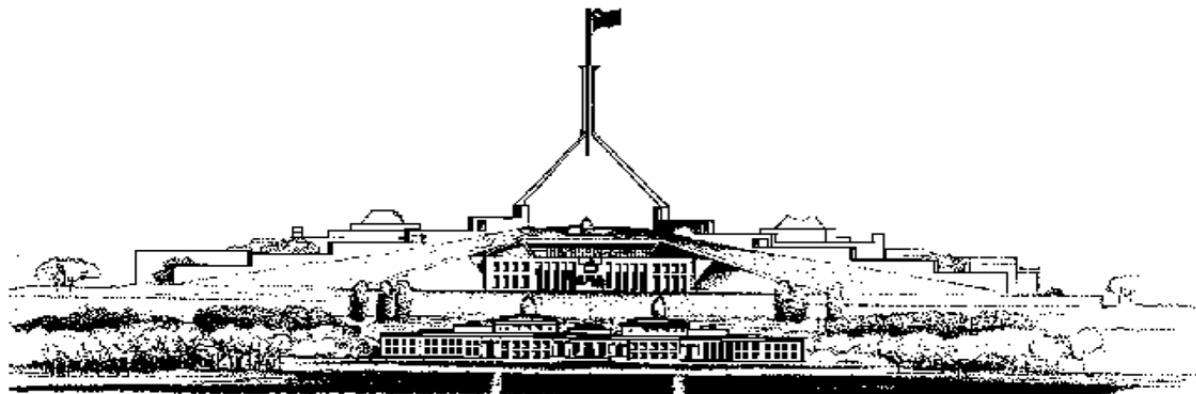




COMMONWEALTH OF AUSTRALIA

**PARLIAMENTARY DEBATES**



**Senate**  
**Official Hansard**

**No. 122, 1987**  
**Friday, 23 October 1987**

THIRTY-FIFTH PARLIAMENT  
FIRST SESSION—FIRST PERIOD

BY AUTHORITY OF THE SENATE

# THIRTY-FIFTH PARLIAMENT

## FIRST SESSION—FIRST PERIOD

### Governor-General

His Excellency the Right Honourable Sir Ninian Martin Stephen, a Member of Her Majesty's Most Honourable Privy Council, Knight of the Order of Australia, Knight Grand Cross of the Most Distinguished Order of St Michael and St George, Knight Grand Cross of the Royal Victorian Order, Knight Commander of the Most Excellent Order of the British Empire, Governor-General of the Commonwealth of Australia and Commander-in-Chief of the Defence Force.

### Senate Officeholders

*President*—Senator the Honourable Kerry Walter Sibraa

*Deputy President and Chairman of Committees*—Senator David John Hamer, DSC

*Temporary Chairmen of Committees*—Senators the Honourable Peter Erne Baume, Florence Isabel Bjelke-Petersen, Bryant Robert Burns, Malcolm Arthur Colston, Patricia Jessie Giles, David John MacGibbon, John Joseph Morris, Janet Frances Powell, Baden Chapman Teague and Alice Olive Zakharov

*Leader of the Government in the Senate*—Senator the Honourable John Norman Button

*Deputy Leader of the Government in the Senate*—Senator the Honourable Gareth John Evans, QC

*Leader of the Opposition*—Senator the Honourable Frederick Michael Chaney

*Deputy Leader of the Opposition*—Senator Austin William Russell Lewis

### Senate Party Leaders

*Leader of the Australian Labor Party*—Senator the Honourable John Norman Button

*Deputy Leader of the Australian Labor Party*—Senator the Honourable Gareth John Evans, QC

*Leader of the Liberal Party of Australia*—Senator the Honourable Frederick Michael Chaney

*Deputy Leader of the Liberal Party of Australia*—Senator Austin William Russell Lewis

*Leader of the National Party of Australia*—Senator John Owen Stone

*Deputy Leader of the National Party of Australia*—Senator Florence Isabel Bjelke-Petersen

*Leader of the Australian Democrats*—Senator Janine Haines

*Deputy Leader of the Australian Democrats*—Senator Michael John Macklin

## Members of the Senate

Senator	State or Territory	Term expires	Party
Alston, Richard Kenneth Robert	Vic.	30.6.90	LP
Archer, Brian Roper	Tas.	30.6.93	LP
Aulich, Terrence Gordon	Tas.	30.6.93	ALP
Baume, Michael Ehrenfried	NSW	30.6.93	LP
Baume, Hon. Peter Erne	NSW	30.6.93	LP
Beahan, Michael Eamon	WA	30.6.90	ALP
Bishop, Bronwyn Kathleen	NSW	30.6.90	LP
Bjelke-Petersen, Florence Isabel	Qld	30.6.93	NP
Black, John Rees	Qld	30.6.90	ALP
Bolkus, Hon. Nick	SA	30.6.93	ALP
Boswell, Ronald Leslie Doyle	Qld	30.6.90	NP
Brownhill, David Gordon Cadell	NSW	30.6.90	NP
Burns, Bryant Robert	Qld	30.6.90	ALP
Button, Hon. John Norman	Vic.	30.6.93	ALP
Calvert, Paul Henry	Tas.	30.6.90	LP
Chaney, Hon. Frederick Michael	WA	30.6.93	LP
Chapman, Hedley Grant Pearson	SA	30.6.90	LP
Childs, Bruce Kenneth	NSW	30.6.90	ALP
Coates, John	Tas.	30.6.93	ALP
Collins, Robert Lindsay (!)	NT		ALP
Colston, Malcolm Arthur	Qld	30.6.93	ALP
Cook, Hon. Peter Francis Salmon	WA	30.6.93	ALP
Cooney, Bernard Cornelius	Vic.	30.6.90	ALP
Coulter, John Richard	SA	30.6.90	AD
Crichton-Browne, Noel Ashley	WA	30.6.90	LP
Crowley, Rosemary Anne	SA	30.6.90	ALP
Devereux, John Robert	Tas.	30.6.90	ALP
Devlin, Arthur Ray	Tas.	30.6.90	ALP
Durack, Hon. Peter Drew, QC	WA	30.6.93	LP
Evans, Hon. Gareth John, QC	Vic.	30.6.93	ALP
Foreman, Dominic John	SA	30.6.93	ALP
Gietzelt, Hon. Arthur Thomas	NSW	30.6.93	ALP
Giles, Patricia Jessie	WA	30.6.93	ALP
Haines, Janine	SA	30.6.93	AD
Hamer, David John, DSC	Vic.	30.6.90	LP
Harradine, Brian	Tas.	30.6.93	Ind.
Hill, Robert Murray	SA	30.6.90	LP
Jenkins, Jean Alice	WA	30.6.90	AD
Jones, Gerry Norman	Qld	30.6.90	ALP
Knowles, Susan Christine	WA	30.6.93	LP
Lewis, Austin William Russell	Vic.	30.6.93	LP
McGauran, Julian John	Vic.	30.6.90	NP
MacGibbon, David John	Qld	30.6.93	LP
McKiernan, James Philip	WA	30.6.90	ALP
McLean, Paul Alexander	NSW	30.6.93	AD
Macklin, Michael John	Qld	30.6.90	AD
Maguire, Graham Ross	SA	30.6.93	ALP
Messner, Hon. Anthony John	SA	30.6.93	LP
Morris, John Joseph	NSW	30.6.90	ALP
Newman, Jocelyn Margaret	Tas.	30.6.90	LP

## Members of the Senate—*continued*

Senator	State or Territory	Term expires	Party
Panizza, John Horace	WA	30.6.90	LP
Parer, Warwick Raymond	Qld	30.6.93	LP
Patterson, Kay Christine Lesley	Vic.	30.6.90	LP
Powell, Janet Frances	Vic.	30.6.93	AD
Puplick, Christopher John Guelph	NSW	30.6.90	LP
Ray, Hon. Robert Francis	Vic.	30.6.90	ALP
Reid, Margaret Elizabeth (1)	ACT		LP
Reynolds, Hon. Margaret	Qld	30.6.93	ALP
Richardson, Hon. Graham Frederick	NSW	30.6.93	ALP
Ryan, Hon. Susan Maree (1)	ACT		ALP
Sanders, Norman Karl	Tas.	30.6.90	AD
Schacht, Christopher Cleland	SA	30.6.90	ALP
Sheil, Glenister	Qld	30.6.90	NP
Short, James Robert	Vic.	30.6.93	LP
Sibraa, Hon. Kerry Walter	NSW	30.6.93	ALP
Stone, John Owen	Qld	30.6.93	NP
Tambling, Grant Ernest John (1)	NT		NP
Tate, Hon. Michael Carter	Tas.	30.6.93	ALP
Teague, Baden Chapman	SA	30.6.90	LP
Vallentine, Josephine	WA	30.6.90	Ind.
Vanstone, Amanda Eloise	SA	30.6.93	LP
Walsh, Hon. Peter Alexander	WA	30.6.93	ALP
Walters, Mary Shirley	Tas.	30.6.93	LP
Watson, John Odin Wentworth	Tas.	30.6.90	LP
Wood, William Robert	NSW	30.6.90	Ind.
Zakharov, Alice Olive	Vic.	30.6.93	ALP

(1) Term expires at close of day next preceding the polling day for the general election of members of the House of Representatives.

### PARTY ABBREVIATIONS

AD—Australian Democrats; ALP—Australian Labor Party; Ind.—Independent;  
LP—Liberal Party of Australia; NP—National Party of Australia

### **Third Hawke Ministry**

*Prime Minister	The Honourable Robert James Lee Hawke, AC
*Deputy Prime Minister, Attorney-General and Minister Assisting the Prime Minister for Commonwealth-State Relations	The Honourable Lionel Frost Bowen
*Leader of the Government in the Senate and Minister for Industry, Technology and Commerce	Senator the Honourable John Norman Button
*Deputy Leader of the Government in the Senate, Manager of Government Business in the Senate and Minister for Transport and Communications	Senator the Honourable Gareth John Evans, QC
*Treasurer	The Honourable Paul John Keating
*Minister for Immigration, Local Government and Ethnic Affairs, Vice-President of the Executive Council, Leader of the House and Minister Assisting the Prime Minister for Multicultural Affairs	The Honourable Michael Jerome Young
*Minister for Finance	Senator the Honourable Peter Alexander Walsh
*Minister for Foreign Affairs and Trade	The Honourable William George Hayden
*Minister for Industrial Relations and Minister Assisting the Prime Minister for Public Service Matters	The Honourable Ralph Willis
*Minister for Employment, Education and Training	The Honourable John Sydney Dawkins
*Minister for Defence	The Honourable Kim Christian Beazley
*Minister for Primary Industries and Energy	The Honourable John Charles Kerin
*Minister for Social Security	The Honourable Brian Leslie Howe
*Minister for Administrative Services	The Honourable Stewart John West
*Minister for the Arts, Sport, the Environment, Tourism and Territories	The Honourable John Joseph Brown
*Minister for Community Services and Health	The Honourable Neal Blewett
*Special Minister of State, Minister Assisting the Prime Minister for the Status of Women and for the Bicentenary and Minister Assisting the Minister for Community Services and Health	Senator the Honourable Susan Maree Ryan
Minister for Trade Negotiations, Minister Assisting the Minister for Industry, Technology and Commerce and Minister Assisting the Minister for Primary Industries and Energy	The Honourable Michael John Duffy
Minister for Resources	The Honourable Peter Frederick Morris
Minister for Employment Services and Youth Affairs and Minister Assisting the Treasurer	The Honourable Allan Clyde Holding
Minister for Justice	Senator the Honourable Michael Carter Tate
Minister for Science and Small Business	The Honourable Barry Owen Jones
Minister for Veterans' Affairs	The Honourable Benjamin Charles Humphreys
Minister for the Environment and the Arts	Senator the Honourable Graham Frederick Richardson
Minister for Aboriginal Affairs	The Honourable Gerard Leslie Hand
Minister for Home Affairs and Deputy Manager of Government Business in the Senate	Senator the Honourable Robert Francis Ray
Minister for Consumer Affairs and Minister Assisting the Treasurer for Prices	The Honourable Peter Richard Staples
Minister for Land Transport and Infrastructure Support	The Honourable Peter Duncan
Minister for Defence Science and Personnel	The Honourable Roslyn Joan Kelly
Minister for Local Government	Senator the Honourable Margaret Reynolds
*Minister in the Cabinet	

# THE COMMITTEES OF THE SESSION

(FIRST SESSION: FIRST PERIOD)

## STANDING COMMITTEES

APPROPRIATIONS AND STAFFING—The President, the Leader of the Government in the Senate, the Leader of the Opposition in the Senate, Senators Aulich, Coates, Collins, Crichton-Browne, Harradine and Macklin.

HOUSE—The President, Senators Michael Baume, Bjelke-Petersen, Cook, Devlin, Knowles and Morris.

LIBRARY—The President, Senators Aulich, Devlin, Gietzelt, Harradine, Hill and Walters.

PRIVILEGES—Senators Black, Childs, Coates, Cooney, Durack, Powell and Teague.

PROCEDURE—The President, the Deputy President and Chairman of Committees, the Leader of the Government in the Senate, the Leader of the Opposition in the Senate, Senators Gareth Evans, Haines, Jones, MacGibbon, Ray and Reid.

PUBLICATIONS—Senators McKiernan (*Chairman*), Senators Archer, Aulich, Devlin, Panizza and Watson.

## LEGISLATIVE SCRUTINY STANDING COMMITTEES

REGULATIONS AND ORDINANCES—Senator Collins (*Chairman*), Senators Bishop, Gietzelt, Giles, Stone and Teague.

SCRUTINY OF BILLS—Senator Cooney (*Chairman*), Senators Beahan, Brownhill, Crowley, Powell and Patterson.

## LEGISLATIVE AND GENERAL PURPOSE STANDING COMMITTEES

COMMUNITY AFFAIRS—Senator Zakharov (*Chairman*), Senators Crowley, Devereux, Gietzelt, Knowles, Jenkins, Sheil and Walters.

EMPLOYMENT, EDUCATION AND TRAINING—Senator Aulich (*Chairman*), Senators Beahan, Devereux, Devlin, McLean, Patterson, Teague and Watson.

ENVIRONMENT, RECREATION AND THE ARTS—Senator Black (*Chairman*), Senators Coates, Coulter, Crichton-Browne, McGauran, Morris, Panizza and Zakharov.

FINANCE AND PUBLIC ADMINISTRATION—Senator Coates (*Chairman*), Senators Alston, Black, Burns, Calvert and Durack.

FOREIGN AFFAIRS, DEFENCE AND TRADE—Senator Maguire (*Chairman*), Senators Burns, Cook, Hamer, Newman, Schacht, Teague and Wood.

INDUSTRY, SCIENCE AND TECHNOLOGY—Senator Childs (*Chairman*), Senators Archer, Peter Baume, Brownhill, Burns, Cook, Coulter and McKiernan.

LEGAL AND CONSTITUTIONAL AFFAIRS—Senator Bolkus (*Chairman*), Senators Alston, Cooney, Giles, Hill, Powell, Schacht and Stone.

TRANSPORT, COMMUNICATIONS AND INFRASTRUCTURE—Senator Foreman (*Chairman*), Senators Bovell, Chapman, Collins, Devereux, Parer, Powell and Schacht.

## SELECT COMMITTEES

ANIMAL WELFARE—Senator Morris (*Chairman*), Senators Brownhill, Calvert, Cooney, Devlin and Sanders.

THE EDUCATION OF GIFTED AND TALENTED CHILDREN—Senator Colston (*Chairman*), Senators Beahan, Newman and Teague.

## ESTIMATES COMMITTEES

ESTIMATES COMMITTEE A—Senator Childs (*Chairman*), Senators Alston, Bishop, Burns, Chapman and Cook.

ESTIMATES COMMITTEE B—Senator Gietzelt (*Chairman*), Senators Brownhill, Devereux (from 7 October), MacGibbon, Maguire (to 7 October), Panizza and Schacht.

ESTIMATES COMMITTEE C—Senator Crowley (*Chairman*), Senators Archer, Collins, Devlin, McGauran and Parer.

ESTIMATES COMMITTEE D—Senator Colston (*Chairman*), Senators Peter Baume, Giles, Sheil, Walters and Zakharov.

ESTIMATES COMMITTEE E—Senator Aulich (*Chairman*), Senators Beahan (to 28 October), Bolkus, Foreman (from 28 October), Newman, Short and Tambling.

ESTIMATES COMMITTEE F—Senator Black (*Chairman*), Senators Coates, Cooney, Puplick, Reid and Vanstone.

## JOINT STATUTORY COMMITTEES

BROADCASTING OF PARLIAMENTARY PROCEEDINGS—The President, Madam Speaker, Senators Michael Baume and Childs and Mr Ronald Edwards, Mrs Harvey, Mr Hicks, Mr Jull and Mr Scott.

NATIONAL CRIME AUTHORITY—Mr Cleeland (*Chairman*), Senators Alston, Bolkus, Hill, Jones and Macklin and Mr Dubois, Mr MacKellar, Mr McGauran and Mr O'Keefe.

PUBLIC ACCOUNTS—Mr Tickner (*Chairman*), Senators Bishop, Gietzelt, Giles, McKiernan and Watson and Mr Aldred, Mr Fitzgibbon, Dr Hewson, Mr Lee, Mr Martin, Mr Nchi, Mr Ruddock and Mr Scholes.

PUBLIC WORKS—Mr Hollis (*Chairman*), Senators Burns, Devereux and Sheil and Mr Burr, Mr Gear, Mr Halverson, Mr Millar and Mr Mountford.

## JOINT COMMITTEES

**ELECTORAL MATTERS**—Mr Lee (*Chairman*), Senators Beahan, Coulter, Harradine, Schacht and Short and Mr Blunt, Ms Jakobsen, Mr Punch and Mr Shack.

**FOREIGN AFFAIRS, DEFENCE AND TRADE**—Mr Bilney (*Chairman*), Senators Bolkus, Crichton-Browne, Hill, Jones, MacGibbon, Macklin, Maguire, Morris, Schacht, Tambling and Valentine and Mr Baldwin, Mr Campbell, Mr Charles, Mr Cross, Mr Halverson, Mr Hicks, Mr Jull, Mr Katter, Mr Kent, Dr Klugman, Mr Langmore, Mr Lindsay, Mr MacKellar, Mr Nehl, Mr Ruddock, Mr Scott, Mr Shipton and Dr Theophanous.

**NEW PARLIAMENT HOUSE**—The President and Madam Speaker (*Joint Chairmen*), Minister for Administrative Services, Senators Michael Baume, Colston, Devlin, MacGibbon, Reid and Schacht and Mr Dobie, Mr Dubois, Mr Hunt, Mr Lee, Mr Les McLeay and Mrs Sullivan.

## JOINT SELECT COMMITTEES

**VIDEO MATERIAL**—Dr Klugman (*Chairman*), Senators Collins, Harradine, Jenkins, Walters and Zakharov and Mr Adermann, Mr Charles, Ms Crawford, Ms Jakobsen and Mr Jull.

# PARLIAMENTARY DEPARTMENTS

## SENATE

*Clerk of the Senate*—A. R. Cumming Thom  
*Deputy Clerk of the Senate*—H. Evans  
*Clerk-Assistant (Table)*—A. Lynch  
*Clerk-Assistant (Management)*—T. H. G. Wharton  
*Clerk-Assistant (Procedure)*—J. Vander Wyk  
*Acting Clerk-Assistant (Committees)*—R. J. Diamond  
*Acting Usher of the Black Rod*—C. J. C. Elliott

## HOUSE OF REPRESENTATIVES

*Clerk of the House*—A. R. Browning  
*Deputy Clerk of the House*—L. M. Barlin  
*First Clerk Assistant*—I. C. Harris  
*Clerk Assistant (Procedure)*—B. C. Wright  
*Clerk Assistant (Committees)*—J. W. Pender  
*Clerk Assistant (Table)*—I. C. Cochran  
*Clerk Assistant (Administration)*—M. W. Salkeld  
*Serjeant-at-Arms*—B. L. Simons

## PARLIAMENTARY REPORTING STAFF

*Principal Parliamentary Reporter*—J. M. Campbell  
*Assistant Principal Parliamentary Reporter*—B. A. Harris  
*Leader of Staff (Committees)*—K. Shearwood  
*Leader of Staff (Senate)*—M. A. R. McGregor  
*Leader of Staff (House of Representatives)*—K. B. Ryder

## LIBRARY

*Parliamentary Librarian*—H. de S. C. MacLean

## JOINT HOUSE

*Secretary*—M. W. Bolton

*Friday, 23 October 1987*

**The PRESIDENT (Senator the Hon. Kerry Sibraa)** took the chair at 9 a.m., and read prayers.

### **PETITIONS**

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

#### **Australia Card Legislation**

To the President and Senators in Parliament assembled, your humble petitioners showeth that the proposed Australia Card will have a dramatic impact on the lives of all Australians, and your petitioners therefore request a national referendum on the Australia Card Bill before the proposal is resubmitted to Parliament.

As in duty bound your petitioners will ever pray.

by **Senators Brownhill** (from 140 citizens) and **Reid** (from 219 citizens).

Petitions received.

#### **Australia Card Legislation**

To the Honourable the President and members of the Senate in Parliament assembled.

The petition of the undersigned citizens of South Australia respectfully showeth:

1. We reject in principle the need for a national I.D. card on the basis that it will be a gross violation of individual liberty.
2. We reject the notion that the government can claim a mandate for the proposed legislation and state categorically it does not reflect our will.
3. We believe that, as with the proposed Bill of Rights legislation, the government's methods and arguments in promoting this legislation have been under-handed and undemocratic.
4. We believe as a matter of faith and judgement that the proposed legislation is anti-God and that its implementation will result in further attacks on individual freedom and responsibility, the family and the Church and that the real intent is the promotion of a powerful secular humanist 'big brother' government.

Your petitioners most humbly pray that the Senate, in Parliament assembled, should together with the House of Representatives take action to reject this proposed legislation.

And your petitioners as in duty bound will ever pray.

by **Senator Brownhill** (from 420 citizens).

Petition received.

#### **Australia Card Legislation**

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

We the undersigned are deeply concerned at the impact of the proposed Australia Card legislation on the following grounds:

1. We believe that it represents potentially undesirable interference in the lives of honest Australians and is a grave interference in the civil liberties of Australian citizens;

2. That it will not address the problems of tax evasion and social security fraud;

3. That it will create unnecessary expansion of the bureaucracy;

and calls on the Senate to reject the legislation.

And your petitioners as in duty bound will ever pray.  
by **Senator Brownhill** (from 268 citizens).

Petition received.

#### **Australia Card Legislation**

To the Honourable the President and members of the Senate in Parliament assembled. The petition of the undersigned citizens of Australia respectfully showeth: we wish the legislation introducing the ID card, known as the Australia Card, to be rejected.

Your petitioners most humbly pray that the Senate, in Parliament assembled, should not vote for this legislation as it will affect the civil liberties of every Australian.

And your petitioners as in duty bound will ever pray.  
by **Senator McLean** (from 65 citizens).

Petition received.

#### **Australia Card Legislation**

To the Honourable the President and members of the Senate in Parliament assembled. The petition of the undersigned Australian citizens shows that:

An ID Card numbering system for all Australians would give future governments tremendous power to collect sensitive information and use it against us.

Criminal elements could benefit by forging cards and documents needed to obtain them, or by illegally accessing the data in the system. The dangers are much greater than with current systems such as Medicare, as the Australia Card number could link so many different confidential records.

The cost to government and private enterprise of implementing the ID Card would be enormous, outweighing any gains. Tax cheats can be stopped more effectively by better checks in the present system.

Your petitioners therefore pray that you will reject the Australia Card Bill.

by **Senator Messner** (from 354 citizens).

Petition received.

#### **Australia Card Legislation**

To the Honourable the President and members of the Senate in Parliament assembled.

The petition of the undersigned citizens of the Commonwealth of Australia respectfully showeth:

- (1) That we are opposed to the introduction of the "Australia Card" national identification card;

- (2) That this form of national identification will be intrusive into the personal and private lives of

all Australians, and from birth, give them a number; and

- (3) That this identification system does not respect the rights of the individual, especially that of privacy and the right to be left alone, and seek to uphold them, but rather seeks to limit them severely.

Your petitioners most humbly pray that the Senate in Parliament assembled should reject the Australia Card legislation forthwith.

And your petitioners as in duty bound will ever pray.  
by Senator Reid (from 41 citizens).

Petition received.

#### **Australia Card Legislation**

To the Honourable the President and members of the Senate in Parliament assembled.

The petition of the undersigned citizens of Australia respectfully showeth:

That the proposed national ID Card and numbering system threatens the privacy of law-abiding Australians opening the door to computer matching of personal information, will cause inconvenience to rural people in particular, and will result in massive compliance costs for private business.

That the Joint Parliamentary Select Committee Report of 1986 showed that the Australia Card will not be effective in combating taxation and social security fraud and illegal immigration, as its cost savings are based on faulty estimates.

That accordingly the Senate and Parliament should reject the Australia Card Bill.

And your petitioners as in duty bound will ever pray.  
by Senator Reid (from 97 citizens).

Petition received.

#### **Australia Card Legislation**

To the Honourable the President and members of the Senate in parliament assembled: the humble petition of the undersigned citizens of Australia respectfully showeth:

That

In view of the number of expert witnesses and government departments that have cast doubts on the cost, inadequate safeguards and purported benefits of the Health Department's claims for the proposed Australia Card

and

In view of the radical change in the proprietorial relationship between Australian citizens and the bureaucracy implied in the Australia Card Legislation

and

In view of the demonstrated inability of the bureaucracy in general and the Health department in particular, to protect the privacy of information entrusted to them

and

In view of the contrast between the openness daily shown in media by our U.S. cousins in their open and televised inquiry into the "Contragate" arms for Iran scandal, and the almost total absence of debate during the recent election on what was supposed to be the constitutional trigger for that election:

Your petitioners therefore humbly pray that the Senate in Parliament assembled will

Neither pass nor reject nor fail to pass the Australia Card Bill but rather refer the Bill to an open Senate enquiry

That that enquiry be held in public

And that every assistance be given to the broadcast media, both public and private to record and/or broadcast the proceedings of that enquiry in its entirety.

And your petitioners as in duty bound will ever pray.  
by Senator Reid (from three citizens).

Petition received.

#### **Smoke Free Air Travel**

To the Honourable the President and members of the Senate in Parliament assembled.

The humble petition of we, the undersigned citizens of Australia, respectfully showeth that:

We, the undersigned citizens, call on the Commonwealth Government to introduce a ban on smoking on flights of 90 minutes or less. This ban should be introduced irrespective of the stand-off attitudes adopted by the airlines at present.

And your petitioners as in duty bound will ever pray.  
by Senator Vallery (from 67 citizens).

Petition received.

#### **Human Embryo Experimentation Legislation**

To the Honourable the President and members of the Senate in Parliament assembled.

The petition of the undersigned expresses concern that some scientists in Australia are intent on undertaking destructive experimentation on human embryos. This subject was examined exhaustively by the 1985-86 Senate Select Committee on Senator Harradine's Human Embryo Experimentation Bill which received 27 submissions and more than 2,000 pages of evidence. The report of the Senate Committee recommended in October 1986 that the Commonwealth Government make unlawful any destructive experiment which frustrated the development of the human embryo.

Your petitioners therefore request the Senate and the Government of the Commonwealth of Australia to:

Implement without delay the major recommendation of the Senate Select Committee to outlaw destructive experiments on human embryos.

And your petitioners as in duty bound will ever pray.  
by Senator Harradine (from 225 citizens).

Petition received.

### X-Rated Video Material

To the Honourable the President and members of the Senate in Parliament assembled.

The humble petition of the undersigned citizens of Australia respectfully showeth:

That we, the undersigned, having great concern because of the spread of moral pollution in our nation call upon the Government to introduce immediate legislation:

1. To provide strict controls over importation, production, sale, hire or mailing of video-cassettes with the open sale of only G, PG, and M rated video-cassettes; and the total prohibition of the sale of R rated video-cassettes so that R rated films can only be viewed in an adult theatre by persons over 18 years. We totally reject the concept of "X" rated video-cassettes which would allow the legal sale of hard-core pornographic films for screening in the homes of our nation, which endanger our children.
2. To dramatically improve the Federal Attorney-General's Guidelines for Classification of Video tapes/discs which restrict the importation, production, sale or hire, screening in private homes and mailing by Australia Post so as to include the total prohibition of any pornographic, obscene or blasphemous video cassette or film containing child pornography, bestiality, sodomy, group sex, violent sex acts with women, such as rape and pack rape, sadism and torture, etc.

Your petitioners therefore humbly pray that your Honourable House will protect our society especially women and children from moral pollution and its harmful effects.

And your petitioners as in duty bound will ever pray.  
by Senator McLean (from 25 citizens).

Petition received.

### Pine Gap Defence Space Research Facility

To the Honourable the President and members of the Senate.

We, the undersigned, call on the Federal Government to give notice to terminate the lease of the US base at Pine Gap before October 1986.

We believe that in the interests of world peace and the Australian people, this lease should be terminated and the base closed because Pine Gap is a spy base and a war base.

since it was opened in 1969, it has eavesdropped on Australian telephone and telex communications. Information obtained in this way was used by the CIA to destabilise the Whitlam Government in late 1975;

it provides communication facilities for CIA activity in countries throughout the world, much of which is connected with overthrowing other country's governments. Last year it became clear Pine Gap was spying on Greece;

the electronic and photographic information its satellites receive is used to select nuclear targets in the territory of the Soviet Union and its allies;

many US military activities short of nuclear war are also co-ordinated by Pine Gap. These include the war against Vietnam and the invasion of Lebanon by US marines in 1984;

Pine Gap spends only a tiny percentage of its time monitoring arms control agreements, and even then the data gathered is so top-secret Australia has no access to it;

Pine Gap's role will be expanded under Reagan's Star Wars schemes to extend the arms race to outer space, threatening the existence of our planet.

by Senators Coulter (from 1,523 citizens), McLean (from 1,562 citizens) and Valentine (from 632 citizens).

Petitions received.

### Smoke Free Air Travel

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

We the undersigned,

- (i) are greatly disturbed by the dangers to health posed by passive smoking, and evidence of which is being documented daily by medical authorities around the world;
- (ii) note that environmental tobacco smoke has been identified as the major pollutant in aeroplane cabins, and that its direct threat to health is recognised in the special leave provisions for flight attendants specifically on grounds of upper respiratory infections;
- (iii) appreciate the government's undertaking to legislate for smoke-free travel on aeroplanes, but are dismayed at the apparent reluctance to follow up the Minister for Aviation's December announcement with action; and
- (iv) call upon the government to make smoke-free aeroplane travel a reality without further delay, and to ensure that smoke-free areas which can not be contaminated by recycled pollutants, are available at all aerodromes.

And your petitioners as in duty bound will ever pray.  
by Senator Reid (from 828 citizens).

Petition received.

### Telecom: Directory Assistance

To the Honourable the President and members of the Senate in Parliament assembled. The petition of the undersigned citizens of Australia respectfully showeth that:

We consider the Federal Government's decision to have Telecom charge for the cost of "Directory Assistance" inquiries will greatly disadvantage, the sick elderly and the handicapped.

Specifically, it will impose an unjustified financial burden on those with sight impediments and reading difficulties, such as the elderly. It will also disadvantage physically handicapped people and persons confined due to illness.

Your petitioners most humbly pray that the Senate in Parliament assembled should urge the Government to:

Reverse its decision to have Telecom charge for "Directory Assistance" inquiries.

And your petitioners as in duty bound will ever pray.  
by Senator Reid (from 29 citizens).

Petition received.

### Identity Card Legislation

To the Honourable the President and members of the Senate in Parliament assembled.

We, the undersigned citizens, respectfully sheweth:

that we are totally opposed to the introduction of the Government's Identity Card;

that this form of national and compulsory identification will be intrusive, costly for taxpayers and business and will not be effective in combating the growing problems of tax evasion, illegal immigrants or social security;

that we call upon the Government to improve management systems within the Australian Tax Office and other Departments to crack down on tax evasion and fraudulent practices.

And your petitioners as in duty bound will ever pray.  
by Senator Michael Baume (from 240 citizens).

Petition received.

### Pre-school Fees: Australian Capital Territory

To the Honourable, the President and members of the Senate in Parliament assembled.

The petition of the undersigned respectfully show that they are strongly opposed to the introduction of a \$6.00 per week fee for each child wishing to attend Pre-school in the Australian Capital Territory, and request that this proposal is reconsidered, and your petitioners as in duty bound will ever pray.

by Senator Reid (from 526 citizens).

Petition received.

### Judeo-Christian Values

To the Honourable the President and members of the Senate in Parliament assembled. The humble petition of the undersigned citizens of Australia respectfully sheweth:

That we are concerned that the Judeo-Christian moral values which have been fundamental in our laws and education systems since the foundation of the country are now being undermined in the current practice of law making, and we are concerned that the values of the secular-humanistic philosophy have taken their place therefore jeopardizing the moral climate of our society and contributing towards immorality and violence in our society.

Your petitioners therefore ask the Senate for the restoration of Judeo-Christian laws and moral values.

And your petitioners as in duty bound will ever pray.  
by Senator Gietzelt (from 14 citizens).

Petition received.

### Australia Card Legislation

Senator MICHAEL BAUME (New South Wales)—by leave—I present to the Senate the following petition from 62 citizens praying that the Australia Card Bill be rejected:

If you have any objections whatsoever to the Australia Card would you please sign this petition so that it may be forwarded to the Prime Minister. Thank you. Please print your name and address and place your signature in the final column.

Petition received.

### DELEGATED LEGISLATION

#### Withdrawal of Notices of Motion

Senator COLLINS (Northern Territory)—At the request of Senator Cooney and pursuant to the notice of intention given yesterday, I now withdraw Business of the Senate notices of motion Nos 1, 2 and 3 relating to the Customs Regulations (Amendment), the Long Service Leave (Building and Construction Industry) (Amendment) Ordinance 1987 and the Public Service Board Determination No. 21.

### STANDING COMMITTEE ON INFRASTRUCTURE

#### Notice of Motion

Senator REID (Australian Capital Territory)—I give notice that, on the next day of sitting, I shall move:

(1) That the following matters be referred to the Standing Committee on Infrastructure: All notices of intention to modify or vary the plan of layout of the city of Canberra and its environs, and all modifications and variations of that plan, under section 12A of the Seat of Government (Administration) Act 1910.

(2) That the Committee report to the Senate on each notice, modification and variation.

(3) That, for the purpose of considering the matters referred to in paragraph (1), the Committee have power to consider and make use of the evidence and records of the joint committees on the Australian Capital Territory appointed during previous parliaments.

(4) That paragraph (3) of the foregoing re-solution be communicated to the House of Representatives by message requesting concurrence in the paragraph.

