competitors come in without any commitment to the community service obligation, because under current legislation the community service obligation applies only to Australia Post.

While some commentators and members of parliament marvel at the increased level of share ownership in this country, we must not forget that this has come at the expense of full public sector investment and full government service provision. That must not be allowed to happen to Australia Post. Australia Post is also a major contributor to government revenue, having provided over $2½ billion over the last decade. Australia Post is one of the few remaining sources of revenue essential for schools, hospitals and health care. These resources are scarce enough, but are absolutely essential in non-metropolitan centres and must never be jeopardised.

But we are not the only ones who think Australia Post’s services are vital to the community. Just this week I tabled in the Senate a petition from 9,034 petitioners in New South Wales requesting that the Senate oppose the deregulation of Australia’s postal services and support the expansion of the community service obligations of Australia Post. Senator Mackay told us about the 43,630 signatures from the rest of Australia that she tabled today. That is about 53,000 signatures all up. The Australian Democrats certainly do support Post's CSO, and we will be opposing any deregulation of postal services. Senator Crane said at the end of his speech—and Senator McGauran has been saying much the same all the way through mine—that Australia Post does have one of the best operations in the world, and we agree with that. It certainly does. The thing is that we have to stop that being degraded. We have to make sure that it stays one of the best in the world.

Senator MARK BISHOP (Western Australia) (4.08 p.m.)—The topic of today's MPI debate is one in which I have taken a keen interest over the last two years in this place. As the Howard-Anderson government has progressed with the implementation of its deregulation policies since it has come into government, regional and rural Australia has been affected and its lifestyle made worse.

The government now has its sights set on the further deregulation of Australia Post. As
my colleague Senator Mackay indicated, our position on this is clear and simple: we oppose any further deregulation of the postal industry. We have good reasons behind our opposition to the further deregulation of Australia Post. Put simply, it will have two consequences: firstly, there will be a reduction in postal services to regional, rural and outer metropolitan areas of Australia; and, secondly, Australians living in those areas will pay more for existing or new postal services.

The opposition takes the view that Australia Post is a critical part of Australia’s communications infrastructure and plays a unique role in ensuring that Australians everywhere have access—as other speakers have indicated—to a quality, reliable, improving over time postal service. Australians who live in rural and regional areas particularly revere Australia Post’s role, often because alternative means of communication are inaccessible or prohibitively expensive. They rely on Australia Post, as my colleagues have indicated.

The opposition takes the view that Australia Post must be allowed to continue its unique role in the emerging digital age. The government’s postal deregulation proposals may have potentially damaging consequences on Australia Post and so jeopardise its role in the delivery of emerging digital services in rural and regional communities right across this continent. A competitive market may have two main consequences resulting from the disproportionate cost of rural and remote services. At present, Australia Post cross-subsidises loss making services with profitable metropolitan services. If competitors are able to cherry pick profitable services, Australia Post’s profit on those services, which it uses to subsidise unprofitable services, will be reduced. This could mean that service levels decline and costs increase substantially. There are no other alternatives, and both of these consequences are undesirable and inequitable.

Of particular concern is the possibility that, in the deregulated environment proposed by the government in the bill that has not yet been brought forward, Australia Post might have to consider charging non-reserve postal services on a differential basis. That would mean Australia Post would be charging more for services in rural, remote and even regional and outer metropolitan areas than for those in the profitable, high density urban areas. During last year’s public hearings for the inquiry into the Postal Services Legislation Amendment Bill 2000, Australia Post advised the committee:

We would have to review the market impact—that is, of deregulation—of course, over time and see how our profitability was going to see whether some price differential in competitive non-reserve areas was warranted or not ...

Clearly, differentiated pricing would put users of mail services outside metropolitan areas at considerable disadvantage compared with their urban colleagues.

The government has consistently claimed that services in rural and regional areas will not be affected by its proposed deregulation. It persists in making this claim, even though it concedes—and I quote from the explanatory memorandum to the bill:

It is not possible to quantify the costs and benefits to participants in the postal industry from the reduction in the reserved services and the postal services access regime.

The potential impact of the legislation on licensed postal office operators is another concern, especially in non-metropolitan areas where adverse impacts could result in bankruptcy of licensees and mail contractors to the detriment and harm of the communities in which they are located and which they serve.

The opposition believes that maintaining Australia Post as a robust local presence in regional areas for the delivery of both existing and emerging services will help to bridge the growing communications divide that exists between rural and urban communities. The government’s proposals as put forward in their bill come at a time of economic uncertainty for Australia Post, as economic change is accelerated by rapidly developing information technology.

The introduction of the goods and services tax in July last year placed Australia Post under considerable pressure. Australia Post
estimated that the adverse impact on the profitability of the organisation was approximately $90 million to $100 million this financial year, reducing profit on last year by approximately 25 per cent. Australia Post has estimated that the further decline in its profits that will result from the deregulatory regime proposed by the government is around a further $200 million. This figure represents over half of Australia Post’s total profit for the last financial year. Combined with the estimated $90 million to $100 million impact of the introduction of the goods and services tax, Australia Post’s profit would decline by over $290 million if the government’s proposals for deregulation go ahead. Compared with Australia Post’s record 1998-99 financial year profit of $370 million, Australia Post would be left with less than $80 million in this year or in subsequent years to reinvest in infrastructure or to subsidise service obligations outside metropolitan areas. Australia Post advised the committee during the inquiry into the postal bill that the erosion of profit will necessarily mean a reduction in investment in the postal network infrastructure, again placing services and, ultimately, prices at risk. Furthermore, Australia Post will obviously return less by way of dividend to the Commonwealth.

The government has not provided quantitative data about the potential risks and benefits of its proposals. The implications of this reform require greater consideration and analysis than the government has undertaken or at least than has been publicly released for review. We support this review on the basis that it will guarantee universal communications services now and in the future. We oppose the government’s proposed deregulatory changes on the basis that these changes would significantly reduce the capacity for Australia Post to provide existing and potential future communications services. They would also curb development of Australia Post’s national postal and communications infrastructure. Once again it seems that this government has chosen to ignore the legitimate fears of Australians living outside major concentrated urban centres.

In light of the recent Liberal-National Party electoral losses in Western Australia and Queensland and in the by-election up in Queensland a fortnight ago, it might be time for the government to acknowledge that the petition tabled by Senator Mackay, bearing over 43,000 signatures, represents the genuine sentiment of Australians. It is about time this government started to listen to what Australians want and to act upon what it hears. Australians do not want Australia Post to be deregulated, because they know that the services they currently enjoy will suffer and the costs that they bear will increase. The opposition calls upon the government to abandon its proposals for deregulation, because they are not in the national interest and would have a disastrous impact on rural and regional Australia.

Senator CALVERT (Tasmania) (4.16 p.m.)—Here we go again! They are at it again—trying to scare the people of Australia. They have obviously scared them into signing a petition which has some 40,000 signatures. I guess that petition is a bit like some of the other shonky ones you see about the place. But just for the record, I will repeat what my colleague Senator Crane said: the government has guaranteed to retain Australia Post in full public ownership. Talk about scare tactics. I heard Senator Bishop say just a while ago that costs are going to go up; that people will pay more. For the record, the government has a community service obligation, and this obligation requires that Australia Post deliver a letter across the nation for a set rate, 45c, frozen until 2003. This government puts Australian consumers first—not their union mates, as do the opposition.

Senator Crane also mentioned the postal services charter initiative. We have got a postal services charter which is protecting consumers’ rights in postal services right around Australia. It guarantees letters being delivered on time; the number of delivery points; a minimum retail presence of some 4,000 postal outlets—and at least 2,500 of those have to be in rural and remote areas—and some 10,000 post-boxes around Australia as a minimum number. We are requiring standards to be set in place to ensure that the Australian consumers are winners. On top of that, the government is ensuring that Australia Post continues to
lia Post continues to provide subsidies to the 700 licensed post offices that are in rural and regional Australia. It also is maintaining the concessional rates for distance education material for isolated children. Then, as Senator Crane mentioned, there is giroPost at some 2,800 postal outlets. Also, we are providing business banking in 200 post offices throughout regional Australia. I remind the Senate that in the last six years of the Labor government they closed down something like 277 postal outlets and each one of those had a banking service.

Do not come in here and lecture us about what we are proposing to do, because it is on the record: we are providing protection for rural and regional Australia and for consumers. The coalition has certainly done more to improve postal services for rural and regional Australia. I do not think we need to be reminded about the $70 million Rural Transaction Centres Program. That was opposed by the Labor Party. That program provides small communities with access banking, bill paying and postal services. You opposed that and yet your colleague Harry Quick is out there promoting it. We have made some other commitments. We re-polled the remote areas, which led to another 1,517 delivery services. We found there was a need there and we responded to that need. There has been an extension of concessional rates for holders of private and locked bags in rural and regional areas. Unlike Labor, this government has developed an integrated package of economic, environmental and social programs in response to the genuine needs of Australian people living in regional areas. Overall, the coalition has made a multibillion dollar investment in regional Australia, the scale and breadth of which far exceeds anything the Labor Party did in 13 years.

Senator Mackay—What about the other services?

Senator CALVERT—We turn to Labor’s record and ask: what is Labor’s policy on postal services? What comfort can you, Senator Mackay, give rural and regional Australians, given your party’s proud record in this area when you were in government?

Mr Acting Deputy President—

Senator Mackay—Don’t deregulate Australia Post. We won’t deregulate—and we won’t sell Telstra, either.

Senator CALVERT—Mr Acting Deputy President, it is very difficult to address you when I am being harassed from the other side.

The ACTING DEPUTY PRESIDENT (Senator Watson)—Just ignore the interjections.

Senator CALVERT—We all know that Labor is a policy-free zone. We know that they are policy lazy. So this afternoon I got my staff to check Labor’s web site. There is nothing on it about postal services but a vague media statement. It has no detail and it does not promise anything, but it does conclude by saying: Labor will release more detailed policies regarding the enhanced delivery of services in rural and regional Australia closer to the election.

We wait with bated breath. While the Labor Party is indulging itself in all this meaningless talk, the government is getting on with the job. Labor’s position on postal services can be summed up in two words: do nothing. It is not going to change anything, it has no new ideas, it has a completely closed mind. We do not need to be reminded that their leader said just this week, ‘If you don’t have any policies, the issue of how you can afford them does not come up.’

If that is what the people of Australia are going to get over the next nine or 12 months leading up to the next election, I just hope they remember what Labor’s abysmal record is on postal services. Just for the record, 277 outlets were closed down in the last six years of their government. We have opened 105 since then, so we have a positive record. They have consistently criticised the Rural Transaction Centres Program even though it is providing the online banking services that the bush really wants. The Labor Party have not provided any guarantee of a service charter; we have. They are totally hypocritical about their position, because when they were last in government they introduced further competition in the postal market. This included the operation of document exchange providers.
Not only have they deceived the people of Australia, particularly in rural and regional areas but they are continuing to do so. The shadow minister for communications, Stephen Smith, misled the Australian public, including thousands of small businesses in rural and regional Australia: he claimed that document exchanges had no presence in rural and regional Australia. For the record, I remind the Senate that the Ausdoc/goMail document exchange administers over 290 exchanges providing services in rural Australian towns from Broken Hill to Broome. For Senator Mackay’s benefit, in our own state of Tasmania, we have two: one at Huonville and one at Devonport, in case she did not know. So for Mr Smith to go out there and claim that document exchanges have no presence in rural and regional Australia is ignoring the truth.

I heard Senator Bishop saying that we are running down services in rural and regional Australia. I guess I am going to run out of time but I would remind the people of Australia, particularly in regional Australia, that coalition policies have committed over $3.5 billion in specific programs to meet the economic, environmental and social needs of regional Australia. They include the $1.5 billion Natural Heritage Trust, the $525 million Agriculture—Advancing Australia package, the $464 million regional telecommunications infrastructure fund, the $1 billion Federation Fund, the $70 million Rural Transaction Centres Program, the $120 million television fund to extend SBS to the country, the $45 million local government online fund and the $28 million to expand the mobile phone coverage. Labor was going to close down the analog system with no replacement: I remind the rural people about that.

The ACTING DEPUTY PRESIDENT (Senator Watson)—Your time has expired, Senator Calvert.

Senator Calvert—There is a whole heap here, Mr Chairman. I will pass them on to my colleague.

Senator O’BRIEN (Tasmania) (4.24 p.m.)—I hope Senator Calvert does pass them on to his colleague: he might give him something to say. It does not seem to me that, in relation to this debate, the government senators have much to say at all, other than comments from Senator Crane. I really want to quote Senator Crane with approval. You would think that a prudent conservative government would live with the philosophy that if it ain’t broke, don’t fix it. That is the sort of line that you hear day in day out from the conservatives around the world when change is proposed: if it ain’t broke, don’t fix it. What does Senator Crane say about the current situation of Australia’s postal service? He said, ‘It’s the best postal service in the world.’ What one would normally expect from a prudent conservative government is ‘if it ain’t broke, don’t fix it’.

I have heard a lot of suggestion that, because Labor insisted that Australia Post become efficient and required it to close postal outlets that were not, somehow we were attacking postal services around the country. Yet if you listen to what government senators are saying now about Australia Post you would have to come to the conclusion that Labor certainly did no damage. If it is the best postal service in the world, certainly if it ranks in the top five, we certainly did not debilitate—

Senator Mark Bishop—The top two.

Senator O’BRIEN—The top two, says Senator Bishop. Senator Crane says ‘the best’. We certainly did not debilitate the postal services to Australians and particularly to rural and regional Australians, when Senator Crane, who lives in a rather remote part of Western Australia, says he can get mail in a day. He says that there are contractors involved. Yes, there are contractors involved, contractors to Australia Post. So what is the problem? Why does the government need to put a bill through? It is currently before the House of Representatives, I understand; so to the extent that some of the interjectors earlier were suggesting that it was not before the Senate, that is being too cute by half. We all know that the government intends, if it can, to get the bill through and to take away from Australia Post part of its business and hand it over to its mates at the big end of town. That is what the government is about. That is why the government is not saying if it ain’t broke, don’t fix...
it. They do not mind if Australia Post is broke. What they really want to do is transfer about $300 million out of Australia Post revenues and put that in the hands of their mates.

You would expect that from a government which is, as everyone knows, a government for the big end of town. I want to digress for a second, because the ALP has released some important policies recently about banks—another policy area we have released. The government has criticised it, of course, because what we are trying to do in that area is ensure that community service obligations are imposed upon the banks in the private sector, and the government says we are irresponsible. What does Merrill Lynch say? Merrill Lynch estimates that it could wipe $14 billion from the sector’s market value. In other words, we will be responsible for transferring $14 billion from the value of those banks back to the community in the form of community service obligations. What the government is trying to do in this area is transfer from the public purse about $300 million to its mates at the big end of town in a variety of ways, not so that they can improve the postal service to Australia and can guarantee benefits between now and 2003 but in the long term—because really that is what any government has to be about: benefits to the whole of Australia, including the more remote parts of Australia. How can you do that when you take away the business mail concession from Australia Post and you hand it over to the private sector, what you are about is taking money away from Australia Post and the people who pay for that post and putting it in the hands of new mail contractors.

The fact of the matter is that in the postal area there is a transfer between the city and the country, and I would be very interested to hear what Senator McGauran says about why we should support a system which will stop that transfer of financial resources from Australian cities to the country, which is what happens now; a system which will prevent that from happening, which will aggregate the benefit in the cities and will require the public purse ultimately to guarantee the services for rural and regional Australia, the parts of Australia that his party purports to represent. (Time expired)

Senator McGauran (Victoria) (4.31 p.m.)—In addressing this MPI on Australia Post, I would firstly like to pick up on Senator O’Brien’s comments about the Labor Party bank policy. Senator O’Brien is the first member of the opposition in this Senate to raise the Labor Party’s bank policy. He only said it in passing by the way, because they are a little ashamed about their recently released bank policy, which has absolutely sunk without a trace. You would not have thought Senator O’Brien would be the one to raise the Labor Party’s bank policy. He only said it in passing by the way, because they are a little ashamed about their recently released bank policy, which has absolutely sunk without a trace. You would not have thought Senator O’Brien would be the one to raise the Labor Party’s newly released bank policy. Heavens above, just to get a policy from them is enough. But you would have thought the shadow minister in charge of that policy, Senator Conroy, would have come into this chamber and spoken about it, boasted about it and taken any opportunity to speak on the matter that he could. But Senator Conroy has literally gone missing this week in his moment of glory when he actu-
ally has a policy paper. The reason for that is simply that the Labor Party utterly plagiarised that policy; there was not an original thought in it.

The opposition were caught out plagiarising the Australian Bankers Association’s policy. How do we know this? Because the Australian Bankers Association told us off the record that they received a visit from the Labor Party shadow minister and, in all good faith and good trust, they said, ‘We’re going to do this, this and this and we’re going to announce it very soon.’ So what did the Labor Party do? They thought, ‘That’s a great idea. We agree with your policy’—I will not go into the details of the matter—and rushed out their own policy which was a mirror reflection of the Australian Bankers Association’s policy. The only difference is that the Labor Party showed a bit of machismo by saying, ‘We’ll legislate,’ when we already know that the banks will voluntarily introduce a code of social practice and no-fee, specialist accounts.

If that was the point Senator O’Brien was trying to make, my point is this: that is just one indication of the lightweight issues that come from the other side, and this MPI is another one. I have seen many MPIs come before this parliament and I have spoken on many of them, and this would have to go down as one of the most lightweight MPIs—I will not say it is the most lightweight—to come before this parliament. We are debating how important, how efficient and how needed Australia Post is to rural and regional Australia in particular, and it just so happens that we are all in agreement. Why have a matter of public importance debate on that? You extrapolate from our responses that we must be privatising Australia Post. We are not privatising Australia Post. In fact, it is a very good example of the national competition policy and the public interest test actually working. Against the National Competition Council’s recommendation that Australia Post should be completely deregulated and face competition, this government has said that there are exceptions in the public interest. Australia Post is just one of those exceptions, along with the Wheat Board, the sugar industry, the rice industry, newsagencies and chemists.

This is yet another good example of a 100 per cent government owned utility working. It is working because an element of competition has been introduced into Australia Post, and that was started by the Labor Party with our support. That competition has transformed that old, lumbering post office where you could pick up a stamp if you stood in the queue long enough and post your letters. They were about the only two things the post office was good for. But with the introduction of an element of competition, and while still in government hands, Australia Post has been transformed into a shopfront that does more than sell stamps and post letters; it is in fact a fine utility. Any Australian would agree that that has been an improvement for Australia Post. Consumers now are given a choice in regard to courier services and the size of parcels. They have lower costs because of that choice and that element of competition upon Australia Post. All round, Australia Post has smartened up and increased its profits.

Through all this competition that has been brought upon Australia Post, not one service has been reduced in the rural and regional areas; it is quite the opposite. Services have been increased in rural and regional areas. Some 105 post offices have been opened by this government. In fact, in the rural and regional areas, Australia Post is expanding. It is a different Australia Post to what it was 20 years ago that the Labor Party would probably want to turn the clock back to. It is a different government utility, but it is working very well.

We will give the guarantees here in this MPI that Senator Mackay is so anxious to get. We will give the guarantee that Australia Post will remain in government hands 100 per cent. Not one service to rural and regional Australia, let alone one post office, will be reduced. We will keep in place the 45c stamp, which is a cross-subsidisation, and we will keep in place the community service obligation. We have given you all the guarantees you have called for in this debate, Senator Mackay. So, as I said, I do not know what we are particularly debating. There
must be a budget in the air, because this is your ritualistic scare campaign, run up the flag of privatisation of Australia Post. The Labor Party, like clockwork, can be counted on because it raises this every year in the run-up to a budget. We reject this MPI out of hand.

The ACTING DEPUTY PRESIDENT
(Senator Watson)—Order! The time for the debate has expired.

COMMITTEES

Scrutiny of Bills Committee

Report


Ordered that the report be printed.

Environment, Communications, Information Technology and the Arts

References Committee

Report

Senator CALVERT (Tasmania) (4.38 p.m.)—On behalf of the chair of the Environment, Communications, Information Technology and the Arts References Committee, Senator Allison, I present the final report of the committee on its inquiry into the online delivery of Australian Broadcasting Corporation material, entitled Inquiry into ABC On-line, together with submissions received by the committee.

Ordered that the report be printed.

Senator MARK BISHOP (Western Australia) (4.39 p.m.)—by leave—I move:

That the Senate take note of the report.

I would like to make a few comments on the report of the Senate Environment, Communications, Information Technology and Arts References Committee into the ABC online. A similar report was brought down last year, after a public inquiry. That inquiry and that report dealt with two terms of reference, those being (a) and (b). Under review today, the subject of the report tabled by Senator Calvert, is term of reference (c). Reference (c) goes to any extension to legislation which could be considered to ensure that the ABC is able to effectively provide an independent, innovative and comprehensive service in the online delivery environment. So term of reference (c) goes to whether the ABC Act and charter should be amended and updated to reflect the changing digital environment and changing delivery mechanisms for services.

This term of reference called for consideration of two main issues, which have been under some public discussion for the last 12 or 18 months in this country: firstly, whether the ABC Act requires amendments to prohibit advertising on online and datacasting services; and, secondly, whether the ABC Act requires amendments to incorporate online datacasting and other emerging activities. I want to address briefly three matters: firstly, the background to the inquiry; secondly, the issue of advertising; and, thirdly, the issue of new and emerging ABC services. And finally, briefly, I will repeat the recommendations of ALP senators who participated in the deliberations of that inquiry.

The background is, I think, fairly much on the public record, and the ABC’s online activities and the commercial agreements relating to such activities were the stimulus for this Senate committee inquiry. The ABC’s independence and integrity are recognised and valued across the board by Australians. ABC Online was initiated in 1995, and it has rapidly become a significant medium for the delivery of ABC material to audiences right around this country. For those reasons, last year’s proposed commercial arrangements between Telstra and ABC Online gave rise to a number of concerns, in that the arrangements conflicted with the ABC’s role as an independent provider of information to Australians. Those proposed agreements were finally cancelled by the new managing director of the ABC, Mr Shier, when he took office, and the reason for his cancelling those proposed advertising agreements with Telstra and other corporations was that he was of the view that the consideration offered by Telstra was inadequate for the service being provided by the ABC. As a consequence, however, the issues that were discussed in the interim report remain problematic as no resolution or precautionary measures have been implemented, and there does not appear
to be any intention on the part of government to address those issues in the near future.

That leads me now to the first matter under discussion in this final report: the issue of advertising. The ABC Act expressly prohibits the ABC from broadcasting advertisements. A concern raised with the committee is that the ABC is not prohibited from advertising on other services that are not broadcasts, such as online services and datacasting services. Clearly this anomaly exists simply because the drafters of the legislation could not have even conceived of the alternate means of delivery of ABC content now being utilised. Labor senators believe that the prohibition on advertising should extend to all transmission delivery platforms of the ABC, as this is the only way, we believe, to maintain the integrity, independence and freedom from commercialisation of the organisation as a whole. We are pleased to note that the managing director, Mr Shier, has said publicly:

ABC management is not suggesting that we introduce advertising onto ABC television, radio or on ABC managed Internet sites. You only need to look to countries like New Zealand and Canada to see what damage can be done to public broadcasting as a result of undue commercialisation.