### FAMILY COURT JUDGMENT: QUESTION BY SENATOR CROWLEY

#### Notice of Motion

Senator VANSTONE (South Australia)—I give notice that, on the next day of sitting, I shall move:

That the Senate condemns the conduct of Senator Crowley in addressing a question to the Minister for Justice, Senator Tate, on 20 October, concerning a judgment of Justice Murray in the Family Court, for the following reasons:

- (a) She selectively quoted a passage from the judgment without mentioning other aspects of the judgment which explained the reasons for the part to which she objected;
- (b) she raised the question of the removal of the Judge on the basis of one aspect of the judgment without adequately or competently taking into consideration the whole of the judgment;
- (c) she prematurely raised the propriety of the judgment in the almost certain knowledge that an appeal was imminent;
- (d) she unfairly and unnecessarily questioned the competence of the Judge generally on the basis of one aspect of a single judgment;
- (e) she ignored the high reputation and sound record of Justice Murray and her long standing contribution to the Family Court of Australia; and
- (f) she stigmatised the judgment as 'bizarre' and thereby encouraged widespread and inaccurate publicity for the judgment which has now resulted in the identification of the parents and their children contrary to the prohibition of the Family Law Act.

**Suspension of Standing Orders**

**Senator VANSTONE** (South Australia)  
(9.06)—I move:

That so much of the Standing Orders be suspended as would prevent Senator Vanstone from moving forthwith the motion of which she has just given notice.

I understand that in moving for the suspension of Standing Orders it is not appropriate to debate the subject of a motion one wishes to have debated. I further understand, and I am sure the Senate does, that each of the matters raised in this motion is important, but I wish to draw the Senate's attention to two in particular: firstly, raising the question of the removal of a judge; and, secondly, unfairly and unnecessarily questioning the competence of a judge. Out of the six matters that I have sought to have debated in this chamber, I would select those two as being the most important. To raise the question of the removal of a judge and, further, to question the competence of that judge, are grave and serious matters, and when such allegations are made they should be dealt with as expeditiously as possible. The Senate should promptly indicate that it will not tolerate this kind of behaviour from Senator Crowley or any other senator. The Senate should be given the opportunity to indicate promptly not only to honourable senators in the chamber that this sort of activity will not be tolerated, but also to the community as a whole that this chamber is not to be used for those sorts of purposes. We need to indicate promptly that every member of the Senate finds such practices and behaviour offensive. There-

fore, we need to consider whether these offences have been committed.

I repeat: I understand that I am not entitled to discuss whether I believe the Senate ought to condemn Senator Crowley for each of the six offences that this notice of motion alleges she has committed. But at least in order to convince yourself, Mr President, and other honourable senators that this matter ought to be discussed today, I have to do two things. Firstly, I have to show that the six items I have raised have not been flippantly put in there, and that I am not wasting the time of the Senate in making some sort of allegations that have no basis whatsoever. Secondly, I have to give at least some *prima facie* basis, however limited it may be by interjections from the other side that I can see pending, and at least show in a very minimal way that what I referred to as offences were committed.

**Senator Gareth Evans**—Mr President, I raise a point of order. It is to be assumed that a senator, when moving to bring on a motion of this kind, is not acting flippantly. I think we can proceed satisfactorily on that assumption from the mere text of the motion, without there being any question of Senator Vanstone being required to expound upon the detail of her allegations. To expound upon the detail of her allegations would be necessarily to go to the substantive subject matter of the motion and not the procedural debate which is now before us.

**Senator Chaney**—On the point of order, Mr President: The task that Senator Vanstone faces is to demonstrate to the Senate that there is a matter of substance in her notice of motion and that that matter of substance should be dealt with by the Senate now. That is a matter which she is entitled to address. The fact that the reputation of the judge has been brought into question in this chamber this week is a very serious matter. This chamber is one of the means which are available under the Constitution for disciplining and, indeed, disposing of members of the judiciary, and for the allegations to have been raised in this place in the way they were is a very serious matter. For them to have received the wide coverage that they have been given is a very serious matter. They are matters which need to be addressed for the Senate to give proper consideration to this motion. I believe that there is no substance to the point of order, which was simply an interruption to Senator Vanstone's presentation.

**The PRESIDENT**—Order! There is no point of order. All honourable senators will be aware

that it is extremely difficult to deal with a question of relevance in relation to a motion for the suspension of Standing Orders such as this. Senator Vanstone should be able to explain her argument that the matter should be dealt with forthwith. I will listen to her contribution.

**Senator VANSTONE**—Thank you, Mr President. All honourable senators will be aware of what happened on Tuesday in this chamber, when Senator Crowley rushed in and made a very public assessment of a judge's capacity. She did so by citing a judgment, peculiarly selectively, and asking whether that judgment was sufficient to have the judge removed. That, I think, is evidence enough of the second point in my notice of motion; namely, that she raised the question of the removal of the judge on the basis of one aspect of the judgment without adequately or competently taking into consideration the whole of the judgment.

To back up my point that that is what has happened, one has only to see the concern that this has created. Mr President, if this matter had not raised concern in the community, I would say that it could be debated on another day, but let me indicate to you the concern that it has raised in the community and why it is so important that the six matters covered in my notice of motion be discussed today to give the Senate the opportunity to allay that concern. Mr Peter Herriman, the President of the Law Society in South Australia, has felt the need, as a consequence of these comments and the publicity that has been given to them, to rush to the judge's defence. He has said, in part, that the whole of the legal profession in South Australia has the 'utmost faith in the competence and the integrity of Justice Murray'.

Mr President, I put it to you and to the rest of the chamber that the President of the Law Society in South Australia does not do this lightly. The President of the Law Society does not daily issue Press releases indicating the profession's confidence in a particular judge. It is done only when the legal profession feels that a judge's capacity has been so seriously called into question that an immediate response is required. That, of course, is what has happened. As a consequence of what has happened in this chamber, as a consequence of Senator Crowley's either inept or malicious activities on Tuesday and her proceeding with them through the media, the reputation of this Senate has been called into question, and it must be very promptly put back where it belongs. A judge's reputation of integrity in the community ought not, lightly or flip-

pantly, for a senator's want of publicity on a particular point in a particular judgment, to be called into question.

But it is not only the President of the Law Society of South Australia who is concerned. I draw attention to the fact that the deputy chairman of the family law section of the Law Council of Australia felt similarly minded, as a consequence of the publicity given to this matter, to issue a statement saying—I might say, without debating the matter, that I agree with him—that it was absurd to suggest that Justice Murray should be removed. The relevant section of the Law Council of Australia is so concerned, as a consequence of the inept bungling of Senator Crowley in calling into question the capacity of a judge and raising the question of the removal of a judge because she did not like one particular aspect of one particular judgment, that the judge has been attacked in this chamber, that it feels it must promptly—this article appeared the following morning—come to the defence of the judge.

If this matter is not discussed today, significant members of the legal fraternity will rush to the defence of the judge, drawing the inference that this Senate has participated in demeaning and impugning the capacity of that judge. It is not good enough for us to sit by and let that go over the weekend—drift into the never-never. This chamber has been used to impugn the capacity of a judge, a judge who has been named. The reputation of the Senate has been downgraded as a consequence of what has happened. Every senator here must take the opportunity that is presented by the motion to suspend Standing Orders to put the reputation of the Senate back where it belongs and show that the Senate is not a chamber that will lightly or flippantly question the capacity of a judge, and certainly not ineptly or maliciously do so.

It is important also to consider the opportunities that such a suspension of Standing Orders would provide. The seriousness of questioning the capacity and outlining the need for the removal of a judge does not need to be elaborated on. However, that having been done, it may have been done ineptly and the suspension of Standing Orders would give Senator Crowley the opportunity to do a number of things. It would give her the opportunity, first-up in the debate, to clear the record of the chamber and indicate what a mistake she has made. She could publicly apologise to the judge for calling her capacity into question. She could publicly apologise to other senators, and she could do one more thing.

The Senate, perhaps inadvertently, has been used to cast a very dark cloud over some members of the legal profession in South Australia.

I presume that everyone in the chamber knows that Senator Crowley had a judgment on Tuesday, and everyone in this chamber and every member of the public know that judgments of the Family Court are not available like the *Australian Women's Weekly*. Therefore, Senator Crowley got the judgment from somewhere. She has publicly indicated that she was not approached by the parties, but has what she describes as a 'contact' in Adelaide. The unfortunate inference that has been drawn by many members of the community and many members of the chamber is that Senator Crowley was provided with a judgment by a barrister or solicitor acting in this matter. That would be a serious matter. The legal profession would not look kindly on someone who had given a judgment to a senator to raise in this place with an almost certain appeal pending.

The inference has been drawn and the dark cloud is now over those members of the legal profession. The suspension of Standing Orders would give Senator Crowley the opportunity to remove the cloud over members of the legal profession which has been put there by her use of this chamber. It would provide this chamber, through Senator Crowley and others, with the opportunity to indicate to members of the legal profession in South Australia that not only do we not approve of the capacity of a judge being called into question because someone does not like an aspect of the judgment, but also to show that the Senate ought not to quote selectively from a judgment, ought not to be used to question flippantly whether a judge ought to be removed, and ought not to be used to cast clouds over the legal profession. Such a suspension would allow all members of this chamber, and in particular Senator Crowley, to do that.

I shall now refer to six particular matters. What suspension of Standing Orders would enable a proper debate on is this: first, it would enable us to show, using a wealth of evidence which I shall not call forward at the moment, that Senator Crowley selectively quoted a passage from the judgment without mentioning other aspects of the judgment which explain the reasons for the part to which she objected.

**Senator Chaney**—Senator Tate has conceded that that point is correct.

**Senator VANSTONE**—Senator Tate has conceded that point, and as a consequence of that interjection I draw the Senate's attention—

**Senator Gareth Evans**—I raise a point of order, Mr President. It is one thing for Senator Vanstone to draw attention to matters that could be the subject of debate but it is quite another to embark upon a debate of those matters and canvass evidence for or against the assertions in issue.

**Senator Chaney**—On a point of order, Mr President: What Senator Vanstone is doing is enumerating the matters that can be dealt with in debate if the suspension of Standing Orders succeeds. She has dealt with the first of her six paragraphs of complaint about the appalling behaviour of Senator Crowley. My interjection was on the basis that Senator Tate, the responsible Government Minister, had already conceded that, in fact, on a full reading of the judgment, there is that sort of selective misquoting. The point I am addressing is that Senator Vanstone is entitled to outline to the Senate the matters which could be debated on the suspension of Standing Orders without going into the full detail of the argument or the full basis of it.

**The PRESIDENT**—Senator Vanstone cannot canvass the matters in detail. She can, however, refer to the notice of motion that she has given, and that is all.

**Senator VANSTONE**—As I was saying, such a suspension of Standing Orders would enable us to present a wealth of evidence indicating that Senator Crowley had selectively quoted from a passage of the judgment, as I have detailed before. It would further enable us to bring forward clear evidence that she did, in fact, raise the question of the removal of the judge on the basis of one aspect of the judgment. It would enable us to show, by a wealth of other evidence, that she did so without adequately or competently taking into consideration the whole of the judgment. Such a suspension of Standing Orders would also enable us to show that she prematurely raised the propriety of the judgment in the almost certain knowledge that an appeal was imminent. It would further enable this chamber to produce evidence to show that she most unfairly and unnecessarily questioned the competence of the judge generally on the basis of one aspect of a single judgment. The suspension of Standing Orders will further enable us to show that she ignored the high reputation and sound record of Justice Murray and her long-standing contribution to the Family Court of Australia. It will further enable the Senate to show that Senator Crowley stigmatised the judgment as 'bizarre' and thereby encouraged widespread and inaccurate publicity for the judgment.

which has now resulted in the identification of the parents and their children, contrary to the prohibition of the Family Law Act.

It will give a number of other opportunities that I have canvassed but do not intend to go over in detail. It gives one particular opportunity I did not raise. It will give Senator Crowley an opportunity—and, therefore, it will be of benefit to the Senate—to tell the Senate whether she provided a judgment to a member, or members, of the Press Gallery prior to that judgment being publicly available on Wednesday morning from the registry. It is unfortunate that, as a consequence of Senator Crowley's activities, that inference has been very clearly drawn. It will give Senator Crowley the opportunity to tell the Senate whether she did do that and, if she did so, whether she was aware of section 121 and what attention she paid to it.

In summary, the successful suspension of Standing Orders this morning to enable debate on these matters will allow a number of things. It will allow the reputation of the competence of a judge to be put back where it belongs, not where Senator Crowley has thrown it. It will enable the dark cloud hanging over the legal profession in South Australia to be removed. And it will allow the integrity of the Senate to be put back where it belongs, namely, as a Senate that does not lightly or flippantly seek the removal of a judge.

**Senator GARETH EVANS** (Victoria—Manager of Government Business in the Senate) (9.24)—There is no justification whatever for the Senate now suspending Standing Orders to debate this particular motion, just as there is no justification whatever for the Senate passing the motion itself, whenever it does come properly before this chamber. The motion for the suspension of Standing Orders is premised upon the assumption that Senator Crowley has, in the terms of her question in this place on 20 October, done a series of heinous things. That is the premise on which this particular allegation, on which this particular motion, is cast. That is the premise upon which the whole of the argument is based that the matter is of such urgency and immediacy that we ought to proceed immediately to debate it, notwithstanding, of course, that an appeal is pending in the matter and that it might be thought to be, on the normal conventions that govern these matters, a matter of sub judice and otherwise properly beyond public comment. It is on the basis—

**Senator Chaney**—You have condemned Senator Crowley out of your own mouth.

**Senator GARETH EVANS**—There was no appeal pending at that stage. The basis, as I say, on which this motion for the suspension of Standing Orders is put forward is that there are a number of heinous things about what Senator Crowley did in this place on 20 October. Let me remind the Senate—putting aside all the tendentious, coloured, extravagant language of this particular motion—of exactly what Senator Crowley did say and do in this place on 20 October.

**Senator Lewis**—Are you going to repeat it?

**Senator GARETH EVANS**—I will not repeat every word of the question but I will repeat enough of it to make clear that there is no foundation whatever for the kind of extravagant tirade that has been directed against Senator Crowley this morning by Senator Vanstone. Senator Crowley quoted directly—not selectively—from the capstone passage.

**Senator Chaney**—Are you saying ‘not selectively’?

**Senator GARETH EVANS**—Not selectively in terms of the particular paragraph from which she quoted, which paragraph was not one taken in isolation from somewhere in the middle of the judgment and not, accordingly, able to be understood. The particular paragraph that was quoted was the penultimate paragraph in the entire judgment—that which brought all the preceding threads of the discussion and argument in that judgment together—and specified, against the background of the earlier discussion, with precision the particular conclusions that the judge was reaching, the particular grounds of her decision and the particular conditions that were being imposed. That is the paragraph that Senator Crowley quoted. It was a paragraph which clearly and expressly—as has become apparent by the subsequent course of events and the subsequent proceeding in this case—did accurately state the conditions that the trial judge set. Having read that particular paragraph into the record, Senator Crowley went on to ask a series of questions. Let me remind the Senate what those particular questions were, and let me ask the Senate to take carefully into account the tenor of the language that went into these questions and compare it with the tenor of the language of Senator Vanstone’s allegations here this morning. The particular questions that were asked were these—and I quote directly from *Hansard*; there can be no question of selective quotation:

Can the Minister say—

**Senator Puplick**—Mr President, I raise a point of order. As Senator Evans sought to draw a

similar matter to your attention this morning, I draw to your attention the fact that Senator Evans is clearly debating the substance of the motion relating to Senator Crowley and not the question of the suspension of Standing Orders.

**The PRESIDENT**—Senator Evans, we are dealing with the suspension of Standing Orders.

**Senator GARETH EVANS**—Mr President, you will recall that I said that the motion for the suspension of Standing Orders and the claim of urgency which supports it are based upon the fact that Senator Crowley's question constituted an indefensible assault on the integrity of a particular judge. The point that I wish to make is that the terms of Senator Crowley's question constituted no such thing. There is, accordingly, no foundation upon which it can be argued that the integrity of the judge has been assaulted by Senator Crowley and, accordingly, no basis on which there can be any suspension of Standing Orders or any justification for the urgency that one normally associates with the suspension of Standing Orders. It is a carefully crafted argument that I am endeavouring to make, Mr President, and I would expect you to rule accordingly.

**Senator Chaney**—Mr President, I take a point of order. I think that in terms of the Standing Orders the point of order taken by Senator Puplick is absolutely correct. But I seek your guidance in ruling on the point of order. The point on which I seek your guidance is this: If you overrule the point of order and permit Senator Evans to continue down this track, I assume that Opposition senators will be entitled to respond in the debate and to deal with the points of substance which are now being canvassed by the Acting Leader of the Government in the Senate. I must say that as I was sitting here I was going through the record and preparing my own remarks with respect to the matters of detail and substance which the honourable senator is now addressing. The Opposition has no objection to that, because what we are seeking, by the suspension of Standing Orders, is a debate on the substance of this motion. We are not anxious to be restricted to the narrower issue of whether or not Standing Orders should be suspended. We simply ask from you, Mr President, a uniform ruling so that we may debate the matter on its merits as soon as possible, either after the suspension of Standing Orders or during the debate on the suspension of Standing Orders.

**The PRESIDENT**—As I said earlier in response to a point of order, it is very difficult to rule on questions of relevance when there are

motions for the suspension of Standing Orders such as this. I will allow Senator Evans to continue but I remind him again that we are dealing with a suspension of Standing Orders.

**Senator GARETH EVANS**—Thank you, Mr President. I propose to keep my remarks brief. The point I want to make can be made in quite short compass. It will not involve my canvassing in any detail—or indeed any further reference to—the terms of Senator Vanstone's motion. I can make the point quite shortly. It is as follows: the language that was employed by Senator Crowley does not give rise to the extravagant series of inferences contained in the terms of this substantive motion. It does not, accordingly, justify the immediate debating of this matter in this Parliament. It is not of such urgency that it justifies the suspension. The language employed by Senator Crowley was as follows:

Can the Minister say whether this judgment is sufficient to have the judge removed? What assistance or further investigation can or will the Attorney-General undertake in this case? Can the Minister guarantee that no further judgments of this sort will emerge from the Family Court? What steps can be taken to overturn this bizarre custody ruling immediately, pending legal appeal?

There is one coloured expression in that entire series of questions—one word, the word 'bizarre'. To suggest that the language of the terms of the judgment was bizarre is not to threaten, prejudice or even question the credibility or integrity of a judge. That is the sort of thing we say about judgments all round.

**Senator Michael Baume**—Or that she should be removed.

**Senator GARETH EVANS**—There was no assertion that she be removed; there was no demand that she be removed. It was a question: 'Is it sufficient? Are there grounds? Will the Attorney-General investigate? Will he look at the law? Will he look at the practice to see whether . . .'. There is nothing in language of that kind to justify the assault which is being made on the integrity of Senator Crowley. Let me conclude by making a comparison between the measured, sober language—which I quoted in its entirety—employed by Senator Crowley, concerned as she was with what what she clearly and defensibly thought to be a very peculiar ruling of a court, a matter about which there can be argument, and the way in which members of this Senate, senators opposite, traduced the reputation of a sitting member of the High Court of Australia over a long period of time and not only demanded his removal from the court but made allegations of criminality and a lack of integrity, and behaved in a way that is unprece-

dently disgusting in the history of this country and in a fashion which was contemptible, and did so for months and years on end and drove a man to his grave in the process.

**Senator Chaney**—I rise on a point of order. The Minister seems to be wide of the mark in terms of relevance. However, I have here the reports of the Select Committees on the Conduct of a Judge. I am happy to join the debate. If your ruling, Mr President, is that the issues raised by the Attorney-General are relevant to this debate that, of course, will be a guide to the rest of us.

**The PRESIDENT**—There is no point of order.

**Senator Gareth Evans**—I have made my point. The language used by Senator Crowley was careful, crafted language, language which certainly conveyed her concern and asked that action be taken to see whether that concern was justified. The comparison between that use of Question Time and parliamentary procedures and the kind of disgusting misuse of parliamentary procedures and parliamentary privilege that was employed over such a long period of time against a decent, honourable and respected member of the Australian judiciary which drove him from the High Court and drove him ultimately to his grave is the kind of comparison which does no credit whatsoever to those opposite and reveals the naked hypocrisy that underlies the kind of motion that is before us today.

**Senator Macklin (Queensland) (9.35)**—Today Senator Vanstone has given notice of a motion and has moved to suspend Standing Orders to allow that motion, of which she gave notice only a short time ago, to be debated urgently today. The Standing Orders quite rightly point out that the giving of a notice of motion enables all senators to read it, to consider it and, on the following day, if it is the wish of the Senate, to debate it. There is a reason for having that standing order and that reason has already been displayed in this debate. The fact that there are charged emotions is evident. The fact that it is possible for honourable senators to be laughing when the death of a High Court judge is being discussed suggests that there are charged emotions.

This matter is an eminent example of the need for that standing order. If we now move to a substantive debate on the matter, we will be debating it—let us be very clear—on air. In a number of her remarks, Senator Vanstone pointed to the situation of the judge. I should like to point to the situation of the judge who is not able to respond; who will, if we accept this

motion, be the subject of another debate, on air, to which she is not able to respond. I hardly see how her situation will be advantaged by having another public debate. Neither do I see how a pre-empting of the appeal decisions will assist the legal process. Neither do I see why the cheap publicity—

**Senator Lewis**—Why are you protecting the Labor Party? You are always protecting the Labor Party.

**Senator Macklin**—If the honourable senator would be quiet for a moment, instead of shooting off his mouth, he might learn something. I have not even come to the substantive motion and I have not indicated how we might be able to support it. You have no idea, so why do you not be quiet and listen for a while? You will have your chance to speak on the matter later.

**The PRESIDENT**—Order! Senator Lewis, will you cease interjecting; and Senator Macklin, will you address the Chair.

**Senator Macklin**—Yes, Mr President. The cheap publicity which is obviously being sought on a broadcast day on an issue as serious as this seems to deny the intention behind the honourable senator who moved the motion. Undoubtedly, there would be an opportunity to debate the motion because if it came up as a formal motion on Monday next week, which again is a broadcast day, it would be declared not formal. The Opposition would then have an opportunity, when debating non-Government Business, next Thursday, on a non-broadcast day, to bring forward this matter for debate. Therefore, there can be a debate on this issue. The question is whether we should suspend Standing Orders to allow that debate to take place today. Having listened to the debate so far, it seems to the Australian Democrats that there are very good reasons why it should be held over.

I do not wish to allude to the points raised by Senator Vanstone in the actual motion, other than to say that there have been a number of debates about judges in this place and I, for one, would have liked them to be in accord with some of the high sounding rhetoric that has been used today about the protection of judges. A disgraceful situation occurred some time ago when finally it was decided—and I do not wish to reflect on a vote of the Senate—to pass a motion against my Party's opposition to a particular matter. The motion basically said that we would investigate anything, anywhere and at any time, and sought allegations from anybody about anything with regard to a High Court judge. I

feel that that hardly cast much dignity on this chamber. So I am not at all sure about this matter at the end of the day, and I would have thought that we would have learned some lessons from that exercise.

I believe that in many ways the opening up of this item by Senator Crowley was certainly ill-advised, and I feel, on peripheral judgment, that I could certainly agree with many of the points raised by Senator Vanstone. But I would like time, and my Party would certainly like some time, to consider the matter calmly and debate it at the proper time. Hence it is our intention to support the retention of Standing Orders and not support the motion for their suspension.

**Senator CROWLEY** (South Australia) (9.41)—I oppose the motion for the suspension of Standing Orders. The matters raised by Senator Vanstone when she moved for the suspension of Standing Orders broadly go beyond proper debate on the suspension of Standing Orders but, more importantly, in the course of her speech she most gravely misrepresented me—and I think much stronger language was appropriate in relation to her claims. Firstly, she accused me of taking a judgment from a barrister or a solicitor involved in a case. It is a matter that she has absolutely no knowledge about; she is shooting from the lip. It is a most appalling claim.

**Senator Vanstone**—Why don't you go on with that?

**Senator CROWLEY**—In my good time I will come to that. The honourable senator, in her good time, made her way through a lot of garbage. Secondly, she accused me of leaking judgments to the Press Gallery—again a totally improper statement to make in this place. The two principles I stand on here are propriety and concern. Nothing in what she has said has any propriety. She has gone quite beyond the bounds of propriety. In the course of her opening remarks she described me, in the space of one minute, as flippant—

**Senator Puplick**—I rise on a point of order, Mr President. I draw your attention to the points of order on which you have already ruled several times today. This is a debate on the substantive point of Senator Vanstone's motion and not on the suspension of Standing Orders.

**The PRESIDENT**—Order! There is no point of order. I am allowing Senator Crowley to reply directly to some of the points raised by Senator Vanstone. But we again get into the situation where we must question whether we are debat-

ing the issue or debating the suspension of Standing Orders. I draw Senator Crowley's attention to that.

**Senator CROWLEY**—Thank you, Mr President. I am actually taking the lead from your rulings on points of order to this point and from the matter that has been allowed to be used in the debate—presuming that what is already part of the debate can properly be further canvassed. I accept your ruling, and thank you. I was saying that Senator Vanstone in her opening remarks made accusations about where I got the judgment. That was entirely hypothetical on her part; she has absolutely no evidence. It was very mischievous. Secondly, she accused me of passing the judgment—

**Opposition senators**—Deny it!

**Senator CROWLEY**—They are an impatient lot. I would rather run through the litany of sins and go for a general absolution, if Senator Chaney does not mind. As he is a good Catholic he should know about general absolutions; they cover the points. Secondly, I was accused of leaking the judgment to the Press Gallery, again an outrageous and very mischievous and misrepresentative claim. Thirdly, Senator Vanstone, in a very short span of time, described me as flippant, mischievous and light. I must say that her assessment of me was extraordinary in its range. I would have thought that anybody who put flippant, light and mischievous together could have been with the fairies at the bottom of the garden. I find it hard to see how anybody could put those three words together otherwise. She was swinging extensively from wanting to dismiss me as having no significance or import to suggesting that I was bound for hell and that I was a very grossly improper person in doing what I did.

I strongly object to this Senate being used in this way in the name of condemning a senator simply to protect the seeming integrity of the judge and further opening up discussion on this matter. Precisely the point that those opposite claim they object to in the first place they have now guaranteed will happen. I endorse Senator Macklin's remarks on that point. Senator Vanstone, in her points about the reasons why this should be argued, suggests that I prematurely raised the propriety of the judgment in almost certain knowledge—we now debate uncertainty, do we?—that an appeal was imminent. Now it is even more imminent, as Senator Vanstone well knows. The reason she brought this matter on today is that she knows that next week the matter will be sub judice, as I know.

That is why last night and yesterday I specifically contacted further journalists I had been asked to contact and said, 'I understand an appeal is pending. It would be inappropriate and improper of me to say anything further. I have withdrawn those remarks'.

**Senator Vanstone**—You knew it at the time.

**Senator CROWLEY**—You, it is, Madam, who have brought this matter into the Senate. It is the honourable senator who is putting it on the airwaves of Australia today. She should not duck from that. It is not I who raised it. I, with I think considerable propriety, made the point yesterday that nothing more would be said by me about this matter. It is the honourable senator who has continued this debate. It is the honourable senator who has raised this point. It is the honourable senator who is improper in this matter.

**Senator Vanstone**—You knew it on Tuesday.

**Senator CROWLEY**—Senator Evans made the remarks when he was speaking a minute ago that it is my thoughtful, careful language—compared with hers—that should be part of this consideration. I thank him for those remarks but he is quite right in his assessment. That is why I can be thankful. I was most careful.

*Opposition senators interjecting*—

**The PRESIDENT**—Order! There are too many interjections from my left. Senator Vanstone was heard in comparative silence and I think the Senate should give Senator Crowley the same courtesy.

**Senator CROWLEY**—My remarks were most considered and most thoughtful. I had to consider seriously what should I do with this matter which was brought to my attention by a constituent in South Australia. Where I got the judgment from is my business. It is a private matter. I will categorically say that I have not been involved in the case in hand. I have certainly not passed the judgment to anybody in the Press Gallery. Senator Vanstone knows that well enough. She more than I would know the comment that was passed to me yesterday, that these judgments were going like hot cakes from the Family Court in South Australia. I can assure honourable senators that I was not trading in them.

More importantly, this proposition for the suspension of Standing Orders goes to two points which I think are much more substantive, points that I think are more significant in the misrepresentation of me. It is claimed firstly that I have used improper language or been unfair—that I

should be condemned for my conduct are the words used in the opening of the proposed motion—because I dared to raise a passage from a judgment which I have been accused of selectively quoting. The clear implication spelt out further today—it is no longer an implication—by Senator Vanstone is that I did this with mischievous intent. I did not. I specifically quoted from a judgment—specifically, not selectively—so as to go to what I thought was the only point that was worthy of being raised in this chamber. I did this precisely to protect the identification of the people involved and not to jeopardise the further passage of the case through the courts. I stayed on the one specific point which I quoted and—

**Senator Alston**—Mr President, I take a point of order. Senator Crowley is now launching into a defence of the merits of the issue. She should be explaining why there is a desirability or otherwise for this matter to be dealt with today and addressing the point made by Senator Macklin, as to whether there is any futility in allowing the matter to proceed now rather than later. But instead, what has happened to date—and I could have risen earlier—is that she has taken the opportunity to cast aspersions on the Family Court by suggesting that it is making copies of the judgment available 'like hot cakes'. She is reflecting on the conduct of the judge by talking in terms of seeming impropriety and she is not—

**Senator Gareth Evans**—Mr President, I raise a point of order.

**The PRESIDENT**—Order! I am listening to the point of order.

**Senator Gareth Evans**—In the guise of a point of order, Senator Alston is in fact canvassing substantive issues himself and making a mockery of the procedures of this place.

**Senator Alston**—My simple proposition is that Senator Crowley should be debating the desirability or otherwise of this suspension of Standing Orders and she should therefore be addressing questions of timing and procedure. But rather, she is launching into a debate in defence of herself and casting aspersions on other central players.

**Senator Robert Ray**—Mr President, on the same point of order: It is well known in this chamber that moving for the suspension of Standing Orders to discuss later a matter as a substantive issue is generally used as an excuse to insert slyly and cunningly a lot of those substantive points. It leaves you, Mr President, in

an almost impossible position in trying to rule on the relevance of that as to timing. You have allowed Senator Vanstone to raise many of those issues. Senator Crowley has been speaking for only 10 minutes. She has gone to the substance of time and I would suggest she be given some scope in which to reply to some of the points made by Senator Vanstone.

**The PRESIDENT**—Order! Senator Crowley is replying to a number of matters raised by Senator Vanstone. However, I warn her not to start debating the issue extensively and to deal with the issue of the suspension of Standing Orders.

**Senator CROWLEY**—The point that seems to be particularly agitating members of the Opposition, the reason that they want to argue for the suspension of Standing Orders and the reasons that were put in justification for the suspension of Standing Orders, are, in essence, that I had selectively quoted. I think that 'selectivity' is a word that was used yesterday to imply mischief of intent. Today that mischief of intent has been deliberately spelled out by Senator Vanstone. It is curious that while she could argue the elaboration of the mischievousness of my intent in her justification for the suspension of Standing Orders I could not at least address some remarks to that point and suggest that there was no mischievous intent and that I had been misrepresented by Senator Vanstone. Therefore, there is no point or need to suspend the Standing Orders to debate the matter further. She is wrong in her first point that she wishes to raise in debate. But I think it would be entirely proper for me to canvass that point in that way during this debate, and I do so.

Senator Vanstone has implied in the past that I quoted selectively with mischievous intent. Today she has elaborated that mischievous intent—that is, she very wrongly misrepresented my intent and what I did. I quoted specifically, as I said. I see Senator Chaney is about to interrupt. I ask him to wait. I have just explained why the President's recent ruling on this was valid. I ask Senator Chaney to give me just a minute.

**Senator Chaney**—I rise on a point of order. Mr President, you might invite the honourable senator to address the Chair. I might have been contemplating taking a point of order but I object to the honourable senator addressing her remarks—

**The PRESIDENT**—Order! There is no point of order. I ask Senator Crowley to address the Chair.

**Senator MacGibbon**—It is just a joke to you, isn't it?

**Senator CROWLEY**—No, it is not—in reply to whoever made that comment.

**The PRESIDENT**—Order!

**Senator CROWLEY**—Mr President, you can tell the honourable senator opposite who made that comment that I regard this matter as most grave. I return to my previous point, which is that there is no reason for the suspension of Standing Orders to be debated in order to allow debate on this matter to proceed precisely because it would further elaborate what honourable senators opposite say—that it is somehow improper to have brought this matter of a judgment into this place at all. I cannot understand how they can argue the justification of the suspension of Standing Orders so as to debate it at length, when one of the points they make is that it is appalling that it came in here at all. I find that a very strange piece of logic. If honourable senators opposite want to argue that way they should be consistent in saying how improper it is to bring these matters into the Senate and not move the suspension of Standing Orders so as to go to town on the matter.

I return to the point of the quotation. The point I raised was to go to only the one matter that I thought worthy of raising in the Senate and to canvass nothing else in that judgment. That is precisely why I was specific in that quote. It went to conditions on the order. I took pains to ensure the integrity of the people involved and to make no other reference in this place, apart from that one point of conditions on a custody judgment, conditions of pregnancy and a requirement for a woman to give up work, which I still hold are—to use the word which I used at the time—bizarre. I have since used words such as 'unreasonable' or 'certainly very unexpected'. That is the only point I raised in the Senate; I referred only to conditions being placed on a custody order. To accuse me of quoting selectively is not proper. It was a quote going to the one substantive point that I wanted to raise. To go further than that is to misrepresent my intent.

If Opposition senators want to argue for the suspension of Standing Orders so as to go on and on about that—as I say, I cannot understand their logic—I am perfectly prepared, if the numbers go that way, to stand up and elaborate at length on these matters. I oppose the suspension of Standing Orders for a number of reasons. The point at issue that I wanted followed was going to be properly followed by the Attorney-General

(Mr Lionel Bowen) responding to the question I asked in this place. Since then, Opposition senators have somehow got carried away and suggested that I was being improper in raising in this place conditions on a judgment of this sort. They say that I have somehow gone beyond proper bounds by asking whether such a judgment could be considered by the Attorney-General and whether it could be grounds for the removal of the judge. I am in no position to suggest that. I am in no position to make those sorts of judgments at all. I properly asked, in my question, that the appropriate people might consider them.

I certainly think that to move for the suspension of Standing Orders today to argue this matter further and, essentially, to impugn evil intent to me in all these points is most unjustified. I have no understanding of whether the judge in question is a person of improper reputation, or all of those things Senator Vanstone has accused me of. I wanted to go to the one point, which is why I specifically quoted—a point I will come back to again and again, a point that has been grossly misunderstood and misrepresented by Opposition senators, to the point where they want to justify the suspension of Standing Orders in order to elaborate at length. There is no argument for the suspension of Standing Orders. There is no argument from Opposition senators. They argue that it was improper for me to raise this matter in the Senate, yet they now want me to continue that impropriety. I think they have been caught on their own petard in that argument. If it is proper to raise the matter here, let us have a debate. If Opposition senators want to argue that it is improper for me to raise the matter, it is improper for them to continue the debate.

**The PRESIDENT**—Order! Senator Crowley, do not debate the issues, please.

**Senator CROWLEY**—Mr President, I am just elaborating for the Opposition. Certainly, I will not debate them. I am not persuaded by the arguments used by Senator Vanstone to justify the suspension of Standing Orders. I cannot see any justification for this action, having regard to the six points that she feels would be better elaborated on in a full debate. I think the points raised by Senator Vanstone very largely were a litany of personal attack on my integrity—a matter that I think ought to concern honourable senators.

**Senator Walters**—You have got none.

**Senator CROWLEY**—I take note of that interjection by Senator Walters. I suggest, Mr President, that it be withdrawn.

**The PRESIDENT**—Order! Senator Walters, I ask you to withdraw that comment.

**Senator Walters**—I withdraw.

**Senator CROWLEY**—The Opposition argues that the Standing Orders should be suspended and we should have a debate today so that the Senate can debate the impropriety of its talking about the conduct of judges and the matters that were raised by me as questions to be attended to by the Attorney and not debated in this place. I asked the question in a precise manner so that there would not be an elaboration of these issues in this place. Look at who has continued the debate. Look at who wants to bring back the debate today. There is no justification for the suspension of Standing orders, except that the Opposition has a reason of its own which is not clearly stated but which is fairly clearly understood.

I cannot understand why people who argue that it is improper for me to have, with such circumspection, such propriety and such concern, put this matter before the Senate, now wish to elaborate on it for the third time in a manner that I think has been grossly improper and in a way that has shown no concern either for the people involved or for the judge. The Opposition wishes to debate the matter at length. The Opposition is caught in a cleft stick. It wants to accuse me of condemnable conduct.

**Senator Chaney**—Contemptible conduct.

**Senator CROWLEY**—Conduct that is to be condemned. Perhaps I cannot make an adjective out of it, Mr President, but it is not unreasonable for me to condense that and say that I stand here defending the case for why this matter should not be debated. The Opposition says that one of the reasons for raising this matter is that my conduct is to be condemned. A number of things were said by Senator Vanstone—which you certainly permitted, Mr President—which were very false, very mischievous, very improper, and grossly misrepresentative of me, and which imputed the worst of intent to me. I have made my remarks about those matters. I do not intend to continue to do so. The Opposition, most importantly, wants to argue that the raising of this matter in this chamber is improper. Opposition members, for the third time, have raised this matter in the chamber. The simple logic of why the Opposition wants to elaborate, for the third time, on a matter which it wants to tell me has

been improperly brought into this place, is quite beyond me. On that point alone, there is absolutely no case for the suspension of Standing Orders.

Senator Macklin's point—the importance of thoughtful and unemotional consideration of these issues, that is, that the suspension of Standing Orders not be agreed to now—is very important. I raise another point regarding what I think is the gross impropriety of the Opposition. I received notification of this notice of motion as it was being given. I was in my room, listening to the broadcast of the proceedings in the Senate and heard Senator Vanstone's name being announced. That is when the matter was brought to my attention. I find it curious that the Opposition, which wants to argue for a suspension of Standing Orders so as to elaborate on a point of propriety, would behave in such an improper, unconsidered and unthoughtful way. The argument for the suspension of Standing Orders is indefensible on that point. There has been no proper time, and I use the word 'proper' advisedly here, for those of us who are concerned—in particular myself, as I stand very rigorously condemned—to give thought and consideration to this matter or to the points raised.

Members of the Opposition have brought on this matter for another reason—I raised it earlier: they say that it is improper for me to have raised this matter, but they know that next week it will be *sub judice*. I find their behaviour clearly far more improper than anything that I did in bringing to this Senate, in a very thoughtful and considered way, the one point at issue. I suggest that if we had stayed with the one point at issue and sought the Attorney-General's response on that matter nothing further would have happened. Members of the Opposition have heaped vehemence and *aggro* on this matter and raised it to the point of high debate and they are now seeking the suspension of Standing Orders. There is no case for the suspension of Standing Orders on this point.

**Senator HARRADINE** (Tasmania) (10.06)—The Senate has before it this morning a notice of motion by Senator Vanstone concerning issues about which, naturally, we suspend judgment until we have heard debate on the substance of those issues. We are now debating whether or not suspension of Standing Orders should take place. After hearing Senator Macklin's contribution, I was seized with the importance of the Standing Orders and with the necessity for having a motion such as this to lay on the table so as to enable members of the Senate to give

mature consideration to the questions and to prepare themselves prior to the debate. I have now heard Senator Crowley. She has, in fact, offered the very reason for suspending Standing Orders. Senator Crowley has just said that this matter cannot be debated next week because of something that she seems to know is going on in the courts. Under those circumstances, if that is the case it seems to me that if we do not suspend Standing Orders now the matter cannot come up for debate and be cleared. Under those circumstances it seems to me that the appropriate procedure for us to adopt is to suspend Standing Orders. When it comes to the debate, that is a different issue. I think it is important for all of us when the debate takes place to consider all the implications and to act maturely in this matter. To deny the Senate the opportunity of expressing a view, not on the judge but on the conduct of one of its own members because something is happening elsewhere, I think would be unfair to all honourable senators, including the person against whom this motion is to be moved. Therefore, I believe a suspension of Standing Orders is in order.

**Senator CHANEY** (Western Australia—Leader of the Opposition) (10.09)—I came into this chamber this morning unsure whether Senator Crowley was malicious or inept. I think what we have seen demonstrated today is that she is clearly inept. Her contribution to her own defence really almost removes the need for this motion because she gave no defence of any substance at all.

The Opposition sought the suspension of Standing Orders in this matter for a number of reasons. We believe that it is important that the matter be dealt with today, in part for the reason which has just been outlined by Senator Harradine—namely, that it might be argued at some later time that there is some technical reason why the motion should not be dealt with—but also for two other quite substantial reasons. The first is that at the beginning of this week of sittings Senator Crowley, again through either malice or ineptitude—we are unable to make any judgment of that—raised for consideration the possibility of the dismissal of a judge of a Federal court. That is a very serious matter. In the view of the Opposition it is a matter which should not be left lying around; either it should be treated seriously and carried forward, or it should be disposed of immediately. I do not intend to go down the side trails that were opened up by the Acting Leader of the Government in the Senate in this place in his rather emotional contribution to the debate, except to

say that if any senator has a belief that there are genuine grounds for the dismissal of a judge then the duty of that senator is to bring it forward seriously, as has been done in the past, and to go through what are the necessarily difficult processes that that involves. I will not quote from the reports that were put down by Senate committees that dealt with the very difficult issue that was raised by Senator Evans in this debate, except to say that substantial efforts were made by the Opposition then in conjunction with the Australian Democrats to insulate that debate from politics and to bring in independent assessors, for example. They are measures which were used to deal with what was a very serious matter in a very serious way.

What we have had this week from Senator Crowley is a casual raising of the spectre of dismissal and now some crows fishing in the suggestion that the matter should not be dealt with now because there has been inadequate notice. This plea is made by the senator who actually raised the issue in this place. If I were advising Senator Crowley in this debate, I would suggest to her that perhaps she should be joining Senator Tate as a co-defendant because Senator Tate took until yesterday to clear up the simple point that the judgment in no way gave rise to any suggestion that the judge should be dismissed or dealt with in any way. Senator Tate pointed out two days after the original question was asked that if someone had a complaint about the judgment—

**Senator Crowley**—Mr President, I raise a point of order. That is to misrepresent, I understand, the history of matters in this event. If Senator Chaney goes to the record he will find that Senator Tate addressed this on the first day. I do not like Senator Chaney misrepresenting the facts now.

**The PRESIDENT**—Order! There is no point of order.

**Senator CHANEY**—Senator Tate said yesterday—and, as I say, it took him two full days to get to the point:

I do not believe that a judgment can provide a ground for dismissal; it is as simple as that. It ought to be dealt with by the appeal process which is under way.

I mention that because it certainly compounded the felony that was perpetrated by Senator Crowley by her very silly question on the first day of sitting this week. Why is the Opposition seeking to deal with this matter today? We seek to deal with it because it is a very serious matter. A cloud has been cast over a member of the Family Court of Australia under circumstances

which it is now admitted were quite false; in other words, there is no cloud there at all. As Justice Elizabeth Evatt said on radio in Canberra yesterday, it is a very serious step to take to start calling for a judge's dismissal. This is a serious matter and it should have been dealt with seriously by Senator Crowley and it should be dealt with now and put aside for all time.

Let me look at some of the arguments which have been put forward in this debate. Senator Evans argued that there was no justification for the passage of the motion because the motion used language which was extravagant as against the language which was used in the original question. There is simply no substance in that point. The fact is that it was the extravagant language which was used by Senator Crowley in her question, language that was reflected by Senator Tate in his answer, which gave rise to the great public interest in this matter and to the very considerable publicity which it got.

Senator Evans chose to argue that the quotation by Senator Crowley was not selective. That is a very odd assertion for Senator Evans to be making and a very odd assertion for Senator Crowley to be making in response when we find that Senator Tate said quite clearly in the Senate in the response which he gave:

Having read the judgment, one can see the sort of reasoning and evidence before the judge which led to the sorts of conditions she attached to the foreshadowed award of custody to the mother.

We find him saying that there was a basis in the judgment for the conditions that were attached. It is the clearest possible statement that the piece of information which was provided to the Minister by Senator Crowley on Tuesday was sufficient to create an impression which a reading of the total judgment dispelled. In my view, and in the view of the Opposition, Senator Crowley stands condemned out of the mouth of her own ministerial colleague.

As far as the contribution by Senator Macklin is concerned, I simply reject firmly, on behalf of the Opposition, the suggestion he made that people were laughing when talking about the matters relating to the High Court judge. That is a slander on the Opposition and it is a matter which we totally reject. I point out to Senator Crowley and honourable senators opposite that Senator Macklin mentioned that Senator Crowley's words in this question were ill-advised. They certainly were ill-advised, and they have given rise to a significant spate of publicity which reflects upon a judge in a way which everybody would agree is totally unfair. What

the Opposition is seeking to do is to set the record quite clearly straight at the earliest opportunity, and that is today. The Opposition believes that the Senate should condemn the conduct of Senator Crowley. I remind honourable senators that the Australian Democrats, who to this stage have indicated that they do not believe the matter can be dealt with today, have described the words of Senator Crowley as ill-advised. But in the Opposition's view it is important that the Senate should today, and if not today then as soon as possible, set down as its opinion that Senator Crowley came into this place, selectively quoted a passage from the judgment, which caused publicity, which was unfair and wrong, and that she raised the question of the removal of the judge on a basis which was quite absurd and which, on any mature consideration, would have been seen to have been absurd. To suggest that a single judgment objected to is a ground for dismissal of a judge shows lamentable ignorance or malice.

The Opposition certainly believes that it was clear to anybody who was critical of the judgment that there are appeal processes open to litigants, and that, therefore, is a matter which should have been subject to further legal action, and now we are told that an appeal is in fact imminent.

It is the view of the Opposition, and we believe it should be the recorded view of the Senate, that what Senator Crowley did in questioning the competence of this judge on the basis of a single judgment was grossly unfair and should be recorded publicly as being unfair. We believe it is wrong that she ignored the high reputation and record of Justice Murray, and we believe that her use of extravagant language contributed to the widespread and inaccurate publicity for the judgment, which has had the negative effect which Senator Vanstone's motion outlines—namely, the identification of the parties in a jurisdiction where legally that is not supposed to occur.

The responsibility which this Parliament carries with respect to judges is a very solemn one and one which is very difficult to carry out when serious matters are raised concerning the conduct of a judge. To put that into its proper context, one has only to see the passionate response of Senator Gareth Evans on the issues that surrounded the last time the question of dismissal was raised in this place. That was the matter of endless inquiry, the matter of committee inquiry, and so on. The points made by Senator Evans in opposition to this motion to

suspend Standing Orders are in fact points which bear out the seriousness of Senator Crowley's apparently slap-dash, light-hearted or malicious—I do not know which—foray into this arena. Her raising the suggestion that the dismissal of the judge should be considered, in the context that she did, was grossly irresponsible and wrong, and in the view of the Opposition her use of the Senate for this purpose is something that should be put to right as soon as possible. We do not believe that it is appropriate that this should be delayed. We think there should be a clear expression of the Senate's opinion now, rather than later—that Senator Crowley has gravely erred, that she has wrought an injustice on one of her constituents, and that she has behaved in a way which we regard as totally unacceptable.

**Senator COONEY (Victoria) (10.19)**—In my view, Senator Macklin has correctly expressed the position we should take, as a Senate, in this matter. I think it is important to look at standing order 448 concerning the suspension of Standing Orders, which states:

In cases of urgent necessity, any Standing or Sessional Order or Orders of the Senate may be suspended on Motion, duly made and seconded, without Notice: provided that such Motion is carried by an absolute majority of the whole number of Senators.

So it is a case of 'urgent necessity'. Senator Vanstone has said, and with great sincerity, that the reputation of a judge is a matter of high moment; and so it is. It is to be understood that those on this side of the House are most concerned about preserving the reputation of a judge, and that if it is brought into question, that question should be resolved quickly. But the interesting thing is that the charges—in effect, that is what they are—that have been brought against Senator Crowley, do not go to the reputation of the judge; they go to the condemnation of Senator Crowley. The motion does not say, for example, 'That the Senate reaffirms its belief that Justice Murray is a woman and a judge of high reputation'. The motion is put in this way:

The Senate condemns the conduct of Senator Crowley in addressing a question to the Minister for Justice, Senator Tate, on 20 October, concerning a judgment of Justice Murray in the Family Court for the following reasons . . .

We on this side accept that the question of the reputation of a judge is a serious matter. If the motion had come forward with words to the effect that the Senate reaffirms its belief that Family Court judges and, indeed, judges around the country, are people of the highest reputation, and included in that category is Justice Murray,

that would have been a different issue. But a fair reading of the motion indicates that my proposition is correct. All these charges are just that—charges against Senator Crowley. She not unreasonably says, not having had notice of these charges and not knowing about them until she heard them being read over the air, that she, in effect, wants an adjournment. She is not saying for one minute that she does not want to debate the issue. She is saying, 'At a proper time, when I can give proper consideration to what has been put against me, I will meet these allegations and meet them fairly. If I am condemned by the Senate, so be it. But let me have a chance of making a proper answer to these very serious charges'.

Just as the reputation of a judge is of great significance, so is the reputation of a senator. If a senator, faced in effect with this list of charges, says, 'I want an adjournment to prepare for this', is it not a bit hard, I ask those on the other side, to say, 'No, you cannot have that time. You cannot have any time to go away and collect your thoughts and to prepare such evidence as you want and to consider the stand you might want to adopt'? In effect, the motion is saying: 'We will catch you short, on the hop, and we will bring you before this court'—which is, in effect, what the Senate becomes because these assertions are in the nature of charges—'and without giving you an opportunity to prepare your case, we will make a judgment'.

Is that consistent with the fair and grave consideration that we should give to this matter? Not only have we got the reputation of a judge on the line; we have the reputation of a senator—a senator who asked, very fairly, for time to consider this issue. As I say, she has not said: 'I do not want to debate it'. She says that she will debate it when we can have a debate in a calm atmosphere, and when people have analysed the issues and are then in a position to put to the Senate the various matters that should be considered.

From the sorts of things that Senator Chaney and Senator Vanstone have said, I think that the judge's case has already been put, and very strongly put. So it is not as though the Senate has evinced to the public an agreement to what Senator Crowley says. It has been made very clear to the people listening that there is very much another side to the case. If we do not debate this today it is not as if we will leave the judge's reputation condemned universally by this chamber. We do not do that at all. In effect, we are simply saying that there are two sides to the

case. We have heard public comment and we have heard Justice Murray, and at a proper time, when proper consideration can be given, when there is not this emotionally charged atmosphere, this matter can be resolved. It is important for the reputations of both the judge and Senator Crowley that the matter be given fair assessment. I cannot see that that can be done by a suspension of Standing Orders, especially when Senator Crowley has said that she had no notice of this.

**Senator Lewis**—She had days of notice.

**Senator COONEY**—With respect, she has not had days of notice. Senator Crowley has said, and I accept her word on this, that she had no notice of these charges—that is what they are—until she heard them on her radio, and then she came into the chamber. I have not heard that statement contradicted. The Opposition said she knew what she said about the judge earlier in the week. Of course she did, but she did not know that these very serious allegations against her were going to be made until she heard them on the air.

In addition to that, Senator Chaney—I take it that, as usual, he is sincere in what he says—says that perhaps Senator Tate should be included. Senator Tate is not here and, as far as I know, he does not know of these allegations. If he is listening to the radio, he must have the best of dispositions not to be in here defending himself. It is now argued that his name should be added to that referred to in this notice of motion. If that is the case, he should be given time to consider his situation. But the Opposition says, 'Give neither Senator Crowley nor Senator Tate time; bring the matter on'.

I do not condemn Opposition senators in any way; nor do I suggest that they are trying to take anybody by surprise. I believe that their real intent is to canvass the situation of this judge, but the effect of this proposition is to do to honourable senators on this side of the chamber what the Opposition accuses one of those senators of doing to the judge. Two wrongs do not make a right. People are saying, 'What about this; what about that?'. I do not think it is a question of who has done what to whom in the past. It is very much a question of what we are going to do to one of our own senators today. That is how we ought to view the matter. This is the very point Senator Macklin made—in my view very eloquently.

**Senator Peter Baume**—Is Christian charity what you are asking for?

**Senator COONEY**—No, I am not talking about charity, with respect. What I am talking about is very much a question of justice. I turn to another aspect of the matter. People have said that there will be an appeal, and I think that a very significant point. People say, 'Let us hold our debate before the appeal comes on', as if in some way we have to lampoon Senator Crowley and, by inference, Senator Tate—or perhaps directly if we accept what Senator Chaney says—before the appeal is heard. Let us consider the reasons we do not discuss cases on appeal or in which an appeal is about to be lodged. The three judges who sit on the court of appeal have to make a balanced judgment in a calm atmosphere. If beforehand high emotion has been publicly expressed and public comments have been made outside the court about what has happened and what has not happened, the judges may have difficulties in approaching the issue, unconscious of such comments, and, secondly and more importantly, members of the public might make the assumption, however wrongly, that their deliberations lean towards a particular party because of what has gone on before.

That is why we do not debate matters that are on appeal. In this case, an appeal is about to be lodged and we are about to do those very things. We are going to examine this judgment and make comments upon the way the judge approached the case before the court of appeal comes to consider it. That is the gravamen of what is going on here. It is not as if Senator Crowley has to cast aspersions on the judge's reputation outside her profession as a judge; the allegation against Senator Crowley is that she has impugned the judge in respect of a particular judgment, and that is the very judgment to be examined by the appeal court judges in the near future, as I understand what has been put.

There is a further reason—fairness to the parties. Let us remember the situation of the two litigants in this case. They want to come before a court and to feel assured that that court will examine the situation on its merits. It will be very difficult for those two people, particularly the one who might lose that appeal, to be certain in his or her mind that the judges were not affected by what had been said earlier. Let me make that clear. I state categorically that the judges would do nothing but what was in accordance with the law. That is my view of appeal court judges. I have never come across one who has not heard the appeal according to the law and according to the facts as he understood them, and I am sure that this would hap-

pen in this case. Nevertheless, there will be two parties before that court who, no doubt, will have high feelings of emotion, and if that court holds against one of them, will that person not have reasonable grounds, however wrong, for thinking that the debate that took place in the Senate had affected the outcome of the appeal?

Out of consideration for the judge herself, out of consideration for Senator Crowley and Senator Tate, out of consideration for the litigants and out of consideration for the court of appeal, it is wrong for this matter to be brought on this morning. The only basis upon which it can be said that this is an urgent matter is that the reputation of a judge is at stake. That is a very important issue; there is no doubt about that. Let nobody who follows me in this debate say that I think otherwise. No doubt Senator Vanstone, in going about the issue responsibly, has taken that factor into account, but when we put it into balance with the factors that go against the matter being brought on, the last group of factors win the day. We have heard the emotionally charged debate that has gone on so far. Who would think for one minute that, if the debate were to go on this morning, it would do so on a basis which was calm and well considered and which did honour to this chamber? Would we be in the situation which we sometimes get ourselves into of delivering highly charged emotional speeches making accusation and counter-accusation without going to the evidence? As I understand it, very few people in the chamber have read the judgment. I would be interested to know how many have read it and are in a position to comment on it.

**Senator Chaney**—But that is almost irrelevant. The suggestion is that a single judgment should give rise to a dismissal. That is an absurd suggestion.

**Senator COONEY**—I thank Senator Chaney. I think that is a reasonable point. Senator Chaney says that it is not a question of whether the judgment is right or wrong; it is a question of whether or not a single judgment should give rise to the suggestion that a judge be dismissed. That is another question that ought to be considered, and considered calmly and after we have looked at precedents.

**Senator Chaney**—But the Minister has answered that question. Senator Tate has already said that that proposition is wrong.

**Senator COONEY**—I again take up Senator Chaney's point. He says first of all that the issue is whether or not a single judgment, no matter how bad, should lead to a dismissal. I say that

that is a matter we should debate at a later date. He says no, that Senator Tate has already rebutted that presumption. If Senator Tate, as a responsible Minister of the Government, has said that and if those opposite have said that—if that point has been made—where is the urgency to repeat it?

**Senator Alston**—Because Crowley doesn't admit it.

**Senator COONEY**—Senator Alston says that Senator Crowley should admit it. If that is what this motion for the suspension of Standing Orders is all about, if we are bringing on this motion simply to get one single senator to admit that she is wrong and to grind her into the dust, what are such motions all about? Are such motions to be introduced into this chamber so that one senator can be condemned and made to do something, in some sort of thumbscrew exercise? If that is why the Senate wants urgency motions, then we will never get anywhere here.

I will simply repeat the points that I have already made, and then I will sit down. First of all, it is not a matter of urgency, in the sense that, firstly, even though the reputation of a judge has been allegedly impugned, that reputation has been strongly and forcefully defended both inside and outside the chamber already. Secondly, and I do not know how the Opposition gets over this proposition and I will be interested to see whether it does, a person against whom serious charges are made—six of them have been brought—and that is Senator Crowley, has said that she does not mind debating the matter but she wants time to prepare her case if it is to go on. Why should she be denied that time? No reason has been advanced against that, and the propositions put forward by Senator Chaney as the Leader of the Opposition indicate to the contrary. This matter, as Senator Macklin has said, should be adjourned—that is what it is all about—until—

**Senator Michael Baume**—How do you deal with Senator Harradine's point that this may be sub judice?

**The PRESIDENT**—Order! There are too many interjections.

**Senator COONEY**—In the points that have been made this morning, people have got this matter off their chests. Senator Crowley has said that she is more than willing to come back and debate it at the proper time, when this can be done after mature consideration and in a less emotionally charged atmosphere. Hopefully, at

that time the Senate can make a mature judgment on the whole issue.

**Senator SHEIL** (Queensland) (10.37)—The prime responsibilities of any government and parliament are the defence of the country and the maintenance of law. I do not want to discuss the defence of the country—it is in a parlous state—but the maintenance of law is an enormous responsibility of this Parliament. First of all, Parliament actually makes the law, and then it has to be seen to be upholding the law. In the circumstances that we see here, a torpedo has been put into the judicial system, and it is up to us to defend that system. To hear Senator Macklin get up and put his holier than thou views is unnerving, to say the least. He should support this motion to suspend Standing Orders. We have heard the debate range widely enough to convince us that there is no other course but to defend the laws that we make here, which are administered from outside and which have been under attack and damaged. Next week, it looks as though the case will be sub judice and we will not be able to discuss it at all. I do not see any reason why the Australian Democrats should not support the motion to suspend Standing Orders.

**Senator VANSTONE** (South Australia) (10.38)—in reply—I do not intend to repeat all the matters that I raised this morning. Let me condense the motion that I have moved, to have Standing Orders suspended, so that we can discuss it. Quite simply, it concerns the activities of Senator Crowley earlier this week, calling into question the capacity of a judge and raising the question of a judge's dismissal, which are very serious matters. I will deal with the comments made by each of the speakers in order, and offer my response to them.

Senator Gareth Evans indicated in his response that the reputation of a judge is an important and serious matter, and I would have thought that that supports the argument that it is a matter that ought to be dealt with expeditiously. From the emotive nature of his response, I did glean one aspect that he offered as to why this was inappropriate. He referred to the language that was used, and indicated that he thought that this motion that we are debating today was in colourful and strong language. He contrasted that with what he called the well-crafted language that Senator Crowley used on Tuesday. The net effect of what Senator Evans is saying is that if I say that you, Mr President, have a cognitive deficiency, that will be okay, but if I call you a screaming nitwit, that is

outrageous. In other words, the point that Senator Evans was making was that the nature of the language that one uses is somehow indicative of whether the substance of one's comments are meritorious or otherwise. The facts are, crafted language or otherwise, that Senator Crowley raised the question of a judge's dismissal. It does not matter what language she used to do that.

As for Senator Macklin's contribution, I understand that it would not be inappropriate to paraphrase his contribution as indicating that he does agree that there are points of seriousness in this motion that the Senate ought to address. He is concerned with the substance of the motion, but he raises the point that he would like time to consider and time to respond. As we know in this chamber, we cannot always have time. Sometimes, things that must be dealt with come up, and I put it to the chamber, through you, Mr President, to Senator Macklin, that this is a matter that must be dealt with expeditiously. While, in general circumstances, it would be appropriate that a notice of motion be left on the *Notice Paper* for people to consider their arguments, this is one, for reasons outlined by a number of speakers, that needs to be dealt with promptly. One of the reasons for that relates to the question of an appeal being lodged next week. As Senator Haines has rightly pointed out, this substantive motion would not, in itself, be sub judice, but I put it to you, Mr President, that if this matter is not dealt with today, it will be difficult to have a full debate on the matter without people making reference to the judgment and that will therefore create problems. As for Senator Crowley's contribution, I prefer, if I may, to deal with that last of all.

Senator Harradine dealt with the point I have just touched on, namely whether or not this should be dealt with promptly because of the appeal possibly being lodged next week and I endorse his comments in that respect. About Senator Chaney, I will say nothing more than that he made his usual considered and eloquent contribution. Let me move on to Senator Cooney, who said that it is not appropriate in the first instance to deal with this motion today because it is a motion condemning Senator Crowley when what it should be, if we wanted to deal with it today, is a motion endorsing the integrity of the judge. I put it to you, Mr President, that it was Senator Crowley who first raised his matter. She called into question the reputation of the judge, and that reputation has now to be put back in order. It is a question not only of the judge's reputation but of letting the public know that the Senate will not tolerate this sort of behav-

iour. It will not tolerate people coming in and raising the question of a judge's dismissal without being prepared to defend their case.

That leads on to one of the points that Senator Cooney made. He said that we need time to consider these allegations, and that what we are doing, in seeking suspension of Standing Orders, is virtually saying, 'Look, we are going to catch you by ambush', and that, in trial proceedings, if someone has good reasons for an adjournment, they should have one. As I understand Senator Cooney's argument, he feels that we should follow that principle. I agree, but I put it to you, Mr President, and through you to the members of the Senate, that Senator Crowley does not have good reasons for an adjournment. Surely, if, as Senator Evans has said, she used well-crafted and considered language, she considered the matter fully before she raised it. It would not be five minutes work for Senator Crowley to go through and detail the preparedness with which she approached this matter and dispose of each of the six items in this motion. Therefore, the contributions of Senator Crowley and Senator Gareth Evans serve to knock down the arguments of Senator Cooney. We have been told by the other side that Senator Crowley made a considered contribution on Tuesday and in the media coverage that she sought for herself afterwards. Having made that considered contribution on Tuesday, she has had all of Wednesday and Thursday to reflect on that contribution. I do not think that it is inappropriate for the Senate to call upon her today to respond to allegations about her contribution.

I further point out that if the Senate were to follow the principle that people ought to be notified before they are attacked, I suggest that Senator Crowley would have done well to tell you, Mr President, in her contribution to the debate whether, in fact, she notified the judge of her intention to name the judge, and to ask whether a particular judgment or a portion of it warranted the judge's removal. Did the judge get that particular courtesy? I would have thought that that was a very important matter because the judge, unlike Senator Crowley, cannot come into this chamber and defend herself. It is up to the remaining members of this chamber to do so. Senator Cooney says that if we do not suspend Standing Orders today, if this matter is left to another day, the judge's reputation will not be left universally condemned. Of course, that is quite right. It will not be left universally condemned.

I pointed out to you, Mr President, in my earlier remarks, that the South Australian branch of the Law Society of Australia, as a consequence of the attack made on the judge in this chamber, was very quick to come to the judge's defence, as was the Deputy Chairman of the family law section of the Law Council. But, as I put it to you earlier, Mr President, the rushing to the judge's defence by those two people and the bodies they represent indicates only the feeling in the community that this Senate has attacked the reputation of a judge and, in my view, further advances the point that this matter must be dealt with promptly.

It is important not that we leave a judge without her reputation universally condemned, but that we indicate that this Senate will have no part in condemning a judge's reputation as a consequence of one part of a judgment that was interpreted by a member of this chamber in a most inappropriate and inept way. To do otherwise is to say that in the future a senator who has notice of the extraordinary nature of a particular judgment, and as I put in my motion, having almost certain knowledge that an appeal is on, can use this chamber in the following way: that a senator can come in here, say what he or she likes about a judge, raise the question of a judge's capacity and raise the question of a judge's dismissal, knowing perhaps, as in this case, that an appeal is imminent and that the Senate, because of that—this is an argument that has been raised today; 'Do not go on because there is an appeal.'—will be able to hit and run. The senator will have his or her say and the Senate will not be able to respond.

Senator Cooney also said in his remarks that it was unfair to spring this on Senator Crowley, that she should be given time, that it is inappropriate to lampoon her in this way. I think it is appropriate to mention an interjection from Senator Haines that this Senate should be seeking not so much to lampoon Senator Crowley but to harpoon her. In conclusion let me deal with what Senator Crowley has said.

**Senator Cook—Without notice.**

**Senator VANSTONE**—In response to that interjection, may I say that it is not, strictly speaking, without notice. If Senator Cook were listening he would have heard me make the point that Senator Crowley raised this matter, as she said, in a most prepared and considered way on Tuesday. I do not know how quickly she thinks but I would have thought that Wednesday and Thursday was plenty of time to respond. In fact, it should not have been raised

in the first place if the honourable senator were not prepared to defend what she has said. That argument appears to be, Mr President, that if someone says something in this chamber which is disagreed with, one can put one's hand up and say, 'Give me time to think about it'. Mr President, you do not allow members of this chamber that right when you think they have spoken inappropriately as a consequence of the Standing Orders. You seek a withdrawal and you seek it then and there. The honourable senator concerned has to decide then and there—in fact, the honourable senator should decide whether those remarks are appropriate before he or she says anything—whether he or she will be immediately prepared to say, 'Mr President, I withdraw', or will not be prepared to say that.

A similar situation is that in which Senator Crowley finds herself today. She has come into this chamber and impugned the capacity of a judge. She has raised the question of the judge's dismissal and she is now being asked to respond to the allegations that that is an inappropriate course of action for a senator to take. She should be able to respond just as quickly as any other senator does to a point of order that is raised.

Let me also say that Senator Crowley in this debate said that she was accused by me of a number of things. She needs to reflect on these things when the *Hansard* comes out. She will see that I have indicated that a number of inferences have been drawn in the community as a consequence of her actions—not of my actions but as a consequence of her actions—and that the suspension of Standing Orders today to debate this motion and get into the detail of it, which I would dearly love to do, will give her the opportunity to clear the cloud hanging over certain members of the legal profession relating to whether they provided Senator Crowley with a judgment. It would give her the opportunity to indicate whether she has given the judgment to anybody and it would give her the opportunity to indicate to the Senate whether she raised this matter in the full knowledge of a certain appeal. Senator Crowley has said—not in the most elegant language I have heard—that I very wrongly accused her. To my hearing, she did not take the opportunity to decline emphatically any of the suggestions that have been put to her.

I give Senator Crowley full credit because she knows that on a motion to suspend Standing Orders one ought not deal with the substance of the matter. So perhaps she is not dealing with the substance. Perhaps she is not taking the opportunity to deny the allegations because she

would then feel that she was debating the matter. But if Standing Orders were suspended, she would have the opportunity to clear the cloud over the legal profession in South Australia. She would have the opportunity to indicate emphatically to the Senate whether she gave, or a servant or agent acting on her behalf gave, to a journalist, or caused to be given to a journalist, a copy of the judgment. If that happened everybody would be a lot happier. Senator Crowley could apologise to the Senate for the disrepute into which she has brought the Senate and she might take the opportunity to apologise publicly to the judge at the same time.

The point has been made by Senator Crowley that we are yet again bringing this matter into the chamber. But before I deal with that it seems I should raise one more point that Senator Crowley raised. In attempting to circumvent the necessity to deny what she has or has not done with judgments, she pointed out that judgments are available willy-nilly from the Registrar of the Family Court in—

**Senator Cook**—I raise a point of order, Mr President. During Senator Crowley's address several points of order were taken that Senator Crowley was debating the issue. The issue before this chamber is whether we bring on the matter and adjourn other proceedings to do so. Senator Vanstone, in her reply, is debating the substantive issue. I ask that as you, Mr President, drew Senator Crowley's attention to the fact that she should debate what is before the chamber, so should you draw Senator Vanstone's attention to that fact.

**The PRESIDENT**—Senator Vanstone is replying to points that were made by Senator Crowley. It is a very difficult area. I ask Senator Vanstone to confine her remarks to why the suspension of Standing Orders should be carried.

**Senator VANSTONE**—The point that Senator Crowley made to which you, Mr President, so rightly pointed out I am responding is that these judgments were available fairly loosely, willy-nilly—or whatever language she used—from the Registrar of the Family Court in Adelaide on Wednesday. That is quite right. What she did not put before you, Mr President, is the reason those judgments were made available to the journalists who requested them. The reason is the publicity created by Senator Crowley's inept performance in this chamber on Tuesday. The Registrar has made a decision that journalists who inquire, as a consequence of that publicity of course, ought to have the record put straight. The Family Court is trying to do what it can to

put the record straight, to give journalists the opportunity of seeing and judging for themselves whether Senator Crowley made an inappropriate selective quote from a judgment and to draw their own conclusions as to her raising the question of the judge's dismissal. The Family Court in South Australia obviously decided that it was necessary to do that on Wednesday morning, which has nothing to do with the point I raised, that the suspension of Standing Orders would have given Senator Crowley the opportunity to respond to the question: 'Does she know whether any journalist received a copy of the judgment in order to print articles in Tuesday night's or Wednesday morning's papers which then caused the Family Court to make these matters available?'