Opposition senators welcome these comments on the dangers to the ABC of commercialisation and advertising. The position that I quoted then from Mr Shier accords with the position taken by Labor senators that advertising should be prohibited on ABC Online.

In terms of new and emerging services, the ABC Act does not expressly provide for the ABC’s online services and other services emerging in the new digital environment. The ABC informed the committee that its legal advice is that under section 25(1) of the act it has undoubted power to establish and maintain an Internet site. There is no disagreement with that proposition. The ABC suggested that if any amendments to the act are deemed necessary they should be incorporated with consequential amendments arising from the Broadcasting Services Amendment (Digital Television and Datacasting) Bill 2000. That was precisely because of action pursued by the opposition when the Broadcasting Legislation Amendment Bill 2001 came before the Senate on 27 February this year. The amendments moved by the opposition would have expanded the ABC Act to incorporate new activities and services that have already become available and will become available in the foreseeable future. The existing provisions of the act do not presently cover those activities. The amendments sought to address public concerns that the future commercialisation or even privatisation of these ABC services is being contemplated and is possible under the existing legislation. By bringing these services within the core functions of the ABC, the amendments would have gone some way towards ensuring the future independence of the ABC from commercial interests and influences, and updated the ABC’s enabling act to be consistent with its expanding role in the new digital environment.

Labor has clearly stated its position: it is appropriate and indeed desirable for online datacasting and other emerging activities to be included in the act and charter of the ABC. The Broadcasting Legislation Amendment Bill 2001, if it is passed by parliament in its present form, will insert datacasting functions into the ABC Act. It is our policy position that new fields of endeavour should be regulated and comprehended by the act and the charter if necessary. Unfortunately, in the last sitting fortnight the government and the Democrats combined to defeat Labor’s amendments in the Senate, which would have included online services in the ABC Act. Online services are now a notable omission from the datacasting functions included in the act. The critical recommendations of Labor senators who participated in that inquiry are that we restate our support for, firstly, legislative measures to prohibit advertising on any ABC service and, secondly, the inclusion within the ABC Act of new services in the digital environment such as online, so that they are core functions of the broadcaster that cannot be privatised or commercialised.

Senator FERRIS (South Australia) (4.47 p.m.)—I am reassured to hear Senator Bishop talk about the integrity and independence of the ABC, because just a week or so
ago in the other place the member for Griffith, Kevin Rudd, launched an absolutely cowardly attack under parliamentary privilege on Mr Christopher Wordsworth, recently appointed by the ABC board as the new Director of the ABC in Queensland. In calling the appointment ‘a scandal’, Mr Rudd claimed that it represented a ‘complete prostitution of the ABC’s independence’. This unsubstantiated and emotive attack has been just one part of an extensive and concerted intimidation campaign by senior ALP members against the ABC. Recently we saw Greg Turnbull, Mr Beazley’s senior media advisor, harassing an ABC journalist by calling him a ‘sycophant’ and threatening him by saying, ‘You just wait until we are in government. We’ve got a very long memory.’ Aside from the fact he will be waiting a very long time to carry out his threat, this demonstrates quite clearly bullying by the ALP and the sort of contempt with which the ALP has been treating the ABC.

There are still more examples of this disgraceful campaign currently being carried out against the independence of our national broadcaster by those opposite. In this chamber, on 26 February, Senator Robert Ray attacked the ABC simply because they had the temerity to take a closer look at the serious allegations that were then being made against the member for Lilley. A covert campaign is currently being waged by Senator Bishop and the shadow minister for communications, Mr Stephen Smith, to undermine the credibility of the ABC board. We all know that bullying is a way of life in the ALP. Some of those in the ABC have experienced it at the hands of the ALP. I have experienced it myself a number of times on the Electoral Matters Committee at the hands of Senator Faulkner. He demeans the standard of parliamentary behaviour with some of his remarks to me on the Electoral Matters Committee. Nevertheless, I have found that those who are attending those public hearings are generally more appalled and surprised than I am that Senator Faulkner behaves in the way that he does, since I am much more used to it. It is very easy to understand just how paranoid the ABC can make the ALP when people disagree with them. It appears evident that a future ALP government will be targeting those ABC employees who do not report in accordance with the party’s political doctrine and position. Quite simply, there is no room for objectivity or independence in the ABC under a future ALP government.

Under this government, the ABC has always retained its independence—quite strictly so. If we have a problem with an aspect of the ABC’s reporting, we always go through the proper channels so that we can make those letters available to anyone. I believe that the number of official complaints we have made to the ABC regarding what we on this side of the chamber have believed to be a lack of balance in reporting has been raised in estimates hearings and in the other place. We do not call up ABC journalists at home in the middle of the night and abuse them and threaten their jobs.

Senator Bolkus—So it is not thuggery on your side. It is not thuggery when you do it. It is not thuggery when O’Leary rings you up in the middle of the night?

Senator FERRIS—Senator Bolkus raises issues that make me wonder whether he is one of the guilty parties. With regards to the appointment of Mr Wordsworth in Queensland, it has to be made very clear that it was not a government appointment. It was the responsibility of the ABC board itself and its management. The ALP already knew this, but that never stops them from their quite disgraceful attacks on people with whom they disagree, usually done under parliamentary privilege. The shadow minister Mr Smith has already been rebuked by the previous managing director of the ABC, Mr Brian Johns, for attempting to intrude on the ABC’s independence. Mr Smith has continued his outrageous behaviour over the last couple of months, and it must be extremely difficult for Jonathan Shier to not follow Brian Johns’s approach in rebuking Mr Smith.

Aside from being accused of threatening the independence of the ABC, this government has also been relentlessly attacked over its funding commitment to our national broadcaster. In 1996 we were forced to make a cut to ABC funding and a number of other programs that were undertaken in government, and we acknowledge that that had to
happen. But it was a one-off reduction, and let us not forget why we did it. Did we want to come into government and make enemies of ourselves in the community? We certainly did not. We did that because of the quite unprecedented financial situation in which we found ourselves, having to deal with a $10 billion debt that had been left to us by those opposite. Since then we have maintained the ABC’s funding in real terms and we are committed to continuing this in the current triennium. This means that the ABC will receive over $2 billion in government funding in this current triennium.

As with so many other areas of government policy, the ALP is a policy free zone when it comes to future funding of the Australian Broadcasting Corporation. When Mr Stephen Smith was asked on Radio National last week whether an ALP government would commit sufficient funds to the ABC, he replied:

Well now, you are running me up very close to being put in a position of making an express detailed financial commitment. Heaven forbid! He went on:

As we’ve made it clear, and if Simon Crean is listening to this, he will be listening very carefully, we’ve made it clear that in terms of our detailed financial commitments, we will make those well-known between now and the election, but we’re not sufficiently enough advanced in the electoral cycle—

not the budget cycle—he went on to mention the budget cycle—

to be able to go into the details.

What has the electoral cycle got to do with the policies that the ALP in government will have on the Australian Broadcasting Corporation? That is a most interesting comment. Of course, he takes a couple of hundred words to say absolutely nothing—something that the ALP have become very accustomed to when they are asked questions about policies because, as we all know, the ALP is a policy free zone. Here we have the ALP making all sorts of outlandish claims about our government’s level of funding to the ABC and they do not even have a firm policy in this regard because the electoral cycle is not quite right.

An article in the Canberra Times on 3 March this year by David Sibley was also quite incisive about the ALP’s commitment to the Australian Broadcasting Corporation. He wrote:

Unfortunately for the Opposition, during its previous term in government from 1983 to 1996, it was responsible for carving $120 million from the ABC’s funding.

Fancy that. He continued:

The antipathy of Bob Hawke and Paul Keating to the ABC was well known.

Isn’t it fortunate that David Sibley does not work for the ABC or he too may well have found himself the recipient of a late night telephone call from somebody in a senior minister’s office saying, ‘Look out, mate, we’ll turn your tap off, brother, when we get into government. We have a very long memory.’

On this side of the chamber we have had a responsible attitude to the ABC. We value the ABC’s independence. Anybody who attends the ABC estimates knows just how strenuously members opposite question Mr Shier, digging and digging to try to find something that they can criticise: the colour of this man’s car, where he drives his car, maps of who he visits. They ask the most extraordinarily personally intrusive questions in a desperate desire to denigrate a person who is doing his very best to maintain the independence and integrity of the Australian Broadcasting Corporation—something which Senator Bishop and I share. It is very important for the ABC to be a public broadcaster of integrity and independence, and we are providing the finance to deliver that.

Senator BOURNE (New South Wales) (4.56 p.m.)—The ABC’s strength lies in the fact that it is commercially independent. It does not operate on the basis of fulfilling any commercial imperative and that is one reason why it is so highly respected. The ABC’s value is derived from its independence from government and from commercial imperatives. The Democrats strongly dispute the ABC’s views to the committee that it is a matter of board discretion as to whether to allow advertising on ABC Online. The technologies which make up ABC Online were not foreseen when the ABC Act was drafted.
However, it is clearly a general intention of the ABC Act that the prohibition on advertising and sponsorship should apply to all ABC services, something which the current board policy recognises. We would assume that it is something that the ABC board would seek to have incorporated in any review of editorial policies which it might undertake in the future.

The Democrats agree with the recommendations presented in evidence that simply amending section 31 of the ABC Act is all that should be necessary to extend the prohibition on advertising to ABC Online. We further maintain that the maintenance of ABC Online should continue as a core ABC activity. Inappropriate constraints should not be imposed on the ABC’s freedom of action in developing a strong presence in the evolving convergent environment. However, this freedom needs to be balanced in accordance with the ABC’s charter and its core responsibilities as a respected public broadcaster and institution. Editorial integrity and independence must be preserved to ensure the continuation of the value of the ABC brand.

A number of witnesses recommended that the role of ABC Online should be defined in the ABC Act. Having further considered the evidence brought before the committee in several submissions, we agree that legislative amendments are required to reflect the growth of additional services where those services are delivered by new technological means. This is so current editorial policies to protect the independence and integrity of the services can apply without confusion. It is also to ensure that the current prohibition on advertising and sponsorship can equally apply to the provision of new services. This prohibition would not apply just to banner advertising or other more obvious forms of advertising or sponsorship.

We believe that the need to protect the ABC’s integrity should also apply to the links that the ABC provides to other websites or other online services. We believe the value to other commercial entities of linking into the ABC web site is just as important as a banner ad, for example. The way the Internet works, through its maze of interrelated sites and linkages, is both its power and its value. But the way that web sites link together may also be less than obvious to the average Internet user. If I, for instance, were a commercial Internet service provider who provided business or other news services, it would be of huge commercial value to me to have my web site linked through the ABC Online service. Alternatively, it would probably be of even greater value to have ABC content linked back through my site. My commercial non-ABC site would then derive integrity directly from the ABC. This is of great concern to the Democrats. I believe this is something the parliament should be increasingly concerned about as well.

During our recent debate on the Broadcasting Legislation Amendment Bill 2001, the issue of amending the ABC Act to prohibit advertising on ABC Online arose, as Senator Bishop has already told us. The Democrats are of the view that the ABC Act should be amended to fully reflect the board’s current policy and that this prohibition should be extended. A simple amendment to section 31 of the ABC Act would preserve the ABC’s independence and integrity in an online environment. In their supplementary submissions to the ABC Online inquiry, the CPSU, the Australian Key Centre for Cultural and Media Policy and Mr Quentin Dempster were all of the view that the ABC Act should be amended to provide a reference to online technologies. In fact, they have all said to me since that section 31 is the place they think that amendment should happen.

Further, the CPSU and Mr Dempster were concerned that the Senate committee still has not received a copy of the legal advice which the ABC sought to uphold their view that the ABC Act did not require additional amendment to prevent advertising on ABC online services. So, in the absence of that legal advice—and probably even if we had that legal advice—I still think that an amendment to section 31 of the ABC Act is the way to go to make sure that there is no advertising on ABC Online. Senator Bishop mentioned the last broadcasting amendments and mentioned that the Democrats did not vote for his amendment. We have gone through the rea-
son for that before. I will go through it one more time. It is because his amendment sought to amend the charter of the ABC rather than put it into section 31 of the act, which all this evidence points to as the best place to put any amendment to take away the opportunity of advertising online in the ABC.

Today I gave notice of a motion to move a private member’s bill, which I will do tomorrow, to reflect the concerns raised in the Senate committee in relation to the prohibition of advertising and sponsorship on ABC online services. That bill will simply amend section 31 of the ABC Act in accordance with the wishes of those who made submissions to the Senate committee on the third term of reference. They have looked into it. Those who made the submissions decided that this is the best way to do it, so this is the way that I intend to proceed.

Senator TIERNEY (New South Wales) (5.02 p.m.)—I also rise to speak on the inquiry into ABC Online. This inquiry was set up one year ago. In the last call for submissions, the interest in this matter was so profound and extreme across the community that we did not receive one submission. We did end up with a report, which I have here. If senators care to look at this, although the document is six pages long, the report itself is one page. That is all it is. It concludes:

Therefore, the Committee has resolved to take no further action on its inquiry into paragraph (c) of this reference. Should any concerns in relation to the ABC’s delivery of online services become evident, then the Committee may seek a further reference.

This has been an inquiry about nothing, in effect. There has been incredibly little interest out there, there have been no submissions and we have a one-page report. However, the ALP did manage to deliver a four-page dissenting report on a one-page report, which I found absolutely—

Senator McGauran—I have to get a copy!

Senator TIERNEY—Have a look at it. It is riveting reading! The ALP bring up a number of concerns, and Senator Bourne has repeated some of those. There was a concern about a prohibition on advertising. There was a concern, particularly from the Democrats, that any news services, such as online services, should be deemed to be core services to the ABC. Therefore, there is no danger of them being privatised. I note that Jenny Macklin from the lower house has rabbited around with comments that Triple J might be privatised, that ABC shops might be privatised and that ABC Online might be privatised. There is no possible basis for such a claim. The way in which the ABC has been funded and managed over the years, even under Labor governments, indicates what nonsense that is.

Senator Mark Bishop interjecting—

Senator TIERNEY—It is nonsense, Senator, because we have an ABC charter of independence, and we give the ABC a one-line budget. This is probably the most independent statutory corporation in the whole of Australia, yet Labor runs around with all these furphies which are just total nonsense.

I like to think back to how the ABC was run under the last Labor government. Talk about threats of commercialisation! These people have very short memories. They do not think back to what was happening when David Hill was the managing director and to some of the moves that were made. Do infotainment programs ring a bell with anyone in the ALP? Does the ABC’s TV Asia ring a bell with anyone in the ALP? These were failed ABC commercial ventures under the leadership of David Hill. These created such concern in the community that we held a major inquiry into the management and operation of the ABC in 1993. I was on that inquiry. Senator Alston was on that inquiry. Senator Carr was on that inquiry. It was very interesting. Senator Carr and Senator Forshaw spent their time in the inquiry talking to each other, to the point where Senator Carr got up and made a defamatory statement. Then he unfortunately repeated this outside and Senator Alston took him to court, sued him and won. Senator Carr had indicated that Senator Alston was trying to influence a witness. The witness came before the committee, was asked point-blank whether he had ever spoken to Senator Alston on the matter and he answered that he had not at all.
That was a very interesting inquiry. The main reason it was interesting is that it showed the mismanagement of the ABC under the ALP. We all experienced this as senators at that time. Under the last Labor government, you would ring the ABC and go through a program producer and several people before you ever had a chance to get on the ABC. Of course, when you ring a commercial radio station, they say, ‘Wait a minute. I’ll roll the tape. Off you go,’ and you are in, out and finished. We had a very inefficient structure running at that time—one that has been cleared up to a great extent by Jonathan Shier, and he continues to do that. We are certainly getting the ABC back on track.

One should also take into particular consideration the way in which we do fund this organisation. There have been a lot of complaints, particularly from the Democrats and from the ALP, about the funding of the ABC. Let me put this in an international context. I think we are the only country with two public broadcasters: SBS and ABC, both delivering excellent services. We have maintained this unique position. I have heard Senator Bourne’s views on what we should do with the funding of the ABC. It is always, ‘Give them more for this, more for this, more for this.’ The government is an unending bucket of money, according to Senator Bourne. Let me tell you what people in country Australia think about that. I was at a public meeting we held north of the Hunter. At this public meeting, which was a discussion of all sorts of issues, Friends of the ABC turned up and had their banners up. We said, ‘Come into the meeting.’ They came into the meeting and we gave them time to express their views on why we should put up ABC funding dramatically higher than the half a billion dollars that they get already. Part of the meeting got a little bit sick of what was going on and sick of what this special pleading meant in terms of priorities for government. One fellow got up at the meeting and said, ‘I’ve got the answer to all this. Why don’t we just scrub the ABC, take the $500 million and spend it on our roads here?’ That got a great cheer from the audience.

Senator Bourne—I can tell you what they think in country Australia. Come and talk to me about that.

Senator TIERNEY—Out there in the real world, Senator Bourne, they think that half a billion dollars is quite enough.

Senator Mark Bishop—Is this the government’s position?

Senator TIERNEY—This was the position out in the bush, Senator. That is what the people are saying. What they are saying is that they do not want a great—

The ACTING DEPUTY PRESIDENT (Senator Hogg)—Order! Senator Tierney, you have been called to order. Senator Bishop, do not address your comments across the floor. You have had a chance to have a say in this. Senator Tierney, you should address your remarks to the chair.

Senator TIERNEY—I was unduly provoked by the other side making an outrageous proposition on government policy. I was reporting what real people were saying in country Australia about the way in which money should be spent. We are quite happy to spend half a billion dollars on the ABC, but to say that we should increase it dramatically, given the other needs in this country, is absolutely nonsense.

If we compare what happens here with what happens in other countries, if you compare Australia to a country like the USA, you will not find anything like the ABC. President Johnson actually designed legislation in 1966 to have a similar type of broadcaster. In America they have nothing like it. Public broadcasting in America is actually done by sponsorship. It works hand to mouth, a bit like community radio. We have a treasure in the ABC. We are prepared to fund this at the level of half a billion dollars. We do not need to dramatically increase this money. We need to run the whole operation more efficiently, and that is what has been happening under this government. It is what the current managing director of the ABC and the current chairman of the ABC are doing.

We need to address what would happen under the next ALP government. We are instructed in part by the previous ALP government, who for 13 years did not fund this
organisation in a proper manner. Indeed, as I mentioned before, with David Hill they were trying through infotainment and a whole range of other new types of services to try to get private money in. What does Stephen Smith say about how the ALP will fund the ABC? He does not say anything. He has no commitment. To quote again from Senator Bourne, she thought that Stephen Smith’s approach to funding was ‘dodgy’. Dodgy, we could conclude, means that they are not promising any further money. People who think there is going to be a great outflowing of extra funding into the ABC, if and when a Labor government is ever elected, should only look back to its 13 years in government to see how the ABC was treated. (Time expired)

Question resolved in the affirmative.

COMMITTEES
Legal and Constitutional Legislation 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 Patterson)—by leave—agreed to:

That Senator Schacht be appointed a participating member of the Legal and Constitutional Legislation Committee for the committee’s inquiry into the provisions of the Customs Legislation Amendment and Repeal (International Trade Modernisation) Bill 2001 and two related bills.

BILLS RETURNED FROM THE HOUSE OF REPRESENTATIVES

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

  Pig Industry Bill 2000

  BROADCASTING LEGISLATION AMENDMENT BILL 2001

Consideration of House of Representatives Message

Consideration resumed from 8 March.

House of Representatives amendment—

Schedule 1, page 3 (after line 19), after item 1C, insert:

1 At the end of subparagraph 5A(2)(o)(i) of Schedule 4

Add “or the Special Broadcasting Service Corporation”.

Motion (by Senator Patterson)—by leave—proposed:

That the committee agrees to the amendment made by the House to the bill.

Senator MARK BISHOP (Western Australia) (5.15 p.m.)—The opposition opposes the motion that the Senate agree to the amendment to the Broadcasting Legislation Amendment Bill 2001 made by the House of Representatives. The amendment to be moved by the opposition today will replace the amendment moved in the House.

Senator Bourne—Have you got an amendment?

Senator MARK BISHOP—We have circulated the amendment.

The CHAIRMAN—There is not one here at the table.

Senator Bourne—We haven’t seen it.

The CHAIRMAN—I can hear Senator Bourne saying she does not have it. Senator Patterson does not have it.

Senator MARK BISHOP—We requested that it be circulated earlier this morning, at about 9 o’clock.

Senator Patterson—It should have gone to the minister’s office. We are not going to debate an amendment we have not seen.

Senator MARK BISHOP—At this stage, we are simply opposing the motion moved by Senator Patterson. I foreshadow that we will be amending the motion that the report of the committee be adopted. For the information of interested senators, the foreshadowed amendment reads:

(1) At the end of the motion, add:

“but the Senate calls on the Government to:

(a) suspend the auction of datacasting spectrum until the Parliament has adopted a less restrictive datacasting regime, a process that could still allow the datacasting spectrum auction to be completed this financial year;
(b) extend the application of the Australian Broadcasting Corporation Act 1983 and the ABC Charter to the ABC’s on-line and datacasting services;

c) honour its commitment that the ABC and the SBS will not pay datacasting licensing fees; and

d) rectify its failure to adequately resource the ABC to effect the national broadcaster's transition to the digital world”.

At this stage I am simply opposing the motion moved by Senator Patterson. At the outset, I would like to point out that Labor’s grave concerns with the existing television and datacasting regime remain. This bill makes amendments to that regime. Labor believes that the consideration of this bill provides an ideal opportunity to correct what is blatantly a flawed policy.

On advice from the Clerk, the opposition were unable to revisit the full gamut of amendments that we moved at the beginning of this month when the bill was originally considered by the Senate. Had we been able to move those amendments again on this occasion, we would have done so. We believe that digital television and datacasting have a lot to offer Australians if appropriately implemented. That is the problem: the regime is fatally flawed. Consequently, consumers will be deprived of much of the potential of the digital world.

The dismal failure that is datacasting proves this point. Effectively there are only two major participants in the current datacasting spectrum auction: Telstra and NTL. This is problematic for the future of datacasting and reflects very badly on the government’s policy. Only the spectrum sales from Melbourne, Sydney and Perth will be conducted on the basis of competitive auctions, and the two participants, Telstra and NTL, are not even content providers. Clearly the government’s policy has been to the ultimate detriment of all Australians. The digital transition has so much potential, and the government has succeeded in stifling most of that.