In conclusion, the Opposition is bringing this matter on again. Senator Crowley made the point that if we do not want it discussed why bring it on again having raised it twice in Question Time. The reason it is being brought on again is simply this: it is a grave and serious matter. I think that is agreed by most speakers in this debate. To question the capacity of a judge and raise the question of a judge's dismissal is a serious matter. We bring the matter in again because it never should have been raised, and the quicker this Senate can bury it the better. The matter should be dealt with expeditiously; it should be dealt with today.

**Senator Harradine**—Mr President, I raise a point of order. I seek your ruling on the question of the sub judice rule. I would request you to rule on whether or not, in the event of an appeal being lodged in this matter early next week, this particular motion would be able to be fully and adequately debated by the Senate after the lodgment of that appeal.

**The PRESIDENT**—In response to Senator Harradine: It is my view that the proposed motion does not by its nature infringe the convention relating to the restriction of debate on the grounds of sub judice. I believe debate could properly proceed on the motion. However, the Chair would need to be aware of the issue during the debate, as some developments in the debate might infringe the convention. That would be a decision that I would have to make during the debate.

Question put:

That the motion (Senator Vanstone's) be agreed to.

The Senate divided.

(The President—Senator the Hon. Kerry Sibraa)

Ayes . . . . .	30
Noes . . . . .	35
<b>Majority . . . . .</b>	<b>5</b>

**AYES**

Alston, R. K. R.	Messner, A. J.
Archer, B. R.	Newman, J. M.
Baume, Michael	Panizza, J. H.
Baume, Peter	Parer, W. R.
Bishop, B. K.	Patterson, K. C. L.
Bjelke-Petersen, F. I.	Puplick, C. J. G.
Boswell, R. L. D.	Reid, M. E.
Brownhill, D. G. C.	Sheil, G.
Chaney, F. M.	Short, J. R.
Chapman, H. G. P.	Stone, J. O.
Durack, P. D.	Tambling, G. E. J.
Hamer, D. J.	Teague, B. C.
Knowles, S. C. (Teller)	Vanstone, A. E.
McCauran, J. J.	Walters, M. S.
MacGibbon, D. J.	Watson, J. O. W.

**NOES**

Aulich, T.	Haines, J.
Beahan, M. E.	Harradine, B.
Black, J. R.	Jenkins, J. A.
Bolkus, N.	Jones, G. N.
Childs, B. K.	McKiernan, J. P.
Coates, J.	McLean, P. A.
Collins, R. L.	Macklin, M. J.
Colston, M. A.	Maguire, G. R. (Teller)
Cook, P. F. S.	Morris, J. J.
Cooney, B.	Ray, Robert
Coulter, J. R.	Richardson, G. F.
Crowley, R. A.	Ryan, S. M.
Devereux, J. R.	Sanders, N. K.
Devlin, R.	Schacht, C. C.
Evans, Gareth	Sibraa, K. W.
Foreman, D. J.	Walsh, P. A.
Gietzelt, A. T.	Zakharov, A. O.
Giles, P. J.	

**PAIRS**

Hill, R.	Button, J. N.
Crichton-Browne, N. A.	Burns, B. R.
Calvert, P. H.	Reynolds, M. E.
Lewis, A. W. R.	Tate, M. C.

Question so resolved in the negative.

### BROADCASTING AMENDMENT BILL (No. 3) 1987

Motion (by Senator Gareth Evans) agreed to:

That the following Bill be introduced: A Bill for an Act to amend the Broadcasting Act 1942, and for related purposes.

Motion (by Senator Gareth Evans) agreed to:

That the Bill may proceed without formalities and be now read a first time.

Bill read a first time.

#### Second Reading

Senator GARETH EVANS (Victoria—Minister for Transport and Communications (11.04)—I move:

That the Bill be now read a second time.

I table the explanatory memorandum. Under the circumstances of the wasted time this morning,

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

Leave granted.

*The speech read as follows—*

This Bill covers a wide range of matters affecting public broadcasting and the Australian Broadcasting Tribunal's administrative procedures. It will also make technical amendments to the Broadcasting Act and related legislation.

The Government's decisions which are incorporated in this Bill have not received the same public attention as have many other broadcasting policy initiatives in recent years. These are, nonetheless, important reforms. They reflect this Government's commitment to a healthy public broadcasting sector and to ensuring that regulatory arrangements, in broadcasting as in all industries, are efficient and are achieving their objectives.

The Bill provides for the amendment of four Acts: the Broadcasting Act 1942; the Broadcasting and Television Act 1942 as in force immediately before 1 January 1986 for the purpose of its continued application to old system licences; the Broadcasting and Television Amendment Act 1985; and the Commonwealth Electoral Act 1918.

#### PUBLIC BROADCASTING

The main focus of the Bill is public broadcasting.

The first public radio stations in Australia were licensed under the Broadcasting and Television Act in 1974, although 'experimental' stations were established under the Wireless Telegraphy Act some years earlier.

Since then public radio has expanded at a rapid rate. In 1980 there were twenty-one stations on air; today there are sixty-six. I expect to invite applications for the eighty-eighth public radio licence in 1988 as a milestone in an ongoing program of planning additional services.

The public radio sector of the Australian broadcasting system is non-commercial, non-profit and is supported and financed primarily through listener subscriptions, sponsorship, donations, limited government funding administered by the Public Broadcasting Foundation, and the efforts of volunteers.

Public radio was introduced in Australia with several objectives:

firstly, to make broadcasting accessible to individuals and sections of the community

seeking such access, particularly those who do not have access to other media;

secondly, to enable community organisations to own, operate and control their own independent broadcasting services, thereby diversifying control of the media; and

thirdly, to expand meaningful programming choice to satisfy a wide diversity of needs and interests of listeners, whether numerous or not.

Public stations may concentrate either on one or more particular special interests or cater for a broad mix of interests in the program schedule. In either case public stations are the result of local initiatives and interests, organised to provide a service to the particular community in which they operate.

In the first decade of its development, public broadcasting has acquired a very firm place in our broadcasting system. It complements the roles of the national broadcasters, that is, the ABC and the SBS, and the commercial broadcasters.

It has provided a uniquely Australian contribution to media in this country.

It is appropriate that we should mark its first decade with this package of legislative reforms, building on the experience of the last 10 years to clarify the role of public broadcasting and ensure that its contribution continues to be lively and effective.

Amendments to the licensing, ownership and control, funding and other provisions affecting public broadcasting, are intended to strengthen its basic character and reinforce the objectives of the sector.

This is being achieved firstly by formalising in the Act the planning scheme set out in the Planning Guidelines for Public Radio published by the then Minister for Communications in August 1985. The amended Act will provide for public licences to be granted for general community purposes or for special interest purposes.

A community purpose licence will serve the full range of interests and needs of the community located within the service area of the licence. A special interest purpose licence will serve a particular specified interest or need or a number of specified interests or needs of the community within the service area of the licence.

The particular special interest may be specified by the Minister, or, where he or she chooses not to, by the Australian Broadcasting Tribunal.

Under the Planning Guidelines, examples of particular special interests which the Minister

might specify include educational, ethnic, Aboriginal and print handicapped purposes. The Tribunal will not be constrained by the purposes set out in the guidelines, and has previously granted special interest licences for fine music, sporting and religious purposes.

The second major area of reform encompassed in this Bill is to the criteria to which the Tribunal must have regard in considering applications for the grant, renewal, transfer, suspension and revocation of public licences. Most of the new criteria relate to the ownership and control of public licences.

From 1976 the Act applied common ownership and control rules to both commercial and public radio licences. However, the differences between public and commercial broadcasting and the corporate structures of public and commercial licensee companies, meant that many of the rules for commercial licensees were irrelevant or unnecessarily complex for public licensees. The Broadcasting and Television Amendment Act 1985, therefore, removed public licences from the scope of these provisions, requiring new provisions to apply to public broadcasters.

The amendments I now introduce embody a simpler approach to regulating the ownership and control of public licences. They will continue to prohibit the grant of a licence to a corporation the objects of which include the acquisition of profit by the corporation's individual members. A new provision is being introduced also prohibiting the grant of a public licence to a government corporation or political party. However, other matters will be taken into account by the Tribunal not as fixed prohibitions, but only as factors relevant to its licensing decisions, which provide policy guidance for it in exercising its licensing powers.

These new factors will be—the undesirability of one person controlling more than one public licence; the undesirability of the Commonwealth, a State or the Northern Territory, a statutory authority or a political party controlling a public licence; the undesirability of a public licence being operated for the purpose of conferring profit on a third party and the desirability of members of the local community controlling and participating in the running of public stations.

These new provisions will supplement the Tribunal's assessment of an individual's fitness and propriety and financial, technical and management competence to hold a public licence, emphasising in particular the non-commercial nature of public services and their relationship to the community they serve.

The transfer of a public licence will not be permitted. However, the Tribunal will be empowered to agree to the licensee admitting another person to participate in any of the benefits of the licence or to exercise any of the powers or authorities granted by the licence, where it is considered in the public interest to do so.

The Bill changes the provisions which govern the ways in which public broadcasters may raise and spend funds. Public broadcasters currently are prevented from broadcasting advertisements other than sponsorship announcements. In November 1985, the Tribunal released a draft policy statement, which set out its preliminary interpretation of what the Act allowed in sponsorship announcements. The draft was criticised by public broadcasters for its broad interpretation of the meaning of 'advertisements' which, reflecting the Federal Court's decision in the Benson and Hedges case, substantially expanded the category of announcements which they are prevented from broadcasting under section 119AB of the Broadcasting Act. The draft was also criticised for limiting the forms of sponsorship announcements which public broadcasters could broadcast.

Public broadcasters were particularly concerned about prohibitions or limitations on their ability to provide community information and to promote themselves and their programs. They claimed its adoption would narrow current practices to the extent that some would not be able to raise sufficient funds to continue operating.

These amendments retain the advertising prohibition while clarifying the scope of the exceptions to it. The exceptions will continue to include sponsorship announcements, but the definition of these is slightly altered to make clear that the announcement may acknowledge financial or other support for the service generally or for a particular program, and to impose a general non-promotional provision.

The exceptions to the advertising prohibitions will also include community information announcements and material which promotes the service itself or particular programs. The receipt of payment for broadcasting information will be a relevant but not conclusive factor in determining whether information is not community information.

These new exceptions are intended to retain the non-commercial character of public broadcasting services, while permitting legitimate revenue-raising and self-promotional activities consistent with that character.

A separate provision will prevent the expenditure of a station's own funds other than on the service itself or for the benefit of public broadcasting generally. This will not prevent the conducting of appeals for particular causes where the funds raised are not derived by the licensee himself. However, the conduct of such appeals will be a relevant factor for the Tribunal at licence renewals, in assessing whether a station has been conducted wholly or substantially for the purpose of conferring profits on a third party, so as to justify non-renewal.

The Bill also provides a mechanism for public broadcasters to gain access to the AUSSAT satellite and thereby provide services to remote areas of Australia. While there are considerable economic obstacles to be overcome, the Government would welcome such an extension of public services. Since it is likely that existing licensees initially may be best placed to provide such services, an existing public licensee will not be prevented from also gaining a further licence for broadcasting to remote areas. The licensing criterion making it undesirable for one public licensee to hold two licences in this way will still apply. But this will only be one factor for the Tribunal to consider and will not prevent an existing licensee obtaining a further licence to serve remote areas where the Tribunal is satisfied it represents a satisfactory way to provide a new service.

The final amendment relating to public broadcasting provides for the conversion of the Melbourne radio station 3CR to a public licence. The station was granted a 'limited' commercial licence in July 1976 before public licences were introduced. The conditions which were applied to the licence to establish its 'limited' character related to restrictions on advertising. These conditions were reflected in the scheme of public broadcasting which was introduced subsequently. Since 3CR has always been conducted as a public licence, it is appropriate for it to be formally converted to that form of licence. The current situation is an anomaly which needs to be corrected to ensure that the other amendments made by this Act apply to 3CR in the same way as to other public stations. The conversion is a purely administrative process which will not affect the operation of the station.

I share the views of public broadcasters that the amendments I have just outlined clarify important principles for the structure and ongoing operation of public broadcasting. Their importance is reflected in the extensive discussion and consultation processes which have taken place

with the public broadcasters themselves in preparing this legislation. Other sectors of the broadcasting industry have been consulted on these provisions through the Broadcasting Council, the statutory consultative body established under section 125D of the Broadcasting Act to advise the Minister on matters generally affecting broadcasting in Australia.

### **Streamlining of Tribunal Procedures**

The Australian Broadcasting Tribunal is an independent statutory authority which carries out most of the detailed administration of the regulatory arrangements set out in the Broadcasting Act and associated Licence Fees Acts.

This Bill includes a number of relatively minor amendments which are intended to streamline the Tribunal's procedures. They cover those areas in which the Tribunal has experienced difficulties and inefficiencies in its operations. As a package, they will assist the efficient delivery of new services.

The Broadcasting Act currently provides for the Tribunal to be constituted by one Chairman and six full-time members. There is also provision for the appointment of up to six associate members to assist the Tribunal with particular inquiries. In order to provide the Tribunal with a greater degree of flexibility in the appointment of associate members, the Bill provides for their appointment for particular periods of time or for specified classes of inquiry rather than just for a single inquiry as is currently the case. It also empowers the Chairman of the Tribunal to use more efficiently the services of associate members in the composition of Divisions of the Tribunal. The Chairman may use associates to replace members where necessary or to designate additional associate members to Divisions.

An amendment is also being made to streamline the Tribunal's reporting requirements. The Bill deletes the requirement for the Tribunal to include in its ordinary inquiry reports to the Minister, the parties to the inquiry and the public, a summary of the proceedings at the inquiry. This time-consuming obligation is considered unnecessary because the Tribunal's Inquiry Regulation also require a full record of the proceedings of an inquiry to be placed on the inquiry file which is publicly available.

Another amendment proposed in this Bill relates to the procedures currently prescribed in respect of two particular categories of licence in the Broadcasting Act. These are known as re-broadcasting and re-transmission licences and are useful particularly for small communities or areas

of poor reception which seek to obtain or improve reception of broadcasting services through the Government's self-help Broadcasting and Re-transmission Scheme. Such licences have typically been used to enable small communities in remote and regional areas to fund their own radio and television transmission facilities. Invariably, these licences are uncontested and non-controversial and do not lend themselves to the more complex procedures appropriate to other applications. Accordingly, the Bill removes the administration of re-broadcast and re-transmission licences from the Tribunal's substantive powers, allowing the Tribunal more procedural flexibility in handling these licences. This will reduce backlogs in the grant and renewal of such licences, speeding up the delivery of services to the particular communities involved.

The Broadcasting and Television Amendment Act 1985 provided for the licensing of radio and television services broadcasting from the AUSSAT satellites to remote areas. This Bill provides for the extension of the period of the initial grant of these licences from five to seven years. The amendment implements a recommendation from the Tribunal in its first report on Remote Commercial Television Services. It recognises also that the substantial costs of leasing transponders on the satellites and associated capital costs require a longer term investment from a remote licensee than from a terrestrial licensee.

The Bill amends the provisions relating to changes in the Memoranda and Articles of Association of television and radio licensee companies, empowering the Tribunal to give retrospective approval to a resolution to change the Memorandum or Articles of Association of a licensee company. Any such resolution will, however, only come into effect after it has been approved. This is to avoid a licensee company requiring two meetings, firstly to resolve to make the changes, and secondly, to affect the changes once approved by the Tribunal.

There are also a series of amendments to clarify the operation of the transitional provisions in the Broadcasting and Television Amendment Act 1985. That Act changed the basis of broadcasting licensing from the technical means of transmission to the service being provided, and the geographic area which it serves. The transitional provisions were designed to facilitate the conversion of existing 'old system' technology-based licences to 'new system' service-based licences. While this process of conversion is well-advanced, the amendments made by this Bill will

simplify the process further and correct some deficiencies in the existing provisions.

#### **Other Matters**

This Bill also makes several other unrelated amendments.

It deletes the political identification requirements currently set out in section 333 of the Commonwealth Electoral Act and consolidates these requirements in the Broadcasting Act. These provisions set out the requirement for identification of speakers in electoral broadcasts and records of electoral broadcasts to be kept by broadcasters. The amendment will overcome the confusion caused by the similar obligations which are currently imposed by these different Commonwealth Acts, thus implementing a recommendation in the 1984 report of the Joint Select Committee on Electoral Reform.

A further amendment will restore a right of appeal to the Minister for Transport and Communications by third parties against decisions by the Secretary to the Department of Community Services and Health about medical advertisements.

A separate part of the Broadcasting Act deals with the Special Broadcasting Service. A provision of this Bill seeks to amend the Act in respect of the approval by the Minister of SBS contracts.

At present the Broadcasting Act requires ministerial approval for all contracts entered into by the SBS involving amounts in excess of \$100,000. This limit has remained unchanged since the SBS provisions first were inserted in the Broadcasting Act in 1977. As the real value of this limit has been substantially eroded over the last ten years, many contracts dealing with routine operational functions of the organisation have come to require ministerial approval. The original intention of the provision was to require ministerial approval only of major contractual commitments.

The Bill raises the limit to \$1m and provides a regulation-making power to facilitate future variations. It also provides that contracts for the sale or other disposition of programs by the SBS be excluded from the limit.

Through a new definition of the term 'Parliament', the Bill will extend the electoral blackout provisions in the Broadcasting Act to elections for the Northern Territory Legislative Assembly and such other bodies as may be prescribed from time to time by regulation. This will overcome the long-standing anomaly whereby the prohibition on the broadcast of advertisements relating

to Federal and State elections between midnight on the Wednesday preceding a poll and the close of polls, does not extend to Northern Territory elections. The regulation-making power will facilitate the extension of the blackout provisions to elections to any future legislative body, most importantly in the ACT, if that is thought appropriate at a later date.

#### **Financial Impact**

The amendments in this Bill are expected to provide small but useful administrative savings for the Australian Broadcasting Tribunal. These should assist to reduce delays in the Tribunal's extensive inquiry program.

In the policy document which accompanied the Prime Minister's policy speech for the election in July, this Government committed itself to a thorough overhaul of what has become a complex and unwieldy Broadcasting Act. This Bill represents a step in the direction of that much needed reform.

Debate (on motion by Senator Knowles) adjourned.

#### **TAXATION LAWS AMENDMENT BILL (No. 3) 1987**

#### **INCOME TAX AMENDMENT BILL (No. 2) 1987**

#### **MEDICARE LEVY AMENDMENT BILL 1987**

Bills received from the House of Representatives.

Motion (by Senator Ryan) agreed to:

That the Bills may proceed without formalities, may be considered together and be now read a first time.

Bills read a first time.

#### **Second Readings**

Senator RYAN (Australian Capital Territory—Special Minister of State) (11.05)—I move:

That the Bills be now read a second time.

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

Leave granted.

*The speeches read as follows—*

#### **TAXATION LAWS AMENDMENT BILL (No. 3) 1987**

This Bill will amend the income tax law to give effect to a number of earlier announcements made by the Treasurer (Mr Keating), some of which were foreshadowed in a draft exposure Bill released on 4 June 1987, and to some Budget initiatives.

They include measures designed primarily to prevent abuses of the new imputation system of company tax,

and changes to the capital gains, superannuation deductions and gift provisions of the income tax law and the taxing arrangements for certain educational allowances.

Two Budget announcements to be given effect by the Bill vary the level of the rebates of tax available to recipients of certain Commonwealth benefits or allowances, and provide for the calculation of 1987-88 provisional tax.

The Bill will also amend the Taxation Administration Act 1953 to make it clear that certain earlier amending action modifying State and Territory limitation laws applies to additional tax for late payment.

Finally the Bill will remove the existing requirement to annually impose provisional tax or instalments of company tax.

I will now outline in more detail the significant measures in the Bill.

#### **Franked Dividends Paid as Part of a Dividend Stripping Operation**

This Bill will introduce anti-avoidance provisions to combat dividend stripping operations that seek to exploit benefits provided under the imputation system.

The Government's intention to introduce such measures was made clear in the Treasurer's announcement of 10 December 1986 which outlined the imputation system now in operation, and the measures were contained in the draft Bill released by the Treasurer on 4 June 1987.

Under imputation, the franking rebate will mean that resident individuals and certain trustees will effectively receive franked dividends tax free.

The potential double benefit for such taxpayers of both a tax deduction for the cost of shares purchased in a dividend strip, and a rebate on the dividends distributed on the shares, is similar to that which was available to companies prior to the introduction of legislation to limit or deny the intercorporate dividend rebate in cases involving dividend stripping.

To prevent such abuse of the imputation system this Bill will deny the entitlement of resident individuals and certain trustees to a franking rebate where dividends are paid as part of a dividend stripping operation.

To deter companies from engaging in dividend stripping schemes to gain the benefit of franking credits, and to prevent individuals and trustees who otherwise would be denied a franking rebate under the measure proposed from achieving the same end by interposing a corporate structure, the Bill will also deny franking credits to companies where dividends are paid in the course of a dividend stripping operation.

#### **Dividend Stripping Schemes**

Another measure contained in the draft Bill released on 4 June 1987, and now included in this Bill, will extend the present rules relating to dividend stripping operations that give rise to an income gain or loss, by limiting or denying the entitlement of a resident company to the intercorporate dividend rebate in respect of a dividend paid after 4 June 1987 as part of a dividend stripping operation which gives rise to a capital gain or loss.

The measures proposed will ensure that the cost base of shares or other relevant property acquired as part of a dividend stripping operation is offset against dividend income in determining entitlement to a rebate.

A rebate will be denied in such cases where they involve the payment of a dividend to an associate of the dividend stripper.

#### **Asset Revaluation Dividend Schemes**

The Treasurer's announcement on 4 June 1987 also foreshadowed the introduction of legislation to counter certain schemes which seek to avoid income tax properly payable on the disposal of assets by means of the payment of rebatable dividends out of profits arising from the revaluation of the assets concerned.

This Bill will deny the intercorporate dividend rebate in respect of a dividend paid, after 4 June 1987, out of profits arising from the revaluation of an asset which is disposed of, or an interest in which is disposed of, either by the sale of shares in the company holding the asset or by the sale of an interest in an entity which has a beneficial shareholding in that company.

The proposed measures will apply only where the company that revalues an asset is not listed on a stock exchange, and its revalued assets are not less than 75 per cent of the net worth of the company at the time of disposal of the shares or other relevant property.

These measures will also apply to corporate unit trusts and public trading trusts that are taxed as companies under the income tax law.

#### **Tax Avoidance by Private Companies**

Sections 108 and 109 of the Income Tax Assessment Act are designed to prevent avoidance of tax by private companies and their shareholders at the shareholder level by disguising dividends as non-taxable loans or advances, and at the corporate level by disguising dividends as tax deductible remuneration.

Although the scope for avoidance in this area has been diminished under the imputation system, the need for these provisions remains.

Accordingly, as foreshadowed by the Treasurer on 4 June 1987, these provisions will be amended by this Bill so that, while preserving their originally intended purpose, technical deficiencies that have prevented their proper application will be remedied.

#### **Capital Gains Tax: Change of Residence**

The Bill will give effect to the announcement on 23 December 1986 that two changes would be made to the capital gains and capital losses provisions of the income tax law in relation to taxpayers who cease to be Australian residents.

First, the existing law will be modified where a taxpayer has been an Australian resident for a total period of less than five years in the ten years preceding the time he or she ceases to be a resident.

In these cases the rules which deem certain assets to have been disposed of on change of residence will not apply to assets owned at the time the taxpayer last became a resident or to assets acquired by the taxpayer since that time as a result of the death of a person.

The second change will enable a taxpayer to elect that the deemed disposal rules not apply to the assets

that otherwise would be taken to have been disposed of.

#### **Capital Gains Tax: Distribution by a Trustee**

The Bill will also implement the change announced on 17 December 1986 where a taxpayer receives a distribution of certain tax-free income as a beneficiary or unitholder of a trust.

This amendment ensures that, in calculating capital gains, the cost base of the interest or units in the trust will no longer be reduced by that part of a tax-free distribution which represents income freed from tax by the allowance of certain building depreciation deductions.

By this measure trusts will be able to pass on the benefits of depreciation allowances on income producing buildings to beneficiaries or unitholders.

#### **Capital Gains Tax: Bonus Shares and Bonus Units**

Another amendment gives effect to the announcement made on 10 December 1986 to change the capital gains tax treatment of partly paid bonus shares and bonus units issued after 1 p.m. on that day.

The existing law treats bonus shares and most bonus units as having been acquired when the original shares or units were acquired.

Under the existing law, where original shares or units were acquired before 20 September 1985, the issue of partly paid bonus shares or units can potentially confer capital gains tax exempt status on new investments made after 19 September 1985—for example, through the payment of calls of capital in respect of the partly paid shares or units.

In such cases, the date of acquisition of the bonus shares or bonus units will now be taken to be the date on which the liability to make the first such payment arose.

This Bill will also implement changes announced on 10 December 1986 in relation to bonus shares issued after 30 June 1987 where some or all of their paid-up value is a dividend.

The effect will be that such bonus shares issued after 30 June 1987 will be subject to the capital gains tax provisions irrespective of the date of acquisition of the original shares in respect of which the bonus shares were issued.

A reliable estimate of the revenue effect of these capital gains tax related amendments cannot be ascertained.

#### **Deductions for contributions to Superannuation Funds for certain gainfully employed persons**

The Bill will give effect to the Treasurer's announcement of 22 December 1986 that employees would not lose the deduction available—which is set at a maximum of \$1,500 per year—for their contributions to private superannuation funds by reason only that they are the subject of superannuation benefits provided by an employer as a result of an agreement of the kind referred to by the Conciliation and Arbitration Commission in its national wage case decision of 26 June 1986.

The amendments made by this Bill will apply to cases where the employer-provided superannuation cover is under an agreement made or ratified by the Conciliation and Arbitration Commission, or a State industrial tri-

bunal, in accordance with the Commission's decision of 26 June 1986, or any subsequent modification of that decision in a national wage case.

The Bill will also apply to cases where the contributions are made under an agreement that has not been so ratified but is substantially identical to a ratified agreement applying to employees in the same industry.

The amendments will apply for the 1986-87 and subsequent income years.

#### **Educational Allowances**

Over the last two years the Government has made a number of changes to deliver more educational opportunities for young people by continuing to improve and rationalise student allowances.

As part of this process the Government changed the assistance for isolated children scheme and the veterans' children education scheme to make them more consistent with the mainstream provisions of the Austudy scheme.

The Austudy scheme replaced the former tertiary education assistance scheme, the audit secondary education assistance scheme and the secondary allowances scheme.

Consistent with the taxing arrangements for Austudy, payments from 1 January 1987 under the veterans' children education scheme and the assistance for isolated children scheme, to students aged 16 years or over, are to be made taxable by this Bill.

The Bill will also extend, from 1 July 1987, the availability of the beneficiary rebates to recipients of the education allowances that are to be made taxable by this Bill.

The beneficiary rebates ensure that persons wholly or mainly dependent on certain Commonwealth benefits or allowances do not have to pay income tax.

The revenue effects of these changes is estimated to be negligible.

#### **Beneficiary Rebates**

As part of the 1987-88 Budget measures, the maximum rebates of tax for taxpayers in receipt of the beneficiary rebates I have just referred to, and the levels at which the rebates begin to shade-out, are to be varied for the 1987-88 income year.

For married persons the maximum rebate will be increased from \$280 to \$430 and no tax will be payable in 1987-88 on taxable incomes up to \$10,350.

For other persons the maximum rebate is to be decreased from \$190 to \$180 reflecting in combination the Government's decision in the May statement to align the level of the single sickness benefit with single unemployment benefit, the reduction in tax rates and the increase in the tax-free threshold.

The new rebate of \$180 means that no tax will be payable in 1987-88 by single beneficiaries on taxable incomes up to \$5,850.

The rebates will shade-out where taxable incomes exceed the threshold levels and will shade-out completely where a married person's taxable income is \$13,790 or more, or \$7,290 or more for other persons.

These measures are estimated to have no cost in 1987-88 and will cost \$8m in 1988-89.

### Provisional Tax for 1987-88

Provisional tax is that part of the pay-as-you-earn system designed to collect tax on non-salary or wage income within the year in which the income is derived.

As such, it is generally accepted that the amount of provisional tax charged should approximate as closely as practicable the amount of tax actually imposed for the year.

This Bill provides for 1987-88 provisional tax to be calculated on the basis of 1986-87 taxable income increased by 11 per cent, and by applying the 1987-88 rates of tax and Medicare levy.

The increased low income thresholds to apply for Medicare levy purposes in 1987-88 will be taken into account.

Generally, rebates and credits will be allowed in the provisional tax calculation at the levels allowed in 1986-87 assessments.

Taxpayers who estimate that their taxable income for 1987-88 will increase by less than 11 per cent, or who consider that their rebates or credits will be at a higher level, will continue to have the right to 'self-assess' and have the provisional tax for 1987-88 recalculated on the basis of their own estimates.

### Gifts

This Bill will also amend the gift provisions of the income tax law to allow deductions for gifts to the Lionel Murphy Foundation and to the Australian-Hellenic Memorial Trust Fund.

The estimated cost of admitting the Lionel Murphy Foundation is \$80,000 in 1987-88 rising to \$400,000 in 1988-89 and subsequent years, and of admitting the Australian-Hellenic Memorial Trust Fund is \$60,000 in 1987-88 and \$70,000 in both 1988-89 and 1989-90.

### Application of statutes of limitations to tax debts

Honourable senators will recall that legislation introduced in this place during the Budget sittings of last year, and subsequently enacted as the Taxation Administration Amendment (Recovery of Tax Debts) Act 1986, modified the application of State and Territory limitation laws in those cases where an objection or appeal has been lodged against an assessment or decision of the Commissioner of Taxation.

The effect of the modification in such cases was simply to continue the relevant State or Territory limitation period so that it would be taken to have ended on a later date measured by reference to the date on which the objection and appeal process is finalised.

The modification was necessary to counter abuses of the objection and appeal processes by those persons who sought to defer payment of taxes for as long as possible, and to then rely on the limitation laws to avoid payment of the taxes altogether.

The persons concerned—generally participants in the tax avoidance schemes of the late 1970s—have failed to take heed of the warning underlying the 1986 amendments—that is, that this Government will do all in its power to ensure that payment of taxes that are rightly due to the people of Australia cannot be avoided on the basis of a legal technicality.

Despite this warning, a technical argument has now been raised to the effect that the modification does not apply, as intended, to additional tax for late payment of the tax that is the subject of an objection or appeal.

The Government does not accept this argument but, against the background that a significant loss to revenue would arise if the argument is upheld by the courts, has decided to make a clarifying amendment of the relevant provisions of the law.

I commend the Bill to the Senate.

In doing so, I present the explanatory memorandum on this Bill.

### INCOME TAX AMENDMENT BILL (No. 2) 1987

This Bill will amend the Income Tax Act 1986 to formally impose the rates of income tax payable by individuals and trustees generally for the 1987-88 and all subsequent financial years.

It will also impose the rates for 1987-88 and subsequent years payable by companies, registered organisations and unit trusts treated as companies on incomes for 1986-87 and subsequent years.

In addition, it will impose rates of tax on superannuation funds, ineligible approved deposit funds and certain other trusts.

The rates to be imposed by the measures in this Bill are those declared in the Income Tax Rates Act 1986.

The personal rates for 1987-88 reflect the significant cuts in income tax from the second and final phase of the reform of the rate scales which the Treasurer announced in the September 1985 tax reform package to apply from 1 July 1987.

A four-step tax scale now applies.

At the lower end of the scale for resident taxpayers, no tax is payable on taxable incomes up to \$5,100, an increase in the tax-free threshold from the 1986-87 level of \$4,890. On taxable incomes in the range \$5,101 to \$12,600 the rate is 24 per cent. In the range of \$12,601 to \$19,500 the rate is 29 per cent.

From 1 July 1987 the marginal rates applying to income in the ranges \$19,501 to \$28,000 and \$28,001 to \$35,000 are both reduced from 43 per cent and 46 per cent respectively to 40 per cent, and the top marginal rate has dropped from 55 per cent to 49 per cent.

These general rates also apply to non-residents who receive Australian social security and repatriation pensions that are taxable in Australia, or who were residents at any time during the income year.

For all other non-resident taxpayers, the rate of 29 per cent applies to incomes up to \$19,500 and the general rates apply to income above that level.

For 1987-88 and subsequent years a rate of 49 per cent applies to all unearned income of resident minors, subject to shading-in arrangements for such income just over \$416.

The rate of tax on trustees assessed under section 99A of the Income Tax Assessment Act, and on other categories of income subject to anti-avoidance provisions of that Act, is 49 per cent in 1987-88 and subsequent years.

The company tax rate will be 49 per cent.

This increased rate was announced in the September 1985 tax reform statement to help defray the cost of the new imputation system which commenced on 1 July 1987.

The 49 per cent rate also applies for unit trusts treated as companies.

Registered organisations are to continue to pay at a rate of 20 per cent.

Finally, the opportunity is being taken to impose income tax as a standing measure, under the Income Tax Act 1986 as proposed to be amended by this Bill, rather than by means of an annual imposition Bill.

Of course, if there are changes in tax rates, legislation amending the Income Tax Rates Act 1986 which declares the various income tax rates that I have just outlined for 1987-88 and subsequent years, will be put before the Parliament.

As part of this process of reducing the volume of legislation brought before the Parliament, and as there is no legal requirement for the practice, the Bill will also repeal the provisions of the Income Tax Act 1986 that impose a liability to pay provisional tax or instalments of company tax.

The provisions of the Bill are explained in detail in the explanatory memorandum that accompanied the Taxation Laws Amendment Bill (No. 3) 1987 I have just introduced.

I commend the Bill to the Senate.

In doing so, I present the explanatory memorandum on this Bill.

#### **MEDICARE LEVY AMENDMENT BILL 1987**

The Medicare Levy Amendment Bill 1987 will amend the Medicare Levy Act 1986 to declare and impose the basic rate of Medicare levy for 1987-88 and all subsequent income years.

As announced in the 1986-87 Budget, the basic rate of the levy will be 1.25 per cent of taxable income. That rate has been effective since 1 December 1986.

The Bill also contains increases in the income threshold levels below which people with low incomes will not be called on to pay any levy.

For 1987-88 and subsequent income years, individuals with taxable incomes of \$8,980 or less, and married couples and sole parents with family incomes of \$15,090 or less, will not be required to pay the levy.

The income threshold for married couples and sole parents will increase by a further \$2,100 for each dependent child or student.

For example, a married couple with two dependent children will pay no levy until their combined taxable incomes exceed \$19,290.

The gain to revenue from the December 1986 increase in the rate of levy is \$370m in 1987-88.

The estimated cost of the increased low income thresholds is \$10m in 1987-88, \$70m in 1988-89 and \$40m in a full year.

The new low income thresholds will not be reflected in tax instalment schedules until 1 July 1988.

Until this year, a Medicare levy Bill has been introduced into the Parliament each year declaring and imposing the levy for the particular year of income.

The opportunity is being taken to declare and impose the Medicare levy as a standing measure, so that in future years amending legislation will be required only if the rate of levy or the low income thresholds are to be changed.

Mr President, the explanatory memorandum on the Taxation Laws Amendment Bill (No. 3) 1987 about which I have just spoken contains an explanation of the provisions of this Bill.

I commend the Bill to the Senate.

In doing so, I present the explanatory memorandum on this Bill.

Debate (on motion by Senator Knowles) adjourned.

#### **JOINT COMMITTEE ON FOREIGN AFFAIRS, DEFENCE AND TRADE**

##### **Terms of Reference**

Message received from the House of Representatives requesting concurrence in amendments to the resolution appointing the Joint Committee on Foreign Affairs, Defence and Trade.

Ordered that consideration of the message be made an order of the day for the next day of sitting.

#### **SALES TAX (EXEMPTIONS AND CLASSIFICATIONS) AMENDMENT BILL 1987**

Bill received from the House of Representatives.

Motion (by Senator Ryan) agreed to:

That the Bill may proceed without formalities and be now read a first time.

Bill read a first time.

##### **Second Reading**

Senator RYAN (Australian Capital Territory—Special Minister of State) (11.07)—I move:

That the Bill be now read a second time.

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

Leave granted.

*The speech read as follows—*

This Bill will make a number of amendments to the sales tax law.

One of these will exempt from sales tax certain ultra-high frequency television transmitters purchased after 30 April 1987 and before 1 January 1993 for use in regional areas.

Exemption from sales tax is to be granted for certain tourist publicity and tourism promotional materials acquired by foreign national tourist organisations.

Other exemptions are to be authorised complementary to the proposed agreement between Australia and Singapore governing the status of Singaporean forces training in Australia.

The Bill will also bring the sales tax law into line with the customs and excise laws in relation to vice-regal exemptions and make other minor technical changes.

#### **UHF Transmitters**

The exemption for UHF transmitters covers transmitters purchased by commercial television licensees to implement the Government's policy of equalisation of regional commercial television services.

It also covers transmitters purchased for what is known as 'Band II Clearance'—the clearance of existing VHF television channels 3, 4 and 5 to alternate UHF frequencies—and is an important step in introducing new commercial FM radio services in regional areas.

In addition the exemption extends to the small number of transmitters which are expected to be purchased for the remote commercial television services and for community 'self help' rebroadcasting facilities.

Since the exemption does not run for the full period of the implementation of equalisation and band II clearance, it will act as an incentive to licensees to fulfil the Government's policy objectives sooner than prescribed, while recognising that the Government should not gain sales tax revenue from commercial purchases which it has itself dictated.

The exemption applies to transmitters, not including ancillary equipment, purchased for use in non-metropolitan areas and the metropolitan areas of Hobart, Canberra and Darwin, but will not generally cover replacement transmitters.

It is estimated that total revenue of around \$14.5m in June 1987 prices will be forgone in the period to 1 January 1993—of this total, the cost to revenue for the 1987-88 financial year is expected to be \$400,000.

No additional administrative resources will be required to implement the exemption.

This measure provides important assistance to regional commercial television licensees and reinforces the Government's policies on introducing new commercial television and radio services to country audiences.

#### **Tourist Publicity and Promotional Materials**

The exemption for certain tourist publicity and promotional material will apply to the goods, or classes of goods, specified in the Bill where they are for use by, or in some cases free distribution by, a national tourist organisation of a foreign country or an appointed representative of such an organisation.

Goods that will qualify for exemption include scale models, show cases, timetables, audio-visual works such as promotional films, cultural items such as national costumes and printed matter such as books, magazines and pamphlets.

The exemption arises from Australia's obligations under an instrument on international tourism policy adopted

by the council of the organisation for economic co-operation and development in November 1985.

A requirement of that instrument is that member countries admit from other member countries, free of import duties and taxes, certain tourist publicity and tourism promotional materials.

It has been suggested by some member countries and national tourist organisations that Australia is not complying with the requirements of the instrument because wholesale sales tax is payable in Australia on the importation of goods including tourist publicity and tourism promotional materials.

However, the Australian Government does not accept that the wholesale sales tax is an import tax.

Sales tax applies in a non-discriminatory manner to all goods whether they are imported or locally manufactured.

The Government considers, therefore, that there is no inconsistency between the imposition of sales tax on materials imported for the purpose of promoting tourism to countries overseas and Australia's obligations under the OECD instrument on tourism.

Nevertheless, in a spirit of cooperation the government has decided to introduce the sales tax exemption that is now before honourable senators.

It will cover an organisation that is an official 'arm' of government, or any non-government organisation appointed by a foreign country to be that country's official representative in Australia in matters relating to the promotion of tourism to that country.

Because sales tax is applied in a non-discriminatory manner both to domestically produced and imported goods, and in line with the Government's policy that local industry should not be disadvantaged by taxation laws that favour imported goods, the exemption will apply to both imported and locally manufactured goods with effect from 1 July 1987.

The cost to revenue of the proposed exemption is estimated to be in the order of between \$50,000 and \$100,000 in a full year.

#### **Status of Forces Agreement with Singapore**

The exemptions to be provided in terms of the proposed agreement with Singapore match those extended under Australia's status of forces agreements with the United States and Papua New Guinea and will operate from a date to be proclaimed following the signing into force of the agreement.

The cost to revenue is estimated to be less than \$4 million in a full year.

#### **Amendment of Vice-Regal Exemptions**

The proposed amendments to the vice-regal sales tax exemptions are identical to those introduced by my colleague, Senator the Hon. Arthur Gietzelt, when he presented in this place the Sales Tax (Exemptions and Classifications) Amendment Bill (No. 2) 1986.

That Bill had not been passed by the last Parliament when it was dissolved in June of this year. The amendments to the vice-regal sales tax exemptions are now incorporated into this Bill.

As outlined by my colleague, the proposed amendments will limit vice-regal sales tax exemptions to arti-

cles for the official use of the Governor-General, the Governor of a State or a member of the family of the Governor-General or of a State Governor.

Personal-use articles purchased by such persons will no longer be exempt from sales tax.

Nor will articles for the personal or official use of non-Australian members of the staff of the Governor-General or of a State Governor.

This will place Australian and foreign staff members on an equal footing for sales tax purposes.

#### **Minor Consequential Amendments**

Other amendments will make minor technical corrections to references in the sales tax law to provisions of the customs law consequent on changes to the customs law.

I commend the Bill to the Senate. In doing so, I present the explanatory memorandum on this Bill.

**Debate (on motion by Senator Knowles) adjourned.**

#### **AUSTRALIAN NATIONAL RAILWAYS COMMISSION AMENDMENT BILL 1987**

Message received from the House of Representatives intimating that it desired the concurrence of the Senate in amendments to this Bill.

Ordered that consideration of the message in Committee of the Whole be made an order of the day for the next day of sitting.

#### **OCCUPATIONAL SUPERANNUATION STANDARDS BILL 1987**

#### **INSURANCE AND SUPERANNUATION COMMISSIONER BILL 1987**

#### **INSURANCE AND SUPERANNUATION COMMISSIONER (CONSEQUENTIAL PROVISIONS) BILL 1987**

##### **In Committee**

Consideration resumed from 21 October.

#### **OCCUPATIONAL SUPERANNUATION STANDARDS BILL 1987**

Clause 3 agreed to.

Clauses 4 to 6—by leave—taken together.

**Senator STONE** (Queensland—Leader of the National Party of Australia) (11.09)—by leave—I move:

- (3) Page 4, clause 4, lines 8 to 28, leave out the clause.
- (4) Page 4, paragraph 5 (2) (b), lines 40 and 41, leave out “regulations for the purposes of subsection 7 (1) prescribing”.
- (5) Page 5, paragraphs 5 (2) (d) and (e), lines 7 to 32, leave out the paragraphs.
- (6) Page 5, paragraph 6 (b), lines 41 and 42, leave out “regulations for the purposes of subsection 8 (1) prescribing”.

These amendments all go to the question of retrospectivity in the drafting of the Bill before the Committee. We have already had considerable debate and discussion in the second reading debate on this matter. It would be wearisome for the Committee if I were to seek, at this juncture, to canvass again all those issues on which the Committee has already divided. I simply say again, for the record, that the matter with which the Bill deals is one of the greatest concern to literally millions of Australians. It should be a matter of great regret not merely to this chamber and Committee but to the people of Australia that the Treasurer (Mr Keating) should have chosen, not merely to legislate by Press release, in the sense of issuing a series of Press releases, each one correcting the errors in its predecessor, but also to delay so long in bringing forward this legislation to the Parliament to give effect to those successive Press releases.

As a consequence of those inexcusable delays we now have legislation which, on the basis of the drafting, inevitably requires—at least in the Government's view—retrospective application. These are such important questions that that is an extremely unfortunate approach to be adopted. Having said that, however, I do not wish to repeat at much greater length what I said not only in my remarks in the second reading debate but also in the debate on the amendment to the second reading motion, which was moved by Senator Watson.

**Senator WATSON** (Tasmania) (11.11)—I wish to endorse the comments made by my colleague Senator Stone. In doing so, I remind the Committee that this retrospective taxation element has crept into the debate on the legislation as a direct consequence of the Treasurer legislating, we might say, by Press release. Therefore, the Government should stand condemned for the confusion in the public mind that surrounds the application of the legislation and for allowing retrospective effect. At the same time, the Australian Democrats stand condemned for not deplored retrospective taxation and not voting for our earlier amendment.

**Senator WALSH** (Western Australia—Minister for Finance) (11.12)—I was not here when this debate started. Neither my officers nor I originally were sure whether Senator Stone was just moving amendment No. (3). It appears now that he has moved amendments Nos (3) to (6) together. I have not had a chance to go through them all. Do they all functionally relate to the commencement date?

**Senator STONE**—Yes.

**Senator WALSH**—As I think I indicated earlier, the Government will not accept these amendments. The expectation has been around for a very considerable time that the effective date of commencement would be 1 July 1986 and we believe that that should remain.

Amendments negatived.

Clauses agreed to.

Clause 7 (Operating standards for superannuation funds).

**Senator STONE** (Queensland—Leader of the National Party of Australia) (11.13)—This clause deals with standards. It is the heart of the Bill, which, of course, is entitled 'Occupational Superannuation Standards Bill 1987'. There are two amendments, standing in my name, which bear on this clause, amendments Nos (7) and (8). I seek leave to move the two amendments together.

Leave granted.

**Senator STONE**—I move:

(7) Page 6, subclause 7 (1), leave out the subclause, insert the following subclause:

"(1) Standards applicable to the operation of superannuation funds shall be such as are prescribed by this Act or any other Act or by regulations under subsection (2)."

(8) Page 6, subclause 7 (2), lines 11 to 36, leave out the subclause, insert the following subclauses:

"(2) The standards that may be prescribed are limited to standards relating to the following matters:

- (a) the persons who may contribute to superannuation funds;
- (b) the vesting in members of superannuation funds of benefits arising directly or indirectly from amounts contributed by members to superannuation funds;
- (c) the preservation and subsequent payment, after the commencement of this Act, of benefits arising directly or indirectly from amounts contributed to superannuation funds;
- (d) the levels of benefits which may be provided by superannuation funds and the levels of assets which may be held by superannuation funds;
- (e) the application by superannuation funds of money no longer required to meet payments of benefits to members because the members have ceased to be entitled to receive those benefits;
- (f) the matters required, permitted or not permitted to be included, from time to time, in the trust deeds of superannuation funds;
- (g) the levels of administrative fees, commissions or other deductions which may be pay-

able from amounts contributed to superannuation funds;

(h) other matters relevant to superannuation funds.

"(3) Regulations making provision in relation to a matter referred to in paragraph 2 (d) shall not:

(a) set levels of benefits which may be provided by superannuation funds that are less advantageous than the levels of benefits being provided by superannuation funds immediately before the commencement of this Act; or

(b) set levels of benefits which may be provided by superannuation funds that are less advantageous than the levels of benefits previously set by the prescribed standards;

unless the making of the regulations has been approved by a resolution passed by each House of the Parliament.

"(4) Regulations shall not be made under paragraph (2) (f) or (h) unless the making of the regulations has been approved by a resolution passed by each House of the Parliament.

"(5) Regulations under paragraph (2) (h) shall not come into force on a day before the relevant resolution has been passed by each House of the Parliament."

The first of these amendments is to sub-clause (1) of clause 7. The amendment proposes to leave out sub-clause (1) and insert the following sub-clause:

(1) Standards applicable to the operation of superannuation funds shall be such as are prescribed by this Act or any other Act or by regulations under subsection (2).

Of course, we will come to sub-section (2) next. I think that that amendment is self-explanatory and requires no further elaboration. My second amendment is, therefore, to sub-clause (2). The amendment is to leave out the sub-clause in the Bill and insert the following sub-clauses:

(2) The standards that may be prescribed are limited—

I emphasise the word 'limited'—

to standards relating to the following matters:

Before I go on to what those following matters are, I draw the attention of the Committee to the fact that the significant change at this point is to remove from the present Bill the words 'The standards that may be prescribed include, but are not limited to'. The amendment will remove those words and make it quite clear that the standards are to be limited to the following matters. Then follows on page 3 of the amendments that have been circulated a series of points setting out the standards to which these regulations may be limited. The first of them—para-

graph (a)—is unchanged from that in the Bill. The second, which relates to vesting, is substantively unchanged except insofar as it makes it clear that these benefits are arising directly, or indirectly, from amounts contributed by members to superannuation funds. Paragraph (c) is, in effect, a combination of the previous paragraphs (c) and (d) and therefore needs no elaboration. Paragraph (d) is the old paragraph (f) unchanged; it therefore needs no elaboration. Paragraph (e) is the old paragraph (g) unchanged and, therefore, needs no further elaboration. Paragraph (f) of the amendment is the old paragraph (n) unchanged. Again it needs no further elaboration. Paragraph (g) of the amendment, in effect, replaces old paragraphs (e), (h), (j), (k) and (m). Finally, paragraph (h) relates to other matters relevant to superannuation funds and is, in effect, the catch-all provision at the end. Mr Chairman, do you wish me to proceed to the further sub-clauses?

**The CHAIRMAN**—It is up to you, Senator Stone. The question before the Chair is that these amendments be agreed to, so you should debate your argument.

**Senator STONE**—Thank you, Mr Chairman. In that case I will proceed to sub-clause (3), which states:

Regulations making provision in relation to a matter referred to in paragraph 2 (d)—

that is paragraph 2 (d) as proposed by the amendment, which is old paragraph (f)—

shall not:

- (a) set levels of benefits which may be provided by superannuation funds that are less advantageous than the levels of benefits being provided by superannuation funds immediately before the commencement of this Act; or
- (b) set levels of benefits which may be provided by superannuation funds that are less advantageous than the levels of benefits previously set by the prescribed standards;

The purpose of those proposed paragraphs is simply to protect the interests of present contributors to superannuation funds. The sub-clause continues:

unless the making of the regulations has been approved by a resolution passed by each House of the Parliament.

It will be obvious to honourable senators that those words seek to reverse the disallowance procedure which is ordinarily employed under the Acts Interpretation Act in respect of the regulation-making power. That is a significant change, and the reason why we on this side of the chamber believe it is appropriate that such a change should be incorporated in the Bill is

the extreme and very widespread importance throughout the Australian community that these matters have. We therefore believe that the proposals in proposed sub-clause (3) should not be capable of change unless they are changed by way of positive action by resolutions approved by each House of the Parliament. I turn next to sub-clause (4), which would provide, if it were to be agreed to by the Committee:

Regulations shall not be made under paragraph (2) (f) or (h) . . .

Paragraph (f) states:

. . . the matters required, permitted or not permitted to be included, from time to time, in the trust deeds of superannuation funds . . .

Paragraph (h) is the so-called catch-all paragraph. Sub-clause (4) continues:

unless the making of the regulations has been approved by a resolution passed by each House of the Parliament.

That is the same type of provision because we believe that very high safeguards are required in these areas of the legislation. Sub-clause (5), which is the final sub-clause of the proposed amendment to this clause of the Bill, states:

Regulations under paragraph (2) (h)—

the catch-all provision—

shall not come into force on a day before the relevant resolution has been passed by each House of the Parliament.

In the course of my remarks I hope I have made it clear to the Committee why these amendments are proposed.

**Senator PARER** (Queensland) (11.21)—I rise to support the amendments moved by Senator Stone. The concern I have with the Bill entitled Occupational Superannuation Standards Bill 1987 is that it is not really a standards Bill at all; it is simply a requirement to bring forward regulations that will apply retrospectively to July 1986. One of the concerns I have—I think it came out particularly strongly in the Estimates Committee hearing and the Minister for Finance (Senator Walsh) will recall it—is in respect of the investment of assets of superannuation funds. The Treasurer (Mr Keating), in his Press release of, I think, 16 December 1985, had this to say in respect of the investment of assets of superannuation funds:

'In-house' asset restrictions would continue to apply and consideration would be given to establishing a general limit (say, 5 per cent of fund assets).

The attention of officials was drawn to the fact that many of the funds that exist in Australia today are the mum and dad type funds. Often their investments are well in excess of 5 per cent

of the assets—they can be as high as 70 or 80 per cent—and it is impossible for them to divest themselves of that. In other words, this legislation is directed at the very large funds, not the majority of very small funds. In questioning the officials at Estimates committee hearings, the question was asked, 'What will be the situation with this 5 per cent?' and the answer we got was, 'We have not made a decision. We are still consulting and the legislation will not be retrospective'. We were told that the legislation would not be retrospective, but this whole measure is retrospective to July 1986, and that is the reason for my concern. One of the questions I would like to raise—I think this is the reason why the Opposition is taking the view it is in this debate—is: When will we see the standards? Will it be in two weeks or two months time or, following experience, will it be another two years and will people have to rely on Press releases of the Treasurer that go back two years?

**Senator WATSON (Tasmania) (11.24)**—Clause 7 of the Occupational Superannuation Standards Bill outlines the extensive list of so-called operating standards for superannuation funds that will subsequently be subject to regulation. We contend that the principles should be outlined in the legislation, and for that reason I support Senator Stone's amendments. In other words, we will find that bureaucrats will set regulations which, in future, will need to establish such things as who can contribute to the fund, the portability and vesting of the benefits—I will go on to the vesting of the benefits because that is a major problem area—and so the list goes on. This extensive use of delegated legislation is a disturbing trend, and one which the Government and the Australian Democrats are pursuing today. Previously the Democrats have even said that the Parliament must take steps to halt trends towards delegated legislation, but this is not evident at the moment.

Duly elected members of the Parliament must be very wary about abrogating too much of their responsibility, a responsibility vested in them by the people of Australia, to unelected and powerful bureaucrats. I therefore urge the Democrats, seeing that they would not vote for a referral of this Bill to a select committee, now to support the separate amendments proposed by my colleague, Senator Stone, as they are in line with the view expressed by Senator Haines, who is in the chamber at the moment, in Senate Standing Committee for the Scrutiny of Bills meetings when it discussed this Occupational Superannuation Standards Bill. I remind her of this because she was not in the chamber when

we mentioned this. Leaving the totality of the content to prescribed regulation may be considered to constitute an inappropriate delegation of legislative power.

We are reliably informed that these regulations have been or are almost completed. If they have been completed, can the Minister incorporate the regulations as part of the Bill today, or report progress? If the regulations have not been completed but are at an advanced stage, at what stage are they and when will they be presented to the Parliament?

The industry's major concern with clause 7 is paragraph 2 (b). There is widespread industry concern about the complexity and cost of implementing a Government directive relating to this paragraph. Note those words: there is widespread concern. I would like the Minister to acknowledge this. In other words, the Government has set up machinery for consultation with the industry to try to achieve some sort of rational control. I have referred to this as the interim group. This has been a necessary mechanism because of all the confusion that has arisen in this area.

However, while the establishment of this interim group is commendable, areas of concern have already surfaced. One of those areas of concern has surfaced because in a Press release of 22 December 1986, the Treasurer (Mr Keating) made the requirement for the preservation of improvements in employer-financed vested benefits. That is an administrative nightmare when changes are made to funds over the years. So by virtue of that Press release, the funds have to take that into account in their reading of paragraph 2 (b). The industry, including the host of small superannuation funds, considers this to be an administrative nightmare. So if an employer, as a result of a takeover or a change or an improvement to the superannuation funds, rationalises a number of funds, he will be faced with maintaining the old formula for decades. He must be able to trace the improvements, and this tracing mechanism must be preserved. I believe an understanding of this by the superannuation funds is prejudiced as a result of these sorts of arrangements. Can we have a response from the Minister to the matters I have raised?

**Senator HAINES (South Australia—Leader of the Australian Democrats) (11.29)**—The Australian Democrats will be opposing these amendments. I am sure that will not come as any shock to Senator Watson, because I made it perfectly clear in my speech in the second reading debate. This legislation has been pending

since 6 June of last year. The industry is frantically waiting for it to come into operation, since it has been operating under the understanding that the standards will be changed, that regulations will be used to set guidelines. It has had enough problems, heaven only knows, in the last few days, with the problems of the stock exchange, without wanting the current uncertainty about the guidelines to continue any longer.

**Senator Stone**—When you say 'the industry', you means the AMP Society, do you?

**Senator HAINES**—Yes, I am speaking about those companies that are members of the Life Insurance Federation of Australia—companies like the AMP Society, the National Mutual Life Association of Australasia Ltd, and others. These are the major institutional investors. They are the ones that deal with the majority of people's savings; they are the ones who want flexibility in the industry and who want regulations to operate so they can work within guidelines.

The amendments that we are dealing with, Nos. 7 and 8 moved by Senator Stone, would, as he himself admitted, change the normal practice of this place of dealing with regulations so that we treat them, if you like, in a manner that involves retrospective opposition rather than prospective passage, which is what we do with legislation. Let us not pretend that previous Liberal-National Party governments have not used regulations excessively. It is a normal part of the procedures of this place.

**Senator Stone**—Don't you object to that?

**Senator HAINES**—No, I do not object to that. It is a standard piece of procedure here, and a very useful one. There is no need for the amendments proposed to be passed by this place. The regulations moved in relation to the legislation before us can, as other regulations have been in the past, be disallowed by this chamber, and I suggest that governments are aware of that fact. In this particular case it would be foolhardy indeed if the Government set to and proceeded with regulations in the almost sure knowledge that either the industry or a majority in this place would be likely to oppose them.

As for the comments made in the Senate Standing Committee for the Scrutiny of Bills, which on this particular occasion Senator Watson seems to be treating as holy writ—and I have not noticed him do that in every case—those comments were made five months ago when there was a possibility of dealing with them. Five months later the industry is in a state of intense concern about this legislation going through,

Senator Parer can talk about the mums and dads out there. There are plenty of dads but not too many mums, I must admit, involved in superannuation in this country. One of the major problems with the super industry has been that it has been very ill-equipped indeed to deal with the needs of working women. But inasmuch as the mums and presumably the children will be affected by what the dads do as far as superannuation is concerned, these industries are, quite responsibly, concerned that this legislation go through as soon as possible. It is not my intention to frolic around like members of the Opposition are, delaying passage of the legislation because they are on some ideological tram track that they have never bothered to get on before.

It is imperative that we get this legislation through. The delays have been unconscionable. The Government bears a large part of the responsibility for that, not only by attempting to legislate by Press release, which is becoming a far too prominent part of its legislative process, but also by calling a ridiculously early election and further postponing matters. But that is no justification for the Opposition parties throwing a further spanner in the works by getting away from what is essentially a flexible and sensible form of proceeding with guidelines and standards.

**Senator SHORT** (Victoria) (11.34)—I am prompted by Senator Haines's comments to make a response in support of Senator Stone's amendments. What Senator Haines has just said is a complete red herring. She has set up a straw man just to knock it down because she has suddenly become a member of the corporate state and has forgotten about all the other 280,000 superannuation schemes in this country. The acceptance of these amendments would not delay the passage of the Bill. Senator Haines's speech seems to be the one that she wheeled up the other day when we were talking about referring the Bill to a committee. We are now talking about a different thing.

Senator Haines mentioned the term 'consistency'. That is a very interesting term for her to raise in relation to her opposition to these amendments given that she was—and she cannot deny it—a member of the Senate Standing Committee for the Scrutiny of Bills which five months ago, or whenever it was, pointed to the need for the changes contained in the amendments we are now talking about. The report of the Scrutiny of Bills Committee to which she signed her name said, in essence, precisely the things that are the subject of these amendments now. So

Senator Haines should not talk about consistency; her lack of consistency is extraordinary.

**Senator Haines**—I did not deny that. I am not arguing that; I am arguing about the need to deal with it expeditiously now.

**Senator SHORT**—We are not talking about dealing with the Bill any less expeditiously in moving the amendment. Senator Haines talked about the industry desperately wanting this legislation on the books. That is right; so do the Opposition and the Government. But what industry is she actually talking about? The superannuation industry comprises a very wide range of institutions, as she well knows, and she is talking the book of a particular section of that industry without regard for the enormous remainder of the industry that wants, with the Opposition, to get the legislation right when we get it on to the statute book, because if we do not get it right this time it will impose an enormous risk to the whole of the superannuation industry and therefore to every Australian.

**Senator Haines**—If they were that anxious why didn't they contact me? They have not.

**Senator SHORT**—It may well have got to the stage, as have many other parts of the Australian community, of saying to the Australian Democrats, 'You say one thing one day; you do the opposite the next. So what is the point in talking to you?'. The more Senator Haines argues for consistency on this issue the more she demonstrates how inconsistent she is and how uncaring she is about the concerns of Australian superannuitants.

**Senator WALSH** (Western Australia—Minister for Finance) (11.38)—Hypocrisy is not without precedent in the Senate but I must say that I find particularly hypocritical the professed concern of various members of the Opposition for the proper operation of superannuation funds when I remember that the Opposition allowed those people who had fraudulently set up what had been known as cherry-picker schemes, and particularly the notorious Kelly brothers, to escape with all the loot. Now they would have us believe they have a genuine and intense concern for the proper operation of superannuation funds.

Senator Watson asked a few specific questions on whether the proposed regulations are yet completed and he then virtually answered his own questions by saying that they are in an advanced stage of drafting. I am advised that that is still the case. He asked when they would be completed. My advice is that we can confidently expect that the regulations will be not

only finished but also issued, proclaimed, or whatever the term is, before the end of 1987. The large number of amendments—two pages or so—that Senator Stone has moved essentially relate to a question which we covered in the second reading debate; that is, whether the specific conditions should be modified to the extent necessary by way of regulation or by legislation. As the second reading motion has now been carried, I do not think there is any real point in going through those arguments again but there are two specific paragraphs in the proposed amendments to which I want to draw attention. Senator Haines has already mentioned one—that is, sub-clause (5) on page 4 of Senator Stone's circulated list of amendments—which reverses the normal procedures of regulation making. The normal procedure is that a regulation is issued and it may be disallowed within 15 sitting days, or whatever it is, by either House of Parliament. This proposal reverses that chronology and requires that before a regulation becomes valid it has to be approved by resolution of either House of Parliament. I think that is something that is different and the Government believes that it is inappropriate, certainly in these circumstances and probably in any circumstances at all. I know there are escape clauses and so on, nevertheless I am surprised to read, at the bottom of page 3 under sub-clause (3), that regulations shall not:

- (a) set levels of benefits which may be provided by superannuation funds that are less advantageous than the levels of benefits being provided by . . . funds immediately before the commencement of this Act . . .

I have already said that I know there are escape clauses and so on in that proposal but I am surprised that a message has been given by the Opposition that it wants to build that sort of rigidity into superannuation funds, particularly when the Opposition's more general attitude to economic and financial questions is that we should have the maximum amount of flexibility. Again, of course, I recognise there are loopholes and ways of getting around it but I do not think that is the sort of message that we should be sending out. As has already become clear, the Government will not accept amendments (7) and (8). Senator Watson asked about matters to be covered by regulation. I can read out the standards if he likes, but I have a page and a half summary of the various statements which have been made by Mr Keating on this subject which I would prefer to incorporate.

**Senator Watson**—I will be satisfied if you incorporate it.

**Senator WALSH**—I seek leave to have the document incorporated in *Hansard*.

Leave granted.

*The document read as follows—*

**STANDARDS TO BE INCLUDED IN THE REGULATIONS UNDER OCCUPATIONAL SUPERANNUATION STANDARDS BILL**

Most of the standards are already being applied in accordance with the Treasurer's statements of 11 June, 30 July and 22 December 1986. The relevant regulations are now being drafted.

**Minimum Vesting Standards:** These standards require employers to distribute benefits more evenly among employees, allowing employees who resign before retirement age to receive a larger share of benefits than they have previously. The announced standard requires full vesting of benefits resulting from employee contributions, and full vesting of employer-financed benefits resulting from agreements certified or awards made by the Arbitration Commission.

**Minimum Preservation Standards:** These standards are designed to improve the level of benefits available to members of superannuation schemes at retirement, by requiring benefits to be retained in a superannuation fund or approved deposit fund until a member retires. The announced standards require any vested employer-financed benefits resulting from an award made by the Arbitration Commission, or from any agreement between employers and employees made on or after 22 December 1986, to be preserved to genuine retirement at or after the age of 55.

**Portability of Benefits:** The standards announced by the Treasurer provide for benefits to be transferred from a superannuation fund that a member is leaving to one that he or she is joining, or to an ADF or deferred annuity fund. This allows people who may change jobs frequently to retain benefits to retirement.

**Security of Benefits Standards:** The Government has announced several measures to improve the security of members' benefits. New superannuation funds established after 16 December 1985 are not allowed to provide loans to members, as the provision of loans to members would be inconsistent with the preservation of benefits to retirement. Superannuation funds are also prohibited from charging their assets, except to obtain short-term finance.

**Membership of Trustee Boards:** All superannuation funds established after 16 December 1985 are required to have equal participation of representatives of employers and employees on their trustee boards, to encourage increased member participation in the management of superannuation funds.

**Reporting Requirements:** The Government will require superannuation funds to provide to members information on matters affecting their entitlements, including details of benefits for new members, the effects of any change to trust deeds on members' entitlements, and the net earnings of the fund on the members' (and employer's) contributions.

**Basic Superannuation Fund Conditions:** Superannuation funds will have to continue to satisfy a number of

conditions to qualify for tax concessions. These conditions include that:

The fund has been established with the sole purpose of providing superannuation benefits to members on retirement, or to dependants of members.

The level of benefits provided by a superannuation fund must be reasonable (ie the level of benefits must not exceed the maximum levels in relation to final average salary currently set by the Commissioner of Taxation).

The fund must be indefinitely continuing.

Question put:

That the amendments (Senator Stone's) be agreed to.

The Committee divided.

(The Chairman—Senator D. J. Hamer)

Ayes . . . . .	28
Noes . . . . .	33
Majority . . . . .	5

AYES

Alston, R. K. R.	MacGibbon, D. J.
Archer, B. R.	Messner, A. J.
Baume, Michael	Newman, J. M.
Baume, Peter	Panizza, J. H.
Bishop, B. K.	Parer, W. R.
Bjelke-Petersen, F. I.	Patterson, K. C. L.
Boswell, R. L. D.	Puplick, C. J. G.
Brownhill, D. G. C.	Sheil, G.
Chaney, F. M.	Short, J. R.
Durack, P. D.	Stone, J. O.
Hamer, D. J.	Tambling, G. E. J.
Knowles, S. C. (Teller)	Vanstone, A. E.
Lewis, A. W. R.	Walters, M. S.
McGauran, J. J.	Watson, J. O. W.

NOES

Aulich, T.	Haines, J.
Beahan, M. E.	Jenkins, J. A.
Black, J. R.	Jones, G. N. (Teller)
Bolkus, N.	McKiernan, J. P.
Coates, J.	McLean, P. A.
Collins, R. L.	Macklin, M. J.
Colston, M. A.	Maguire, G. R.
Cook, P. F. S.	Morris, J. J.
Cooney, B.	Ray, Robert
Coulter, J. R.	Richardson, G. F.
Crowley, R. A.	Ryan, S. M.
Devereux, J. R.	Sanders, N. K.
Devlin, R.	Schacht, C. C.
Evans, Gareth	Sibraa, K. W.
Foreman, D. J.	Walsh, P. A.
Gietzelt, A. T.	Zakharov, A. O.
Giles, P. J.	

PAIRS

Hill, R.	Button, J. N.
Crichton-Browne, N. A.	Burns, B. R.
Calvert, P. H.	Reynolds, M. E.
Reid, M. E.	Tate, M. C.
Teague, B. C.	Childs, B. K.

Question so resolved in the negative.

Clause 7 agreed to.

Clause 8 (Operating standards for approved deposit funds).

**Senator STONE** (Queensland—Leader of the National Party of Australia) (11.48)—Perhaps before turning to clause 8, I should say for the information of the Committee that the division we have just held was called by the Opposition to emphasise its very great concern that the matter of standards—which this Bill, after all, purports to be about—should have been addressed in a much more serious manner than the Bill addresses it. I say that also because we will not be calling a division on the next bracket of amendments standing in my name as they also refer to this question of standards. At this stage, I foreshadow that we will call one further division in this Committee when we come to the last set of amendments standing in my name, all of which deal with the question of requests for the reconsideration of a decision of the Commissioner.

There are two amendments standing in my name which relate to clause 8. The first relates to clause 8 (1) which is to leave out that sub-clause and replace it with the following sub-clause:

(1) Standards applicable to the operation of approved deposit funds—

this is approved deposit funds, as distinct from superannuation funds which were the subject of the previous set of amendments—

shall be such as are prescribed by this Act or any other Act or by regulations under subsection (2).

The second amendment standing in my name is in relation to clause 8 (2) and it is a purely technical amendment which leaves out the word 'may' and inserts the word 'shall'. I think—I am not absolutely certain—that this amendment may not now be strictly necessary if the Statute Law (Miscellaneous Provisions) Bill, as amended in the Senate a fortnight ago, is passed by the House of Representatives. I recall that that Bill actually provides for 'may' to be read as 'shall' wherever that word appears in the laws of the Parliament. But I am told that it does no harm to leave the amendment there and we shall so leave it.