There is one outstanding matter that we are able to consider today, and that is the opposition’s attempt to permit national broadcasters to engage in unrestricted multichannelling. At the beginning of this month, when the Broadcasting Legislation Amendment Bill 2001 came before the Senate, several amendments were made to the bill. The opposition moved many more, but the Democrats and the government colluded to defeat those amendments. One of our amendments that the Democrats did support related to the granting of unrestricted multichannelling to the national broadcasters. We managed to get the amendment in the bill, allowing the ABC and SBS to multichannel in an unrestricted fashion. The Senate subsequently split the bill, moving the provisions of the bill that permitted the national broadcasters unrestricted multichannelling into a second bill. The Democrats joined with the government to remove from the bill the provisions that they had helped us to put in there. The government and the Democrats botched their deal to get unrestricted multichannelling out of the bill and accidentally removed a provision of the bill that the government had originally put into it.

The provision that the government accidentally removed allowed the SBS to multichannel in respect of international news broadcasts. Only the ABC had been granted that capacity in the amendments to the BSA last year. The government amended the bill in the House of Representatives to reininsert that provision into the bill. The opposition will oppose the motion that the Senate agree to the government’s amendment to the bill in the House of Representatives, because the amendment that we will move provides for unrestricted multichannelling for the ABC and SBS. The opposition’s amendment eliminates the need for the inclusion of this single genre of broadcasting for the SBS because it removes all restrictions on what both national broadcasters can multichannel by removing the restricted list of possible genres. The provisions inserted by the Senate removed all of the content restrictions on multichannelling for national broadcasters. When the Democrats and the government got together and split the bill, the amendments passed by the Senate that allowed unrestricted multichannelling by the broadcasters were moved into another separate bill, the

You may well ask why the opposition support multichannelling for the ABC and SBS. We first sought to achieve this purpose last year when we considered the Broadcasting Services Amendment (Digital Television and Datacasting) Bill 1999. On that occasion the Democrats supported our amendments, enabling the ABC and SBS to engage in unrestricted multichannelling. However, the government was manifestly opposed to that amendment and clearly indicated that it would not contemplate unrestricted multichannelling by the ABC and SBS. On that basis, the government enumerated the genres in which the ABC and SBS would be permitted to engage in multichannelling. The opposition consulted the ABC and SBS on this matter, and we were advised that they did not object to the list of genres that the government proposed. It was their view at that time that those restrictions would not inhibit their multichannelling program.

The opposition expressed at that time our policy position that the national broadcasters should not be restricted when engaging in multichannelling and that we would pursue implementation of that position as soon as the opportunity arose. This bill afforded us that opportunity. Allowing the ABC to engage in unrestricted multichannelling was achieved by repealing provisions in section 5A of schedule 4 to the BSA that contained those restrictions. The opposition moved those amendments because we were concerned to see that the ABC and SBS were not restricted in the multichannelling services they chose to offer.

The failure of Australians to embrace digital television means that the removal of the restrictions on the national broadcasters’ ability to engage in multichannel digital programming is critical as this could be a significant driver in the take-up of digital technology. Multichannelling by the national broadcasters is an important step, and it is not appropriate for this amendment permitting unrestricted multichannelling to be removed from the original bill. The rationale for the government’s ongoing opposition to removing restrictions on multichannelling by the national broadcasters is not easily ascertained. The opposition wishes to note once again that the commercial stations do not oppose multichannelling by the ABC and SBS within their charters, which is not commercial. The opposition believes that multichannelling complements the charters of the national broadcasters and sees no valid justification for denying the national broadcasters the ability to multichannel in an unrestricted way within the constraints of their charters. This is particularly so when those arguments are balanced against the benefits.

The opposition made its policy clear during the debates on the digital television bill last year. I quote my remarks at that time:

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

I stated during the debate that we would have preferred to have remained with the carte blanche approach in the original amendment to the bill. Bearing in mind the importance of the enactment of that legislation to the industry generally, the opposition supported the passage of the government’s amendments. We did maintain our policy position that the national broadcasters should be able to multichannel in an unencumbered fashion, even though the national broadcasters indicated that those limited exceptions would not prevent either from engaging in the content and programming they planned.

It is appropriate, given this opportunity to reflect upon last year’s legislation, that we seek to implement our continuing view that the national broadcasters should not be restricted in the content they are permitted to multichannel within the confines of their charters. Removing the amendment from this bill which allowed the national broadcasters to multichannel was a move by the government to further delay consideration of the amendment and its implications. The new bill that has been created by removal of that amendment is listed for consideration in the Senate on 6 August 2001. So the Democrats have effectively acquiesced to the government’s desire to avoid this issue entirely by delaying it as long as possible. For that reason, and because we believe it is critical that the national broadcasters be able to engage in
unrestricted multichannelling as soon as possible, the opposition is seeking to put that amendment, allowing unrestricted multichannelling by the national broadcasters, back into the act.

Senator BOURNE (New South Wales) (5.24 p.m.)—It is actually cruel what the ALP does to Senator Bishop, making him give these speeches and then have to sit there and listen to me respond to them. I think it is quite mean. However, he is in that position and he is very brave about it. He is sitting there, and now I will respond to what he said. I will start by saying that Mr Smith gave a speech on this very matter last week, and much of it was pretty benign and other bits were some of the most offensive things I have ever read in my life. Those were the bits that applied to me. It would be unparliamentary of me to say that Mr Smith lied, so I will not do that. It is true to say, however, that when he represented my views and my actions, that was not an accurate representation; that was, in fact, an outrageous misrepresentation. While Senator Bishop has not gone as far as Mr Smith did, I believe that he has rather outrageously misrepresented my views as well, and probably will continue to do so because it is in the best interests of the Labor Party that he do that. However, I will put my own views.

I am coming to this with a little bit of difficulty because I have not seen the ALP’s amendments. I know that is not something that was intended by Senator Bishop. I am just going through the amendments, and I am sure Senator Bishop will correct me if I am wrong about them. One amendment would add to the end of the motion from the House of Representatives, which is now being moved here, that the Senate calls on the government to—

The CHAIRMAN—Senator, that amendment will be to the adoption of the committee report once we get out of committee. The amendment that will be dealt with while we are in committee is on sheet 2165.

Senator BOURNE—Thank you, Madam Chairman, I have that. In relation to the amendment we will deal with as we come out of committee, as far as I can see from having a quick look at it now, part (a) and part (d) are the two parts that were agreed to in the second reading amendment when the bill was before us last time. Part (b) is probably a reflection of the ALP’s amendment about advertising on ABC Online and relates to the ABC charter. Senator Bishop can tell me about that later.

Part (c) is about honouring a commitment that the ABC and SBS will not pay datacasting licence fees. That is also a reflection, as far as I can see, of one of the amendments which Senator Bishop put up last time which was lost because absolutely nobody was of the opinion that the ABC and SBS did have to pay datacasting licence fees. In fact, we had moved an amendment, the minister acknowledged it, the department agreed with and, when we contacted them, the commercial television stations all thought it was the case—and so did the ABC and SBS—that they would not pay datacasting licence fees anyway. If I have all that correctly, I cannot see why the Democrats would agree to it. We have already agreed to (a) and (d) and they have already gone through—they had been passed as part of the second reading amendment. We do not need to do it again.

I may not be correct about part (b)—I am sure Senator Bishop will correct me if I am not—but that is something I am going to move tomorrow in a private member’s bill. We have already dealt with part (c), so I do not see any reason to go back to that. We have already dealt with it several times—we dealt with it in the original bill, we dealt with it again when we came up to the amendments—and I really do not see any reason to deal with it again. It does not really bother me very much, but there is no reason for any of that.

In relation to the amendment we will deal with while we are in committee—and I may have this incorrectly because I do not have the original bill in front of me; I did not realise this was coming up so I did not think to bring it with me—I think the effect of this amendment would be just to reinstate the multichannelling provisions for ABC and SBS into the bill while taking away from the SBS the ability to put international news on their multichannel or second channel. I am
sure Senator Bishop will tell me if that is correct. If that is correct, there is a very significant problem with that, and it is exactly the same very significant problem that existed last time we dealt with this bill. Nothing has changed. The government’s attitude has not changed, as far as I know. I am sure Senator Patterson will tell me if it has, but I cannot imagine that it has.

The first time we dealt with this bill the government’s attitude was that they did not really care—sad to say—whether SBS got their international news broadcasting on their second channel. They were quite prepared for that piece of legislation to drop. It would never have gone anywhere if anything had been done to change it. In fact it is cruel to say that you are trying to advantage someone when you know for an absolute fact that you cannot do it this way—it cannot be done like this. If the opposition’s amendment goes through and the government’s opinion has not changed, and I cannot imagine that it has—I hope it has, that would be great, let’s go for it—absolutely nothing will happen and SBS will not be allowed to put international news on their second channel. You are not giving them anything extra; you are taking something away. We will have another opportunity to address this and to address advertising, but it is absolutely cruel to tell people that you are trying to help them when you are not, when that is not what is going on.

Just once more I will run through what happened last year with multichannelling because people may not understand—which is why this has come up again. Last year we had the bill before us, and it was a really important bill, and there was a great deal of power and influence and money at stake. If that bill had not gone through—and I think we were up to the second last day of sitting—a lot of very powerful and influential people would have been very upset. The government really wanted that bill to go through. Everybody knew that if there were small amendments to the bill that the government could live with then they would go through, and everybody knew that unrestricted multichannelling was one of those amendments. There is absolutely no question about that. If unrestricted multichannelling had been agreed to last year when that bill went through, when there was huge pressure on the government to put that bill through, the ABC and SBS would have had unrestricted multichannelling. It did not happen.

That amendment did not go through because the Labor Party decided to agree with the government that it should not go through. Anybody who knows how this place works knows that it could have gone through then. It did not because the Labor Party did not allow it to. I can tell you now—and I see that the minister is here—that the government’s attitude in relation to this bill was, in effect, to say, ‘If you try to make us do this now, the bill will just disappear and you will never see it again and, what is more, SBS will not get the international news on their second channel, which they desperately want.’ That may or may not still be the government’s attitude. If the government are now prepared to allow multichannelling on ABC and SBS—whacko!—I am right in it. You may recall that it was my amendment in the first place. It was exactly the same amendment as the one put up by Senator Bishop—and it was a bloody good amendment. It could have gone through. But, of course, it did not and we all know why.

Now today we have another amendment that the government are prepared to agree to. It is a small amendment but it is very important to the SBS. It is important that SBS be given the right to include international news on their second channel. It would be fabulous if the government intend to allow multichannelling at this point, but we all know that if the government do not intend to allow multichannelling at this point then it is not going to happen because it has to go through the House of Representatives. So it is cruel to do that to the SBS. It is just not fair. If the government want to allow multichannelling now and are prepared to allow this through, I will be the first person to jump through hoops of fire and I will be really happy. But if the government are not prepared to do that, if they are only prepared to give SBS the international news on their second channel—which SBS desperately want and which they will not get if Senator Bishop’s amendment goes through and the government are not
through and the government are not prepared to agree to it because it has to go through the House of Representatives as well, sadly—that would be very cruel.

It would be much better if there were one chamber in parliament and we were that chamber, but that is not the case; so we have to deal with that. If the government are not prepared to do that then I cannot see that we can agree with Senator Bishop’s amendment—we just cannot. Multichannelling will come up again, as he says, on 6 August and I hope that advertising and online will come up at the same time. But to be fair to SBS, if the Democrats have a choice now between giving SBS international news on their second channel and giving nobody anything—and be very sure there is a choice—then we are going to give SBS international news on their second channel, which is what they want.

I think it is incredibly rich of the opposition to keep saying that they really want unrestricted multichannelling. I am really pleased that they want it now, but I think it is an absolute tragedy for the ABC and SBS and for broadcasting in Australia that the opposition did not really want it last June. I think it is one of the biggest tragedies for broadcasting in Australia. The fact that they are now saying that they think it can happen is absolutely unbelievable. SBS are not stupid; they are not foolish. They know how the place works. They know that, unless the government have changed their mind, the simple choice is: either SBS get international news on their second channel or nobody gets anything. If that is the choice—and I still believe that it must be, and certainly I will take the minister’s advice on this—then I think the SBS should get something rather than nobody getting anything. And that is what would happen because we have to go through the House of Representatives. It is a sad fact, but it is the case.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (5.37 p.m.)—I do not know whether Senator Bourne is a football fan or not but she reads the run of play pretty well. She is quite right, but I think she also needs to understand the extent of the treachery that has been perpetrated today. We all know that the Labor Party is on a stunt a day but this really does take the cake. It is something that needs to be brought to the attention of the widest possible audience.

Some two or three weeks back, my chief of staff was in contact with the office of Mr Stephen Smith, the shadow minister, and asked whether there were any matters of concern about this issue when it came back to the Senate. We were informed that there would be the usual noises made, but otherwise there were no particular issues and it would go through in the normal way. My broadcasting adviser spoke to Senator Bishop’s office before question time today and was given a similar assurance. That is simply not good enough. No-one had any idea about this grubby little ambush. You know exactly what you are on about; Senator Bourne is absolutely correct. Your bona fides were tested a long time ago on this. You went into it with your eyes open—

The CHAIRMAN—Would you address the chair, please.

Senator ALSTON—Madam Chairman, in defence of the Labor Party’s position, they were entitled to proceed on the basis that the ABC itself said that it was content to work within that regime. I know Senator Bourne’s ambit claim is a lot higher than that, but the fact of the matter is that all the parties knew what they were doing last time around. This sort of feigned indignation or pretence at wanting to go a bit further is something that Senator Bourne quite rightly identified as transparent dishonesty.

I for one am very disappointed. My dealings to date with Senator Bishop have always been on the basis that he is pretty reliable and I know where he is coming from. But, Senator Bishop, all the advice I have had is that there was absolutely no way that any amendments were foreshadowed. Quite to the contrary, we were led to believe that there might be a bit of a discussion and people might want to make a few points, but beyond that there was nothing. We are now seeing simply yet another grandstanding opportunity, which is highly consistent, I know, with your party’s approach to life. You think that going out there and finding hooks on
which to hang political points is going to stand you in good stead down the track.

The CHAIRMAN—Minister, do not use the word ‘you’ because it actually refers to the chair.

Senator ALSTON—I understand that. I should not associate you with such a dishonourable approach.

The CHAIRMAN—Excuse me, do not reflect on the chair, either. It is the chair you are addressing, not the incumbent.

Senator ALSTON—I think the Australian public will well and truly understand what the Labor Party is on about here. They think that these sorts of stunts are a substitute for policy. The public do not think that; the public will know exactly what you are on about. It will not get you anywhere and, as Senator Bourne quite rightly says, all you will achieve is to effectively deprive SBS of the opportunity to carry international news on its second channel. If that is not your intention, then you are even more disingenuous than I thought, because you have known from the outset what the fate of this legislation would be. You have known exactly what would happen when it came back here. In fact, you know that the only reason that this matter is under consideration is that it was accidentally taken out at an earlier stage and then put back in in the Senate, where all bar one had been rejected, and they were defeated in the House. At the conclusion of Mr Smith’s comments, as can be read in Hansard, Mr Smith said, ‘This issue is not concluded. We are not finished, and when the matter returns to the Senate, Senator Bishop, my representative in that place, will move a similar set of amendments or motions.’ That was said in the House at the conclusion of the debate. No-one could have been under any illusion that the opposition was not going to pursue the matter when it came back into this chamber.

Secondly, in respect of the specific allegations made against me, Senator Alston’s adviser did ring me earlier this afternoon to advise me that the bill was likely to come on after 5 p.m. and asked me how long I thought the matter would go. I responded to her, ‘Probably no longer than 30 minutes.’ We did not have any other discussion at that time, or any other time, on amendments or motions or the progress of the bill. The only discussion I had with Senator Alston’s communications person when she rang me was that I indicated that the likely passage was going to be in the order of 30 minutes.

In terms of what we are discussing now, all the opposition is doing is opposing the motion moved by Senator Patterson. I put on the record my reason for us opposing their motion that came back from the House—identical reasons as foreshadowed by Mr Smith in that place in his contribution. I foreshadowed a further amendment, which I read out, that I would speak to when the adoption of the bill was moved. In respect of that, I can only offer the advice that an email was sent from the office of Mr Smith, under the authority of his adviser, Mr Banks, to the opposition adviser on legislative measures, Ms Rosemary Laing, at 7.07 this morning, Wednesday, 28 March. It said:

Rosemary, first can you please distribute the committee stage amendments distributed in Senator Bishop’s name at the time he rises to speak?

Senator Patterson—Oh!
Senator MARK BISHOP—If you don’t mind! So notice was given some seven or eight hours ago. We expected that to be concluded. If a mistake has occurred, that is the fault neither of the opposition nor of anyone else; it is simply a mistake. But notice was given. The email goes on to say:
Secondly, can you please draft an amendment to the motion that the report of the committee be adopted along the following lines?
As I read out, it was distributed as I spoke. So there has been no deliberate ambush at all. There was contact.
In summary, Mr Smith foreshadowed our position when the debate concluded in the House. Secondly, there was contact between Senator Alston’s adviser and me. The only matter discussed with her was the likely time limit of the debate—nothing else. Thirdly, we had foreshadowed near and far that we were going to oppose the motion when it came here and foreshadowed further motions. There has been no ambush. Senator Alston, to the extent that you allege it, you are simply, with due respect, incorrect.

Senator PATTERSON (Victoria—Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs and Parliamentary Secretary to the Minister for Foreign Affairs) (5.47 p.m.)—I was not meant to be involved in this debate. I came down to assist, as a parliamentary secretary, on the understanding that there would not be controversy in this bill. I came down to assist, as a parliamentary secretary, on the understanding that there would not be controversy in this bill. I came down to take it through for Senator Alston. I am appalled, frankly, at what has happened. Senator Bishop has got up here and dug a deep hole for himself, implicating one of the staff of the Senate—which I find appalling—who has done exactly what she was asked to do: circulate the amendments at the time that Senator Bishop spoke. That is entirely inappropriate. The amendments that we have before us are not the ones that were foreshadowed in Mr Smith’s speech in the House of Representatives; Senator Bourne has the speech there, and I suppose that she will speak on it. But the thing is that I came into this chamber on the understanding—

Senator Mark Bishop—They have been withdrawn on the advice of the Clerk.

Senator PATTERSON—You have had your say, Senator Bishop.

The CHAIRMAN—Order! Address the chair, everybody, and cease interjecting.

Senator PATTERSON—I came down here, in good faith, on the understanding that this bill would be debated with no problems. Senator Bourne came into the chamber without the bill because she came in on the same understanding. We needed to check that the amendment being circulated was the one that had been circulated before—you cannot just assume that, especially with the Labor Party—and that is not the way business ought to be done here. The way business is done is that there is good faith. Amendments are shown to various members of the Senate—and I am sure there would be other people here who have an interest in this debate and who will not have seen the amendments—and we normally would give the clerks or the deputy clerks the amendments and ask for them to be circulated as soon as possible.

For you to get up here and say they were circulated far and wide because, in an email at 7.07 this morning, the deputy clerk was asked to circulate them when you were speaking, condemns you and supports Senator Alston’s claim that it is a grubby little attempt to get a bit of a headline again today that you are trying to do something and the government again is opposing you. Senator Bishop, that might not necessarily be a reflection on you; it might be a reflection on your shadow minister. But I would ask you to ask him to lift his game to enable the work of this Senate to proceed in a more orderly manner—in the manner which we usually observe in this place: some courtesy in circulating amendments to people.

The CHAIRMAN—The question before the chair is that the Senate agrees to the amendment made by the House of Representatives.

Senator MARK BISHOP (Western Australia) (5.50 p.m.)—And that is all that is before the chair: the government moving the motion as outlined, the opposition opposing it and speaking to it. There are no amendments. None have been circulated, none have
been foreshadowed. A motion is foreshadowed later on. That is a different thing from an amendment.

The CHAIRMAN—No, Senator Bishop. I am sitting here with a sheet.

Senator MARK BISHOP—They have been withdrawn.

The CHAIRMAN—You are not going to move those?

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (5.50 p.m.)—Is Senator Bishop saying that the amendments which were circulated—in accordance with the instructions to Rosemary Laing—at the time that he rose to speak have now been withdrawn?

The CHAIRMAN—No, Minister. We cannot even contemplate them being moved unless the motion to agree with the amendment of the House of Representatives is defeated. They are replacements to that. If the motion moved by Senator Patterson is agreed to, then these do not get moved. So they are foreshadowed possible amendments. The question before the chair is that the Senate agree to the amendment made by the House of Representatives.

Senator ALSTON—I would like to try to tidy the matter up to some extent. From what Senator Bishop is saying—and I have not checked the Hansard record of the House of Representatives; I take what he says at face value—

Senator Bourne—I’ve got it here.

Senator ALSTON—Perhaps Senator Bourne can tell me whether Mr Smith actually foreshadowed that these amendments would be moved in the Senate, at least in the form that now is being indicated—if this motion were lost, they would be moved. I can say that the advice from my chief of staff is that his discussions with Mr Smith’s office were along the lines that the amendments would be moved in the House of Representatives and left there and there would be no attempt to similarly move them again in the Senate. If that is right, that is not what you were saying earlier. You said Mr Smith foreshadowed that they would be moved in the Senate.

Senator Mark Bishop interjecting—

Senator ALSTON—I took you to be saying the amendments. The reason we are complaining in the way that we are is that at no stage was it indicated to us that amendments would be on the table—right? Whether they are technically before the chair or whether they are merely foreshadowed in the event that the current motion is defeated, the fact is that the discussion you had with my broadcasting adviser again gave no indication that these amendments were in any shape or form going to come before the Senate. So, when we arrive here and find that they are, we are taken by surprise and we regard that as a further continuation of the little charade that is being played.

It is quite clear that what you are saying is that you did not expect this current motion to be defeated and therefore you are simply waving the proposed amendments around to somehow demonstrate what you would like to have done if you were able to do it—all of which, of course, is a game that Senator Bourne can see right through. I am simply saying to you that there was never any indication given to us until we arrived in the chamber that there was any intention on your part, in the event that this motion was defeated, to then move those further amendments. That is why Senator Patterson was deputed to come down here: all she thought she had to deal with was the current motion. She discovers that, if this motion is lost—and who knows? If you are foreshadowing some amendments, then you put Senator Bourne in a position where she might say, ‘Well, okay, I will defeat this motion because I want to consider your amendments,’ in which case you have completely opened up a whole new debate, which is utterly contrary to the advice and indications provided to my office on two separate occasions.

The CHAIRMAN—The question is that the Senate agrees to the amendment made by the House of Representatives.

Question resolved in the affirmative.

Resolution reported.

Adoption of Report

Motion (by Senator Alston) proposed:

That the report from the committee be adopted.
Senator MARK BISHOP (Western Australia) (5.55 p.m.)—Is now the appropriate time to move the motion that has been circulated on sheet 2179, which is the only motion or amendment that I have been intending to move all afternoon?

Senator Patterson—Why did you circulate the other ones?