As to the substance of this clause, again I followed what the Minister for Finance (Senator Walsh) said on this matter. We have had a very significant, lengthy and totally proper debate in this chamber about the subject of standards. We have had this debate at the second reading stage and also in relation to clause 7. In relation to this clause, the same considerations apply and accordingly I seek leave to move my two amendments together.

Leave granted.

**Senator STONE**—I move:

(9) Page 6, subclause 8 (1), leave out the subclause, insert the following subclause:

"(1) Standards applicable to the operation of approved deposit funds shall be such as are prescribed by this Act or any other Act or by regulations under subsection (2)."

(10) Page 6, subclause 8 (2), line 40, leave out "may", insert "shall".

**Senator WALSH** (Western Australia—Minister for Finance) (11.52)—The intention of these amendments is the same as that of most of the others that have been moved and of the Opposition's second reading amendment—that is, to limit quite substantially the regulation-making powers under this Act. The Government, for all the reasons that have been gone into before, will not accept them.

Amendments negatived.

Clause agreed to.

Clauses 9 to 15—by leave—taken together.

**Senator WATSON** (Tasmania) (11.53)—Clause 12 deals with the notices as to the satisfaction of superannuation fund conditions and sub-clause (1) (a) (iv) deals with the prescribed fee, which shall be such amount as may be prescribed from time to time to be paid by all superannuation funds. Clause 14 applies the same sort of fee for approved deposit funds. While perhaps the initial suggested figure may appear to be somewhat insignificant, it becomes less so when one realises that the total industry contribution will be somewhere in the region of \$6m. In fact, contrary to what Senator Haines has told us today, the industry as such is very concerned about the open-ended nature of the cost. In other words, what we were told in the second reading speech, but what is not in the legislation, is that the functions of the Australian Government Actuary will be transferred from the Treasury. Currently the office of the Australian Government Actuary is not a statutory office as, for example, is that of the Auditor-General. But his functions are to be taken away from the responsibilities of the Secretary to the Treasury and placed under the control of this new Insurance and Superannuation Commissioner. Therefore, the funds will have to bear all these costs of the office associated with the Australian Government Actuary. As we well know, the functions of the Australian Government Actuary are far wider than those relating just to occupational superannuation. Therefore, the question of the independence of the Commonwealth Actuary must be raised. We want some sort of assurance from the Minister for Finance (Senator Walsh)

and his advisers that this will in no way inhibit the Australian Government Actuary's present independence, impartiality and integrity as an adviser to the Government, not only in regard to superannuation but also in regard to the whole range of other areas. I must say that this is a worrying trend.

There is also a genuine concern within the industry about what we have called the expanded bureaucracy. I have already indicated that not only are we really establishing a new office, with all its attendant costs, for an Insurance and Superannuation Commissioner but also we are transferring a lot of other functions, thereby adding to this new bureaucracy which this legislation we are debating today will establish. I repeat that there is genuine concern within the industry about this expanded bureaucracy to supervise superannuation funds. There is also a concern in regard to clause 12 (8) which states in relation to the Insurance Commissioner that he:

shall advise the Commissioner of Taxation of particulars of all notices given under this section.

It is not difficult to envisage a situation where the terms and conditions which are considered by the Insurance and Superannuation Commissioner to be reasonable in fact do not measure up to the standards which the Commissioner of Taxation requires. The people who will be caught in the middle of this sort of arrangement will be the fund trustees. These are the people who will be caught with the horrendous penalties imposed by the Income Tax Assessment Act. The Commissioner of Taxation certainly must give a ruling here. That ruling must be given in conjunction with the Insurance and Superannuation Commissioner to ensure that these conditions, once they have been agreed upon by the Insurance Commissioner, will be binding on the Taxation Office. If this does not happen after two or three years superannuation funds will be inadvertently caught under the taxation law. Under this legislation we see that many of the Taxation Commissioner's responsibilities will be taken away and these will become the responsibility of the Insurance Commissioner. That will create a conflict between two departments of state—between the Insurance and Superannuation Commissioner and the Taxation Commissioner. It is my view that the Taxation Commissioner would not necessarily be bound by these sorts of conditions, even though under clause 12 (8) advice is required of the Insurance Commissioner.

Progress reported.

**The PRESIDENT**—Order! By arrangement, I propose that Question Time conclude just before 1 p.m. to enable Australian Broadcasting Corporation commitments to be met. If Ministers have answers to questions asked earlier in the week, these answers may be given at 2 p.m.

#### MINISTERIAL ARRANGEMENTS

**Senator GARETH EVANS** (Victoria—Acting Leader of the Government in the Senate)—by leave—I inform the Senate that the Minister for Local Government, Senator Reynolds, is unavoidably absent from the chamber for Question Time today.

**Senator Chaney**—What is unavoidable about it?

**Senator GARETH EVANS**—Senator Chaney, I am afraid that that is what my statement says. Senator Reynolds is involved in discussions in southern Queensland. I understood that there had been previous communication of that fact to the Opposition. I am sorry if that understanding was misplaced. Any questions in this chamber which would normally be directed to Senator Reynolds in relation to her portfolio or those she represents should be directed to the Minister for Administrative Services, Senator Robert Ray.

I inform the Senate also that due, in this case, to the late arrangements for the timing of Question Time the Minister for Justice, Senator Tate, will be absent from the chamber for Question Time today as he has been attending a presentation of awards for the International Year of Peace in Sydney this morning. Any questions which would normally be directed to Senator Tate in relation to his portfolio or those he represents should be directed to the Minister for the Environment and the Arts, Senator Richardson.

**Senator CHANEY** (Western Australia—Leader of the Opposition)—by leave—I will make my statement brief because I do not want to use up the time available for Question Time, which has, as I understand, to cut out just before 1 p.m. because of the requirements of the Australian Broadcasting Corporation. May I say to the Government that I regard it as thoroughly unsatisfactory that we should have the Senate sitting and a number of Ministers not available to us to answer questions. The Minister for Transport and Communications (Senator Gareth Evans) correctly makes the point that we altered the time for Question Time and I understand that the Minister for Justice (Senator Tate) would have been back for Question Time at 2 p.m. this afternoon. We have had a week of

sitting without the Leader of the Government in the Senate (Senator Button) and we are now told that the Minister for Local Government (Senator Reynolds) is away on some unavoidable business. I do not regard that as acceptable. I indicate the discontent of the Opposition in regard to this matter. We have made it a practice to sit whenever the Government has sought to sit. Sitting dates are set by the Government, not by the Opposition. We regard it as the Government's duty to have Ministers available to perform their parliamentary duties.

## QUESTIONS WITHOUT NOTICE

### NATIONAL WAGE CASE

**Senator CHANEY**—My question is directed to the Minister representing both the Treasurer and the Minister for Industrial Relations. Does the Minister agree with the Minister for Industrial Relations that the national wage case could be postponed further or that it 'could be abandoned altogether'? Does he further agree that in light of continuing great uncertainty about the fall-out from the stock market crash, reflected in the unprecedented decision by the New York Stock Exchange to restrict trading hours, it is most unlikely that the Government will be in a position next Tuesday to make a proper judgment about the desirability of the national wage case proceeding in that week?

**Senator WALSH**—I am beginning to get bored saying this. I presume that everyone else is equally bored. I spelt out on Tuesday the possibilities, which I stress again have no supporting evidence at this stage, of the stock market decline doing some damage to the real economy. If it induced a fall in the prices of our exports or a major withdrawal of foreign capital from Australia there would be a problem in the real economy. However, there is no evidence of which I am aware to support the belief that either of those things is, in fact, happening. As to the national wage case, it is Mr Willis's responsibility, if not to decide, certainly to make recommendations to Cabinet, about national wage case matters. If he believes that there ought to be any adjustment, I expect that he will make a recommendation to Cabinet to that effect.

**Senator CHANEY**—Mr President, I ask a supplementary question. I draw the Minister's attention to the fact that this morning his colleague Mr Willis, in common with comments made by Mr Maximilian Walsh and Mr Ross Gittins, stated that the:

large reductions in share prices, with unknown ramifications for the real economy . . .

Mr Willis went on to say:

For instance, if there was a big crash in confidence in share markets that could flow on to commodity markets which would mean changes in our terms of trade, a further reduction in our terms of trade, effects on our exchange rate, on interest rates, on investor confidence, on capital flow, on consumer confidence, . . . the whole array of effects could be very considerable . . .

Those are Mr Willis's words. I ask the Minister: Does he agree that the real impact of the sizable shake-out of the stock exchange here and abroad will take days, weeks and, indeed, months to assess and that in those circumstances there is continuing real uncertainty about the impact on the real economy of these changes?

**Senator WALSH**—As I said before, I am not afflicted by delusions of grandeur to the point where I regard myself as infallible, unlike a few honourable senators on the other side, if I may say so. It is a matter of judgment as to whether this will become clear in a day, whether there will be any change at all or whether it takes a week or a month. In regard to the earlier part of Senator Chaney's question, I did not hear Mr Willis myself. I am advised that there is no tape of that statement available, although Senator Chaney purports to be quoting. Perhaps somebody in his office wrote something down. The advice that I received is that Mr Willis was essentially making the same sort of point as I made three days ago and that I think the Treasurer has made publicly as well—that is, it is conceivable that problems in the real economy could flow from the major fall in share prices around the world. I repeat: there is no evidence of which I am aware that either of those two possibilities which could be a real problem for the Australian economy is actually occurring.

### ECONOMIC STRATEGY

**Senator FOREMAN**—I refer the Minister representing the Treasurer to an article in the *Australian* of 22 October by Senator John Stone entitled, 'Government's "strategy" comes down with a crash'. At the end of the article he suggested:

What we need is a total recasting of the Government's so-called 'strategy' . . . an early mini-Budget to cut spending, and the public sector borrowing requirement, in the way which the Budget itself so shamefully failed to do.

Is it true that this Government has failed to come to grips with spending and public sector borrowing, as alleged by Senator Stone? What was the record of the previous Government in this regard while Senator Stone was responsible for the Treasury?

**Senator WALSH**—I did read the article in question, and very self-indulgent or even self-aggrandising I thought it was, too. The general tone of it was to spread doom and gloom, I suppose, and drive down expectations. It is not unusual for opportunistic oppositions to behave in that way. If anybody takes any notice of them—and it is a doubtful assumption that anybody does—it would do some damage to the economy. That normally improves an opposition's chances of being elected. Leaving all of that aside, I was surprised at the very clear implication in Senator Stone's article that there was no economic strategy in place. That is patently wrong. As I have acknowledged before, some people—and Senator Stone is clearly one of those people—believe that the pace of change and adjustment should be greater than that which the Government is seeking. They also assume that something greater than that is achievable. That is one thing. But to say that there is no strategy in place is qualitatively very different. I am surprised that Senator Stone should have implied that.

In regard to the adjustments that the Government has made to fiscal policy, of course, it is a fact that we have brought in what is effectively a balanced Budget this year, with an estimated deficit of only \$27m. In regard to the last part of the question, about the state of the economy and the lack of any strategy, other than a political strategy, in the 1982 Budget, I can probably do no better than to quote from the note which, if Senator Stone did not actually pen, he certainly approved of, in early 1983 and which would have been delivered to the coalition had it been returned to government in the March 1983 election. It is too good not to quote from. Among other things, it states:

Due to a series of post-Budget expenditure decisions—that is, no economic strategy; just a political strategy—

and slower than expected economic activity, it is now estimated that outlays in 1982-83 will reach \$48.7 billion, \$1.6 billion higher than budgeted and 18 per cent higher than the previous year. This represents a real increase of around 7½ per cent, the highest in the post-war period, with the exception of 1874-75.

The currently projected 1982-83 Budget deficit is \$4.3 billion, equivalent to around 2.7 per cent of estimated GDP. The total public sector borrowing requirement . . . is estimated to reach \$10 billion, or about 6.2 per cent of . . . GDP. This proportion is the highest for Australia in the post-war period.

These estimates do not take into account the current year cost of the measures announced in the Government's policy speech—

which was another \$90m. It continues:

The receipts outlook for 1983-84 is very depressing reflecting, inter alia: the full year effect of discretionary measures announced in or immediately prior to the 1982-83 Budget.

It gives some examples, and continues:

Taking all these factors into account, it is estimated that, on the basis of existing tax policies, Commonwealth Budget receipts in 1983-84 might be of the order of \$44.9 billion, only \$0.5 billion higher than estimated 1982-83 receipts.

That represents a decline in real terms of about \$4 billion in tax receipts. The reason for that, of course, was the list of giveaways in the 1982 Budget. It continues:

When the estimated costs in 1983-84 of the new policy proposals announced in the policy speech is added, the prospect is for a Budget deficit of almost \$10 billion.

**Senator McKiernan**—How much?

**Senator WALSH**—Almost \$10 billion. It continues:

Such a deficit would be equivalent to 5½ per cent of the projected GDP, the highest in Australian post-war history.

. . . the magnitude of the fiscal imbalance is unprecedented in Australia during peace time, as is the level of Government spending. The extraordinary speed of the increase in Government outlays also reflects on the quality of many of the hastily conceived and implemented new spending programs.

Moreover, only a small part of the expenditure increases reflect automatic responses to the slowdown in economic activity—so-called 'cyclical' increases. Apart from the bulk of increase in unemployment benefit payments, there are very few other examples. In the main, the on-going commitments are heavy, including for the National Water Resources Program . . .

Does anybody remember the national water resources program? Five million dollars was spent on an engineering study of the so-called Bradfield scheme. That was a commitment. Mr Howard attached his name to that proposal, which was essentially to make water run uphill and generate electricity while it was doing so.

**Senator Chaney**—Mr President, I take a point of order. The Minister has started to debate the question. I refer both to the content of what he is saying and to the tone in which he is speaking.

**The PRESIDENT**—There is no point of order.

**Senator WALSH**—Thank you, Mr President.

**The PRESIDENT**—The Minister shall not debate the question.

**Senator WALSH**—I am not; I am just supplying information in response to the question as to what was the state of the economy. I am quoting Senator Stone. This is what Senator

Stone would have said to Mr Howard on 6 March if Mr Howard had been re-elected.

**Senator STONE**—How long ago was that?

**Senator WALSH**—March 1983. The note continues:

In the main, the on-going commitments are heavy including for the National Water Resources Program, the Darwin-Alice Springs railway and the Bicentennial Road Program.

I rest my case.

#### **PRIME MINISTER'S OVERSEAS TRAVEL**

**Senator MICHAEL BAUME**—My question is directed to the Acting Leader of the Government in the Senate, representing the Prime Minister. I draw the Minister's attention to the decision of the Prime Minister to continue his extensive overseas travel and to leave the economic management of Australia, at this time of world crisis, in the hands of the Minister for living away from home at home. As the Prime Minister told the Irish Parliament this week that he regarded Ireland as home, will he now nominate Dublin as home for the purposes of travel allowance? Can the Minister indicate what was the main purpose of the Prime Minister's visit to Geneva yesterday? Was it the public one of addressing the meeting of the General Agreement on Tariffs and Trade or was it the private one of visiting the International Labour Organisation for a job interview?

**Senator GARETH EVANS**—All I think I should say about this is that it is people in this country like Senator Michael Baume who keep the Prime Minister away.

#### **REAL ESTATE VALUES**

**Senator ZAKHAROV**—My question is directed to the Special Minister of State in her capacity as Minister Assisting the Minister for Community Services and Health on housing issues. Does the Minister support the views of the Leader of the Opposition, who is reported to have said that real estate values will inevitably fall as a result of the share market collapse?

**Senator RYAN**—I certainly do not agree with the views of the Leader of the Opposition and I would suggest that they are quite irresponsible. While it is far too early to make a detailed prediction about the impact, if any, of the share market adjustment on real estate prices, we can say that there will not be any major collapse in real estate values. As the Senate should be very well aware, because we have had a number of questions about it this week, the housing market is currently buoyed by strong demand, helped by

the recent falls in interest rates and the restoration of negative gearing. These favourable conditions are a direct result of our Government's responsible economic and financial policies. We will, however, be monitoring the effects of the share market adjustments and any impact that may flow through into the real estate industry.

#### **AUSTRALIA POST: TELEGRAMS**

**Senator HAINES**—Can the Minister for Transport and Communications confirm reports that Australia Post handed over 1,500 original telegram forms to a Melbourne-based private market research company? Can he also confirm that these forms contained the names, addresses and telephone numbers of the senders and the recipients and the full contents of their messages as well as, in at least one case, a silent telephone number? Can the Minister say why these telegrams were released and who authorised the release? Does the Minister accept statements from a spokesman for Australia Post that they were handed over on the understanding that the company would respect the confidentiality of the information—something which does not seem to have happened with Australia Post—and that, in any event, only five or six research supervisors at the market research company had access to the full telegrams? Will the Minister undertake to hold an immediate inquiry into both this incident and the adequacy of protection for privacy of communications in the relevant legislation or, alternatively, support a Senate inquiry into the matter? Further, will the Minister undertake to put to the Attorney-General the urgent need for the introduction of privacy legislation to protect the rights of Australian citizens against the leaking or, worse, selling of similar information whether it occurs in the public or private sector?

**Senator GARETH EVANS**—I have already initiated an inquiry into this matter. The facts of the situation as retailed to me this morning by Australia Post authorities are as follows: Australia Post is conducting a long term study into the pattern of telephone and counter lodgments of telegrams. This information will be used to assist in developing in detail a new service to be provided when Australia Post assumes responsibility for providing a substitute electronic mail service for the existing telegram service. At present, Australia Post acts as an agent for Telecom Australia in the provision of the service.

In order to obtain a sample of users of the telegram service as a basis for a study to be conducted by a private market research consultant, an officer—it has to be said an inexperi-

enced officer—arranged to obtain copies of 20 old telegrams from each of 74 selected post offices throughout Australia. In the middle of September these telegrams were given to the consultant on a confidential basis. Staff of the consultant then followed up by telephone with the senders of the telegrams in order to obtain data on usage patterns. One of the people contacted had a silent number which was shown on the copy of the telegram, but not listed, of course, in the telephone directory. The person concerned asked how the researcher had obtained his telephone number and was told that it was shown on the copy of the telegram. The matter, as an inevitable result, became public knowledge yesterday. This was an isolated incident—

**Senator Haines**—Fifteen hundred isolated incidents.

**Senator GARETH EVANS**—Sure, but the initial decision to go down this particular path was a single decision and it resulted in a state of affairs which can quite accurately be described as isolated. It was caused by a combination of inexperience and overenthusiasm and Australia Post is confident that no other such cases exist.

**Senator Chaney**—It sounds like the first Hawke Labor Attorney-General.

**Senator Robert Ray**—When will you become the longest serving Leader of the Opposition?

**Senator GARETH EVANS**—Yes, I think that deserves incorporation in the *Hansard*, if not the earlier interjection. Steps are being taken to ensure that there is no repetition in the future, and all staff are being reminded of their obligations and responsibilities in the preservation of the confidentiality of the communications they handle. The officer concerned has been counselled on this matter.

**Senator Haines**—Counselled or cancelled?

**Senator GARETH EVANS**—Counselled. Counselling can constitute a variety of things. I am not sure precisely what was involved in this instance, but I can imagine. The normal transmission of the telegrams was not affected. All copies of the telegrams have been returned to Australia Post. Finally, Australia Post is proud of the integrity of the postal and telegram system. It attaches great importance to the preservation of the privacy of the letters and telegrams entrusted to it by the public. An indication of its past success in this regard is provided by the publicity given to this most unfortunate, regrettable, and, I repeat, isolated incident. Australia

Post apologises unreservedly for this breach in its privacy arrangements.

As to the other part of Senator Haines's question about the privacy Bill, it is my understanding that it is the Attorney-General's intention to introduce that Bill I think later this session, but I will have to take that aspect of the question on notice.

#### UNITED STATES DEFENCE PLANS

**Senator VALLENTINE**—Is the Minister representing the Minister for Defence aware of two articles written this year by Peter Samuel and Colin Rubenstein in which it is stated that, according to a congressional research service paper on the armed services, the Pentagon has wartime plans to make extensive use of Australia as a way-station for supplying and transporting forces to the Persian Gulf in time of crisis—highly relevant at the moment, I would think? Is he further aware that this plan involves United States military aircraft flying from San Francisco to Darwin and on to the Indian Ocean rather than via Clark Air Base in the Philippines because on the northern route they would be too vulnerable to Soviet fighters operating out of Vietnam? Would he also comment on the plan's assertion that sealift ships carrying tanks, artillery and heavy munitions would travel south of Australia, which could require the use of Australian harbours for refuelling and reprovisioning en route? Finally, could the Minister tell us whether these plans do exist and whether they have been agreed to by the Australian Government? If so, why has there been no debate in Parliament on the plan and its implications for Australia?

**Senator ROBERT RAY**—I am aware of the articles and I managed to read them briefly some time this morning. As a general observation, it seemed quite understandable that the United States would have a variety of plans for a vast number of situations. I have no way of verifying whether there are such plans in existence and whether the article is, in fact, correct. I wish to assure the Senate and Senator Valentine in particular that there is no question of Australia being involved in activities of the kind suggested in the article without the full and prior concurrence of the Australian Government.

#### REMOTE COMMERCIAL TELEVISION SERVICE

**Senator BOSWELL**—I direct a question to the Minister for Transport and Communications. I refer him to his statement to the Senate on 2 June this year:

. . . it remains the Government's firm intention to ensure that a RCTS—

a remote commercial television service—

will be available to people in all parts of Australia who live in remote areas.

In light of today's announcement that the south-east licence holders have surrendered their licence and the doubts over the operation of the north-east service, can the Minister tell the Senate and the 100,000 Queenslanders waiting for the north-east signal to commence when the Government will fulfil its commitment to deliver a commercial television service to them? What steps has he taken to expedite this matter?

**Senator GARETH EVANS**—It is a matter, certainly, of very great regret that not only did the south-eastern licensee for the RCTS licence hand back that licence yesterday, but there are doubts hanging over the north-east licensee being able to continue on a commercially viable basis with it as well. As I have already publicly indicated, the Government is very hopeful that we can honour our commitment to provide at least one commercial service to all Australians wherever they live. But at this stage I am simply unable to say more than that we are considering what the options may now be. There are some options that have been canvassed publicly already, one in particular in the Queensland context which, I am sure, Senator Boswell with his connections would be very well aware of. There are other possible options which I will be giving close attention to over the next few weeks. Clearly not only are there implications for the position of rural outback dwelling Australians, but there are also implications financially for Aussat that flow from this state of affairs. The whole complex question—and it is a complex one—will have to be given very close attention by the Government. But at this stage I am simply unable to say more than that.

### ECONOMIC STRATEGY

**Senator BOLKUS**—My question, which is addressed to the Minister representing the Treasurer, relates to Syntec Economic Services Pty Ltd, a company which publishes a monthly newsletter on the Australian economy. Is the Minister aware of recent criticisms made by Syntec of this Government's economic policy strategy? Further, does the Minister believe that Syntec's track record is such that, in the light of these criticisms, the Government's economic policies need to be altered?

*Opposition senators interjecting—*

**Senator BOLKUS**—If Senator Stone is concerned that this might have been asked before, I think the answer might illuminate him as much as anyone else.

**Senator Chaney**—Mr President, I raise a point of order. The Minister has already answered this question, if not in those same terms, within the last few days. This is using Question Time, as usual, simply to bag people who dare to be critical of the Government or its policies. I suggest that as the question has already been dealt with by the Minister it should be ruled out of order.

**The PRESIDENT**—There is no point of order. There might have been a question similar to this asked earlier in the week but Senator Walsh is entitled to answer the question.

**Senator WALSH**—Thank you, Mr President. You are, of course, correct in saying that a similar question was asked, I think, two days ago. But the answer to this one is different, because it gives some new information.

**Senator Lewis**—You answered that two days ago.

**Senator WALSH**—If Senator Lewis wants me to, I can go through a catalogue of errors that I put on the record on Wednesday about Syntec—principally, that Syntec's forecast of economic growth in 1986-87 was as inaccurate as Senator Stone's, if I remember correctly. It got the trade weighted index for the currency wildly wrong, along with a number of other things. In reply to this question, the new information refers to a much more recent Syntec publication, the *Syntec Business Outlook* dated 5 October 1987, which says:

US bond rates are moving towards double digits, as we warned they would.

I will accept its word for that. It goes on to say:

However, these rates are still some months away from levels that will check commodity and share markets.

The share market started falling the very next week, and the week after that the fall accelerated sharply, as we all now know. So Syntec's track record, in one of its very recent forecasts, and specifically about the likely direction of share prices in the next few months, has been proved to be spectacularly wrong.

### EDUCATION FUNDING AND ADVISORY STRUCTURES

**Senator TEAGUE**—My question is directed to the Minister representing the Minister for Employment, Education and Training. Will the Minister table the Halton Task Force report on

the restructuring of education funding and advisory structures? If she cannot now, will she endeavour to do so on Monday? Can the Minister also confirm that the Minister for Employment, Education and Training has been advised by the so-called 'Purple Circle' of advisers? Are these faceless men and one woman the same as those identified by Paul Kelly in last weekend's edition of the *Weekend Australian*? Is it not the case that only now, after the major decisions have been taken—decisions the Minister refers to as non-negotiable—that wider consultations have begun? Why in particular has the advice of our vice-chancellors been shunned in Mr Dawkins's far reaching changes to higher education structures, and why has the advice of both government and non-government school representatives been ignored?

**Senator RYAN**—I think Senator Teague was rehearsing for a matter of public importance or an adjournment debate in that series of questions. I cannot confirm most of the implications he was making in those questions as being the case. Mr Dawkins, since he has taken over the education portfolio and the very important task of co-ordinating it with the employment and training portfolio, has sought advice from a wide range of sources. I have no information to suggest that any proper source of advice has not been available to Mr Dawkins. He certainly has been talking to a lot of people on a very wide range of areas covering tertiary education, schools education and so forth.

It is the case that Mr Halton prepared some advice for Mr Dawkins, and as a result of that advice Mr Dawkins has published a paper setting out some proposals for restructuring the advisory bodies within his amalgamated portfolio. Of course, that paper is available to Senator Teague. As to whether Senator Dawkins would be prepared to make the original advice from Mr Halton publicly available, I do not know. I will have to ask Mr Dawkins.

#### PRINCESS MARGARET HOSPITAL

**Senator McKIERNAN**—My question is directed to the Minister representing the Minister for Community Services and Health. On 9 October I asked a question relating to the continued funding of the child care centre at the Princess Margaret Hospital for Children in Perth. I now ask the Minister whether she can report on any developments which may or may not have taken place since the Minister replied to that question.

**Senator RYAN**—Yes, I am sure Senator McKiernan will be pleased to hear that Dr

Blewett was able to have a meeting with the Princess Margaret Hospital child care centre people in Perth last week, and as a result the future for the centre looks a lot brighter. The Princess Margaret Hospital child care centre, not all honourable senators may be aware, was one of a handful of high-cost centres across Australia which had been receiving Commonwealth Government recurrent subsidies over and above those received by other centres. In the interests of equity, the Government was not able to continue that special assistance beyond 3 September. However, as a result of Dr Blewett's talks in Perth with State Ministers, an understanding has been reached which takes account of what could be described as the medical component of the service provided at the Princess Margaret Hospital child care centre. This medical component is one of the reasons for the centre's very high costs. State Ministers are now discussing which of their departments should be responsible for those costs.

The other problem facing the Princess Margaret Hospital centre is that of capital required to relocate the centre. This matter is no longer urgent. The need to relocate is due to the proposed construction of a road through the present site of the centre. That road will now not be built until 1989, and possibly even beyond that. Nevertheless, Dr Blewett has discussed with Mr Taylor, the State Minister for Health in Western Australia, the possibility of a cost-shared solution to the problem when the time comes. This would involve capital contributions from both the Commonwealth and State governments. Contributions from each government would of course have to depend on budgetary considerations at the time. Both governments recognise the valuable service the Princess Margaret Hospital centre provides, and there is every reason to expect that it will continue to serve the Perth community.

#### QUEENSLAND RAINFORESTS: WORLD HERITAGE LISTING

**Senator DURACK**—My question is directed to the Minister for the Environment and the Arts. I refer to the fact that the time for making comments on the proposed World Heritage listing for north Queensland rainforests expired yesterday. Can the Minister say how many comments from how many people have been received? Will the Minister entertain comments which may be received subsequent to yesterday? When does he expect to receive a report from the major socio-economic study which he has commissioned into the effects of the listings?

**Senator RICHARDSON**—I am advised that approximately 2,700 submissions have come in. A huge number came in yesterday. They are broken up into a number of different categories, as I mentioned briefly yesterday. Many of them are in the form of letters to me which, I suppose, we can in the end determine to be submissions, although some of them are not entirely proper. We are still collating those to determine how many refer directly to boundaries. I hope to have that information by Monday or Tuesday, and then I will provide the honourable senator with the further detail. It should be remembered that yesterday was the cut-off date for submissions on the boundaries, so we will not be entertaining submissions after this date. Over the next few weeks, and certainly by the end of November, I will be going to Cabinet with a submission on final boundaries to enable the nomination for listing to proceed in December. So the process will be completed fairly quickly.

In terms of the last part of the question about socio-economic consultancies, I inform the honourable senator that six consultancies were announced several weeks ago. They will be producing their reports in such a way that they will not all be coming in together; they will be coming in over the next three or four months.

**Senator DURACK**—Mr President, I ask a supplementary question. Will the Minister undertake to table the socio-economic studies in this chamber as they come forward?

**Senator RICHARDSON**—All of the socio-economic studies will be tabled as they come forward.

#### **GOVERNMENT SPENDING**

**Senator MAGUIRE**—My question is directed to the Minister representing the Treasurer. Has the Minister noted calls from the Leader of the Opposition for further cuts in government spending? Has he also noted calls from South Australian Liberal backbenchers for increases, and not decreases, in government spending in their own electorates? Can the Minister identify anything special about these spending proposals which would justify their implementation in the face of either the Government's policies on fiscal restraint or the Opposition leadership's claimed positions?

**Senator WALSH**—In regard to the last part of the question, I do not think I can identify anything special other than that many members of the Opposition have a forked tongue. They use one prong in their electorate and the other prong when they are somewhere else. That is

not confined to South Australian members of the Opposition. I have various Press clippings before me, one of which, dated 25 September, reports a Mr Downer, who I think is a member of the House of Representatives, demanding that the Government install a translator to improve television reception around Victor Harbour. Another clipping refers to a Mr Porter on 28 September demanding more spending on country roads, and another reports Mr Porter the next day demanding an upgrading of Mount Gambier airport, including a new terminal—a matter which Mr Porter took up directly with me in the dining room last week.

Yesterday we had Senator MacGibbon demanding that something that looked like a politicians' junket have funding restored to it, and Senator Panizza wrote to me a couple of days ago demanding that more money be made available for marriage guidance counselling centres. Indeed, I got a letter from someone associated with a marriage guidance counselling centre demanding the same sort of thing and containing a number of factual errors. The only thing he did not disclose was that he was a failed Liberal Party candidate in the last House of Representatives election, but I will be saying a bit more about that later.

All of these demands for additional spending from that prong of the forked tongue that these people use when they are in their own electorates come from people who are, or were, pledged to cutting at least \$2.5 billion off government spending. True to form, one prong is used in one place and the other prong is used in another. I have also noted Mr Howard's call for further cuts in government spending. I am still waiting for him to stipulate the \$2.5 billion plus in spending that he said he would take off himself, of which he has not provided any details.

#### **EDUCATION: VIDEO LOAN SCHEME**

**Senator TAMBLING**—My question is directed to the Minister representing the Minister for Employment, Education and Training. I refer to the video loan scheme that was introduced by the Fraser Government in 1981 to provide for the loan of video sets and the provision of video cassettes to supplement the normal lessons of children who are involved with schools of the air and who are living in remote areas. Is the Minister aware of the success of this scheme and its value to people living in isolated communities? Is it the intention of the Hawke Government to cease funding this scheme?

**Senator RYAN**—I am certainly aware of the success of the scheme, and I believe that the

Government's intentions for the development of this kind of assistance for families will be successful also. The scheme was introduced in 1982 with the provision of \$4m over three years. State education departments were provided with funds to improve the access of isolated primary students to educational video or other audio-visual facilities. The original three-year program took into account the expected launch of Aussat in 1985. As that initiative had not advanced sufficiently by the beginning of 1985, the Government agreed to continue the loan video program for a second triennium, 1985-87, at the same level of funding.

Aussat is still not capable of meeting the needs being met through the loan video program and a number of authorities have expressed their concern that isolated children who do not receive normal television services are already disadvantaged and cannot afford to lose this important educational aid. The program has been very successful in meeting the educational needs of children, but funding for loan video facilities will now be available under the Commonwealth's capital grants program and the States will be able to apply this money for the provision of loan video to isolated children.

### **STEEL INDUSTRY**

**Senator LEWIS**—My question is directed to the Acting Minister for Industry, Technology and Commerce. I refer to the completion of the modernisation program of the Broken Hill Proprietary Co. Ltd (BHP) and the celebrations with the Federal Treasurer at Port Kembla yesterday. Is this the end of the Government's steel plan, as reported in the media, or is that a false report? I refer the Minister to the report of the Steel Industry Authority for the June quarter 1987 and quote from page 5 of that report:

BHP Steel Division recorded 274,795 manhours lost in 80 stoppages which is the worst disruption to production in any quarter since the beginning of the Steel Industry Plan in January 1984.

It states further:

. . . the level of industrial disputation at Port Kembla in the quarter was considerably worse than at any time during the three years preceding the Plan's inception.

I quote finally:

Productivity at Port Kembla continued to decline, averaging 210 tonne per employee per annum, the lowest recorded productivity level for that steelworks since the start of the Plan.

Does the Government believe that its steel industry plan has been a success?

**Senator WALSH**—The answer to the last part of the question is clearly yes, though, I

freely admit, the success has been tarnished to some extent by the industrial disruption that has taken place in recent months and to which Senator Lewis has referred. The earlier part of the question concerned the report of Mr Loton's statement about the steel plan. That report appears to be inaccurate, but we have not been able to confirm with Mr Loton himself precisely what he meant. He has been quoted as saying that BHP no longer needs the steel industry plan, and in some quarters at least that has been interpreted as saying that BHP proposes to withdraw from it. The Government believes that that interpretation is wrong.

If, however, Mr Loton is saying that BHP does not need any extensions of the steel industry plan, which runs out at the end of 1988, that is welcome news as far as the Government is concerned because the Government has no present policy for any extensions of that plan. The Steel Industry Authority is currently undertaking a review of the plan and will be reporting to the Minister by 30 June next year on what assistance arrangements are to apply to the industry after the end of 1988.