Senator MARK BISHOP—I thought they had been withdrawn, because the clerks advised us that we could not move them. Anyway, I move:

(1) At the end of the motion, add:

“but the Senate calls on the Government to:

(a) suspend the auction of datacasting spectrum until the Parliament has adopted a less restrictive datacasting regime, a process that could still allow the datacasting spectrum auction to be completed this financial year;

(b) extend the application of the Australian Broadcasting Corporation Act 1983 and the ABC Charter to the ABC’s on-line and datacasting services;

(c) honour its commitment that the ABC and the SBS will not pay datacasting licensing fees; and

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

Speaking firstly to paragraph (a) of the amendment to the motion that the report of the committee be adopted, the opposition is seeking the Senate’s support for this motion calling on the government to suspend the auction of datacasting spectrum until a less restrictive datacasting regime is in place, because substantial changes are necessary to ensure that Australia has a workable datacasting regime. We argue that creating a viable framework for the datacasting industry will make the datacasting spectrum considerably more valuable to potential datacasters than is presently the case.

The poor response from industry to the present datacasting auction reflects the lack of interest that the government’s regime has inspired. Neither of the participants—NTL and Telstra—are content providers, and clearly there will be few benefits to consumers should the regime remain as it is. Melbourne, Sydney and Perth are the only centres where a competitive bid is possible, and the amount to be obtained from the datacasting spectrum may have a material effect on the budget, and there is a need for the government to delay the auction beyond this financial year. We argue that there is no good reason why the auction can cannot be delayed until later this financial year, and this action is appropriate in light of the dire need for parliamentary review and the removal of restrictions on the datacasting regime.

Turning to paragraph (b) of the motion, extending the application of the ABC Act and charter to the ABC’s online and datacasting services, we again assert that the ABC’s role in the digital environment needs to be clarified and extended, and this is best and appropriately done by legislation. We believe that the ABC Act and charter, if necessary, need to be extended to the activities that the ABC conducts online in its digital environment or when it moves to datacasting. The enabling act and the charter of the Australian Broadcasting Corporation require amendment and updating, consistent with technological advancements. The opposition believes that the ABC’s role in online services needs to be incorporated into the act, as was reflected in an earlier report tabled today in the Senate. Public concerns that future commercialisation or even privatisation of these ABC services is being contemplated and is possible under the existing legislation need to be addressed and headed off. The opposition is of the view that we must ensure that commercialisation or privatisation of these important and expanding aspects of the ABC’s operations does not happen.

We believe that concerns about the future of the ABC are not unfounded. Last year there was considerable public concern at a proposed commercial arrangement between Telstra and ABC Online, which resulted in the Senate committee inquiry which gave its final report today. Concerns have arisen and continue to arise because these activities are not incorporated in and protected by the ABC Act and charter. Our primary concern is
the potential detrimental impact of commercial arrangements on the ABC and its future independence and integrity—and this is particularly worrying in the context of ongoing funding cuts to the ABC by this government. Advertising on new digital or online platforms, including the ABC’s web site, would be prohibited by bringing these activities of the ABC within its act. This would be consistent with restrictions to the ABC’s domestic radio and television services. The opposition is of the view that we need to ensure the future independence of the ABC from commercial influences and interests.

Paragraph (c) of our amendment goes to honouring the commitment that the ABC and the SBS will not pay datacasting licence fees. We note for the record that Senator Alston made an undertaking that the ABC and the SBS will not have to pay these datacasting fees. The opposition believes that the ABC and the SBS should not have to pay these datacasting fees. I think the Democrats have taken the same position, so there is a virtually unanimous perspective on that issue. I restate the position we had last time: we believe that, since the government has made that commitment, it is appropriate to enshrine it in legislation so that future governments or future ministers, on a whim of the day or because of a need to raise budgetary funds, are not able to go back on that commitment given by Senator Alston, the minister of the government of the day.

Finally, paragraph (d) refers to rectifying the government’s failure to adequately resource the ABC to effect the national broadcaster’s transition to the digital world. The opposition asserts that the government has failed to adequately resource the ABC in its passage to the new digital environment. Parliament mandated the ABC’s conversion to digital broadcasting by the end of 2000. As we all know from numerous debates, this was a costly project to mandate. Last year, parliament acknowledged the importance of digital broadcasting to the ABC by authorising it to utilise multichannelling capabilities in the new digital environment when digital transmission began this year.

The government has failed the ABC by dereliction of its duty to resource the broadcaster for this critical role. The ABC has had to draw on limited funds made available by government to fulfil additional and emerging demands. The government has not adequately resourced the ABC for these additional activities, and the inevitable consequence, as we know from numerous debates and discussions at Senate estimates, has been cuts to expenditure in a whole range of other areas and activities of the ABC. The opposition is firmly of the view that the government has a responsibility to ensure that the ABC is adequately resourced to fulfil its statutory duties. Therefore, this amendment to the motion that the report of the committee be adopted calls on the government to attend to those four matters outlined in paragraphs (a) to (d).

Senator BOURNE (New South Wales) (6.02 p.m.)—I am sure that Senator Bishop will tell me if I have this incorrect, but it appears to me now that paragraph (b) of his motion requests that the government—which, of course, the opposition cannot do just with an amendment to the motion that the report of the committee be adopted—at some future time make a general extension of the ABC Act to include online and datacasting services under the charter and in other places in the act. If I have that correct—and Senator Bishop is nodding, so I assume I do—I do not disagree with that. I agree with that, I think that should happen. We have already agreed to paragraphs (a) and (d). I must say, just as an aside, that I have Mr Smith’s speech here with me by accident. I would like to congratulate Senator Bishop for being so much more polite about me in his amendment than Mr Smith was. I think this is a real step forward, and he is far more likely to have me agree with the amendment than Mr Smith’s original. So I would like to congratulate him on that.

We have agreed to (a) and we have agreed to (d). I do agree with (b). I still do not see a reason for paragraph (c). While I am inclined to agree with the amendment as a whole, I do not want to be misrepresented. I am sure Senator Bishop would not do that; however, I have found that one of his colleagues in the House of Representatives is a bit of a master of misrepresentation of my views, particu-
larly on the ABC. I guess whatever I do on this I will be misrepresented, so I might as well agree with it and be misrepresented agreeing with it than misrepresented not agreeing with it. In fact, I have often thought that if I were lecturing at university on misrepresentation of views, I would use Mr Smith’s press releases as templates for how best to do it. They are really interesting. If anybody would like some enlightenment on that, please give me a call and I can send you some really interesting faxes.

Meanwhile, back to the motion: I am inclined to agree with this amendment, except for paragraph (c). I do not wish to be misrepresented, so I will make my view very clear here and now. I do not believe that there is any need for paragraph (c). The government has told us on many occasions that it intends to honour that commitment, and I do believe it does. Everybody else thinks there is no problem at all, including the commercial networks, both national broadcasters, the department, the minister, everybody. I do not see any problem in leaving it in, but I do not want it to be construed as my believing that there is a problem. I do not; I absolutely do not. I believe that the minister is perfectly honourable on this and that he will not charge datacasting licensing fees. The point that has been made by Senator Bishop is that, at some time in the future, a future minister could charge datacasting licensing fees because it is not in the act. I do take the point that the minister and possibly the government can change at the end of the year. No, I do not think I will say it, but it could become the case in the future that any future minister could have a bit of an apoplexy and charge datacasting licensing fees. I do not think that would happen. Also I think if it were challenged in any court, it has been perfectly clear from everybody’s speeches in this place that it is not going to. But I do not see any problem in leaving it in as long as I am not misrepresented. I can assure you that if I am, I will get up and tell you about it in the chamber, Senator Bishop, but I am sure you will not do that. As a result of that, the Democrats are inclined to agree with the amendment.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (6.07 p.m.)—I simply say: once again, further grandstanding. Paragraph (a) is effectively a call on us to suspend a process which the Labor Party themselves supported only some eight months ago. Paragraph (b) is yet another example of their willingness to intervene to effectively legislate to allow them to unilaterally change the charter, and we know they have prior convictions on this front. You only have to ask Mr Brian Johns, who put out that press release rebuking Mr Smith, about that. Senator Bourne has my profound sympathy.

The only saving grace is that the media are very much alive to this. There is some guy called Simon Banks who seems to churn them out, and I would be surprised if Mr Smith does much more than pay lip-service to them anyway. He is responsible, because they go out in his name, but the media see them for what they are. I think it is just an attempt to make up for quality by providing quantity. It may also be, as I was being told last year, that there was a lot of concern in caucus about the high level of inactivity, and so maybe this is catch-up and Mr Smith feels that perhaps he had better be seen to be working, otherwise he might not be lucky to get a decent portfolio if anything fell their way.

With regard to part (c), Senator Bourne is right but not quite right enough, because even Mr Smith, if he were a minister, could not unilaterally impose datacasting fees. The act precludes it, and we have legal advice that there is no doubt about that at all. So, again, it is just another grandstanding exercise. As for part (d), my understanding is that the ABC itself does not complain that it has been short-changed on funds available for transition to the digital world. So I really do not know what they are on about here.

I suspect what they are really on about is the usual hypocrisy: when they were in government they shaved the ABC year after year, played very hard ball with them, gave them no encouragement at all, and now they have the opportunity to pretend that somehow they are on their side. We have seen a few examples of this in recent times, with
people organising public meetings to say, ‘We support the ABC.’ They are not prepared to give any commitments of course, not prepared to tell them what they really do when it comes to intimidating ABC journalists and really belting up big-time on those they disagree with.

Senator Bishop is up to his eyeballs in this. He has been putting questions on notice and trying to send not very subtle messages to ABC journalists that, ‘We’ll get you in due course, China.’ That is the clear intent. Why on earth would you want to know chapter and verse about the odometer readings and everything else of cars that might have gone on some expedition for a reconstruction filming out of the 7.30 Report in Brisbane? All this is designed to put the weights on and to let them know that this is not acceptable to any incoming ALP administration. It is pretty transparent stuff and, again, the media understand what the ALP is on about. But the reality is that the ABC itself does not complain about the funding made available for the digital conversion process. So there we are. There is no reason to support any of this.

Amendment agreed to.
Motion, as amended, agreed to.

APPROPRIATION (PARLIAMENTARY DEPARTMENTS) BILL (No. 2) 2000-2001
APPROPRIATION BILL (No. 3) 2000-2001
APPROPRIATION BILL (No. 4) 2000-2001

Second Reading

Debate resumed from 26 March, on motion by Senator Ian Campbell:

That these bills be now read a second time.

Senator BARTLETT (Queensland) (6.11 p.m.)—It is my honour to lead off debate on the range of appropriation bills before us in the chamber—Appropriation Bill (No. 3) and Appropriation Bill (No. 4) and Appropriation (Parliamentary Departments) Bill (No. 2)—all of which contain a range of appropriations, not surprisingly, for a whole lot of important areas. I would like to address a couple of particular interest to the Democrats, not surprisingly focusing on environmental issues in particular, which is of course a longstanding and comprehensive concern of the Democrats from our party’s inception over 23 years ago. I would imagine that there would barely be an appropriation speech made in this chamber by a Democrat that has not mentioned environmental issues.

It actually follows on a bit from a debate we were having in this chamber earlier today in relation to forestry issues and, to some extent, specifically Tasmanian forestry issues. That debate earlier today related to tax legislation, an area which can also link to appropriations. But it specifically talked about funding provided in particular circumstances under one of the regional forest agreements in force for preserving areas of forest under private ownership as part of a conservation covenant. As part of debating that issue, there were further things that were raised that I chose not to go into at the time, in the interests of time, but it is appropriate to expand a little further here this evening.

There is a lot of concern in Tasmania at the moment in relation to forests, as there has been for quite a period of time, specifically relating to the establishment of eucalypt plantations. One issue concerns the clearing of native forests specifically for the purpose of then replanting plantations, and the other is the sale of agricultural land also for the establishment of plantations. The issue of conversion of agricultural land to plantation is the most politically sensitive at the moment because it is having a social impact, particularly in rural communities that have previously been built around agriculture and dairy farms. The issue of the environmental impact of converting native forest to plantation is probably more significant in an environmental sense, even if less immediately sensitive politically. It is an interesting dilemma, given that many in the conservation movement have advocated a shift away from native forest logging—quite sensibly—towards plantation timber. Certainly, putting plantations onto particularly degraded agricultural land or non-productive agricultural land is one way of meeting the demand for
wood products whilst trying to minimise some of the environmental impacts that occur.

Forest companies have spent more than $70 million in the past three years on buying up Tasmanian farms, bushland and infrastructure, with 30,000 hectares of plantations being established. Forest Enterprises of Australia and Gunns are the two largest companies involved, with Forestry Tasmania also contributing up to $13 million. That does not include the plantation establishment program of North Forest Products on its large existing private landholdings.

There are several issues relating to the buy-up of agricultural land for plantation establishment: the potential loss of high quality agricultural land; the loss of population in small communities where properties are sold, making communities non-viable; the concerns of milk processors if too many dairy farms go under plantations; the loss of visual amenity with the change from agricultural pastoral vistas to forest vistas; and also concerns about pesticide pollution of water supplies—all of which have potential environmental, social and economic implications. In the north-west in particular, there are communities where most of the farms have been bought up, leaving the few remaining farms isolated, and that has led to the disappearance of a few traditional communities.

There are quite genuine concerns in relation to the impact of herbicides such as atrazine and insecticides used in the establishment of plantations getting into streams and water supplies. There was a report in December last year in the Hobart Mercury regarding concerns of local groups about the impact on water supplies of a Forestry Tasmania plantation establishment in Diddledum Plains in the north-east. That concern is not just in terms of the impact it has on drinking water but also on organic farmers in the vicinity. If their water becomes contaminated, then their organic certificates are also put at risk. That is obviously of great concern to those individual farmers. It is also a concern in terms of the harm it may do to what is potentially an extremely high value added, beneficial industry not just for Tasmania but for many other parts of the country as well. There is also concern about genetically modified crops and fears of contamination by GM crops of areas that are trying to ensure they are seen as organic. The ‘clean green’ term and label is used a lot, but for it to have meaning and value it needs to be very preciously and jealously guarded. Contamination, whether from GM crops or from pesticides or other activities, needs to be prevented at all costs. It is a matter not just of environmental consequences or human health consequences but of straightforward dollar value—and a high dollar value from the value added aspect of organic crops is becoming more and more apparent.

The impact of the spread of plantations on former agricultural land, particularly such large numbers in a small space of time, is clearly a significant issue in parts of Tasmania and presents some special challenges. It shows again that what seem to be straightforward solutions—getting out of native forests and into plantations—are not always as straightforward as it would seem. Nonetheless, the impact on biodiversity of continuing widespread logging in native forests should not be underestimated or dismissed and the Democrats, as we have for many, many years, will continue to oppose ongoing logging in native forests and encourage constructive, environmentally appropriate and socially beneficial alternatives.

I noted towards the end of last year reports that one of the remaining Tasmanian Green MPs, Peg Putt, was putting forward as an alternative selective logging of specialty timbers in special zones that had already been disturbed by logging. It sounded like proposals put forward by former Tasmanian Democrat senator Robert Bell which, whilst not necessarily 100 per cent ideal, were the best option in the circumstances, given some of the other alternatives that were being put forward. The alternative of a major woodchip and veneer project proposed for the Huon Valley has caused a lot of concern, and many people are looking for alternatives to that. Selective logging is one approach, and is certainly different from the present practices of clear-felling and burning which should continue to be opposed. Selective
logging for specialty, high value added timber has been put forward by the Tasmanian Green state MP, as it had been previously by Tasmanian Democrats, as one way forward in relation to that issue.

I would also like to mention concerns in relation to major breaches of the forest practices code by Forestry Tasmania on the slopes of Mount Arthur in north-eastern Tasmania. This issue has been raised by Senator Lees in this chamber recently. She called for all forestry operations in a particular logging coupe on the slopes of Mount Arthur to be halted immediately because of concerns in relation to breaches of the forest practices code. Those sorts of breaches cause lots of concerns for the general community. Even those who are more supportive of continued logging than parties such as the Democrats recognise that logging has to be done to strict standards, that there has to be clear, scientifically backed evidence to ensure that minimal environmental damage is done, and that when codes are breached action should be taken. For many people, even those who are more comfortable with logging than many environmentalists are, it is as much part of the problem that the immediate short-term economic pressures tend to come first and scientific evidence of environmental impact, scientific evidence of long-term consequences and detrimental impacts on sustainability all tend to get ignored. Indeed, even immediate environmental impacts tend to get ignored. The breaches of codes tend to get ignored because of short-term interests.

The specific breaches that have been raised as potentially occurring in this case include: an inadequate hydrological survey, with streams in the coupe remaining unidentified and therefore being significantly damaged by the logging operations; insufficient buffer zones in the side stream reserves where waterways have been identified; inadequate construction of the Mount Arthur Road, leading to an increased likelihood of siltation problems in waterways; extensive logging being undertaken without sufficient data and study, despite the fact that species such as the threatened crayfish are present in the coupe; contamination of the water table with chemicals and fertilisers; the fact that there are no machinery exclusion zones in the variation area in the logging coupe; and general concerns that, given the steep slopes and the difficult nature of the terrain, the whole area should never have been initially approved for logging by Forestry Tasmania. In addition—as I have already touched on in my contribution—plantations reduce the amount of water released in the catchment. What impact will this have on the water supply for people downstream? These are very serious concerns about potentially very serious impacts.

This is relevant because there are significant amounts of taxpayers’ money going into subsidising these operations and enabling them to continue. Yet here we have an instance of circumstances where it turns out that taxpayers’ money is being provided to enable environmental destruction to occur. Indeed, there is a risk not just of environmental destruction but of the degradation of the water supply for many thousands of people downstream, and there is a potential impact on the viability of other surrounding communities and farms as a consequence.

They are very serious issues that show the continued inappropriate nature of much of the forestry industry in Tasmania. It is of concern to the Democrats how regional forest agreements in many other parts of the country are managed and what other impacts there may well be, particularly issues such as water consequences. That is certainly a concern for the Democrats in some of the Victorian forestry operations, for example.

It highlights again why it is a particular disgrace that the federal government has not signed off on and provided support and recognition for the Queensland forest agreement, probably one of the few environmentally positive achievements of the Queensland Labor government. This is a forestry agreement that was recognised as positive by loggers and conservationists alike; in fact, it was recognised as positive by virtually everybody except the federal government. This is a real disgrace. The government is giving continued taxpayer funded support for poor regional forest agreements but no assistance for the one that is recognised as probably the best agreement yet in Australia.
The other concern the Democrats have in relation to the Tasmanian Regional Forest Agreement is that there is nothing there that prevents native forests being cleared specifically to put hardwood plantations back on top of that land. The conversion of native forest to plantation has been an issue for many years and North Forest Products has converted significant areas of rainforest and mixed forest on its private land in the northwest—thousands of hectares of eucalyptus plantations south of Burnie and 126,000 hectares of freehold land in 1999. They are establishing over 5,500 hectares of eucalyptus species annually. They are not the only company to clear native forest to establish plantations, which is a ridiculous practice. It has a significant environmental impact that is not prevented by the very poor forest agreement that was agreed to by the Labor Party in Tasmania and the federal coalition government.

Briefly, I would also like to mention a couple of other issues. Firstly, I note the achievements of not just Russell Crowe, who got significant media attention—he seemed happy to declare himself an Australian rather than a New Zealander on that occasion, so we may as well do the same—but also those other Australians involved in the film and arts area more generally, whose contributions, some of which were recognised with nominations, have contributed to the success of the film and arts industry over the last 12 months.

The single triumphs of people like Russell Crowe can disguise the immense contribution that other people make in the artistic and film areas in general, and indeed the contribution they have made to the success of people such as Russell Crowe, who acted in a number of Australian movies over many years prior to his recent crowning achievement. All of that would not have been possible without the contribution of people to the movie and arts industries not just in Australia but globally—and without a proper recognition of the value of that. The Democrats certainly acknowledge the valuable role of the cinematic, film and arts communities more generally in Australia’s economy—as well as in our society—and the development and ongoing enhancement of the community by the cultural contributions of those people. I would also like to encourage, as part of that, a greater recognition through government assistance and support, recognising the valuable cultural and economic contribution that such people make.

Having mentioned the Oscars—which got all the attention the other night—I should also mention the slightly less renowned so-called science versions of the Oscars and the reports that a number of Australian scientists were recognised with citations for excellence in scientific research.

It is important to note the contributions that scientists make not just to the Australian economy but to the world economy and world research and knowledge in a whole range of areas. This is an issue that my colleague Senator Stott Despoja has spoken about many times on behalf of the Democrats as needing greater recognition and greater support economically from government assistance, tax incentives and structurally as part as our business, industry and education operations in Australia. We can and must do much more. These results in the so-called science Oscars show that the talent, the will and the ability are there, but it is quite clear from many in the scientific community that more needs to be done to foster that contribution to knowledge, to human advancement, to human health, to our economy and—to bring it back to where I started from—particularly to environmental issues.

The role of science in identifying, addressing and preventing environmental problems is incalculable, and we really need greater support from government of organisations such as the CSIRO because of the contribution they make to a more informed environmental debate, better solutions and better ways forward for minimising the environmental impacts of human and other activity on the planet. A lot more still needs to be done, and the Democrats very much encourage this. Whilst we congratulate those involved in scientific endeavour, particularly those who have had their work recognised, we urge much greater action from government and from other parts of the community to increase support for scientific endeavour,
particularly as it relates to environmental issues, to ensure that we can better address some of these crucial matters in the current situation and for future generations.

Debate (on motion by Senator Heffernan) adjourned.

PHARMACEUTICAL BENEFITS ADVISORY COMMITTEE

Return to Order

Senator HEFFERNAN (New South Wales—Parliamentary Secretary to Cabinet) (6.33 p.m.)—by leave—On 26 February this year, the Senate passed a return to order motion seeking the tabling, by no later than 4 p.m. on 27 March 2001, of documents relating to:

- The listing of the drugs celecoxib (Celebrex) and rofecoxib (Vioxx) on the Pharmaceutical Benefits Scheme; and
- The appointment of the new Pharmaceutical Benefits Advisory Committee.

Yesterday in the chamber a letter was tabled from the Minister for Health and Aged Care advising that, because of the need to consult with the third parties who originated a large number of these documents, a final response to the motion was not available at that time.

I have now been advised that the processes of consultation in respect of the pharmaceuticals were completed today, and I am pleased to table the documents requested by the motion in relation to Celebrex and Vioxx. The remaining documents relating to the Pharmaceutical Benefits Advisory Committee will be tabled tomorrow, as the material is still being collated. Honourable senators should note that the only documents that are not being released in part or in full are: those that are cabinet-in-confidence; those that are genuinely commercially sensitive; personal information such as the private addresses and contact details of individuals; and information forming part of the deliberative processes of the government, the release of which would be contrary to the public interest. If I could make a comment about this material, which comprises two volumes and scores of documents, I would say that it shows, above all, one important thing: the rigour and the independence with which the PBAC conducted the processes around the listing of Vioxx and Celebrex on the PBS.

APPROPRIATION (PARLIAMENTARY DEPARTMENTS) BILL (No. 2) 2000-2001

APPROPRIATION BILL (No. 3) 2000-2001

APPROPRIATION BILL (No. 4) 2000-2001

Second Reading

Debate resumed.