Turning back to the earlier part of the question, BHP has exceeded its investment undertaking of \$800m under the plan. The company still has commitments regarding price increases and no compulsory redundancies, and unions still have commitments on wage increases consistent with the accord and dispute settling procedures. Initial productivity targets have been met—the success, as I have acknowledged, having been tarnished to some extent in recent months—and further productivity improvements are being sought.

**Senator LEWIS**—Mr President, I ask a supplementary question. Apart from the difficulties within the industry itself—I refer to the problems that it had with the plant—would the Minister agree that the major cause for the poor production figures for the last quarter, and in fact for the whole of this year, is the inability of the New South Wales Labor Government to carry the unions in New South Wales with its Work Care program?

**Senator WALSH**—That could be so. Frankly, I do not know what the major factor is. I will see whether I can get a definitive answer to that question.

### **FRAUD AGAINST THE COMMONWEALTH**

**Senator SCHACHT**—My question is directed to the Minister representing the Treasurer. I refer to an article in this morning's Melbourne

*Age* noting the contents of the annual report of the Director of Public Prosecutions, and in particular the measures which need to be taken to deal with fraud against the Commonwealth. What measures does the Director of Public Prosecutions suggest should be implemented to deal with fraud against the Commonwealth? Is the Government now giving active consideration to those measures?

**Senator WALSH**—I have seen the report in the *Age*, the first paragraph of which I will quote:

The federal director of public prosecutions, Mr Ian Temby, QC, has urged the Federal Government to develop a network of information-sharing between key departments to combat fraud against the Commonwealth.

In the report itself, Mr Temby specifically refers to exchanges of information between the Department of Social Security and the Australian Taxation Office to detect, for the purposes of saving public expenditure on the one hand, and on the other increasing public revenue, people who are claiming unemployment benefit while they are employed. Mr Temby says:

An exchange of information between agencies of this type would clearly be a simple, cheap and effective method of detecting and thereby deterring fraud. By deterring fraudulent conduct more assistance could then be provided to those in the greatest need.

He goes on to refer to discrepancies between Health Insurance Commission data on certain doctors' incomes and the information on the taxation files for those people in the Australian Taxation Office. He says:

Unfortunately, each agency was prevented by secrecy provisions from disclosing information to the other.

In other words, this enabled some doctors to indulge in pretty big scale tax avoidance, or tax evasion possibly. He continues:

Both agencies could disclose the information to the DPP but on condition that the DPP did not reveal it to the other. This is a most unsatisfactory situation.

Mr Temby also reports:

It is difficult to see any justification for allowing criminals to hide behind secrecy provisions in the manner which is permitted at present.

It is well known that, following the sabotage of the Australia Card legislation, the Government is looking at a next best alternative method of stamping out tax evasion and social welfare fraud. I would like to think that the Opposition would join in that exercise, but I fear that it will not.

Finally, I note that Mr Temby's comments were criticised in the same *Age* report by Mr Castan, QC, President of the Victorian Council for Civil Liberties. I find a certain lack of bal-

ance in sections of the legal profession which devote their activities—whether or not it is their objective it is the end result—to keeping criminals out of gaol and allowing fraud to be successfully perpetrated on the Commonwealth. The comments of David Lange, a lawyer himself, also, if I remember them correctly, on the *Sunday* program a few weeks ago, in response to this sort of question, should be borne in mind by the legal profession. He said that his civil liberties are infringed every time somebody perpetrates a fraud on the public revenue or public expenditure. That is a balancing item which sections of the legal profession ought to take into account much more than they do.

**Senator Walters**—Hear, hear!

**Senator WALSH**—I am glad that Senator Walters agrees with it as well. As to the ethics of the profession, I recall a very prestigious London QC arguing in a Dublin courtroom for a couple of weeks that a certain Mr Trimbole could not be extradited because the person in the dock was not Mr Trimbole. One Monday morning, he turned up and said that that was a fib, and it was Trimbole, but he still could not be extradited for some other spurious reason. Of course, no odium was attached to the prestigious QC for doing that.

#### DEFENCE FORCE: RESIGNATIONS

**Senator BISHOP**—My question without notice is addressed to the Minister representing the Minister for Defence. My question is to do with the serious attrition of service personnel from the defence forces. I ask the Minister: Is he aware that among the reasons for pilots quitting the Royal Australian Air Force (RAAF) is the fact that not sufficient flying time is provided? I also ask whether the Minister is aware that the resignations among the backbone of the Services—those persons with 20 years service, many of whom have attained warrant or non-commissioned officer rankings—are, in many cases, due to fears that their superannuation retirement entitlements will be reduced and/or varied by future Federal Budgets, and that rumours regarding superannuation variations are generally ripe among service men and women in the periods leading up to such Budgets. I ask the Minister whether some steps could be taken to allay such fears and so prevent personnel with 20 years service resigning to protect their nest eggs. Further, is the Minister aware that some of the older married quarters available to serving personnel are of a type and condition which makes them low grade by today's standards and, as a result, unattractive? More particularly, is

he aware that the ranking system in the Services extends even to the construction of new married quarters, which results in some new homes being built without en suite facilities because they are to be occupied by lower ranks and that, as such homes are usually selected from standard design plans, the removal of en suite facilities results in additional cost? Will the Minister, who I understand is also perturbed at the number of personnel quitting the Services and who has announced an inquiry into the problem, comment on the alleged problems?

**Senator Gareth Evans**—I rise on a point of order, Mr President. Senator Bishop's speech is becoming too long for Question Time. It is a series of factual assertions not in the context of a specific question. I ask you to draw her to order.

**The PRESIDENT**—The question is extremely long. Senator Bishop, have you concluded your question?

**Senator BISHOP**—I have, indeed, concluded my question.

**Senator ROBERT RAY**—It is a fact that separation rates for pilots in the RAAF over the last couple of years have been considerably higher than has been the Air Force's experience in previous years. In the 20-year period 1966-67 to 1985-86, the annual loss rate was 47 pilots. In the 1985-86 period, 70 separated and in the following year, 107 left the Air Force. So far this year, 75 have retired or resigned. The number of new pilots graduating has averaged about 55 to 65 per annum. Separations are occurring amongst pilots with a varying range of experience. About 40 per cent of the separations in 1986-87 were by those who have already given 20 years service and are therefore pensionable. Many pilots who were trained during the Vietnam period are now retiring. The influence of the Vietnam growth period will diminish over the next couple of years. Of the other 60 per cent, many are responding to the recent strong demand for pilots by the domestic and international airline industry and, in particular, by Qantas Airways Ltd. A range of measures are being pursued to ensure that RAAF operations are not adversely affected on a continuing basis by an expected continuing strong demand for pilots from the civilian sector.

I mentioned Qantas, the company which, as we know, is going through a growth phase at present. Certainly the Government hopes that that will continue. However, it is a fact that losses of RAAF pilots to Qantas over the last couple of years have contributed to some diffi-

culties arising for the Air Force. Mrs Kelly recently met with Mr Menadue, the Chief Executive of Qantas, to discuss this issue. It was a very fruitful meeting. There was general agreement that Qantas and the Air Force should work more closely together in future to ensure that Qantas's recruiting activities are better understood and that they are not pursued in such a way as to prejudice the operational capability of the Air Force. A range of practical measures was proposed, which would help to minimise the impact of continuing pilot losses from the RAAF to Qantas. I am confident that those talks will dispel or remove the problems of loss in that area.

I would point out that pilots are expensive to train. To ensure that the Defence Force receives a reasonable return for investing in training, the return service obligation for pilots has recently been increased from six to eight years. The Chief of the Air Staff (CAS) has now taken additional steps, Senator Bishop will be pleased to hear, to increase the attractiveness of the RAAF flying career.

Without wearing the patience of the Senate too greatly, I will outline some of those steps. The first is to increase the compulsory retiring age for pilots at certain ranks to 55 years. This change will allow those who so choose to avoid the inevitable second career forced on many officers because of the present retirement age of 50 years. The second is to introduce a limited air crew specialisation scheme which will allow an extended flying career for selected officers. This scheme may necessitate optional promotion and new salary scales at existing ranks which recognise higher experience levels. The third is adopting policies designed to widen promotion opportunities for non-pilots in areas such as personnel or materiel, thus reducing the demand for pilots in certain posts. In recognition of some long term increases in pilot separation rates, which the RAAF expects in the foreseeable future, the CAS has directed that the output of qualified instructors is to be doubled, thereby allowing an increasing output of pilots.

I do have some further detailed notes, but I refer Senator Bishop to the very excellent evidence given, and to the very intelligent questions asked by Senator Newman, in last night's Estimates Committee E. These matters were explored in depth and answered very thoroughly. I ask Senator Bishop to read the *Hansard* when it comes out. However, the honourable senator raised one or two specialist matters that I have not covered in this very brief discourse. I will

refer those matters to the Minister for Defence and ask him for a rapid response.

### ABORTIONS

**Senator HARRADINE**—I direct my question to the Minister Assisting the Minister for Community Services and Health. Has the Minister's attention been drawn to the clinical study conducted at the Royal Prince Alfred Hospital which revealed that a number of abortions have been performed on pregnant women who have been disappointed with the sex of their baby as indicated by chorionic villus sampling tests? Is it a fact that most of the aborted foetuses were female? Have the abortions been performed at taxpayers' expense through the medical benefits schedule? What action is proposed by the Government in respect of this grave matter?

**Senator RYAN**—I have no information from the Minister for Community Services and Health on this matter. I did read newspaper reports of a claimed study and was quite shocked to read of its alleged findings. I also understand that the State Government—appropriately, since the legislation covering abortions is a State matter—is going to take up the matter. As to the access of these procedures to Medicare payments, I will refer that to Dr Blewett.

### SOCIAL SECURITY BENEFITS

**Senator PARER**—My question is directed to the Minister representing the Minister for Social Security and I draw his attention to a letter to the editor of the medical newspaper, *Australian Dr Weekly*, on 18 September. Is there any truth in the allegation contained in a letter from a New South Wales doctor that a Department of Social Security officer advised a woman patient of his to insist that he sign a certificate, against his better judgment, stating that she was permanently unemployable due to ill health? Social Security would then put her on sickness benefit on a permanent basis. Is it also true that this is not an isolated case, and that in order to disguise the real unemployment figures, Social Security officers have been instructed to encourage long term unemployed people to apply for other benefits such as sickness, invalid and special benefits?

**Senator RICHARDSON**—Not having had an in depth study of the 18 September issue—the one that I missed—I will endeavour to answer the question next week.

Sitting suspended from 12.59 to 2 p.m.

### AUSTRALIAN PARLIAMENTARY DELEGATION TO THE UNITED NATIONS GENERAL ASSEMBLY

The PRESIDENT—During Question Time yesterday Senator MacGibbon asked me two questions relating to the funding of an Australian parliamentary delegation to the 1987 General Assembly of the United Nations in New York. There are a number of points which I wish to bring to the attention of all honourable senators on this matter.

Madam Speaker and I are very much aware of the benefits derived by the Parliament in having individual senators and members nominated to attend the United Nations General Assembly as parliamentary advisers to the Australian delegation. We strongly support the opportunity provided to the Parliament to send these delegates.

It is, however, not correct to say, as Senator MacGibbon did yesterday, that the Speaker and I have refused to fund the parliamentary delegates to the United Nations in 1987. On the contrary, we do not have the authority to fund outgoing delegations, except those under the auspices of the Inter-Parliamentary Union and the Commonwealth Parliamentary Association. All other outgoing delegations are funded by the Executive, following the development of an agreed annual program between ourselves and the Prime Minister with advice from other relevant Ministers. Prior to July 1987 this funding was provided by the Department of the Special Minister of State; since then it has been the responsibility of the Department of Administrative Services.

By way of background, the cost of funding travel by parliamentary delegates to the United Nations General Assembly had, until 1986, been borne by the international conference vote administered by the then Department of Foreign Affairs. On 31 July 1986 Cabinet agreed to abolish this vote. Madam Speaker and I were subsequently informed of this decision by the Minister for Foreign Affairs on 16 January 1987 and immediately wrote to the then Special Minister of State, whose Department then had the responsibility to fund all outgoing parliamentary delegations and, therefore, we believed, assume funding responsibility for the parliamentary delegates to the United Nations.

We received a reply from the newly-appointed Special Minister of State on 24 February 1987. In the course of this letter the Special Minister

informed us that it was, initially, a matter for the Prime Minister to determine. After further discussion with the Special Minister, the Speaker and I jointly wrote to the Prime Minister on 30 April 1987.

This morning I have been assured that there was no intention by the Executive to stop parliamentary delegates participating in the United Nations General Assembly. I have also been assured that details as to the funding and the numbers to attend in the future are currently being resolved within the Executive and that Madam Speaker and I will receive an answer with these details in the very near future.

In conclusion, I can assure honourable senators that Madam Speaker and I have vigorously pursued this matter over the past six months. However, I wish to make it clear that the Executive bears funding responsibility for this delegation. It is, nevertheless, regrettable that simply by the passage of time the Australian Parliament is not represented on the Australian delegation attending the United Nations General Assembly this year.

**Senator MacGIBBON** (Queensland)—by leave—I move:

That the Senate take note of the statement.

Mr President, I seek leave to continue my remarks later.

Leave granted; debate adjourned.

#### PARLIAMENT HOUSE: AIR-CONDITIONING

**The PRESIDENT**—On 22 October, Senator Crowley addressed a question to me on how often the Parliament House air-conditioning and cooling systems are examined and cleaned. At the outset may I say that Madam Speaker and I have the health of all people who work in this building uppermost in our minds and that steps have been taken to establish a variety of occupational health and safety procedures over a number of years.

The Chief Engineer has advised me that maintenance procedures relating to air-conditioning and cooling systems were upgraded in conjunction with the National Biological Standards Laboratory and brought into force during 1981. These procedures are designed to reduce to a minimum the presence of bacteria in the water of the Parliament House cooling towers. The towers service the central chilling plant for the air-conditioning systems. Air does not come in contact with cooling tower water. The procedures

used are in excess of the draft code on maintenance of air-conditioning systems.

Testing of the cooling towers is conducted from time to time by Maxwell Chemicals Pty Ltd to ensure the effectiveness of the procedures. The latest test was carried out on 19 June 1987 and no bacteria were detected. This was consistent with all test results for the past six years. The cooling towers are chemically treated on a monthly basis and emptied every second month, scrubbed down, then filled with fresh water and re-treated to the appropriate levels. I am assured that the Joint House Department ensures strict adherence to the procedures.

(*Quorum formed*)

#### STANDING COMMITTEE ON FINANCE AND PUBLIC ADMINISTRATION

##### Report

**Senator COATES** (Tasmania) (2.07)—On behalf of the Standing Committee on Finance and Public Administration, I present a report on proposed amendments to the Audit Act 1901.

Ordered that the report be printed.

**Senator COATES**—by leave—I move:

That the Senate take note of the report.

The Senate, in its consideration on 7 October of the Statute Law (Miscellaneous Provisions) Bill 1987, decided to omit proposed amendments to sections 32 and 33, sub-section 57 (2) and the schedules of the Audit Act 1901, and to refer them to the Committee on Finance and Public Administration for inquiry and report. The proposed amendments affect two procedures relating to the payment of moneys: first, the use of the Governor-General's warrants; and, second, the expending of moneys from the Loan Fund.

The Audit Act currently provides that funds cannot be expended from the public account following passage of Appropriation Acts until the Auditor-General has certified that the amount does not exceed appropriation and the Governor-General has issued a warrant on the basis of the Auditor-General's certificate. The proposed amendments, which arise from recommendations in the 209th report of the Joint Committee of Public Accounts, would eliminate the requirement for the Auditor-General's certificate and the Governor-General's warrant before the Minister for Finance could make payments from the Commonwealth public account.

Proposed section 32 would provide for the Minister for Finance to make payments out of the Commonwealth public account in accordance with an appropriation from the Consoli-

dated Revenue Fund or the Loan Fund. Section 57 of the Audit Act requires that loan fund expenditure be covered by an Act. Consequently, it would be unlawful for the Minister for Finance to expend any moneys from the Loan Fund except under the authority of such an Act. Sub-section 57 (2), as it presently stands, requires that such an Act show the particular work or object for which the money is required and the total amount to be expended. The proposed amendment would repeal sub-section 57 (2). The Parliament, in enacting a Loan Act, would now be free to frame the statute's terms in any way it thought fit, without the anomaly of the Audit Act purporting to limit that scope.

Both these amendments will simplify and reduce the costs of processes by which funds that have already been appropriated by law are subsequently distributed to departments. The Committee found that there is no longer any reason for the Governor-General or the Auditor-General to be involved in this process. The new system reflects appropriately the independent role of the Auditor-General in relation to the Executive Government. Adequate systems, themselves audited by the Auditor-General, exist for monitoring the level of expenditure against appropriations. The proposed amendments may result in improved effectiveness of existing control procedures. The Committee has similarly concluded that the proposed repeal of sub-section 57 (2) will not affect the Parliament's control of loans legislation. The Committee has therefore recommended that, if the House of Representatives amends the Statute Law (Miscellaneous Provisions) Bill 1987 by reinserting the proposed amendments to the Audit Act, the Senate agree to such amendments.

In the course of this inquiry the Committee briefly considered the use of Statute Law (Miscellaneous Provisions) Bills. These Bills provide a convenient means for making technical amendments to legislation. The guidelines for such legislation, which were tabled in the Senate in May 1985, limit the types of amendments to those dealing with tidying up and the correction and updating of legislation, routine administrative changes and matters which are non-contentious. However, there are occasions when such amendments, though essentially non-controversial and straightforward in legislative terms, touch upon an issue of potential interest to the Senate. In such cases it is a matter of judgment whether a separate Bill is appropriate.

The proposed amendments to the Audit Act, involving a significant procedural change, might

well have warranted a separate Bill. The Committee considers, therefore, that the second reading speech, as well as the explanatory memorandum, should have contained a more detailed explanation and justification. Had an adequate statement been made, including reference to the earlier recommendations of the Joint Committee of Public Accounts and to the agreement of the Governor-General and the Auditor-General to the changes, the Senate may not have considered it necessary to omit the amendments and refer them to the Standing Committee on Finance and Public Administration for inquiry.

The Committee suggests that the guidelines for Statute Law (Miscellaneous Provisions) Bills could usefully be reviewed. It believes that a distinction should be made between purely technical and routine amendments and matters which are of greater significance but which may nevertheless be legislatively straightforward. In the latter instance, a separate omnibus Bill would assist such matters to be considered more carefully.

Question resolved in the affirmative.

#### STANDING COMMITTEE ON PUBLICATIONS

##### First Report

**Senator MCKIERNAN** (Western Australia)—I present the first report of the Standing Committee on Publications.

Report—by leave—adopted.

#### OCCUPATIONAL SUPERANNUATION STANDARDS BILL 1987

#### INSURANCE AND SUPERANNUATION COMMISSIONER BILL 1987

#### INSURANCE AND SUPERANNUATION COMMISSIONER (CONSEQUENTIAL PROVISIONS) BILL 1987

##### In Committee

#### OCCUPATIONAL SUPERANNUATION STANDARDS BILL 1987

Consideration resumed.

**Senator WATSON** (Tasmania) (2.13)—Prior to the suspension of the sitting for lunch, I raised a number of issues with the Minister for Finance, Senator Walsh, who is responsible for the Occupational Superannuation Standards Bill, in relation to clause 12. In that dissertation I expressed the concern of the industry at the open-ended nature of the costs and the possible escalating nature of the bureaucracy. I indicated, for example, that the responsibilities of the Australian Government Actuary are being transferred

from the Secretary to the Department of the Treasury to the new Insurance Commissioner and that the fees will have to be borne by the industry. The costs associated with complying with all of the conditions that are outlined in clause 12 will be quite considerable, particularly for the smaller funds. I trust the Minister has a note of my earlier questions; I hope I will not have to reiterate them. The industry would like some guarantees that the fees will not escalate significantly in future years.

**Senator WALSH** (Western Australia—Minister for Finance) (2.14)—On the question that the costs may be open-ended, I can assure Senator Watson—I do this on behalf of the Treasurer (Mr Keating)—that the superannuation standards will be administered in a most cost-effective way and that the cost of administration of the office will be subject to the normal close scrutiny given to Commonwealth expenditure. The proposed regulatory fee of \$30 is designed to do no more than cover the costs of administration.

Senator Watson also sought an assurance that the independence of the Australian Government Actuary will be maintained. I can give him the assurance that the professional independence of the Actuary will be maintained. He also asked me privately—it may also be on the *Hansard* record—about a scheme having been endorsed by the Superannuation Commissioner and subsequently being overruled by the Commissioner of Taxation. I understand that that would be the case immediately following the passage of this legislation, but amendments to the Income Tax Assessment Act will be made, I presume, to remove the power of the Taxation Commissioner to overrule the Superannuation Commissioner in those instances.

**Senator WATSON** (Tasmania) (2.15)—I take this opportunity to thank the Minister because I believe that that matter had been overlooked by the Government. It indicates the benefit of this chamber's close scrutiny of detailed measures in legislation such as this.

Clauses agreed to.

**Senator WATSON** (Tasmania)—Mr Chairman, I seek leave to speak on clause 13.

Leave granted.

**Senator WATSON**—Clause 13 of the Occupational Superannuation Standards Bill relates to the discretion that the new Insurance and Superannuation Commissioner has to treat funds as satisfying the superannuation fund conditions when these conditions will be subsequently set

by regulation. It is the Opposition's belief, and the belief of a number of people in the industry, that the discretionary powers reserved for this new Commissioner are far too wide and far too great. Clause 13 allows for special circumstances in which funds may be excused from meeting certain conditions of operation. The real question is: Are operating standards to be adhered to, or not? If we go to the trouble of creating legislation and regulation which can then be overridden for a number of reasons at the discretion of the Commissioner, I believe we are entitled to know the sorts of reasons, the sorts of special circumstances, that may be considered under this clause. I await the Minister's response.

**Senator WALSH** (Western Australia—Minister for Finance)—by leave—if I interpret Senator Watson's remarks correctly, he sees paragraph 13 (1) (b) as opening up the possibility for the Insurance and Superannuation Commissioner to impose additional discipline on fund management. That is not the intention. The intention is that, where a fund has been late in lodging all its conditions and so on, the Commissioner will have the discretion to accept good reasons given for a delay.

**Senator WATSON** (Tasmania)—by leave—I acknowledge that that interpretation could be placed on it, but I am concerned that conditions regarded as not necessary for certain types or classes of funds may be regarded as necessary for others. During the second reading debate it was suggested that, for example, union superannuation funds could be treated differently from employer superannuation funds. It is in that area that the chamber needs certain assurances.

**Senator WALSH** (Western Australia—Minister for Finance)—by leave—that is not the intention.

**Senator Watson**—It is open-ended. Clause 13 allows for both interpretations.

**Senator WALSH**—I suppose that could be true if one makes the assumption that a particular Commissioner at some time in the future is partial to some types of funds and not others. That is certainly not the intention, nor is there any real reason to believe that that is likely to happen. If the honourable senator wants further assurances I can speak to the Treasurer (Mr Keating) about sending a letter to him.

Clause 16 (Review of certain decisions).

**Senator STONE** (Queensland—Leader of the National Party of Australia) (2.20)—by leave—I move:

(11) Page 13, subclause 16 (1), line 25, leave out "21", insert "60".

(12) Page 13, subclause 16 (4), leave out the sub-clause, insert the following subclause:

"(4) Where the Commissioner does not confirm, revoke or vary a decision before the expiration of the period of 60 days after the day on which the Commissioner received the request under subsection (1) to reconsider the decision, the Commissioner shall, upon the expiration of that period, be deemed to have revoked the decision under subsection (3)."

(13) Page 14, subclause 16 (7), lines 6 to 11, leave out the subclause.

I regard these three proposed amendments as in some respects amongst the most important to which we have sought to direct the attention of the Government during this rather long, drawn out debate, not because I wish in any way to downgrade the importance of the other matters to which we have been directing our considerable attention—namely, those relating to retrospectivity of many aspects of the legislation and, above all, those relating to the standards that are notably absent from the Bill—but more because the Government, with the support of the Australian Democrats, has indicated it is not prepared further to consider either of those two very important matters. I wish, even at this late stage of our debate in this chamber, to urge upon both the Government and the Australian Democrats a different position in relation to the amendments that have now been moved on clause 16. I do so for the following reasons: I take the three amendments in order. Amendment No. (11) relates to sub-clause (1) of clause 16. Clause 16 relates to the review of certain decisions. Sub-clause (1) states:

The trustees of a fund that is affected by a reviewable decision of the Commissioner may, if dissatisfied with the decision, by notice given to the Commissioner within the period of 21 days—

those are the key words—

after the day on which the trustees of the fund first receive notice of the decision, or within such further period as the Commissioner allows—

that is at the Commissioner's discretion, of course—

request the Commissioner to reconsider the decision.

I think in my remarks on the amendment to the second reading motion which was moved by Senator Watson I referred in brief to these segments of the Opposition's concerns. I did so by pointing out that a period of 21 days in which notice must be given to the Commissioner if the trustees of a fund are dissatisfied with a decision of the Commissioner is simply insufficient. Indeed, as I pointed out at that time, the Super-

annuation Committee of the Law Institute of Victoria has gone so far as to describe that provision as unworkable. It quite properly points out that most trustees will be relying on professional advisers to advise them of the effect of a decision of the Commissioner—these are highly technical questions in many cases—and that period of 21 days may in many cases simply be insufficient, first, for the decision to be made effectively known to the trustees and, second, for them to meet to consider it. The trustees of many funds do not meet every day of the week. Thirdly, it does not allow sufficient time for the trustees, if they are dissatisfied with the decision, to employ consultants to advise them of the decision's full effects. Fourthly, it does not allow enough time for such consultants to draw up reasons for the objection which are also required by the clause. In other words, it is no good simply objecting; one must give reasons for objecting. It is the burden of the Opposition's position that that period of 21 days is simply insufficient, and we have therefore proposed in amendment No. (11) to increase that period to 60 days, which is the period under the Income Tax Assessment Act for rather similar notices of objection to be given against rulings made by the Commissioner of Taxation. Amendment (12) relates to sub-clause (4) of clause (16), which states:

Where the Commissioner does not confirm, revoke or vary a decision—

in other words, where he does nothing—before the expiration of the period of 21 days after the day on which the Commissioner received the request—that is, the request for variation—

under subsection (1) to reconsider the decision, the Commissioner shall, upon the expiration of that period, be deemed—

that is the key word—

to have confirmed the decision under subsection (3).

The amendment which we move in this area is to alter that period of 21 days to 60 days in line with the amendment to which I spoke a moment ago and to change the word 'confirmed' to 'revoked'. In the course of the second reading debate, Senator Parer referred to this provision in the Bill and said he believed that there must be a misprint in it. He thought that there must be an error in the Bill because it could not possibly suggest that if the Commissioner did nothing, his decision should be deemed to be confirmed. Therefore, Senator Parer drew the perfectly logical conclusion that the draftsman had made an error in a moment of inadvertence and had meant 'revoked'; that is, if the Commissioner did

nothing about the consideration of the objection, his initial decision to which objection had been taken would not stand.

Subsequently I pointed out to Senator Parer that while the point he raised was perfectly reasonable and logical and indeed, what one would expect, nevertheless I very much feared that he was wrong and that the Bill, unfortunately, is drawn in terms of what it intends to do—to put the Commissioner in a situation where if he does nothing his decision is deemed to be confirmed after 21 days. This is another way of saying that if the Commissioner does nothing, the appellants—if I may loosely call them that; that is the trustees of the funds who consider that they have had a decision wrongly made against them—are, after 21 days, simply disfranchised. Frankly we think that that is a very unsatisfactory way of proceeding.

As I said during the second reading debate—perhaps somewhat flippantly, but one must not overlook the fact that these things can happen—the file could get lost. If it is lost for more than 21 days the Commissioner's decision is confirmed. The trustees of the fund are effectively out of time and that is that. We would plead with the Ministers—and, indeed, on this matter we plead with the Australian Democrats too—to look again at this area of the Bill.

**Senator Haines**—It is a bit of a waste of time.

**Senator STONE**—I hope Senator Haines is not adamant in the interjection that it is a waste of time pleading with the Australian Democrats because we are prepared to ask them to see reason on this, as on other matters, although we have not been unduly successful, particularly in this area of the Bill.

I continue with my final amendment in this area, namely amendment 13 which relates to clause 16 (7). It is simply an amendment to leave out this sub-clause, which deals with what I might call loosely a deeming situation. If the Committee were to accept the amendment to which I have just been speaking—that is, the second of these amendments relating to deeming—clearly this provision would no longer be required.

**Senator PARER** (Queensland) (2.28)—I rise to support Senator Stone's amendments, not to regurgitate what he has said, but simply to comment that in the second reading debate I did believe, quite logically, that that word was a mistake. Subsequently, as a result of a discussion with Senator Stone, I am of the opinion that it was deliberate and I find that quite amazing.

The point that I would like to raise with the Minister for Finance (Senator Walsh) is the question of reviewing a decision. Clause 16 (1) mentions a reviewable decision. In the definition it says that a reviewable decision is described as such if:

the Commissioner is not satisfied that the fund complied with superannuation fund conditions or the approved deposit fund conditions, as the case may be . . .

What I cannot find in the Bill is the case where a fund does not satisfy the conditions and subsequently is found not to be satisfactory. Hence, the fund does not attract to it the tax deductions that come with the subscriptions into the fund. What provision is there for the fund to be amended so that it can satisfy the conditions in a subsequent year?

**Senator Walsh**—Do you mean for the trust deed to be amended?

**Senator PARER**—Yes.

**Senator WALSH** (Western Australia—Minister for Finance) (2.30)—I will ask the departmental officials for an answer to Senator Parer's question in a minute. In regard to amendments Nos 11, 12 and 13, concerning the appeal provisions, I refer honourable senators—Senator Parer especially—to the second reading speech of the Minister for Justice (Senator Tate) where it was stated:

Under the Bill, where a trustee of a superannuation fund requests that a reviewable decision be reconsidered, the Commissioner will have a maximum period of 21 days in which to confirm, revoke or vary . . . The provisions—

that is clause 16 (1), if I remember correctly—will also ensure that upon expiration of that 21-day period (or earlier if the decision is confirmed or varied before then), the trustee will have a period of 28 days within which to apply to have the matter placed before the Administrative Appeals Tribunal if the trustee remains dissatisfied with the Commissioner's decision.

The next paragraph—the more important one—states:

Thus the provisions will ensure that an administrator cannot impede the commencement of appeal proceedings through delay in reconsidering a decision.

Senator Parer is quite right, that has been deliberately put in the Bill. If that request has not formally been responded to within a 21-day period it will be deemed to have been confirmed. If this were not so a Commissioner could, in the absence of some other provision or discipline in the Bill, sit on an appeal or a request for reconsideration indefinitely, thereby closing off to the dissatisfied client the opportunity of having a review by another body. I guess it is largely an

arbitrary decision as to whether 21 days is right or 28 days is wrong, although between 21 days and 60 days obviously there is a much larger gap. However, acknowledging a degree of arbitrariness in whatever figure might be written into a Bill, I am advised that these provisions are very similar, if not identical, to the provisions in the existing Life Insurance Act and the Insurance Act. Those provisions appear to have worked satisfactorily. Therefore, the expectation is that such provisions will be equally satisfactory in this instance.

My advice on Senator Parer's question as to what happens if a fund has been rejected is that it can make a further application in the next year when it would have the opportunity to discuss necessary amendments with the trustee.

**Senator STONE**—‘In the next year’, did you say?

**Senator WALSH**—Yes, and possibly, in some circumstances, in the current year.

**Senator STONE** (Queensland—Leader of the National Party of Australia) (2.33)—I thank the Minister for Finance (Senator Walsh) for his elaboration and drawing out of some of the aspects of the second reading speech on the Occupational Superannuation Standards Bill 1987. Perhaps some of those comments might have been appropriate had I referred to those elements in my own remarks because, contrary perhaps to expectations on the Minister's part, I have read the second reading speech. I simply put to the Minister the point that really it is not sufficient or good enough for the Government to say that merely because the Bill provides, quite properly, for fund trustees who believe that they have been hardly done by by the Insurance and Superannuation Commissioner, to have recourse to the Administrative Appeals Tribunal, after 21 days, is equivalent and, therefore, satisfactory and acceptable, to giving the appellant—if I can loosely use that word—the right in the first place to have a decent length of time in which to put his objections. I think that there is all the difference in the world between those two situations.

Let me here also refer to Senator Walsh's comparison of this situation with what he understands to be—I accept that the Minister is properly informed—the situation in relation to similar objections under, say, the Life Insurance Act, or other comparable Acts in the general assurance field. An error that continues to creep into much of the debate about this whole matter when reference is made to the industry is that we are dealing here with an industry which consists, as Senator Short said in the second reading debate,

of 280,000 separate bodies. That is quite different from the life insurance industry. I do not happen to know offhand the number of life insurance companies in this country. I should think that they would number in the hundreds, certainly no more than a thousand or two. I put it to the Minister that we are dealing, therefore, with a totally different administrative process. We ought to understand, therefore, that within such a process it makes a great deal of sense to give, particularly the smaller funds, which happen to comprise the vast majority of funds, the opportunity to make their reasoned objections—I repeat that they have to be reasoned—within a reasonable period. I say to Senator Walsh that otherwise, one possibly inevitable consequence is that the Administrative Appeals Tribunal (AAT) will be totally clogged up with appeals resulting from dissatisfaction with this area of the law.

I happen to have a great deal of sympathy for the views that I seem to recall Senator Walsh has expressed in the past about the excessive recourse to the provisions of the Administrative Appeals Tribunal. It is a view that I happen to share with him to a considerable degree. Yet if his response on this matter is held to be sufficient, we are likely to get what I suggest from his point of view would be a counterproductive result. The AAT would be clogged up with process, resulting from the failure simply to provide, in clause 16 of the Bill, a decent period of objection on the part of fund trustees. I understand that it is often difficult for governments to accept that, perhaps by oversight—and I am quite prepared to accept that it is only by oversight—they have made an error of judgment in the drafting of such Bills. The Government should, in the circumstances, be prepared to reconsider and to vary the period of objection from 21 to 60 days, which is what we have proposed. I rather fear that Senator Walsh, from the nature of his earlier remarks, may be adamant on that matter. I put it to him quite sincerely that we on this side of the chamber believe that he is making a serious mistake, one which, in the end, will cause trouble for the Government. I therefore ask the Minister to look again at this particular set of provisions.

I would also like the Minister, if he responds further to these remarks, to address what one might call—again, I use the words loosely—the onus of proof in these areas; that is, the topic which is the subject of my proposed amendment to clause 16 (4), where it is proposed to vary the word ‘confirmed’ to read ‘revoked’. In other words, the fund, rather than the Commissioner,

should be given the benefit of the out-of-time situation.