Senator HUTCHINS (New South Wales) (6.35 p.m.)—I rise this evening to speak on these three bills, the Appropriation Bill (No. 3) 2000-2001, the Appropriation Bill (No. 4) 2000-2001 and the Appropriation (Parliamentary Departments) Bill (No. 2) 2000-2001. I want to particularly refer to the $223 million that has been set aside in the Appropriation Bill (No. 3) 2000-2001 for the Health and Aged Care portfolio.

According to recently made portfolio estimates statements, only $31 million of this amount is actually being set aside for aged care. This shows that the government is once again ignoring the needs of elderly Australians. Although I welcome many of the funding measures in this bill, I feel that the government should be paying more attention to Australia’s ageing population. The amount the bill sets aside for the Health and Aged Care portfolio is roughly equal to the amount set aside to provide extra funding to the Australian Taxation Office. According to Senator Ian Campbell’s second reading speech, $183 million of the extra $202 million set aside in the bill to go to the Australian Taxation Office is ‘to cover the increased cost of administering the GST’.

After all the millions of dollars the government has already spent on the goods and services tax administration and advertising, we are now being told that they will require an extra $183 million. I wonder if any of this extra $183 million is going towards implementing the BAS backflips recently announced by the government. Is this $183 million of taxpayers’ money going to be spent on fixing a mistake that should not have happened in the first place?
We have all heard repeatedly in this chamber how the coalition turned its back on one of its key groups of traditional supporters: the small business sector. We have all heard horror stories—here and in the media—of how this government left honest, hard-working small business operators and owners out in the cold. We all know how they brought in this tax and then expected small business owners and operators around the country to collect it for them—these people who came out at every election and loyally voted for the conservatives every time. And how were they repaid by their party? Their leader, their Prime Minister, John Howard, repaid them by making them unpaid tax collectors. They were made to spend their summer holidays, their evenings and their weekends doing endless pages of bookwork as part of the government’s business activity statement. And then finally, after months of businesses going bust and belly up, lives being destroyed and families suffering lost time together, the government decide to backflip and make the BAS simpler—after they repeatedly told us that it could not be done.

What convinced them to listen to what Labor and small business had been saying and to help them ease the burden? Was it the government listening to the calls from small business to lighten the load? Or was it them hearing the sound of the economy starting to groan under the pressure of all these businesses going bust? No, it was the tremendous defeats the coalition suffered in Western Australia and Queensland and as a result of the government seeing the writing on the wall as to what was going to happen to them after what happened in Ryan. Perhaps if the government had listened to our concerns about the effects of the GST compliance on small business early on, and not waited to suffer the humiliation and defeat at the ballot box that they have suffered at every contest lately, then they would not need to spend all this extra money on goods and services tax administration.

The government seem willing to throw around this sort of money to fix their GST mistakes. But, as I mentioned earlier, when it comes to fixing the damage they have inflicted on older Australians all they can come up with is a meagre $31 million. And they have inflicted a tremendous amount of damage on this group of people, particularly with regard to the way they have treated old age pensioners and the way they have handled their aged care responsibilities.

Just look at the way the government have clawed back two per cent of the four per cent GST compensation they gave to pensioners last July. After breaking their promise last year of a $1,000 savings bonus to compensate for the introduction of the GST, last week the government broke another promise on the four per cent pension increase. When pensions were automatically indexed on 20 March last week, the government took back two per cent of the four per cent compensation that was paid last July. The four per cent indexation increase that should have flowed on from inflation over the last six months had an amount of two per cent subtracted before it was paid.

Perhaps the government were hoping that, by clawing back part of the GST compensation at the time of the scheduled increase, old age pensioners would not notice. For a single pensioner the government now will claw back $7.90 per fortnight and for a couple on a combined pension they will claw back $13.20 a fortnight. You could imagine some of the government ministers spilling more at the bar than what they have just deprived old age pensioners of in this country.

In the federal electorate of Lindsay, which is held by the Minister for Sport and Tourism, Jackie Kelly, there are about 7,000 old age pensioners who have just had their pensions clawed back by this mean government. Last week, these 7,000 pensioners would have received a letter from the government explaining they were going to claw back two per cent of the pensioners’ indexed increases due that week. Considering this deceitful act impacted on so many people in her electorate, I was surprised to see that the member for Lindsay, Miss Jackie Kelly, had very little to say about the clawback.

I was surprised to find that a local member such as the member for Lindsay, who is known to boast a great deal in the local media about how well she represents her elec-
torate here in Canberra, was nowhere to be seen—the scarlet pimpernel of Lindsay. I would have thought that the member for Lindsay would either be trying to defend the government on this issue and advancing to the people of Lindsay why the government acted in the mean spirited way it did or be making sure that those 7,000 pensioners in her electorate, being robbed, had their voices heard in the public arena. But no, she disappeared again.

Instead, it was left to the Labor Mayor of Penrith, David Bradbury, to raise this issue on the same day he was officially endorsed as Labor’s candidate for the seat of Lindsay at the next federal election. I was delighted to see that Mr Bradbury’s first statement as Labor’s candidate for Lindsay was to speak out against the government on its ill treatment of elderly Australians. I would like to quote what Mayor Bradbury said last week outside the Kingswood Senior Citizens Centre, where he held a press conference in recognition of it being Seniors Week. He said:

This is a further reminder of the mean spiritedness of this government, to inflict the injustice of clawback during Senior’s Week, which should be a week celebrating the contribution made by seniors in our community. What this Government has done is send a clear message that it doesn’t care.

How diplomatic was the government in doing it in Seniors Week? What genius in the government dreamed that up? If anything could have been done to make sure there was maximum electoral impact on the mean spiritedness of this government, to do it in that week certainly takes the cake.

How diplomatic was the government in doing it in Seniors Week? What genius in the government dreamed that up? If anything could have been done to make sure there was maximum electoral impact on the mean spiritedness of this government, to do it in that week certainly takes the cake.

The government has sent a clear message to the people in the seat of Robertson that it doesn’t care. Around 15,000 old age pensioners living in the electorate of Robertson had two per cent of their pension increase clawed back by the government last week. Once again we found that the Liberal member for Robertson, Mr Jim Lloyd, another local member who boasts of his supposed commitment to his electorate, was missing in action. He was not prepared to justify to those 15,000 old age pensioners in the electorate of Robertson the mean spiritedness and tight-fistedness of this government. He was missing in action and has been missing in action a great deal of late.

I noticed that when these bills were read for the second time in the House of Representatives a few weeks ago around 70 different members from both sides of the House rose to speak, many of them outlining areas of expenditure in which they would like to see the government spending more money. I find it surprising that the member for Robertson, silent Jim Lloyd, who is so vocal in the central coast area about pressuring his government to spend money on things that are important to his constituents, did not say a word in that debate. Once again, he was missing in action.

One of the issues that the member for Robertson has been very vocal about locally has been the need to widen the F3 freeway. He even organised a petition on this last year. When these bills came before the House, the member for Robertson was presented with an opportunity to stand up in parliament and argue his electorate’s case. He had a chance to get up and argue to the government that they should be spending taxpayers’ money on widening the F3 freeway instead of whittling it away in the administration of the GST, but he remained silent. He again failed to speak up and represent his electorate. As I said, he is known locally as the silent member for Robertson and, after the next election, he will be the former member for Robertson.

I turn to another seat on the north coast of New South Wales represented by another member who has remained silent in this debate—the Hon. Mark Vaile, the member for Lyne. In Lyne, there are 18,000 old age pensioners. All of these 18,000 pensioners would have received their letter last week telling them that the government, of which their local member is a senior cabinet minister, was about to claw back two per cent of their pension. The federal electorate of Lyne on the New South Wales mid-north coast is home to more old age pensioners than any other electorate in Australia. Many of these people have worked hard all their lives and have chosen to spend their retirement away from the city in what is one of the most beautiful and pristine areas in Australia. But, like many retirees around the country, they
are finding that this government is not making it easy for them to enjoy the restful retirement they deserve after a lifetime of working and struggling. Not only are they having their pensions clawed back, but many of them are living in fear of what will happen to them or their spouses when they get to the stage in their lives when they require full-time care and assistance. At the moment the shortage of nursing home beds in the Lyne electorate—an electorate held by a senior cabinet minister—is such a problem that elderly bedridden patients who require full-time care in a nursing home are instead being kept in Manning Base Hospital in Taree.

The ACTING DEPUTY PRESIDENT (Senator Watson)—Order! It being 6.50 p.m., the time allotted for the consideration of government business orders of the day has expired. The Senate will proceed to the consideration of government documents.

DOCUMENTS

Discrimination on the Ground of Age

Senator COONEY (Victoria) (6.50 p.m.)—I move:
That the Senate take note of the document.
This is a report by Mr Chris Sidoti when he was still Human Rights Commissioner.

Senator Heffernan—Ooh!
Senator COONEY—I note that people are oohing him over there. I think that he was an outstanding human rights commissioner and he should be remembered well by this chamber. For him to be booed is not appropriate, I would have thought.

Senator Heffernan—I didn’t boo him; I oohed him.

Senator COONEY—Mr Sidotti said that, yes, there was a discrimination by Japan Travel Bureau against Ms Ishikuni and it was on the grounds of her age, and therefore it would be appropriate for the respondent, the Japan Travel Bureau Australia, to pay her a sum of money in recompense. To be fair to Japan Travel Bureau, they did that. I think it is appropriate for me to read out what Mr Sidoti said about that. He said:

JTB—
that is the Japan Travel Bureau—is to be congratulated on this. It is a model for other respondents, including the Commonwealth, that are often far less willing to accept the Commission’s recommendations. I regret only that the complainant and the respondent were unable to settle this matter through conciliation.

I hope that when Senator Ludwig speaks on the next government document to be debated he will tell you how appropriate that comment is that the Commonwealth is often far less willing to accept the commission’s recommendation than the Japan Travel Bureau was on this occasion.

What Mr Sidoti said on this occasion—and he had said it on other occasions when the issue of age was involved—was that if people are unable to do a job because of health or other reasons that are pertinent to their ability to work, then it is fair enough that they should not be able to continue to work; but to be dismissed simply on the grounds of age is wrong. I think it is absolutely essential that the community understand that and that they understand that people these days not only live longer—for a variety of reasons to do with health style and the excellent work of doctors—but also continue to have the ability to work. I suggest, Mr Acting Deputy President Watson, that people such as you and me have a great deal of wisdom. I know Senator Ludwig, for example, may have some legal brilliance and some great capacity to argue the law, but he lacks the full wisdom of people such as you and me. That is a factor to take into account in this debate.

Senator Tierney—What about Senator Forshaw?
Senator COONEY—Senator Forshaw is in the central position: he hasn’t fully got the wisdom yet, though he is getting close, but he has the great brilliance. The point I want to make is that age on its own should not be a bar to people working, that people should be able to start careers and exhibit their wisdom and ability in spite of their age. If, for other reasons, they are not able to work, then it is all right but not because of age only.

Debate (on motion by Senator Ludwig) adjourned.

Human Rights in an Immigration Detention Centre

Senator BARTLETT (Queensland) (6.56 p.m.)—I move:

That the Senate take note of the document.

Report No. 12 of the Human Rights and Equal Opportunity Commission goes specifically to practices in an immigration detention centre, in this case the Port Hedland Detention Centre. It is an important report because it highlights a fundamental problem with our overall approach to detention of asylum seekers in Australia and with the mandatory detention approach that is undertaken by this coalition government and that was introduced by the ALP when they were in government and, I understand, is still supported by the ALP. Yet what this report shows is that mandatory detention almost inevitably will lead to breaches of obligations under the International Covenant on Civil and Political Rights and breaches of human rights under Australia’s Human Rights and Equal Opportunity Commission Act.

This report details some specific complaints from two asylum seekers from China. It relates to occurrences that happened in 1996 and 1997. There are comments I could make about how long it takes for the process to go all the way through to being tabled in the Senate. Indeed, the date at the front of the report suggests that it was finalised on 28 November last year and, according to the dates on the red, it was not presented to the minister until 5 February. I do not know why it then took another two months for it to be presented to the Senate. The delays seem quite unnecessary and inexplicable. If that were the only concern, it would barely be worth noticing.

The real concern the Democrats have is that, once again, this report shows that administrative practices of the department, based on legislation and on government policy, are almost inevitably inconsistent with human rights, whether you are talking about our international obligations or our own obligations under Australian law. The finding of this report in relation to both these asylum seekers and their concerns is that the department did not adequately inform them of their right to legal advice. Unfortunately, that ability of the department not to inform people of their right to legal advice is now enshrined in law, supported by the ALP and the coalition. People are not required to be notified of their right to legal advice; they have to know the magic set of words and ask for it. The report also found that their requests for legal advice and for application forms were not handled in a timely fashion, which is important for anybody; but if you are an asylum seeker fleeing persecution, locked up in a detention centre under this country’s automatic mandatory detention regime, then not being timely in assisting with processing is much more important because you are denying people’s freedom the whole time that is occurring.

The detention was found to be arbitrary and without due cause or adequate reason. The fact that they were kept in separation detention in conditions which, in many respects, are identical to incommunicado detention for over three months is a clear breach of human rights. In many ways these instances are not as dramatic as some of the allegations in recent times about mistreatment, solitary confinement and sedation of asylum seekers. But they show the fundamental problem that occurs inevitably with the approach that Australia, in isolation, insists on taking with asylum seekers of compulsorily locking up every single one of them for the entire time that their claims are being assessed.
These are not just individual adult males but also women and children. I draw attention to the most recent newsletter from the Australian section of Defence for Children International, *Australian Childrens Rights News*, which highlighted the number of children in detention in Australia at the moment and the comments from people internationally. The international president of Defence for Children International expressed shock and dismay at the number of minors that are deprived of their liberty automatically under Australia’s immigration detention regime and says this has to be the last resort. The conditions are such that:

We can expect the children are suffering violation of their rights in more or less every mode of their lives. Deprivation of liberty has to be the last resort and in these cases could have been prevented.

That is clearly the case. This report is a challenge to the government and the ALP to rethink their position on mandatory detention, to take a more humane approach such as has applied in virtually every other industrialised nation in the world and not to compulsorily lock up men, women and children automatically when there are other options that can be applied.

Senator LUDWIG (Queensland) (7.01 p.m.)—I rise to speak tonight on the Report of an inquiry into a complaint of acts or practices inconsistent with or contrary to human rights in an immigration detention centre. Senator Bartlett spoke in broad terms about the actual circumstances. I wish to add to that and, hopefully, shed some light on how the immigration department seems to work.

We might go back a little earlier to the report *A sanctuary under review*, a 420-page document in which the Senate Legal and Constitutional References Committee examined the processes of Australia’s refugee and humanitarian determination processes and made a substantial number of recommendations in this area. Curiously, in the department’s type and style of response, a pattern seems to emerge in quite a disturbing way. Report No.12 by HREOC has also been similarly dealt with in that the reporting style of the department, to say the least, is curt and short and perhaps to the point, but sometimes misses the purpose of explaining the whole process. Similarly, in the reply that the department gave in respect of *A sanctuary under review*, the recommendation and government response were curt, short and perhaps a little on the blunt side. Particularly just in this area, recommendation 3.1 was:

That DIMA investigates the provision of videos or other appropriate media in relevant community languages, explaining the requirements of the Australian onshore refugee determination process. This material should be available to those in detention, and to IAAAS providers.

So already we see that the *A sanctuary under review* report also caught the issue that the HREOC commissioner had found—that the onshore protection process of being able to advise asylum seekers of their rights might be a bit short on. The government response, short as it was, simply stated:

DIMA already ensures that a range of information on the protection visa process is available.

I will not go any further. That is the sum of their response in truth. They simply say that it is there.

When you actually examine the HREOC report, a real difference emerges. The government’s response was very similar to the one just given there in chapter 3 in relation to recommendation 3.1. The government’s response to all of this provides:

Detainees should be informed promptly and effectively of their right to apply for a protection visa and to access independent legal advice.

They say:

As the Commissioner has noted under section 256 of the Immigration Act 1958, there is no onus on departmental officers to advise persons in detention of their right to obtain legal advice. The obligation to provide reasonable facilities for obtaining legal advice only arises once an officer has received a request.

It seems that you have to actually look them in the eye and ask for a request. If you do not do that, then you are not going to get the videos or information or anything else that might be available; you are not going to be told what your rights might otherwise be. That seems to be the department’s view of what the legislation, under 256, says. They say that is what it says and it is their inter-
pretation that affords them the right to curtly reply both to HREOC and to the committee. It is quite a disturbing process that they seem to put in train in relation to asylum seekers seeking onshore protection.

It is not the only criticism that has been levelled at them. Criticism has also been levelled from the Human Rights Committee, which issued a similar observation on onshore protection. I can put it briefly. They criticised as well the way our onshore protection or asylum seeking process works. What it really amounts to is that this department should take this report from HREOC as a wake-up call and not simply respond in the blunt way that it seems to have done on so many occasions before. The department should examine the report again to see what they really can do to ensure that the onshore protection processes that asylum seekers may wish to engage are fair and appropriate mechanisms that allow them to obtain legal assistance and their rights so that they can fill out appropriate forms and seek legal advice.

Senator COONEY (Victoria) (7.07 p.m.)—Just adding to what Senator Bartlett and Senator Ludwig have said, I talked earlier about the Human Rights and Equal Opportunity Commission’s resolution of the complaint by Ms Ishikuni that she had been discriminated against on the basis of age. The commission found that it would be appropriate that the employer, the JTB—the Japan Travel Bureau Australia—should pay $43,385, less tax, to her. On that occasion the commission paid. It was in those circumstances that the then commissioner, Mr Chris Sidoti, said that he regretted that the Commonwealth was often far less willing to accept the commission’s recommendations than was the particular company concerned.

On this occasion, the delegate of the human rights commissioner was Professor Alice Tay, a very eminent person and a person whose work deserves the greatest respect. She made a recommendation that the Department of Immigration and Multicultural Affairs pay Mr Su the sum of $20,000 and Mr Quan the sum of $15,000 by way of compensation for the damages each suffered as a result of human rights violations to which each was subject. The department has rejected that and said that Professor Tay is wrong.

Unless we have a system whereby people and particular government bodies are willing to accept the decisions of a lawfully authorised tribunal or a lawfully authorised commissioner, then the system begins to break down. Let me make it quite clear: there is nothing legally binding on the department to accept what Professor Tay said. But she is the holder of an office which was set up by the Commonwealth parliament and which the Commonwealth maintains, and the Commonwealth, since it is its body, should give high respect to the Human Rights and Equal Opportunity Commissioner and to the commission. It was appropriate on this occasion that it followed what the commissioner said.

I think the reason the department did not accept the findings was that it is clothed with—I was going to use the word ‘paranoia’, but that is probably a little strong—an attitude that says that they and they alone are right in this area of keeping people imprisoned. While that attitude persists, I do not think we are going to get the sorts of changes that we ought to get in this area. A lot of the trouble that we are having with migration, with people coming here seeking refugee status and with people being kept in detention centres would pass if there was a different attitude, a different culture and a different approach.

This parliament has said that people who come here as asylum seekers by way of boats et cetera are to be kept imprisoned. I think there are a lot of problems with that situation. There is scope, for example, for allowing people out on bail when that bail is given by a judge or some comparable body. In any event, whether or not we change the system, we ought to conduct the system we presently have with much more regard to the law and to the processes that operate in this society than we presently do. I seek leave to continue my remarks later.

Leave granted; debate adjourned.
Aboriginal and Torres Strait Islander Social Justice Commissioner: Social Justice Report

Senator CROSSIN (Northern Territory) (7.12 p.m.)—I move:

That the Senate take note of the document.

I rise to speak tonight on the Social justice report of the Aboriginal and Torres Strait Islander Social Justice Commissioner, which is a report that the commissioner is required to produce each year under section 46 of the Human Rights and Equal Opportunity Act. Certainly in this job many reports come past my desk that I cannot, due to the demands on my time, give full attention to, but this is one report that I try to read each year. I find that it provides at least for me—and I am sure it would for most people listening to this broadcast if they knew that it existed and could get their hands on it—a good broad overview of what is happening in relation to the government’s handling of indigenous issues.

There is no doubt that, each year, this report—as Geoff Clark, the ATSIC Chairman, said today in his press release—adds considerable weight to the discussion on how the government is managing indigenous affairs, and that it shows another aspect of how this country is travelling along this road. The report this year, as it always does, makes some very fine analysis. I always believe it does so by actually just stepping back. It provides a balanced view and an unemotive view, but it often contributes some very wise words of wisdom in the debate on what is happening in relation to the government’s handling of indigenous issues.

This year this report points out—quite correctly, if you think about it—that it has been a year of great contrasts. For example, the report talks about the walk across the Sydney Harbour Bridge that many of us participated in last May, and the death of the 15-year-old boy in custody in the Don Dale Detention Centre last year and the national coverage that got not only because of the tragedy of that death but also because of the national debate that ensued over the mandatory sentencing laws of the Northern Territory and Western Australian governments.

The report also contrasts the new programs that this government has introduced—the indigenous literacy and numeracy strategy, the indigenous employment strategy and the indigenous leadership program—with this government’s and this parliament’s refusal to overturn the mandatory sentencing laws in the Northern Territory and WA. The report talks about the acceptance by most state and territory parliaments of the declaration by the Australian Council for Aboriginal Reconciliation that was handed to each and every one of us in this parliament last December and contrasts that with the submission handed down by the government halfway through last year in relation to the stolen generation inquiry, in which I participated. That government submission stated, in quite lengthy detail, that the government believed that there was no such thing as a stolen generation. The government continues to refuse to offer an official apology to those people. But this report does say that it is believed that a defining feature of the past year is the focus on reconciliation. I believe that, in contrast to the views of some of my other colleagues in this chamber this past week, reconciliation is now a people’s movement. I think it has been accepted as such and will continue to be successful in that way.

This report also states categorically that this country will move in relation to indigenous issues and reconciliation. It urges that we adopt a human rights approach to reconciliation; that we take it slowly, that we involve indigenous people in a framework of reconciliation for the future of this country. The report says that the involvement of indigenous people should be effective and adequate. The report also says that, in embracing reconciliation, we should ensure that the human rights of our indigenous Australians are protected. The report goes on to make a number of fine recommendations. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Consideration

The following government documents were considered:

take note of document moved by Senator Ludwig. Debate adjourned till Thursday at
general business, Senator Ludwig in continuation.

Human Rights and Equal Opportunity Commission—Aboriginal and Torres Strait
Islander Social Justice Commissioner—
Native title report 2000 (Report no.1/2001). Motion to take note of
document moved by Senator Crossin. De-
bate adjourned till Thursday at general
business, Senator Crossin in continuation.

Administrative Review Council—Report
to the Attorney-General—No. 44—Internal
review of agency decision making, No-

tember 2000. Motion to take note of
document moved by Senator Ludwig. De-

bate adjourned till Thursday at general
business, Senator Ludwig in continuation.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Hogg)—Order! It being almost
7.20 p.m., I propose the question:

That the Senate do now adjourn.

Coal Dispute: Effect on Trade

Senator TIERNEY (New South Wales) (7.19 p.m.)—I rise tonight to speak about a coal
dispute between BHP and the CFMEU

that has disturbing implications for Aus-

tralia’s trade and its balance of payments. The Australian public should be concerned by the
continuing industrial action by the CFMEU

at coalmines operated by BHP in Queensland

and the adverse impact this is having on the
economy and on Australia’s reputation as a
reliable supplier of coal. I am disappointed to
have to advise the Senate that the company’s
five Queensland mines and its port at Hay
Point continue to be disrupted by industrial
action. The week-long stoppage at all mines
and in the port from 28 February to 6 March
was followed by a 24-hour stoppage at all mines and at the port on 19
March, with several mines continuing with
industrial action through to 21 March. In-
deed, industrial action is continuing as I

speak.

I am also disturbed that the company ex-

pects to have seven vessels awaiting loading
by the end of April. With demurrage fees
running at $35 million, an armada of vessels
are waiting to be loaded for the international
market and are being disrupted by industrial
action. I am also concerned by the prospect
that industrial action could be broadened to
include other categories of work in the com-

pany, such as engineers on the company’s
tugs. The company has previously estimated
that a five-day stoppage alone at its coalmi-
nes in February had cost some $30 million in
lost production.

These developments reflect very poorly on
Australia’s international trading reputation as

a supplier of coal. Coal is one of our most
vital exports. Strikes compromise jobs and
job security. No doubt there are companies to
which BHP supplies coal which are facing
unstable supplies and stock shortages. It is in
the public interest that this industrial action
cease and that it cease at the earliest possible
opportunity.

Centenary of Federation:

Commemoration

Senator COONEY (Victoria) (7.21
p.m.)—At the start of May you will come to

the great city of Melbourne in Victoria, Mr
Acting Deputy President Hogg, to celebrate
the Centenary of Federation, and you will not
be the only one; there will be a lot of Queen-
slanders and a lot of people from all around
Australia coming to celebrate that grand oc-
casion, a great and historic occasion. Mr
Acting Deputy President, you would have no
doubt received invitations to the three events
that will be taking place in the week that

commemorates the centenary of the first par-

liament of this great Commonwealth of ours.

The days of 8, 9 and 10 May you will have
well and truly taken up by celebrations of
those events.

I have three invitations from various peo-

ple—I am not sure who actually sent them,
but I know who gave the invitations. In any
event, the first is an invitation from the Pre-
mier of Victoria, the Hon. Steve Bracks MP.
Sometimes members of the state assemblies
are described as MLAs. He has invited you
and me to the federation reception at the
Melbourne museum on Tuesday, 8 May 2001
at 5.00 p.m., and no doubt we will go. There
is a card that appears with this invitation and
sets out a password that we are to use and a user name that we are to employ. It is quite security conscious. We are to send off our applications, as it were, and it says in the card that our event entree card—that is, to get into the events—a full event briefing and a Federation Guide to Melbourne will be mailed to us at the end of April. I think that is a good thing, Mr Acting Deputy President.

But the next invitation is an invitation to a commemoration of the original meeting of the Senate and the House of Representatives in the Royal Exhibition Building in Melbourne. That invitation is from the Prime Minister of Australia, the Hon. John Howard MP; the President of the Senate, Senator the Hon. Margaret Reid; the Speaker of the House of Representatives, the Hon. Neil Andrew MP; and the Premier of Victoria, the Hon. Steve Bracks MP, inviting us to attend the principal event to mark the Centenary of Federation, A Nation United, at the Royal Exhibition Building, Melbourne on Wednesday, 9 May 2001 at 1.00 p.m. It says that A Nation United will commemorate the century of the parliament of the Commonwealth of Australia in the building where the first parliament was opened on 9 May 1901. As with the invitation from Mr Steve Bracks, there is a card which requires us to use a password and a user name to get our entree card to that event, full event briefings and the Federation Guide to Melbourne; and we will do that.

I do not want to be ungracious about this, but I do have some problem with the fact that I will have to apply for an entree card to get into the Senate, into this parliament—and it is this parliament that we are talking about. It concerns me a bit that here I was, thinking that the people of Australia elected me and that that gave me a mandate to come into this chamber and come into any chamber where the parliament is sitting and to do that as of right by invitation of the people of Australia. But now I see that when it is being held in Melbourne, I will only be able to come into parliament—and I will have to show an entree card to get in—by the invitation of the Prime Minister of Australia, the Speaker of the House, the President of this Senate and the Hon. Steve Bracks. Unless I have a card, I am not going to be able to get in, and I will only get a card if I use the user name and the password to do that. That is for the meeting at the Exhibition Building.

The third invitation says that the Presiding Officers of the parliament of the Commonwealth of Australia, Senator the Hon. Margaret Reid, President of the Senate, and the Hon. Neil Andrew MP, Speaker of the House of Representatives, invite me to attend the commemorative federation sitting of the two houses of the parliament of the Commonwealth of Australia at Parliament House, Melbourne on Thursday, 10 May and to morning tea following. It is reasonable enough that I should have an entree card to the morning tea that follows, because that is not to do with the parliament. But it concerns me a little that I have to have an entree card to get into the Senate—not an entree card written out by the people of Australia or by my voters but one written out by people whom I have a great respect for—that is, the Hon. Margaret Reid and the Hon. Neil Andrew. I have great respect for them; nevertheless, it does seem very strange that I am not going to be able to enter this parliament unless I have an entree card; and I can only get the entree card by using the password and the user name and, indeed, quoting my ID number.

I hope I am not breaching any rules and secrets—I will have to rely on parliamentary privilege if I am—but my ID number is 182. I am not being invited as Senator Barney Cooney, although that is the name given to me, but the ID number 182 is what I have to quote before I get into the Senate. Mr Acting Deputy President, I hope you are not moved to call me Senator No. 182 and that you will call me Senator Cooney from now on. If you did call me Senator No. 182, I could understand.

Senator Bartlett—Nobody sent me one at all.

Senator COONEY—Senator Bartlett has not even got an invitation. If you have not got an invitation, Senator Bartlett, you will not be able to attend the Senate. The simple fact that you have been elected by the people of Queensland does not entitle you to sit in parliament—not according to these invita-
tions, in any event—in Melbourne on 10 May; so you had better make some inquiries.

Senator Bartlett—No-one else will want to go, if I am not there.

Senator COONEY—That is true, Senator Bartlett. Mr Acting Deputy President, if this were a re-enactment and not a genuine meeting of the parliament, then I could understand this approach. But this purports to be a meeting of the parliament, and that concerns me a little. I want to put this on record. No doubt these proceedings will go on, but I want to raise the issues. I do not want to appear ungracious. It may be that they are not two true sittings of the parliament, that they are re-enactments. We would not want to look too closely at section 125 of the Constitution; but if we did look closely at that, that might explain all this: that this is really not a genuine sitting of the parliament in Melbourne but a re-enactment—in which case I have no more entitlement to be there than anybody else has as this is going to be, as it were, a play-acting of the parliament. I am willing in those circumstances to quote my user name and password, which I am not to tell you because, if I did, that would breach secrecy—but I can tell you about the ID number 182. In those circumstances I am happy to take that password and I am happy to wait for my entree card at the end of the month to go to Melbourne.

This reminds me of when I was going to the Sydney Olympic Games. I had to send off my money very early and then I had to wait a long time to get the tickets. I could not get all the tickets I wanted, but I got to see Cathy Freeman, which was a great event in my life. Maybe if I continue along the same lines here, I will get to see some very spectacular things at the Centenary of Federation celebrations in Melbourne. I simply raise that, as I say, not to be ungracious, but as a matter of wonderment to see why we are proceeding down there on the basis that we are.

The ACTING DEPUTY PRESIDENT (Senator Hogg)—No. 182, I can assure you that you will still be referred to in this chamber as Senator Cooney.

Senator COONEY—Thank you.

Gay and Lesbian Mardi Gras
Gay Law Reform

Senator BARTLETT (Queensland) (7.31 p.m.)—I would like to speak tonight about an event that I do not need an invitation from the Prime Minister to attend, and that is the Gay and Lesbian Mardi Gras. I would certainly invite him to go along if he is interested, and I wish he would. This year the Democrats conducted community surveys at a couple of the major gay, lesbian and bisexual events—the Sydney Mardi Gras Fair Day and the Melbourne Midsumma Carnival Day—to try to get a clearer idea of the issues of greatest concern to the communities attending these events. Several hundred people—I think upwards of 500—took the time to complete the surveys, and the results from both cities were quite similar. Relationship recognition was the top issue, with the specific issue of superannuation and recognition of same sex relationships in this context also separately identified by many. The next issue of most concern was homophobia in our schools. Other issues that also rated highly were HIV-AIDS resources and workplace homophobia. These results show in many ways how much the debate has moved on in terms of issues of concern to gay, lesbian and bisexual communities, and in terms of the era we now face in gay law reform. The debate is not primarily about sex; it is more about relationships, and long-term relationships in particular. As many people involved in long-term relationships would attest, they are not necessarily primarily about sex.

Gay law reform in the past has been dominated by discussions on age of consent, anal sex, beats and the like. In the future, the focus will be more on the recognition of relationships and same sex couples in law. It will be more about issues such as superannuation rather than sodomy. This does not mean that there will not be ongoing debate about explicit sexual material. No doubt there will be controversy over the new Victorian advertising campaign to promote safe gay sex, which was introduced after figures showed a 41 per cent jump in new HIV infections in that state. It is important, therefore, to make sure that the message keeps getting across, because Australia does have a record, I think
without equal in the world, of successful education campaigns in this area and of success in altering people’s behaviour so they undertake safer sex and safer behaviour more broadly. The Victorian campaign includes posters, which will be displayed at particular venues, depicting men having sex with the condom illuminated by ultraviolet light. I have not seen the images, but I certainly support the highlighting of safe sex measures in an attractive way, rather than simply through fear based campaigns.

There will continue to be a lot of discussion about sex, but in many ways the debate has broadened from being about sexual practices to being about relationships and seeking to give de facto same sex couples the same standing in law as opposite sex de facto couples. Property settlement, inheritance, compensation, stamp duty, medical decisions, taxation, social security, superannuation—they are all examples of areas in which same sex couples should be treated equally before the law but are not. In many cases, reform in this area is supported by industry as well. Certainly, the superannuation industry is quite supportive of the recognition of same sex relationships under superannuation legislation. It is unfortunate that such reforms are held up by governments such as the one we have at the moment, despite the best efforts of people such as the Democrats.

The federal laws are now behind the pack, with most states—including so-called conservative states like Queensland and the Australian Capital Territory—having gone some way to removing legal discrimination and including same sex couples in legislation. Tasmania as well has achieved a lot in relation to discrimination. New South Wales has achieved most reform in areas of gay law reform. In Victoria, the socially progressive Labor government—ably backed, I am sure, by Senator Conroy, who is probably driving this agenda of gay law reform—is looking at putting legislation through the parliament. The opposition there has sent out mixed signals in that regard, but I saw that the Liberal Party had a stall at the Midsumma festival in Melbourne, putting forward that party’s support for gay law reform.

Senator McGauran—There was no National Party stall there.

Senator BARTLETT—I did not see the National Party stall there, Senator McGauran; you were obviously away that weekend, but I hope to see you there next year. The Liberals were there, and hopefully their support for, and their presence at, Midsumma in Melbourne will be reflected in their support for law reform through the Victorian parliament.

There have even been some signs of progress in Western Australia, the state which is furthest behind in reform in this area. The WA Legislative Council, the upper house, last year passed the Democrats’ Sexuality Discrimination Bill, more than three years after it was first introduced by the Democrat MLC Helen Hodgson. It included sexuality as a ground of complaint under the Equal Opportunity Act and also equality in the age of consent for sexual relations. Unfortunately, it was not supported in the lower house. The then government would not support it, but the new Labor government has indicated a willingness to move on antidiscrimination rights for gays and lesbians this year. It is heartening to see the new WA Attorney-General, Mr McGinty, stating that there should be no place for discrimination on these grounds in this day and age and committing to look at bringing Western Australia’s legislation up to date with the rest of Australia. Certainly, the Democrats will be monitoring that closely.

The slow progress to include same sex couples under law is deeply disappointing. As recently noted by Justice Kirby, a High Court judge, if we had a constitutional bill of rights, gay law reform would have occurred more quickly through the courts. This is particularly concerning in the context of the so-called Teoh bill that we are close to debating in this chamber. Indeed, one of the areas of reform that did go through this place, the human rights sexual conduct act—supported again by the Liberal Party and the ALP as well as the Democrats—was based upon Australia’s obligation under the International Covenant on Civil and Political Rights. Yet we have legislation in the form of the Teoh bill being put before this parliament, which
seeks to weaken the requirements for governments to meet their obligations under international conventions that we have signed as a nation. This will be a step backwards, and certainly the Democrats will be seeking to prevent that occurring. The Democrats are determined to pursue the recognition of same sex couples in law by whatever means we can. We still have a sexuality discrimination bill in this chamber under my name that perhaps we will seek to try and progress.

Coming back to the Mardi Gras, as well as the Mardi Gras Fair Day—which produced the community feedback that I mentioned at the start of my contribution—3 March this year saw the annual Mardi Gras parade, which marked the anniversary of a 1978 civil rights demonstration. Basically, at that time protesters were arrested and their names were printed in the newspaper; people lost their jobs as a result. Mardi Gras has come a long way—and, of course, community acceptance of this basic human rights issue has also come a long way, thanks to the efforts of so many people over those years.

The Mardi Gras does well to meet the desires of a very varied community. I would like to congratulate the organisers of the event for its ongoing success, and for the ongoing economic, as well as social, benefits that it brings to Sydney, New South Wales, and to Australia. I would also like to congratulate the participants in the event who marched, rode and danced the 2½ kilometre route. The lead parade float this year was entitled ‘Behind the pink picket fence’. This highlighted the issue of gay and lesbian families, particularly at a time when some who are involved in the political process are trying to deny some of the important contributions that families involving gays, lesbians and bisexuals make to the community. Once again, I am advised, there was a small entry in the parade this year under the Liberal Party banner, which the Democrats welcome. We did not see the National Party one again; you must still be working on your float.

Senator McGauran interjecting—

**Senator BARTLETT**—The Democrats would welcome that, and we would welcome the genuine participation of all political parties. I would advise that the ALP was not there this year, unfortunately. Senator Conroy could not make it this year, but we hope to see you there next year and, hopefully, the ALP will be back again next year. They certainly have been there in the past. The Australian Democrats have said for some years that they were the first political party to participate in the Mardi Gras parade, which might not be strictly true, as I guess that Fred Nile’s party, the Call to Australia Party, has been there in a different form, protesting for a long time as well but not actually participating in the parade itself. However, many other Christians were not protesting but were participating joyfully. Parade entries were there from the Uniting Church, the Quakers, Acceptance—which is a Catholic group—an Anglican group and a number of other religious entries, as well as human rights groups such as Amnesty International. Nonetheless, most opposition to equal rights for gay people, unfortunately, still tends to come from religious individuals and organisations; and the Democrats certainly receive some very abusive letters because of our participation in Mardi Gras from individuals who tend to cite religion as the basis for their abuse and their vilification of gay and lesbian members of our community. This is an unfortunate aspect, because there are clearly very many people involved in churches who are supportive of and encourage gay and lesbian—

(Time expired)

**Woodside Petroleum: Proposed Takeover by Shell Australia**

**Senator LIGHTFOOT** (Western Australia) (7.41 p.m.)—Mr Acting Deputy President Hogg, you and the Senate would recall that Shell, the giant petroleum producer and one of the biggest companies in the world, an Anglo-Dutch company, has made an offer to take over Woodside, an Australian company that started in Victoria in the lakes district, which the duty whip knows a significant amount about. He left there when he was 16 but he certainly has fond memories of that area. Over the years we have lost a number of companies that we would call icons in Australia and of which we were quite proud: Speedo, the bathing costume company; Arnott’s: Edgell Birdseye; and Vegemite, and many others that we considered our own. But
in the scheme of things these were not big.
Yes, they were the favourites of Australians
on a daily basis. But more recently we have
looked at not just Woodside being taken over
by Shell but also the reverse takeover of
BHP by Billiton of South Africa, with its
head office in London. BHP is a company
that used to describe itself, and was de-
scribed by various economic commentators,
as the Big Australian. It is no longer the Big
Australian of course; there are a couple of
banks that are ahead of BHP in terms of
capitalisation.

More recently—in fact, today—I noticed
that the giant Anglo American corporation
was looking at calling a special general
meeting in order to determine who should
constitute the board of Anaconda. The com-
pany has a 25.4 per cent interest in the issued
capital of Anaconda. I am not opposed, as
some Australians are, to foreign investment
in Australia. We owe our standard of living
in Australia, indisputably in my view, to the
foreign investment that pours into this coun-
try. I think of BP, which had its genesis at
Mount Morgan. The Morgans were great
British entrepreneurs, some of many that,
late last century, at the turn of the century
and early this century, seem to have spread
out from the United Kingdom and made vast
fortunes for themselves and for their country.
In fact, the money was used to kick off BP in
other parts of the world. I am not, I repeat,
opposed to foreign investment in Australia. It
is necessary. But what is also necessary in
Australia is that we should ensure that the
companies that have been built up over the
years here are not absorbed or taken over to
the extent that we become, as I think the
Prime Minister has called it, a branch office
controlled and domiciled here in Australia.

What worries me about the Anglo Ameri-
can offer—and I thank them for sending me
their documentation today—to call a special
general meeting in order to usurp some of the
current serving directors on the board of
Anaconda is that Anaconda has the potential
to become one of the biggest nickel miners in
the world. Not only that: it has a by-product,
cobalt, which runs in tandem with the nickel
element in the superficial rocks that Ana-
conda mines. These are not deep mines.
These are not sulphide mines. These are not
like the mines that Western Mining initiated
back in the late 1960s at Kambalda in West-
ern Australia. These are surface rocks that
are rich in leached elements of nickel and
cobalt. Currently, Anaconda shares are sell-
ing for less than $2. I am not quite sure of the
price; I did not have a chance to look at it
tonight, having only received this document
an hour or so ago. The letter addressed to me
is over the signature of the Anglo American
executive director, Dr James Campbell. An-
glo American propose recommending to the
Anaconda board, at their special general
meeting, to undertake a rights issue to raise
$100 million in order to, as they say, 'aug-
ment' the cash reserves of Anglo American. I
spoke tonight to the chief executive officer
and chairman of Anaconda, Mr Andrew
Forrest, who assures me that they have ade-
quate reserves—$50 million in fact—and
that they have no problems whatsoever.

I think it is right that I bring to this Senate
my concern at this situation of our dollar
worth US50c. There are various reasons for
it. I understand adversarial politics, but you
cannot sheet home the problems with respect
to having a sinking dollar—stabilised at the
moment—to this government. It is not my
intention to do that and I do not want the
focus to be on that. I want the focus to be on
this: we have a US50c dollar, which means
any company overseas, whether it is in the
European Union, whether it is Britain—
which is part of but not a full member of the
EU—or Canada or the United States, can buy
our companies with their cash for half the
price. That is the problem. We have some
plums sitting here in Australia now that need
some sort of protection. Are we going to lose
BHP through the backdoor takeover by Bil-
liton? Are we going to lose Woodside—and I
trust we do not; I think we have done enough
work there to make sure that we do not. Are
we now going to lose Anaconda to Anglo
American?

Remember that Anglo American is per-
haps the biggest mining company in the
world. Rio Tinto say they are the biggest in
the world and Anglo American say they are
the biggest. The Senate must take notice of
where we are going to go. Look at Shell: it
had a $24 billion profit this last calendar year
and it has a $300 billion turnover. If we con-
tinue to sell our companies overseas we will
never have a Shell; we will never have an
Anglo American; we will never have a Rio
Tinto. We are currently the biggest producer
of diamonds in the world: over 50 million
carats were mined here last year. We are the
biggest exporters of alumina powder in the
world. We are one of the biggest producers
of nickel in the world. When Anaconda
reaches its full potential, it will rank as the
third-biggest producer of nickel in the world
and one of the biggest, if not the biggest,
producers of cobalt in the world. We are the
biggest producer and exporter of iron ore in
the world. We are significant producers and
exporters of petroleum gas. Why do we not
have a company in Australia as big as Shell
or as big as Anglo American or as big as Rio
Tinto? Because we continue to sell our best
assets.

I am not necessarily saying that what An-
glo American propose to do, with their call-
ing of a special general meeting in order to
usurp some of those serving directors cur-
tently on the board, is necessarily bad; what I
am saying is premature to the degree that I
have not had a look at the details. However, I
know the fundamentals. In my time in explo-
ration and mining, some 40 years, I have
seen these things happen before. But this is a
macro situation that I have never experi-
enced, where we have three major companies
in Australia that are suddenly under siege by
overseas companies because of the perceived
weakness of the dollar in Australia. It is con-
cerning me. I do not want to see our mining
companies go, as Speedo, Arnott’s, Vegemite
and others have gone. They are not big in the
scheme of things. Yes, it is nice to think that
those smallish companies could have re-
mained in Australia. But that is not the
problem. The problem here is: if all our
companies of significance go overseas, how
are we ever going to have the benefits of
those companies, which now flow back here
by being majority Australian owned?

Woodside, for instance, is already 34 per
cent owned by Shell. It has 17 per cent of its
issued shares held in share registries other
than those in Australia. Anaconda, a com-
pany with massive potential, is 25.4 per cent
owned by Anglo American. That in itself is
not bad. What is bad is that control of these
companies should go overseas; the shares
then go overseas and the dividends that flow
from those shares significantly go overseas
too. This is not a Vegemite that you can pro-
duce every day. These are products that are
mined. They are never to be repeated. They
cannot be emulated. They are once off. They
are resources that are going to be indisputa-
bly depleted. They will never happen again.
The relatively weak dollar needs to be
looked at. Maybe we need a moratorium on
the takeover of companies in Australia while
the dollar is in the condition that it is. That
would save us, perhaps. (Time expired)

Senate adjourned at 7.52 p.m.

DOCUMENTS

Tabling

The following government documents
were tabled:

Administrative Review Council—Report to
the Attorney-General—No. 44—Internal re-
view of agency decision making, November
2000.

Equal employment opportunity program—
Telstra Corporation Limited—Report for

Human Rights and Equal Opportunity Com-
misson—

Aboriginal and Torres Strait Islander Social
Justice Commissioner—Reports for
2000—


Social justice (Report no. 2/2001).

Reports—

No. 11—Inquiry into complaints of dis-
crimination in employment and occupa-
tion: Discrimination on the ground of
age.

No. 12—Inquiry into a complaint of
acts or practices inconsistent with or
counter to human rights in an immi-
gration detention centre.

Telecommunications (Interception) Act
1979—Report for 1999-2000 pursuant to Di-
vision 2 of Part IX of the Act.
**Tabling**

The following documents were tabled by the Clerk:

- Motor Vehicle Standards Act—

**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—
  - AusAID.
  - Comcare.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

1800 Telephone Number Facility
(Question No. 3146)

Senator Brown asked the Special Minister of State, upon notice, on 1 November 2000:
Why is the 1800 telephone number facility, which is available to senators constituents, not accessible to those who live in the same STD area as the senators offices but are outside the local call region.

Senator Abetz—The answer to the honourable senator’s question is as follows:
The 1800 telephone number facility is available to Senators and Members constituents who live in the same STD area but are outside the local call region.
The 1800 telephone number facility is provided to Senators and Members whose electorates encompass more than one STD area.
The purpose of the entitlement is to ensure constituents living outside the immediate telephone area are not deterred from contacting their local representative
The 1800 number has a bar on the STD (local call) area in which the Senator or Member’s electorate office is located.

Australian Broadcasting Corporation: Casual Staff
(Question No. 3247)

Senator Mark Bishop asked the Minister for Communications, Information Technology and the Arts, upon notice, on 8 January 2001:

(1) How many casual staff have been employed by the Australian Broadcasting Corporation (ABC) in Brisbane in both its Local Radio and News and Current Affairs Divisions since 1 January 2000.
(2) How many of the casual staff, referred to in (1) above, have been employed in that capacity for a period of more than: (a) 3 months; and (b) 6 months.
(3) In each of the previous 3 years, how many casual staff had been employed for a period of more than: (a) 3 months; and (b) 6 months.
(4) What approvals, if any, are required before casual staff can be employed for a period of more than: (a) 3 months; and (b) 6 months.
(5) Have all relevant approvals been made in respect of all casual staff employed since 1 January 2000, for a period of more than: (a) 3 months and (b) 6 months; if so, who is the designated officer for such approvals; if not, why not.
(6) What is the normal source of funds used to pay the wages and related employment costs for all casual staff employed since 1 January 2000.
(7) Have any other funds been used to pay the wages and related employer costs for all casual staff employed since 1 January 2000.
(8) Has the News and Current Affairs Division in Brisbane used the services of an ABC television film crew from anywhere outside of Brisbane, since 1 July 2000; if so on each occasion:
   (a) on what date or dates did the film crew travel to, stay in and travel from Brisbane;
   (b) why was the film crew brought from interstate and why was a Brisbane film crew not used;
   (c) what was the additional cost incurred in bringing and maintaining the film crew in Brisbane;
   (d) how many members comprised the film crew;
   (e) did the film crew bring any equipment with them; if so, what additional cost was incurred in transporting that equipment to and from Brisbane;
   (f) were any penalty rates or additional allowances paid to the film crew while they were in Brisbane; if so, what was the total cost of them;
   (g) what part of the ABC paid for the additional expenditure associated with the film crew being in Brisbane; and
   (h) who authorised this additional expenditure.
(9)(a) How many ‘non-police’ re-enactments have been conducted by the television News and Current Affairs Division in Brisbane since 1 July 2000; and (b) to what events did those re-enactments relate.

(10) Did the Head of News and Current Affairs authorise each and every one of those re-enactments as required in paragraph 4.8.1 of the ABC’s editorial policies, dated April 1998; if not, why not.

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

(1) Between 1 January 2000 and 31 December 2000, the ABC has employed a total of 37 casuals in Local Radio and News and Current Affairs in Brisbane: 13 in Local Radio and 24 in News and Current Affairs.

(2) Of those referred to in (1) above:

(a) 9 casuals (5 in Local Radio, 4 in News and Current Affairs) have been employed for at least one shift or part thereof per month over a period of more than 3 months and up to 6 months; and

(b) 7 casuals (3 in Local Radio, 4 in News and Current Affairs) have been employed for at least one shift or part thereof per month over a period of more than 6 months.

(3) The table below shows the number of casual staff employed in Brisbane in Local Radio and News and Current Affairs for at least one shift or part thereof per month over periods of (a) more than three months and up to 6 months; and (b) more than 6 months in the years 1999 and 1998. The ABC is unable to provide figures for 1997, as the relevant data for 1997 and earlier years are not available in an electronic format.

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(4) Engagement of casual staff, for whatever period, requires initial approval by the relevant delegate.

Under the heading “Period of Assignment”, the casual engagement form states:

“Personnel will contact you when the casual has been assigned to your section. If the period is to be extended and no other details are to change, advise personnel to extend the assignment period. The period may be adjusted if Personnel receive advice that the casual is also working in a different section.”

The department’s roster authoriser approves the casual’s employment for each fortnight.

(5) Yes. See response to (4).

(6) Casual staff are used in Brisbane Local Radio and News and Current Affairs to backfill behind temporary vacancies, which may result from staff being released on assignment to other areas, leave (sick, recreation, etc.), training, News and Current Affairs production peaks (e.g. East Timor), special projects and vacant positions (until permanent appointments are made).

The wages and employment costs for casual staff employed in Brisbane since 1 January 2000 are normally funded from the relevant division’s annual operating budget. The General Salaries budget has been used to fund casuals for vacancies in Brisbane Local Radio and News and Current Affairs.

(7) No.

(8) The ABC’s News and Current Affairs division in Brisbane has not used the services of an ABC television news crew from outside Brisbane since July 1, 2000. Occasionally, local freelance camera operators are hired to complement ABC crewing resources.

(9)(a) There have been 5 ‘non-police’ television re-enactments conducted by the News and Current Affairs Division in Brisbane since 1 July 2000.

(9)(b) The 7.30 Report has commissioned three re-enactments:

- On 29 September 2000, an ABC camera operator shot a sequence of someone filling out electoral enrolment forms. This was to illustrate how enrolment forms are filled out fraudulently.
On 30 October 2000, an ABC camera operator shot a re-enactment of a young boy taking mail from a letter box.

On the weekend of the 25 and 26 November, a Brisbane freelance camera operator shot a re-enactment using Lee Birmingham with an envelope containing $50 notes. A freelancer was used because a local crew was not available.

Two of the three 7.30 Report re-enactments related to evidence given by different witnesses before the Shepherdson Inquiry into electoral fraud in Queensland. The third involving Mr Bermingham relates to his allegation, reported by the 7.30 Report, that he delivered money during the 1996 election campaign to the campaign manager for the Democrats in the seat of Lilley.

Australian Story has filmed two re-enactments.

One involved Nigel Reed re-creating his walk for charity to mark his daughter’s death from cystic fibrosis. The program was broadcast on 9 November 2000.

The other involved Mike O’Dwyer, an inventor, re-enacting a test of his sport shoes, which keep feet cool. This was broadcast on 31 August 2000.

Permission from the Director of News and Current Affairs to film and broadcast these re-enactments was not required as 7.30 Report and Australian Story are current affairs programs. As stipulated in section 4.8.1 of the ABC’s Editorial Policies (April 1998), authorisation from the Director of News and Current Affairs to use ‘non-police’ re-enactments is only required for News programs.

Employment, Workplace Relations and Small Business Portfolio: Contracts to Deloitte Touche Tohmatsu

(Question No. 3257)

Senator Robert Ray asked the Minister representing the Minister for Employment, Workplace Relations and Small Business, upon notice, on 25 January 2001:

(1) What contracts has the department or any agency of the department provided to the firm Deloitte Touche Tohmatsu in the 1999-2000 financial year.

(2) In each instance what was the purpose of the work undertaken by Deloitte Touche Tohmatsu.

(3) In each instance what has been the cost to the department of the contract.

(4) In each instance what selection process was used to select Deloitte Touche Tohmatsu (open tender, short-list or some other process).

Senator Alston—The Minister for Employment, Workplace Relations and Small Business has provided the following answer to the honourable senator’s question:

Department of Employment, Workplace Relations and Small Business:

(1) The IT Services group entered into a contract with Deloitte Consulting Pty Ltd during the 1999-2000 financial year.

(2) Information Technology - SAP Implementation (the financial and human resource system used throughout the department).

(3) $1 213 503

(4) Extension of contract awarded under open tender.

Office of the Employment Advocate:

(1) The OEA entered into a contract with Deloitte Consulting Pty Ltd during the 1999-2000 financial year.

(2) Information Technology systems development.

(3) $1 143 665

(4) Open tender.

Employment, Workplace Relations and Small Business Portfolio: Contracts to KPMG

(Question No. 3274)

Senator Robert Ray asked the Minister representing the Minister for Employment, Workplace Relations and Small Business, upon notice, on 25 January 2001:
(1) What contracts has the department or any agency of the department provided to the firm KPMG in the 1999-2000 financial year.
(2) In each instance what was the purpose of the work undertaken by KPMG
(3) In each instance what has been the cost to the department of the contract.
(4) In each instance what selection process was used to select KPMG Tohmatsu (open tender, short-list or some other process).

Senator Alston—The Minister for Employment, Workplace Relations and Small Business has provided the following answer to the honourable senator’s question:

Department of Employment, Workplace Relations and Small Business:
(1) 2 contracts were made with KPMG in 1999-2000.
(2) For (a) Assistance with production of forward estimates and Outcomes and Outputs Reporting; and (b) Implementation of the GST
(3) (a) $93,099; and (b) $349,970
(4) Both contracts through short-list tender.

Office of the Employment Advocate:
(1) 1 contract was made with KPMG in 1999-2000.
(2) Internal Audit and Risk Assessment.
(3) $34,760
(4) Open Tender.

Employment, Workplace Relations and Small Business Portfolio: Contracts to PricewaterhouseCoopers

(Question No. 3291)

Senator Robert Ray asked the Minister representing the Minister for Employment, Workplace Relations and Small Business, upon notice, on 25 January 2001:
(1) What contracts has the department or any agency of the department provided to the firm PricewaterhouseCoopers in the 1999-2000 financial year.
(2) In each instance what was the purpose of the work undertaken by PricewaterhouseCoopers.
(3) In each instance what has been the cost to the department of the contract.
(4) In each instance what selection process was used to select PricewaterhouseCoopers (open tender, short-list or some other process).

Senator Alston—The Minister for Employment, Workplace Relations and Small Business has provided the following answer to the honourable senator’s question:
(1) The Department awarded four contracts to PricewaterhouseCoopers in the 1999-2000 financial year.
(2) The purpose of the work was:
   • To assist the department in recruiting graduates specialising in economics;
   • Production of External Reporting - Financial Statements and capital budget;
   • Production of Internal Management Reporting; and
   • To determine whether a business case existed for the Business Exchange.
(3) The cost of these contracts was $429,265.
(4) The contacts were awarded through:
   • A restricted tender proposal, which went to three potential providers.
   • Short-list tender.
   • A selective tender process was used.
Employment, Workplace Relations and Small Business Portfolio: Contracts to Ernst & Young

(Question No. 3308)

Senator Robert Ray asked the Minister representing the Minister for Employment, Workplace Relations and Small Business, upon notice, on 25 January 2001:

(1) What contracts has the department or any agency of the department provided to the firm Ernst & Young in the 1999-2000 financial year.
(2) In each instance what was the purpose of the work undertaken by Ernst & Young
(3) In each instance what has been the cost to the department of the contract.
(4) In each instance what selection process was used to select Ernst & Young (open tender, short-list or some other process).

Senator Alston—The Minister for Employment, Workplace Relations and Small Business has provided the following answer to the honourable senator’s question:

(1) The Department awarded two contracts to Ernst and Young in the 1999-2000 financial years.
(2) The purpose of the work was:
   • To provide expert advice and assistance during a functional review/market testing programme.
   • For production of Agency Banking - Cash Management system.
(3) The cost of the two contracts was $127,438.
(4) The contracts were awarded through:
   • A select tender process originating from a Department of Finance and Administration panel.
   • Short-list tender.

Attorney-General’s Department: Legal Advice

(Question No. 3368)

Senator Robert Ray asked the Minister representing the Treasurer, upon notice, on 29 January 2001:

(1) What has been the total cost to the department in the 1999-2000 financial year of legal advice obtained from the Attorney-General’s Department.
(2) What has been the total cost to the department in the 1999-2000 financial year of legal advice obtained by the department from other sources.

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

(1) $764,596.29
(2) Nil.

Department of Workplace Relations and Small Business: Legal Advice

(Question No. 3371)

Senator Robert Ray asked the Minister representing the Minister for Employment, Workplace Relations and Small Business, upon notice, on 29 January 2001:

(1) What has been the total cost to the department in the 1999-2000 financial year of legal advice obtained from the Attorney-General’s Department.
(2) What has been the total cost to the department in the 1999-2000 financial year of legal advice obtained by the department from other sources.

Senator Alston—The Minister for Employment, Workplace Relations and Small Business has provided the following answer to the honourable senator’s question:

The information requested is not readily available in the form requested. The department’s accounting system records the amount spent on legal services, which includes the conduct of litigation as well as the provision of legal advice.
(1) In the 1999-2000 financial year, the total cost to the department for legal services obtained from the Attorney-General’s Department was $109,355.59.

(2) In the 1999-2000 financial year, the total cost to the department for legal services obtained from other sources (including legal services obtained from the Australian Government Solicitor as it is administratively separate from the Attorney-General’s Department) was $3,341,801.22.

**Australian Electoral Commission: Objections**

(Question No. 3426)

Senator Faulkner asked the Special Minister of State, upon notice, on 8 February 2001:

1. What steps are taken by the Australian Electoral Commission (AEC) in handling objections under Part IX of the Commonwealth Electoral Act 1918.

2. Does the AEC have any internal guidelines or protocols on the handling of objections; if so, can a copy be provided.

3. How many objections has the AEC received and how many objections have led to people being taken off the electoral roll for the following federal seats over the following periods:

**Seats:**
Kalgoorlie, Northern Territory, Grey, Leichhardt, Herbert, Dawson, Kennedy, Richmond, Gwydir, Patterson, Gilmore, and Eden-Monaro.

**Periods:**
The whole of the years 1997, 1998, 1999 and 2001 to date. The year 2000 broken down into the following periods:

- 1 January to 31 March 2000,
- 1 April to 30 June 2000,
- 1 July to 30 September 2000,
- 1 October to 31 December 2000.

Please include, if possible, the number of the above objections that were received from members of Federal Parliament or any state or territory parliament.

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

(1)—

Section 114 of the CEA provides that an elector enrolled for a Subdivision may object to the enrolment of another person in the same Subdivision on the ground that the other person is not entitled to be enrolled. In the case of an objection on the ground of unsound mind, the objection can be made by an elector enrolled in a different division. Almost all objections by electors (or ‘private’ objections) are made on the ground of unsound mind and are supported by medical evidence. Further comment on the objection process is restricted to action undertaken by Divisional Returning Officers (DROs), or ‘official’ objection.

The DRO for a Division must object to the enrolment of a person if there are reasonable grounds for believing that the person is not entitled to be enrolled for the Subdivision. Most official objections are made on the ground that the person is no longer resident, and has not lived in the Subdivision for at least the last month. Small numbers of official objections are made on the ground that the person is not an Australian citizen.

The sources of information on which official objection action is instituted include replies to AEC Continuous Roll Update (CRU) mail review letters, advice provided to Review Officers during targetted CRU fieldwork, processing data arising from non-voter correspondence for federal and state elections and AEC mail returned to sender (RTS) by Australia Post marked 'Left Address'.

Official objection on the ground of non-residence is processed using the AEC’s Roll Management System (RMANS) objection system. Names of electors are entered into the system in batches pending the mailing of objection notices in accordance with section 116 of the CEA. Before data is extracted for the printing of notices, checks are made back against the current roll and electors who have transferred their enrolment or who have died are removed from the batch. After mailing of the notice, farther culling takes place if electors notify that they are still resident at their enrolled address or if they transfer enrolment. By the time the objection determination letter is sent advising electors that they have been re-
moved from the roll in accordance with section 118, up to 50% of those persons originally entered into a batch will be retained on the roll as they will have notified a new address or confirmed their current enrolment details.

Objection batches are managed at the State and Territory level and can remain open for the entry of new records for up to 3 - 6 months; this gives electors time to transfer their enrolment. A small number of official objections are not entered in the RMANS system, but are actioned manually by Divisional staff who prepare and post notices from their office. The timing of objection action varies between jurisdictions depending on electoral events and local operational circumstances, but it is managed so that electors for whom there are reasonable grounds to believe that they are no longer entitled to enrolment, are removed from the roll before an election.

The management and timing of batches can result in data being entered in the system in one year but not actioned until the following year, and batches can remain open beyond the 3 months referred to above. The tables at Attachment 3 below take the timing of batches into account but do not include the small number of objections determined manually by Divisional staff.

(2)—

Administrative and technical procedures for the processing of objections are covered in the AEC's General Enrolment Manual and the RMANS User Manual, extracts of which are provided at Attachment 1. Additional procedures are in place for the investigation of RTS mail passed to the AEC by Members or political parties arising from their mailing to electors. In all cases further enquiries must be made by Divisional staff before information from MP's RTS mail is used to enter an elector into an objection batch. A copy of information provided to Members and Senators in 1995 regarding the processing of RTS mail is at Attachment 2.

The objection provisions of the CEA require the AEC to post objection notice and determination letters to the postal address of electors. In the more remote parts of Australia and particularly in the Divisions of Grey, the Northern Territory and Kalgoorlie, local arrangements are made to make checks by other means, where possible, so that electors who cannot be contacted by mail are not incorrectly removed from the roll as a result of poor postal delivery services. The advice from AEC Head Offices for these Divisions is summarised below.

(a) Division of Kalgoorlie - Western Australia

The Division of Kalgoorlie is remote and encompasses a relatively large percentage of transient electors. This makes the task of confirming enrolment of electors difficult.

The return of mail sent by the AEC, whether it be initiated by notice arising from MP RTS mail or not, suggests that an elector no longer lives at their enrolled address. However, further checks are made before proceeding with objection action as many areas in the Division do not have a street mail delivery service and there are cases where PO Box addresses have lapsed without the elector having changed address. Due to the size of Kalgoorlie, an elector may move a considerable distance without leaving the Division and still maintain their right to enrolment. This would include transient rural workers and Aboriginal electors who may move between communities on a regular basis in keeping with traditional custom.

Divisional staff will frequently employ approaches alternative to mail outs in order to verify an elector's status. These approaches include checks with Australia Post staff, telephone calls to electors, telephone contact with administration staff in remote Aboriginal communities and contact with the Station Manager of a pastoral lease.

(b) Division of Grey - South Australia

Where a letter from the AEC to a postal address is returned RTS, the postal address is removed from the relevant elector's records. Letters are then posted to the elector's residential address. Where such mail is deliverable, an indication of the elector's status at that address will usually be discovered. In remote communities, where mail is undeliverable, objection action is only taken following farther investigations that confirm that the elector may have left the Division.

Prior to an electoral event, contact is made with remote communities in order to facilitate polling in that area. Contact may also be made as part of the AEC's remote and indigenous electoral education and information program. At these times, information may be received about electors that have otherwise not been contactable.
AEC RTS mail in the Division of Northern Territory is generally a direct result of addresses that have no mail delivery service. Where mail from an MP is RTS, it is apparent that some electors return it deliberately in an attempt to discourage further correspondence. There have also been cases where RTS mail has arisen due to the use of outdated elector information by MPs.

Contact is frequently made with local communities before the AEC commences objection action. Information on electors from remote communities is checked with a representative of the council office of the community concerned prior to the commencement of any objection action. However, positive proof that the elector in question is not residing at their enrolled address will be required if objection action is to proceed.

Statistics covering objection action in the Division of Northern Territory and divisions in Qld, NSW, SA and WA are at Attachment 3.

Details are provided of all official objections entered into RMANS objection batches for the periods requested, subject to the following notes.

(a) 'Objections entered’ refers to electors marked to an objection batch prior to any action being taken; 'Objection Notices Sent' refers to the number of electors sent an objection notice in accordance with section 116 of the CEA; 'Objection Determination' refers to the number of electors removed from the roll.

(b) Separate information is not available for the number of electors entered on the objection system, or subsequently removed from the roll, on the basis of MP’s advice regarding RTS mail.

(c) The period for which details are provided has been altered in some cases from that requested to align with the date of the opening and determination of objection batches.

(d) Full details are not available for 1997 for the Division of Kalgoorlie as the boundaries of the Division were redistributed in that year making data extraction for WA in general difficult. Similarly, the last quarter of 2000 statistics is terminated at 20 November immediately prior to the WA redistribution of that year.

(e) No information is shown for 1997 for the Division of Grey. Up to August 1997 the roll for South Australia was held on a separate computer system (EAGLE) maintained by the SA State government, for which archived objection statistics are not available.

The differences in the number of objections between States and the NT in 1997, 1998 and 1999 may be attributable to the timing of batches and the dates of roll review activities and State and Territory electoral events.

ATTACHMENT 3

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Wednesday, 28 March 2001

West Australian Division

Objections entered on RMANS Objection System
Objection Notices Sent
Objection Determination No response insufficient reason to retain

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ATTACHMENT 1

ORDINARY ENROLMENT, PART 1

Objections, Subpart 14

Contents

1 General
2 Objections by Persons Other Than Divisional Returning Officer
3 Source of Information
4 Special Category Elector
5 Preparation of Objection Notice
6 Mailing Address
7 Automatic Bulk Objections
8 Manually Prepared Objections
9 Processing Objection Replies - General
10 Processing Objection Replies - Automatic Objection System
11 Processing Objection Replies - Manually Prepared Objections
12 Additional Information from Electors' Replies
13 Determination of Matured Objections
14 Processing Objection Replies After Name Removed
15 Objection Action Report
16 AEO's Review of Decision
17 Retention of Objection Material
18 Objection Action on State Only Enrolments

Attachment 1 - Advice of an Elector's Move
Attachment 2 - Objection Action Report
Attachment 3 - Australia Post Delivery Timetable
Attachment 4 - Acknowledgement Review of Decision to Remove Name From Roll
Attachment 5 - Review of Decision - s.120(1) (b) - DRO to AEO

ORDINARY ENROLMENT, PART 1

Objections, Subpart 14

1 General
1.1 A DRO is required to send an objection notice to every elector whom the DRO has reason to believe is no longer entitled to have their name retained on the electoral roll for a subdivision. [s.14(2) CEA]
1.2 A person to whom such a notice is sent may answer the objection in writing, or orally (telephone or in person) or by completion of an enrolment form for the new address.

The only exceptions to the issue of objection notices are:

1. under s.106 CEA, which states that where a person who is not qualified has enrolled by making a false claim, the DRO, on receipt of a certificate from the AEO setting forth the facts, may, at any time
between the issue of the writ for an election and the close of polling, remove the name of that person from the roll. See Part 1, Subpart 10 and,

2. the special elector categories of Itinerant, Eligible Overseas Elector and Spouse or Child of an Eligible Overseas Elector.

1.4 In states where joint roll provisions exist, the DRO is responsible for taking objection action against a 'State only' enrolment. Action in accordance with the relevant State's Act applies, and objection notices are prepared to suit the situation.

2. Objections by Persons Other Than Divisional Returning Officer

2.1 An objection on the grounds that an elector is not entitled to be enrolled may be lodged by another elector enrolled on the same subdivision roll [s.114(1) CEA].

An objection on the grounds of unsound mind may be lodged by any elector. See Part 1, Subpart 16.

2.2 The objection must be made in the approved form (copy at Attachment 6 of Subpart 15), include the name and address of the elector and must be lodged with the DRO, together with a deposit of $2.00. [s.115 CEA] See Part 1, Subpart 15.

A $2.00 deposit does not apply for objections on the grounds of unsound mind. See Part 1, Subpart 16.

2.3 A DRO cannot initiate proceedings for removal of an elector's name from the roll on the grounds of unsound mind [s.114(3) CEA]. Procedures for handling private objections on these grounds are set out in Part 1, Subpart 16.

ORDINARY ENROLMENT, PART 1
Objections, Subpart 14

3. Source of Information

3.1 Advice that an elector is no longer eligible for enrolment can come from sources such as:
- electoral roll review (see paragraph 3.4);
- local government authorities;
- institutions;
- State electoral authority; failure to vote notices;
- rejected enrolment forms; public;
- non attendance cards; advice from MPs including returned letters of introduction; or returned acknowledgements.

3.2 Where objection action is being foreshadowed as a result of mail returned by Australia Post, it is essential in all cases other than left address”, that additional information be obtained before any objection action is taken (e.g if Australia Post advises that a postal address is cancelled, amendment action is taken to delete the postal address).

3.3 When advice is received from your local MP it is essential that investigations are undertaken before any objection action is taken. Part 1, Subpart 21 refers.

3.4 Through an electoral roll review, if information received shows that an elector could still be living in the subdivision (i.e the information received indicates the new address by suburb or town name only) objection action cannot be taken. Furthermore, if the suburb or town is in more than one division, objection action cannot be taken.

4. Special Category Elector

4.1 Objection on the ground that the elector does not live in the subdivision does not apply to the special category electors of Antarctic, eligible overseas, spouse or child of an overseas elector, prisoner, Norfolk Island and itinerant.

ORDINARY ENROLMENT, PART 1
Objections, Subpart 14

4.2 Special objection reasons apply and are shown in the relevant special category elector parts of GEM.

5. Preparation of Objection Notice

There are two methods for the preparation of objection notices:
- Automatic bulk objections
The bulk objection system is used to automatically produce objection notices for electors being objected to on the grounds of non-residence only. Process in accordance with paragraph 7.

Manually prepared objections

Manual preparation of objection notices is required for objections where the grounds for objection are other than non-residence. However, objections on the grounds of non-residence may also be prepared manually. Process in accordance with paragraph 8.

5.2 The bulk objection system uses a batch type to distinguish between objections which may have to be processed at a different point in time

5.3 Electors with the following special category elector status will not be accepted for objection by the bulk objection system. A warning message will be displayed to this effect.

- silent elector;
- eligible overseas elector;
- spouse or child of an eligible overseas elector;
- itinerant elector;
- Antarctic elector; and
- Norfolk Island elector.

6. Mailing Address

6.1 There are three possible addresses, listed in hierarchical order, to which an objection may be sent. The DRO must ensure that the latest address is included in accordance with paragraph 6.2.

- the address stated in the latest communication received from/about the elector;
- the elector’s postal address; and
- the elector’s enrolled address.

ORDINARY ENROLMENT, PART 1

6.2 Manually prepared objection notices sent as a result of private objections must be posted to the elector at the address shown on the roll and if a different address is given on the private objection form, to that address also.

6.3 To modify contact address in automatic objection system - where information is received indicating that the elector’s current address is different from their postal or enrolled address, action must be taken to enter the latest contact address on to the objection details screen. This can be done at any time. Changing the contact address affects the objection file only. The postal address and enrolled address on the elector file remain unchanged.

6.4 Refer to the RMANS User Manual to modify contact address in the automatic objection system.

7. Automatic Bulk Objections

7.1 The objections held on the automatic bulk objection file will be processed/issued on the designated dates by the computer services section. Any electors listed for objection action, whose enrolment details remain unchanged, will be issued a ‘notice of intention to remove name from electoral roll’.

7.2 Notices of removal and notices of retention are also issued automatically after the ‘notices of intention to remove name from electoral roll’ mature.

7.3 The notices will be bulk posted centrally. Where there are less than 100 notices to be issued for a division they will be produced and sent to the DO for mailing.

7.4 To enter data, access the objection entry screen by logging into RMANS and referring to the RMANS User Manual.

8. Manually Prepared Objections

8.1 All notices of objection on grounds other than non-residence must be prepared manually in the DO. Manual preparation of objection notices which are issued on the grounds of non-residence may also be required. When the number of objection notices on the grounds of non-residence is small and does not justify the use of the bulk objection facility, the notices are to be prepared manually in the DO. Divisional offices will be advised when objections can be prepared in bulk. Record issue on the objection action report (see Attachment 2) in accordance with paragraph 15.
ORDINARY ENROLMENT, PART 1
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8.2 Notices are prepared through the 'enrolment' option of the standard letters menu in Uniplex.
Objection (non-residence) - used for all cases where the elector does not live in the subdivision except for private objections.
Objection (by elector) - used for private objections except on the ground of unsound mind. See Part 1, Subpart 15.
Objection (unsound mind) - used for private objections on the ground of unsound mind only. See Part 1, Subpart 16.
Objection (other reasons) - used for cases other than shown above, eg non citizen, imprisonment for 5 years or longer and some special category electors.

8.3 For preparation of objection notices to special category electors listed at paragraph 5.3, refer to the relevant special category elector part of GEM.

9. Processing Objection Replies - General

9.1 An elector may reply to an objection:
in writing;
by telephone; or
attending the office in person.

9.2 Where an elector telephones, or attends the office in person without a completed objection notice, complete a blank objection notice.

Where a reply is received by telephone and the elector has changed address within the subdivision, the name is retained on the roll but written advice signed personally by the elector must be received before the change of address can be effected.

9.3 As replies are received, they should be date stamped with the date of receipt and divisional name. They are then filed awaiting DRO decision.

9.4 The DRO makes the decision regarding the removal of the elector's name from the roll (allowance of the objection) or the retention of the elector's name on the roll (dismissal of the objection) on the basis of the information which led to the objection notice being issued and any further information supplied in reply by the elector.

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9.5 On some occasions it may be necessary to obtain additional information from an elector before a decision can be made. This can be done by telephoning or in writing.

Where no further information is provided notate the objection reply with the action taken then file in alphabetical order.

Where additional information is provided process in accordance with paragraph 12.

9.6 All enrolment forms and amendment source documents received must be processed promptly so that further notices are not sent.

10 Processing Objection Replies - Automatic Objection System

10.1 When a decision has been made to either allow or dismiss the objection, access the objection inquiry/update facility from the RMANS automatic objection system menu.

10.2 For processing in the automatic objection system refer to the RMANS User Manual.

10.3 Electors to be deleted are automatically deleted in RMANS by computer services when the period for reply matures.

10.4 Notices of removal and notices of retention are issued automatically.

10.5 For processing of replies received after the elector has been deleted in RMANS see paragraph 14.

10.6 Where additional information is provided, process in accordance with paragraph 12.

11. Processing Objection Replies - Manually Prepared Objections
11.1 If a decision has been made to allow the objection, prepare a notice of removal. These are available through the 'enrolment' option of the standard letters menu in Uniplex.

Notice of removal - used for all cases where the decision has been made to remove the name from the roll. See paragraph 6.2 for mailing address.

11.2 If a decision has been made to dismiss the objection, prepare a notice of retention. These are available through the 'enrolment' option of the standard letters menu in Uniplex.

Notice of retention - used for all cases where the response indicates the elector is still entitled to enrolment in the subdivision.

ORDINARY ENROLMENT, PART 1
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11.3 Where additional information is provided, process in accordance with paragraph 12.

11.4 For processing of replies received after the elector has been deleted in RMANS see paragraph 14.

11.5 Electors to be deleted in RMANS are processed in accordance with Subpart 10 when period for reply has expired. This period could be affected by the Australia Post 'mail delivery timetable' at attachment 3.

12. Additional Information from Electors' Replies

12.1 Where an elector claims to now live at another address within the same subdivision:
   enrol for the correct address if an enrolment form has been returned, process in accordance with Part 1, Subpart 3; or
   if no enrolment form is returned and the objection notice has been completed and signed personally by the elector, use the reply as an amendment source document and process in accordance with Part 1, Subpart 10; or
   check RMANS for verification; or
   where none of the above applies, compulsory enrolment action must commence in accordance with Part 1, Subpart 11.

12.2 Where an elector claims to be living in another subdivision:
   if an enrolment form has been received with the reply, forward to the appropriate division; or
   check RMANS and if not enrolled for the new address, prepare and despatch ER007 'advice of elector's move' (copy at Attachment 1) to appropriate division in accordance with Part 1, Subpart 10.

12.3 All enrolment forms and amendment source documents received must be processed promptly so that further objection notices are not sent.

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13. Determination of Matured Objections

13.1 Where a person fails to reply to a 'Notice of intention to remove name from electoral roll' within 20 days of notification of the objection being given, the notice matures and their name is removed from the electoral roll, subject to Part 1, Subpart 17 'Close of Rolls'; and notices of removal or retention are posted. [s.1118CEA]

The 'day of notification' is the day on which, with regard to posting, Australia Post could reasonably be expected to have delivered the notice. To cover this requirement, a minimum of 3 working days should be added to the 20 days required by s1118(1)(b) CEA, eg notices posted on Friday would have an extra 5 days added to take account of Saturday and Sunday. See Attachment 3.

13.2 Where a reply is received to a 'Notice of intention to remove name from electoral roll', the DRO will consider the facts and decide whether the name should be removed from, or retained on, the electoral roll. See paragraphs 10 and 11.

13.3 The DRO shall notify the elector in writing of the decision, using the appropriate determination notice. [ss.1 18(6) & (7) CEA]

13.4 All entries on an objection action report without a reply notation are checked against all current objection correspondence to ensure that all objection replies have been actioned.
13.5 After the reply period has matured, electors flagged for deletion in the automatic objection system are deleted in RMANS automatically and those flagged for retention are retained automatically. The relevant notices are sent automatically.

13.6 Electors, whose objections were prepared manually are deleted manually after the reply period matures. See Part 1, Subpart 10.

ORDINARY ENROLMENT, PART 1

Objections, Subpart 14

14. Processing Objection Replies After Name Removed

14.1 Replies received to either a notice of intention to remove name from electoral roll after the elector has been removed or a notice of removal advising that the elector is entitled to enrolment in the subdivision from which they were removed, the elector is reinstated in accordance with Part 1, Subpart 10 using the reply as the source document.

If the elector has changed address but is still living in the subdivision for which they were removed, they are reinstated to the new address subject to the reply being signed personally by the elector. If the reply is not signed personally, the elector is reinstated for the old address and compulsory enrolment action in accordance with Part 1, Subpart 11 is commenced.

14.2 Replies advising a change of address to another division, where an enrolment form did not accompany the reply and a check of RMANS shows the elector is not enrolled for the new address, are notified to the appropriate division using ER007 (copy at Attachment 1) in accordance with Part 1, Subpart 10.

15. Objection Action Report

15.1 Following determination processing, the automatic objection system will produce a report showing the objection action carried out for every elector who received an objection notice.

15.2 For manually prepared objections a similar report is prepared manually (see Attachment 2) when issuing the notice of intention to remove name from electoral roll.

16. AEO’s Review of Decision

16.1 General

An elector who has been advised that their name has been removed from the roll by means of an objection can request in writing that the DRO refer the matter to the AEO for review of decision. A request must be lodged within 28 days of notification of the determination of objection. [s.120(1)(b) CEA]

Requests received after the approved period must be referred to HO for advice.

A person removed from the roll under s.106 CEA has the right of appeal directly to the Administrative Appeals Tribunal. See Part 1, Subpart 10 ‘Deletion of False Enrolment’

ORDINARY ENROLMENT, PART 1

Objections, Subpart 14

16.2 Action on receipt of review request

Acknowledge receipt of request using attachment 4.

Forward the written notification (using attachment 5), copy of acknowledgement, objection form and copies of any other relevant documents to the AEO.

Retain copies of all documents sent to the AEO on AEO REVIEW OF DECISION file until AEO’s decision is received.

16.3 On receipt of documentation from the DRO, the AEO considers the facts and makes a decision. The AEO advises the elector and the DRO of the outcome.

16.4 Appeal upheld

Reinstate elector to roll. See Part 1, Subpart 10.

Retain all other associated papers on file until after the next election is finalised.

16.5 Appeal rejected

File objection notice and other relevant documents with other replies to objection notices.

16.6 Review by the Administrative Appeals Tribunal (AAT)
Application may be made to the AAT for review of a decision made by an AEO under s.121 (1)(b) CEA.

Normal appeal period is 28 days but in some circumstances under section 29 of the AAT Act this period may be longer. Accordingly appellants should be referred directly to the AAT.

17. Retention of Objection Material

17.1 These documents must be retained in accordance with the current records disposal authority.

18. Objection Action on State Only Enrolments

18.1 In states where joint roll provisions exist, the DRO is responsible for taking objection action against a State only enrolment. Action in accordance with the relevant State’s Act applies, and objection notices are prepared to suit the situation.

ATTACHMENT 2

RETURN TO SENDER MAIL ARISING FROM POSTINGS USING ELECTORAL ROLL DATA

INFORMATION FOR MEMBERS AND SENATORS

As you are aware, the Australian Electoral Commission (AEC) provides the offices of Members and Senators with monthly updates to the electoral roll on floppy disc. These updates include new electoral enrolments, amendments and transfers of enrolments. Over the last 2 years the volume of Members and Senators mail returned to sender by Australia Post (FITS mail) and subsequently forwarded to the AEC for investigation has increases.

To assist Members and Senators, the AEC is providing the following information on procedures which will shortly be adopted by AEC Divisional staff to investigate returned mail.

1. On receipt of PITS Mail, Members are requested to forward the returned mail envelopes to the relevant AEC Divisional Office or, in the case of mail returned to Senators, to the AEC State Head Offices.

2. AEC staff will check the enrolment details of addresses against the electoral roll provided that:
   • the addressee’s name (including given names) and address is shown in sufficient detail to allow a positive match with an entry on the electoral roll; and
   • the returned envelope is marked with an official Australia Post “Return to Sender” stamp or with other clear information indicating that the addressee may have left their enrolled address.

3. In carrying out checks against the roll, AEC staff will terminate enquiries if they have prior information indicating that electors are correctly enrolled e.g. electors are temporarily overseas or enrolled for addresses where there are known mail delivery problems, including delays in the collection of mail from poste restante delivery addresses or where an incorrect postal address was used. In these cases the envelopes will be endorsed with the reason for the termination of investigations and set aside for return to the Senator or Member.

4. In those instances where preliminary checks indicate that an elector may have left their enrolled address, the AEC will make further enquiries by phone call to the elector’s residence (particularly in remote areas) or by the posting of an enquiry letter, an example of which is at Attachment A.

5. Further action by AEC staff will depend on the nature of replies received from electors and on the endorsements noted on any returned, unopened enquiry letter envelopes. In cases where the responses to the enquiry letters indicate that electors have permanently left their enrolled address (including no reply or returned unclaimed), official objection action under Part 9 of the Commonwealth Electoral Act 1918 will be commenced.

6. Upon completion of all investigations for a batch of FITS mail, Members and Senators will be provided with information regarding the results of AEC enquiries. In cases where investigations take the form of an official enquiry letter, the AEC will retain the original RTS mail as evidence in support of ongoing enrolment action, and a summary listing the names of electors and the results of investigations will be provided (see Attachment B). RTS mail envelopes which were not subject to further investigation, ie an enquiry letter was not sent, will be returned with the summary listing.

In investigating reasons for the return of mail addressed to electors it is important to be aware that no matter how efficient and effective enrolment processes may be, there will always be electors whose enrolment details are not correct at a given moment and that this will result in a proportion of mailings being returned.
The basis reasons for this are twofold. First, on average around 15% of the Australian electorate changes address each year. This means that in a typical federal division with an enrolment of 78,000, almost 12,000 electors will change address each year, or about 1,000 per month.

Second, persons are obliged under the Commonwealth Electoral Act 1918 to advise the AEC of a change of address when they have lived at a new address for one month (or 21 days if within the same division). They are not permitted to do so earlier. In practice, a fair proportion of people do not provide new enrolment addresses immediately after the relevant period has expired. Periodic electoral roll reviews address this to a limited extent and election roll closes also prompt a lot of people to update their enrolments.

Taking these two factors together it is clear that, on average, in excess of 1,000 addresses in any list of electors for a division will be out of date at any given time. The enrolment records cannot be more accurate than this and Members and Senators should expect some mail to be returned. Rates of population movement may vary considerably between divisions, so the above numbers are only indicative of average levels of FITS mail. As well, the above figures apply only to mailings using up-to-date information. It is essential that the most recently available enrolment details (including postal address) are used for mailings and that printing arrangements do not unnecessarily delay posting. In order to minimise the volume of returned mail, Senators and Members are urged to mail correspondence within one week of receipt of the updated monthly enrolment data.

Further RTS mail problems may inadvertently arise from the reformatting of AEC roll data by Members’ and Senators’ offices to produce mailing lists with abbreviated given names and gender specific titles which are not provided by the AEC on their base data. The AEC cannot always investigate FITS mail where envelopes are, for example, addressed to a whole family or where individual electors cannot clearly be identified at the claimed address on the electoral roll.

Please contact the Australian Electoral Commission, Enrolment Section - Client Services Unit on 06-2714464 if you have any queries regarding the processing of address data supplied as a part of the AEC’s monthly update of enrolment information for Members and Senators. Further information regarding the handling and investigation of FITS Mail can be provided by AEC Head Offices in each State capital and Darwin or by individual Divisional Offices of the AEC.

Bill Gray
Electoral Commissioner
23 March 1995

**ELECTOR, PART 5**

Elector Deletion Subpart 2

Contents

1. Introduction
2. General Functional Business Rules
3. Deletion Matching Entry Screen
4. Deletion Detail Screen

Menu Path
From the Main Menu:
Select Enrolment Processing
Select Electors
Select Elector Deletion

**ELECTOR, PART 5**

Elector Deletion, Subpart 2

1. Introduction

1.1 This facility deletes electors from the Current elector files and places the elector details on the Deleted (History) file.

1.2 Electors can be deleted as a result of Objection (for various reasons), Death or Duplicate.

2. General Functional Business Rules:
2.1 Objections cannot be performed after the Issue of the Writ. That is when the Rail Status for the electors electoral area is “IW” (Issue of the Writ) or “RC” (Roll Close).

Note: other deletions can still be performed.

Deletions cannot be performed when the Roll Status for the electors electoral area is "RP" (Roll Production) or “RD” (Redistribution).

If the Address the elector is deleted from, is now vacant (i.e. no electors enrolled there) the system will update the Vacant Address Indicator in the Address Register to ‘Y’, set the Timestamp to the current date and time and the User ID to the user ID of the person performing the deletion.

**ELECTOR, PART 5**
Elector Deletion, Subpart 2

3. Deletion Matching Entry Screen

3.1 Enter the elector's ID Number, Surname and Given Names. Press F1

Screen Business Rules

F6 - EenqyElector Enquiries LeSoundex, Starting From and old Address Enquiry

Users are able to select an elector's details from the Elector Enquiries, and return the electors ID number, Surname and Given Names to the input screen.

An elector's ID Number and Surname and Given Names must be entered. An enrolment with this combination must exist on the Current file, for your Division.

Elector ID Number must be 8 numerics.

**ELECTOR, PART5**
Elector Deletion, Subpart 2

4. Deletion Detail Screen

4.1 The deletion detail screen shown is where the Deletion transaction details are entered.

4.2 Enter the deletion details relevant to the type of deletion being performed and press F1 to delete the record.

Function Keys:

F6 - EenqyElector Enquiries i.e. Soundex, Starting From and old Address Enquiry

Screen Business Rules 1 Screen Defaults

If the enrolment is in the process of being updated 1 deleted by another user, a warning message will appear allowing the user to retry, or to cancel the deletion.

The Transaction Source is defaulted to “D” for Division.

Deletion Data Validation

Deletion Type must be one of "0" (Objection), "M" (Death), "D" (Duplicate).

Transaction Source must be one of "D" (Division), "P" (Post Office), "0" (Other), "S" (State) or “R” (Review).

Objection Reason is only required when the Deletion Type is "0" (Objection).

**ELECTOR, PART 5**
Elector Deletion, Subpart 2

Objection Reason if required must be one of the following:

<table>
<thead>
<tr>
<th>Objection Reason Code</th>
<th>Objection Reason Meaning</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>Not Naturalised</td>
</tr>
<tr>
<td>B</td>
<td>Unsound Mind</td>
</tr>
<tr>
<td>C</td>
<td>Imprisonment</td>
</tr>
<tr>
<td>D</td>
<td>Non-Voter Eligible Overseas</td>
</tr>
<tr>
<td>E</td>
<td>Non-Voter Itinerant</td>
</tr>
<tr>
<td>F</td>
<td>Treason 1 Treachery</td>
</tr>
<tr>
<td>G</td>
<td>Non Resident Elector Advice</td>
</tr>
</tbody>
</table>
Objection.
Reason Code | Objection Reason Meaning
--- | ---
1 | Advice from Other Division
i | Non Resident Federal Election
K | Non Resident Security Access Building Refusal
L | Non Resident Local Government
m | Non Resident Mail Review
N | Non Resident Non Attendance
p | Non Resident Private Objection
R | Non Resident Electoral Roll Review Officer
S | Non Resident State
U | Non Resident Return Undelivered Mail
z | Miscellaneous

Duplicate Deletions
A Deletion Type of “D” (Duplicate) must have the duplicate to remain details entered (other types of deletions do not require this data).

The remain name details can be the same as the deleted name details.

Users are able to select an elector's details from the Elector Enquiries, and return the elector's ID Number, Surname, Given Names and Remaining Subdivision code into the Duplicate to remain details.

The remain ID number must be different to the Elector to be deleted ID number.

**ELECTOR, PART 5**

Elector Deletion, Subpart 2

The remain ID (Valid state code, followed by 8 Numerics), Surname, Given Names and Subdivision Code (4 Numerics) must match those of a Current enrolment (and all these fields are checked for standard characters).

If an "*" is entered in either the Remain Surname or Given Names, then the Elector to be deleted Surname and/or Given Names are copied into those fields.

**Tootgarook Swamp, Victoria**

(Question No. 3476)

**Senator Brown** asked the Minister for the Environment and Heritage, upon notice, on 1 March 2001:

What action does the Minister intend to take to protect the fragile Tootgarook Swamp in Victoria.

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

The Tootgarook Swamp is on private land, which is currently on the market. The wetland is not listed in the Directory of Important Wetlands of Australia, nor is it a Ramsar site.

The use and development of the property is essentially a State issue.

Commonwealth involvement may occur if future proposed actions will have or are likely to have significant impact on a matter of national environmental significance, (such as migratory or endangered species) in which case the provisions of the Environment Protection and Biodiversity Conservation Act would come into effect.

Commonwealth involvement could also occur if a formal application was received for funding assistance under the National Reserve System, a program under the National Heritage Trust.