**Senator WATSON** (Tasmania) (2.38)—The Australian Democrats have given some indication that they are not prepared to accept this amendment. Because of the confusion that can arise—a number of people will interpret the legislation according to what it states rather than listening to the assurances that have been given in this debate—I think this is so important that the Opposition may be satisfied if the Government is prepared to include this small amendment in a subsequent Statute Law (Miscellaneous Provisions) Bill. Would the Minister for Finance (Senator Walsh) consider that slight word change in that area as a last resort, given that we will not be successful in persuading either the Government to amend this Bill in any way or the Democrats to agree to something which is logical and reasonable, purely on the basis that there is unseemly haste to get this Bill on the statute book?

**Senator WALSH** (Western Australia—Minister for Finance) (2.41)—It seems to me that the proposition that is being put up is technically correct: if we replace the word ‘confirm’ with ‘revoke’, we put a discipline in there and short-circuit the process. Which choice should be made is a separate question. I do not have any authorisation to be giving any undertakings to do, in a Statute Law (Miscellaneous Provisions) Bill, what the Opposition would have us do. But I suppose I can say that it will be considered; I can consider it myself, certainly with no guarantees that any action would be taken.

I will just make a couple of other comments. I am sure that Senator Stone is probably aware of this, and maybe the other senators who have spoken. In clause 16 (1) there is provision for a further period if the Commissioner agrees to it. The expectation is that the Commissioner will listen to reasonable requests to do that. In regard to Senator Stone’s fear that the Administrative Appeals Tribunal might be clogged up with hundreds or thousands of appeals, I can assure him that, if that happens and it is costing a lot more money in the Administrative Appeals Tribunal, and if I am still Finance Minister, I will be raising the issue with a view to doing something about it in the Budget context. I can also give an assurance that if, in the light of experience, the fears of the Opposition about the operation of these clauses are shown to be well founded—it is our judgment that they are not—the Government will reconsider the matters.

**Senator STONE** (Queensland—Leader of the National Party of Australia) (2.43)—I thank the Minister for Finance (Senator Walsh) for his responses on these several matters. I wish his responses could have gone a little further than they have, but they have gone some way. I thank him for at least that degree of indication of movement. Since he has raised one new point in his response, I will briefly refer to it. He referred to the words in clause 16 (1) which state:

... within the period of 21 days . . . or within such further period as the Commissioner allows . . .

Those are the words which would allow the Commissioner of Taxation to give an extension. I think the Minister was depending upon those words to suggest that, because the Commissioner will act reasonably, many extensions are likely to be given. I do not want to debate the matter further other than to say that I really think that that is, again, an unsatisfactory way of proceeding, because the Government is simply doing a two-stage process. We are going to get a situation where people are able to lodge their objections within 21 days. Therefore, they write to the Commissioner. The first letter they write to the Commissioner is one which says, ‘We cannot lodge within 21 days; will you please give us an extension of time?’. The Commissioner has to consider that before he even gets to considering their objection. However, I will not pursue the matter any further other than to say that, while I appreciate what the Minister has said, at least as far as he has been able to go on this matter, the Opposition does feel that this is a matter where reasonableness should have prevailed with the Government and with the Australian Democrats. We, therefore, wish to divide the Committee on this particular set of amendments.

Question put:

That the amendments (Senator Stone’s) be agreed to.

The Committee divided.

(The Chairman—Senator D. J. Hamer)

Ayes	27
Noes	33
Majority	6

AYES

Alston, R. K. R.	Messner, A. J.
Archer, B. R.	Panizza, J. H.
Baume, Michael	Parer, W. R.
Baume, Peter	Patterson, K. C. L.
Bishop, B. K.	Puplick, C. J. G.
Bjelke-Petersen, F. I.	Reid, M. E. (Teller)
Boswell, R. L. D.	Sheil, G.
Brownhill, D. G. C.	Stone, J. O.
Chapman, H. G. P.	Tambling, G. E. J.
Durack, P. D.	Teague, B. C.
Hamer, D. J.	Vanstone, A. E.

AYES	
Knowles, S. C.	Walters, M. S.
Lewis, A. W. R.	Watson, J. O. W.
MacGibbon, D. J.	
NOES	
Aulich, T.	Jenkins, J. A.
Beahan, M. E.	Jones, G. N. (Teller)
Black, J. R.	McKiernan, J. P.
Bolkus, N.	McLean, P. A.
Childs, B. K.	Macklin, M. J.
Coates, J.	Maguire, G. R.
Collins, R. L.	Morris, J. J.
Colston, M. A.	Ray, Robert
Cook, P. F. S.	Richardson, G. F.
Cooney, B.	Ryan, S. M.
Coulter, J. R.	Sanders, N. K.
Crowley, R. A.	Schacht, C. C.
Devereux, J. R.	Sibraa, K. W.
Devlin, R.	Tate, M. C.
Foreman, D. J.	Walsh, P. A.
Giles, P. J.	Zakharov, A. O.
Haines, J.	
PAIRS	
Calvert, P. H.	Button, J. N.
Crichton-Browne, N. A.	Burns, B. R.
Chaney, F. M.	Evans, Gareth
Hill, R.	Gietzelt, A. T.
Newman, J. M.	Powell, J. F.
Short, J. R.	Reynolds, G. F.

Question so resolved in the negative.

Clause agreed to.

Remainder of Bill—by leave—taken as a whole.

**Senator WATSON** (Tasmania) (2.50)—I draw attention to clause 22, which deals with regulations. It states:

The Governor-General may make regulations, not inconsistent with this Act, prescribing matters . . .

I draw attention to the last two lines:

and, in particular, prescribing fees payable in respect of any matter under this Act.

We have already been told in clause 12 that a prescribed annual filing fee shall be determined. That does not seem unreasonable, but what does seem quite unreasonable is that the Commissioner has the power to prescribe other or additional fees in respect of any other matter under this legislation. I draw the Minister's attention to a situation which I believe could quite readily attract a fee. I refer to the various sub-clauses of clause 12 of the Bill where the Commissioner is required to provide notice to the trustees of each of the funds under specified circumstances. Is it the Government's intention to use those circumstances, those notices to prescribe additional fees to the superannuation fund managers? If not, what is the purpose of the extra provision requiring funds to pay additional fees over and above their filing fee? I point out that, since this legislation is merely a framework for supervision, the real rub will come with the

regulations that the Commissioner has the power to issue. As I mentioned earlier, we are abrogating our responsibility and our authority as a legislature. The bureaucrats, rather than this Parliament, are to determine what they believe is in the best interests of the funds or the insurance industry.

One of the other difficulties is that many of the requirements for audit and for reporting to the Insurance Commissioner will place a very heavy burden on small funds. Is it the Government's intention to give the Commissioner the power to exempt fully insured small superannuation funds from fulfilling all the necessary conditions? I trust that the Minister for Finance (Senator Walsh) understands what I submit; that it may well be unnecessary for the fully insured small funds to submit annually and to fulfil all the conditions because the members of a fully insured fund are fully protected. In other words, can the Minister explain the Government's position in relation to the high cost to a small fund of meeting all these audit and statutory requirements where that small fund is fully insured?

**Senator WALSH** (Western Australia—Minister for Finance) (2.54)—In regard to fees which may be charged, I want to clear up what appears to be a misunderstanding that the Commissioner will have the power to determine fees at his whim or discretion. Any fee prescribed will have to be prescribed by regulation and any changes to that fee will have to be made by regulation. We seem to have returned to the old argument about what should be in a Bill and what should be in subsequent regulations. The Government's intention is to recover costs, and that is all. One would hope that the Commissioner has an ongoing concern with minimising costs.

In regard to the small funds, although it is possible, according to my advice, that the regulations may allow some concessions to smaller funds, the general intention is to have uniform regulations, I would have thought for fairly obvious reasons. If that imposes a significant burden on small funds, it seems to me that there are only two ways of getting around that. One can relax the conditions, but at some point one would relax the conditions to the point where it is hardly worth having any regulation, and I do not think that many people, even the most devoted disciples of the free market, would agree that in matters like this, there should be no regulation. Alternatively, one could have the larger funds cross-subsidising the smaller funds,

which is not a proposition to which I would agree.

Finally, I am advised that a large number, probably a very large number, of these smaller funds are already under the management umbrella of larger organisations, which will presumably have the necessary skills quickly to comply with the regulations and the provision of information and so on.

**Senator WATSON** (Tasmania) (2.57)—As regards the special conditions that were referred to earlier, where the Commissioner could exempt certain types of funds from complying with these conditions, it would appear from Senator Walsh's answer that small funds which fully insure the rights and obligations of the funds to the members are unlikely to be covered by the regulations. While the Minister is in conference with his advisers, I will remind him of my earlier question, which was about the Government's intention that the cost of running this new bureaucracy will be fully met by the superannuation funds. The intention was that this annual prescribed fee would cover that cost. The Minister did not answer my question. Does he agree that the looseness and extension of these additional prescribed fees relating to any part could cover a situation where the Commissioner is obliged to issue a notice by virtue of the Occupational Superannuation Standards Bill, or Act when it is passed?

**Senator Walsh**—A notice of what?

**Senator WATSON**—Under various provisions of the Bill, the Commissioner is required to give a notice. Under the extension provided for extra fees prescribed by the regulations in part II, it is possible that he could charge a fee for the issuing of these notices. Is it the Government's intention to proceed down that course? That would provide an additional imposition, particularly as far as the small funds are concerned.

**Senator WALSH** (Western Australia—Minister for Finance) (2.59)—The intention is that there will be a lodgment fee and no other fees, other than, if necessary, the imposition of a penalty for late lodgment of a return. As I understand it, it is not intended initially to bring in a late lodgment penalty, but if it becomes necessary to do so, we shall. As to the small funds, my advice is that a large number of them are already managed by life offices. Presumably, they are well managed in the sense that they will comply with all the reporting requirements and the lodgment of returns and so on. It is unlikely that, under those circumstances, a very onerous burden will be placed upon the trustees

of the small funds themselves, and certainly there is no intention to duplicate the work which the life office manager of a small fund has probably done.

**Senator WATSON** (Tasmania) (3.00)—What about those funds that are not being managed by the big three or the big five? It is in that area where the problems will arise.

**Senator WALSH** (Western Australia—Minister for Finance) (3.01)—There is the discretionary provision under which the Commissioner, if he feels that it is justified, can give some special concessions. But in response to the general point that there are some small funds that either cannot, or cannot at an acceptable cost, meet the requirements, I fear that that is something the honourable senator just has to accept, bearing in mind that the major abuses in the past have probably occurred in just these small funds. That is not the same thing as saying that they are all run by crooks but, certainly, some of them have been.

**Senator STONE** (Queensland—Leader of the National Party of Australia) (3.02)—I had not intended to intervene again on this final bracket of clauses, but I was disturbed a little by one thing that the Minister said in response to Senator Watson. He said that he expected that the application of fees by the Commissioner would be reasonable and that there was no intention to charge fees of an unusual kind, except perhaps—I think these were his words—for a penalty for late applications. I think, in the light of the discussion we have just had in Committee under clause 16, which relates to the possibility of a very great number of late applications being lodged, that that is a somewhat disturbing comment from the Minister, more so as I take it to have come from the official advisers with whom he has been, quite properly, consulting. Therefore, I put on the record my hope that the Commissioner and his officers will not be unduly zealous in putting down penalties for late applications of the kind which might have been suggested by the Minister's response to Senator Watson.

Remainder of Bill agreed to.

#### INSURANCE AND SUPERANNUATION COMMISSIONER BILL 1987

The Bill.

**Senator STONE** (Queensland—Leader of the National Party of Australia) (3.03)—I move:

Page 3, subclause 6 (1), line 3, leave out "7", insert "5".

The amendment relates to the terms and conditions of appointment of the Insurance and Superannuation Commissioner. The amendment has been circulated. It simply has the effect of rendering the period for which the Commissioner shall hold office to one not exceeding five years instead of, as the Bill proposes, one not exceeding seven years. We also moved this amendment in the House of Representatives on the ground that, in general, that our view on these matters is that statutory appointments of this kind should be for periods not exceeding five years. I do not think this is a matter on which we will detain the Committee with lengthy speeches. I simply put the amendment to the Committee.

**Senator WALSH** (Western Australia—Minister for Finance) (3.05)—Very briefly, the maximum term of seven years to which Senator Stone referred is the term that currently applies to the Life Insurance Commissioner and the Insurance Commissioner. That does not prove that it is correct and, again, there is an element of arbitrariness in deciding what the term should be. However, the Government has followed the precedent that existed in those areas and we are sticking to it.

On the more general question of the time for which appointments of this type are made, the view that it should be reduced is not one that is held exclusively by the Opposition. I have sometimes been concerned about the length of time for which people are appointed to statutory positions. But if the Government decides to make any changes to these periods of appointment, this matter would be best addressed in the general context; so that, for example, if this seven-year period for the Superannuation Commissioner were to be reduced to something less than seven years then the Insurance Commissioner, the Life Insurance Commissioner and probably a number of other people would likewise have their maximum terms reduced. Finally, of course, there is no obligation on any government to appoint somebody for the full seven-year term and, indeed, the Treasurer (Mr Keating) has already announced that Mr Beetham, the prospective Commissioner, will be appointed for a five-year term.

Amendment negatived.

Bill agreed to.

**INSURANCE AND SUPERANNUATION COMMISSIONER (CONSEQUENTIAL PROVISIONS) BILL 1987**

Bill—by leave—taken as a whole, and agreed to.

Bills reported without amendment; report adopted.

**Third Readings**

Bills (on motion by Senator Walsh) read a third time.

**AUSTRALIAN TOURIST COMMISSION BILL 1987****AUSTRALIAN TOURIST COMMISSION (TRANSITIONAL PROVISIONS) BILL 1987****Second Readings**

Debate resumed from 8 October, on motion by Senator Richardson:

That the Bills be now read a second time.

**Senator PUPLICK** (New South Wales) (3.07)—The Senate now has before it the Australian Tourist Commission Bill and the Australian Tourist Commission (Transitional Provisions) Bill. I indicate at the outset that the Opposition will be supporting these Bills, although it will be moving amendments when we get to the committee stage. I simply indicate that those amendments will deal with three particular issues: the necessity for the Australian Tourist Commission to act upon more fundamentally private sector business practices; the composition and the representation of the Board of the Australian Tourist Commission; and the powers of the Minister, in particular, a clause hidden away in this Bill which will allow the Minister to suppress information which might be potentially embarrassing to him.

The Opposition makes it clear that we recognise the value and importance of the tourist industry to Australia. We understand that in the course of next year tourism will contribute in the order of \$24,000m to Australia's gross domestic product, making it probably our largest industry in terms of turnover. We believe that it will contribute to Australia something like \$3,000m in foreign currency income and will employ somewhere in the vicinity of 405,000 Australians in a huge variety of occupations scattered over the whole country. As such, that, of course, makes it the largest individual employer in the whole nation. The Managing Director of the Australian Tourist Commission, Mr John Rowe, said in a recent speech that last

year tourists brought in about \$2.5 billion of foreign exchange and, as I have indicated, supported in excess of 400,000 jobs. He went on to make the calculation that by 1988 we would expect a further 50,000 jobs to be created and earnings to be in the vicinity of \$5 billion.

So to that extent the Opposition does not have any quarrel with the claims frequently advanced by the Government about the importance of tourism to the Australian economy. Where it does have an argument with the Government—one of considerable substance—is on the matter of exactly who is responsible for the growth of the Australian tourism industry. I put it quite directly to the Senate that we do not accept the false claims made by the Minister for the Arts, Sport, the Environment, Tourism and Territories (Mr John Brown) that he, and he alone, is basically responsible for the revival of the Australian tourist industry and for all of the good things that consequently flow from the Australian tourist industry. We reject the claim that Mr Brown is the genius who somehow managed to find Paul Hogan when nobody else knew about him and that Mr Brown is the only genius who can manage to sell Australia overseas or, indeed, that Mr Brown and his efforts have led to the tourist boom which is going on in Australia at the moment. We will come in a few minutes to examine the monumental failures which Mr Brown has had in his capacity as the Minister responsible for tourism.

In the Melbourne *Herald* of 30 April 1985 there was an article entitled 'The Yanks are coming—thanks to Huges', which basically dealt with the way in which the Paul Hogan campaign in the US has been promoted. There is absolutely no doubt that Mr Hogan has made a very valuable contribution to the promotion in the US of Australia's image, not only directly in relation to the tourist industry but also in various films and other promotions in which he has been involved. But at the same time, it would be foolish to ignore the fact that tourism to Australia has been helped by a number of other things. It has been helped, for instance, by the decline in the value of the Australian dollar, therefore making Australia a more attractive tourist destination, particularly for those people who come from countries whose economies have been soundly managed, as has been the case of Japan, and who can afford to come to countries like Australia to spend their money.

It is no great achievement on the part of the Australian Minister for the Arts, Sport, the Environment, Tourism and Territories to make the

claim that this is an attractive destination for tourists, because our economy has been so badly managed by his Government that it is worthwhile for foreigners to come here to spend substantial sums of money and, at the same time, it is almost prohibitively expensive for Australians to leave this country and seek to holiday overseas. This brings about a situation in which the net balance of tourist dollars in this country is favourable, probably for the first time in our history.

It is also important to understand that one of the most attractive features of Australia as a tourist destination is the relative safety of people when they come here. After all, the Minister and tourist promotions have been assisted by all the back street muggers in Honolulu who have made life remarkably unsafe for Japanese tourists holidaying in the Hawaiian islands and many other tourist destinations, particularly countries such as the Philippines and, more recently, Fiji which have now become significantly less safe places for tourists to regard as being destinations to which they wish to travel.

I said that we were not impressed with Mr Brown's record in terms of the achievements which he ought to have as Minister when it comes to tourism. I just take as an example what has occurred in this current Federal Budget as far as the tourist industry is concerned. Firstly, the tourism overseas promotion scheme (TOPS) has been wound up. We will come back to the devastating effect that that will have upon the industry and, indeed, to the grossly misleading approach which this Government took towards TOPS and towards encouraging people to continue their involvement in TOPS prior to terminating it. Secondly, a \$5 immigration fee has been imposed on all inbound passengers to Australia. I do not know whether many Australians realise that this Government has decided to impose, for the first time, a penalty—a fee—upon Australians returning to their own country.

Senator Tate, who is the Minister on duty, would be as shocked as I am to understand that for the first time an Australian returning home has to pay this Government a \$5 fee to get back into his own country. The fact that that has to be collected by the carrier bringing Australians back means that it is perhaps fortunate in that respect that we do not have land boundaries because people would have to cough up \$5 for Mr Brown's fund at some local version of Checkpoint Charlie to get back into their own country. That is what the Government has done in this Budget. Thirdly, we have had the reversal

of a decision previously announced to sell the international terminals, which should have been privatised in order to make them more efficient. In due course we will discuss exactly what has been going on at Kingsford-Smith Airport in my home city of Sydney. Fourthly, we have had the depreciation allowance, which was previously 4 per cent for tourist-related buildings, cut back to 2½ per cent—and that in the face of statements by the Minister for the Arts, Sport, the Environment, Tourism and Territories, Mr John Brown, that the 4 per cent depreciation allowance was the greatest and most important thing that had ever happened to the tourist industry in Australia.

Let us come back to the winding up of the tourist overseas promotion scheme. Honourable senators will remember that this scheme was one of the great highlights of the Government's activities, so-called, in the tourist industry. In a speech on 25 September 1985 entitled 'Tourism, the global challenge' which Mr Brown gave to the Australian Tourism Convention, he said that all of the people present—he addressed his remarks to all of the tourist operators—'would be aware of the development of the tourist overseas promotion scheme which will replace former arrangements under the export markets development grants scheme'. He went on to tell the Convention what a marvellous scheme TOPS was. Even this year, on 4 June, Mr Brown put out a statement headed 'Tourism overseas promotion scheme to continue'. I quote:

I am happy to say that the Government has agreed to a forward commitment cover for the Tourism Overseas Promotion Scheme (TOPS) of \$9m for 1987-88, Mr Brown, Minister for Sport, Recreation and Tourism said today.

Mr Brown waxed eloquent on this centrepiece of tourism promotion, the TOPS scheme, and on 4 June this year he announced that money was being provided. Glossy brochures were prepared by the then Department of Sport, Recreation and Tourism on the scheme. Mr Brown made a whole series of statements extolling the virtues of this scheme. When the Opposition had the temerity to suggest that what the Government had in mind was the winding up of the TOPS scheme, Mr Brown waxed eloquent about the fact that we were seeking to mislead people and that we did not know what we were talking about. Yet in this year's Federal Budget the TOPS scheme was axed.

If one looks at the *Hansard* of the Senate Estimates Committee F hearings which took place on 8 October this year and at the exchange which took place between me and officers of the

Department responsible for the scheme, one finds evidence of the number of applicants who, on the basis of all of these assurances by the Government, had lodged with the Government applications which the Government, having decided to terminate the scheme, simply put on hold and refused to process. We know that there are a very large number of individuals, a large number of companies and a large number of applicants who find themselves in a situation in which their claims will not be processed. Many of them were foolish enough to believe this Government and to undertake financial and other planning on the basis that, provided their application was in accordance with the provisions of the scheme, they would automatically be funded. They have made commitments. Those commitments have been dishonoured by the Government and those companies, individuals and applicants will find themselves financially embarrassed. As has been said very cogently by my friend and colleague John Sharp, the shadow Minister in the House of Representatives, a number of these companies face the prospect of considerable financial difficulty and potential ruin.

We do not have time, because there are so many issues to cover in these Bills, to deal with the fact that the evidence which will be found on pages F34 and F35 of the *Hansard* of Estimates Committee F to which I have just referred, indicates that on a number of occasions the Department drew to the attention of the Minister the financial embarrassment which was looming for the TOPS scheme and the Minister failed to take the necessary steps to obtain the funds required to meet the commitments which the Government had clearly undertaken.

**Senator Tambling**—Retrospective humbuggery.

**Senator PUPLICK**—As my colleague from the Northern Territory says, it is indeed retrospective humbuggery. I therefore turn to the second of the issues I have identified in terms of this Government's failure to honour its promises and commitments, and deal with the question of the depreciation allowance. Mr Brown, our ubiquitous Minister, put out a Press statement on 11 May this year in which he said, in part:

The encouragement of the Tourism Industry arising from the measures introduced by this Government are starting to pay dividends. The increase in the depreciation allowance on tourism-related developments from 2½ to 4 per cent has led to a massive surge in the building of high class infrastructure all around Australia.

In a Press release of 22 June 1987 the Minister tries to castigate Mr John Howard, the Leader of the Opposition. He says, in relation to tourism development in Australia:

Much of this development has occurred because of the historic decision taken by this Government to increase the depreciation rate on tourism-related constructions from 2.5 per cent to 4 per cent.

What do we have now in the Budget? We have the cutting of that depreciation allowance from 4 per cent back down to 2.5 per cent. If the increase was so important, if it was, in Mr Brown's words, an historic decision, all that can be said about the Budget and about Mr Brown in relation to these matters is that the Budget decision represents an historic betrayal of the tourism industry in Australia.

Some time ago the Minister established a Government Inquiry into Australian Tourism, headed by Mr Kennedy. The report of that inquiry is a very substantial document. It is a most important document because this legislation we are considering effectively winds up the old Australian Tourist Commission and replaces it with a new body based upon the principles established in the Kennedy report. Yet central to the Kennedy report, the most important part of the Kennedy report, was a recommendation—recommendation 46—cast in the following terms:

That the ATC be removed from its statutory relationship with the Public Service Board on industrial, matters, particularly terms and conditions of employment. In so recommending we note that the ATC will continue to be subject to review by the Co-ordinating Committee within the Federal Department of Employment and Industrial Relations.

When moving amendments to this legislation in the committee stage I will draw attention to the fact that this is a competitive industry, not only domestically but world wide. We are not simply competing in a closed market; we are competing in a vibrant, developing and very competitive market. It is impossible for the Tourist Commission and its employees to fulfil and discharge their proper responsibility if they are to be bound hand and foot by Public Service Board rules and determinations. We will move as an amendment provisions to pick up the recommendation of the Kennedy report and turn it into legislative form. It is the one substantial recommendation of the Kennedy inquiry which the Government has refused to act upon, and it has refused to act upon it because of its craven attitude towards the trade union movement in Australia.

It is not simply in terms of conditions and employment that the Government is craven towards the Australian trade union movement and its impact upon the tourist industry; I propose to turn briefly to four or five other matters which this Government refuses to address as they relate to tourism in Australia. This refusal

will mean that the legislation will not be as effective as it should be. The first and most important is the continuing failure of this Government to address the question of penalty rates, to address the question of whether in fact the work practices, and penalty rates in particular, which it espouses and which it protects are damaging to the tourist industry. If we look at the report prepared by Professor John Freebairn for the Business Council of Australia in May 1985, we find that in analysing in part the tourist industry he says that over a third of employees are involved in working non-standard hours. He goes on:

Lower penalty rates would lead to increased business output, in some cases the provision of higher quality services, and increased employment. . . . Case studies of firms in the hospitality, retailing, restaurant and manufacturing sectors provide collaborative evidence that firms would employ more people if penalty rates were reduced.

But this Government is not interested in employing more people. It is not interested in a more efficient tourist industry; it is simply interested in looking after the arrangements which its mates in the trade union movement already have in place. In the National Australia Bank's monthly summary for November 1986 an article entitled 'Tourism—more shrimps needed on the barbie' is more clear evidence of the impact of penalty rates. The article draws particular attention to Australia's restrictive shop trading hours, which are bewildering to the Japanese. In fact, of the 11 countries considered in an international tourist survey of Japanese, Australia was rated second last in terms of enjoyable shopping. We know that the Minister for the Arts, Sport, the Environment, Tourism and Territories has now, late in the day, established some sort of inquiry under the chairmanship of Mr Bevan Bradbury, the former Chief Executive and Chairman of Coles Myer Ltd to look at this question of shopping hours. But none of us has the faintest belief that the Government will in fact seriously address this matter and will get on with doing something sensible about shopping hours and penalty rates.

**Senator Alston**—The State governments are dominated by the trade unions.

**Senator PUPLICK**—As Senator Alston said, this is a matter largely in the control of State governments and the State governments are in bondage and servitude to the various trade unions which fund the Australian Labor Party in those various States. The second area in which this Minister refuses to address these significant issues is on the question of Sydney's Kingsford-Smith

Airport. In February of this year, Mr John Menadue, the Chief Executive of Qantas, drew attention to the fact that unless something of substance was done to improve Sydney's Kingsford-Smith Airport there would be a deleterious effect on the growth and development of the tourism industry in Australia. An article in the *Australian Financial Review* of 12 May 1987 under the heading 'Sydney Airport, the tourist turn-off', states:

The Minister for Tourism, Mr Brown, can boast all he wants all over the world about Australia's wonders as a holiday destination. Back home, the failure to provide a second international terminal at Sydney's Kingsford-Smith Airport is undermining prospects for increasing international tourism.

Like it or not, Sydney is the gateway to Australia for international tourism. The failure of this Government adequately to address tourism and the development of Kingsford-Smith Airport is a national disgrace. This Government has played politics over this issue for too long with the question of whether there will be an airport at Wilton or Badgerys Creek. Having made an announcement about Badgerys Creek, it has played politics on why people will not be paid compensation, why the area will not be properly proclaimed, why people are being adversely affected in terms of their property values and all the rest of it. This arises simply because, despite the fact that the solution to the problem at Sydney's Kingsford-Smith international terminal is to install a second runway, for the grubby reason of the protection of Mr Punch, the honourable member for Barton, and all his right wing New South Wales Labor cohorts with seats adjacent to Botany Bay, this Government will not address the fundamental issue of doing something about the international airport at Sydney.

The third area, which I have already adverted to, is this Government's failure to provide sufficient stimulus in the Australian economy for people to have the opportunity to travel overseas and, through personal contact with people overseas, attract more people to Australia. In a ministerial statement, 'Tourism—Under Labor', delivered on 7 May 1987, Mr Brown had the monumental hide to say:

On the reverse side of the coin more Australians than ever are choosing to stay at home.

They are choosing to stay at home because they cannot afford not to. They cannot afford to travel overseas because of the incompetent economic management of this Government, which has made it prohibitively expensive for people in Australia to travel overseas, not only to

broaden their experience but also to act as ambassadors for our country overseas.

The next area in which this Government's incompetence in tourism can best be illustrated can be found in the hearings of the Estimates committees at which it was revealed that this Government had decided, for political reasons, to relocate the Australian Tourist Commission from Melbourne to Sydney. Coming from Sydney, I do not object to that in principle. But there were 45 employees of the Commission in Melbourne. This Government spent \$3.3m relocating the Australian Tourist Commission. Do honourable senators know how many of those 45 people moved from Melbourne to Sydney at the expense of \$3.3m to the taxpayer? Four of them. For \$3.3m we have relocated four people from Melbourne to Sydney, and this Minister tells us what a great job he is doing.

I turn to the next area in which this Minister's monumental failures can be examined and that is the response to the report entitled 'Tourism Training in Australia', the report of the tourism training review group. This group reported to the Government in June 1985 with a whole series of recommendations about training for people in the tourist industry. What did the Government do with this report? It did what it does with all difficult reports. It set up a committee to report on the views of the first committee. Having gone through the process of establishing this committee, getting this report—which runs to 125 pages and which came out in June 1985—the Government referred that report to another committee. The second committee, under the chairmanship of Mr William Sprokkreeff, reported to the Government a year or so later—in 1986. We are now drawing towards the end of 1987 and we still do not have a decision. What we have from Mr Brown is a committee to study the matter which reports in June 1985, gives him a report which is too difficult. He then sends this report off to another committee which reports in 1986 and he still has not made any decisions arising from the original report or from the Sprokkreeff review. Finally, we find that the Minister decides to restructure the Australian Tourist Commission by making certain changes in the way in which the Board is to be established.

In the committee stage we will deal with the way this Board is to be established and the elimination, for the first time, since the 1967 Act was introduced, of the industry's right to choose the people whom it wants to serve on the Tourist Commission. The reason for that is that Mr

Brown does not like the people who are on the Australian Tourist Commission at present. For instance, he has vehemently attacked Sir Frank Moore, the Chairman of the Australian Tourism Industry Association. The criticism he has made of Sir Frank is that he is a supporter of the Queensland National Party and a member of the white shoe brigade. The best one can say in that regard is that at least if one is wearing white shoes one can get into reasonable casinos. The Minister himself should take a few lessons about his footwear if he wants to go around criticising other people for their footwear.

The Minister put out a statement which was reported in the *Australian* on 31 October 1986. The report said that Mr Brown had accused the Australian Tourism Industry Association 'of becoming political and embracing the philosophy of the 'notorious' New Right'. On the basis of his personal political prejudice against particular individuals in the Australian Tourism Industry Association, the Minister has removed the right of the whole industry to have a direct representative on the Board of the Tourist Commission. In the committee stage we will move amendments to deal with that matter and to correct that ludicrous, prejudiced and stupid decision of the Minister. As I said, we will also consider the aspect of the Bill which deals with the Minister's right to suppress not only public information but also any indication of the directions that he has given to the Board. The Bill gives him the power to give the Board directions. It then goes on to give him the power to suppress any public information about the directions which he has given. We will not stand for that. I foreshadow that there will be a lengthy debate on this legislation; as, indeed, there should be. The tourism industry is of vital importance to Australia. It is far too important to be left to a Minister of the degree of incompetence of the honourable member for Parramatta (Mr John Brown). We will not stand for some of the changes the Minister is attempting to make simply to satisfy his own personal whims. We will not stand for legislation based upon no more than the Minister's prejudices against individuals within the tourist industry. We are not going to stand for legislation which allows the Minister to exclude his own public acts from public scrutiny and examination.

We have made it perfectly clear that the Australian Tourist Commission Bill, with these amendments, will receive our support. We are looking forward to hearing from the Australian Democrats as to some of their amendments, which I hope we will be able to support—although I have not yet had a chance of seeing

them in their precise detail. I indicate that we regard the Australian tourist industry as a vital and important part of Australia's future and its economic growth. We will do whatever we can to rescue it from the unfortunate clutches of the monumentally incompetent current Minister who has responsibility in this area.

Debate (on motion by Senator Gareth Evans) adjourned.

#### FAMILY COURT JUDGMENT: QUESTION BY SENATOR CROWLEY

Senator CROWLEY (South Australia)—by leave—In the light of this morning's debate about the suspension of Standing Orders I want to make a statement because it is clear that my position has been misunderstood. I want to make it clear what I was doing in my question: I was expressing concern about a woman litigant who had lost custody of her children. It was the judgment I was expressing concern about, not the judge. If my remarks have been interpreted to mean that I was casting aspersions on the judge, that interpretation is wrong. Insofar as the words I used allowed the inference to be drawn that I was seeking the dismissal of the judge, I say to the judge that that was not my intention and I regret that that may have occurred. My concern from the start has been for the woman, and women in like situations. As an appeal is now under way, I make this statement to bring public and parliamentary debate on the matter to an end so as not to jeopardise any further proceedings in the Family Court of Australia.

Senator VANSTONE (South Australia)—by leave—I am more than delighted that Senator Crowley has chosen the appropriate course of action and has now removed the questions in the community about, firstly, the judge's capacity and, secondly, whether the judge ought to be dismissed. However, I express a few regrets. The first is that this matter was raised in the way it was, when it was. Secondly, I regret that the Minister for Justice (Senator Tate) took some time to clarify his position and that Senator Crowley took extra time to do the same. The position having been made clear and Senator Crowley having expressed her regret, the matter in this place is closed.

#### JOINT SELECT COMMITTEE ON VIDEO MATERIAL

Motion (by Senator Tate) proposed:

- (1) That the Senate concurs in the Resolution transmitted to the Senate by Message No. 8 of the House of

Representatives relating to the appointment of a Joint Select Committee, subject to the following modifications:

- (a) paragraph (1), after "joint select committee", insert ", to be known as the Joint Select Committee on Video Material,";
- (b) paragraph (1), after "operation of", insert "the Customs (Cinematograph Films) Regulations";
- (c) sub-paragraph 1 (a), leave out "by comparison with previous legislation purporting to govern", insert "to adequately control";
- (d) sub-paragraph 1 (c), leave out "X";
- (e) after sub-paragraph 1 (c), insert the following new sub-paragraph:
  - "(ca) whether 'R' rated videos should be permitted to be displayed for sale or hire in the same area and side by side with 'G', 'PG' and 'M' rated videos and, if not, what restrictions should be imposed on the display of 'R' rated material;
- (f) after sub-paragraph 1 (d), insert the following new sub-paragraph:
  - "(da) examine the extent to which videotapes/ discs containing pornographic and violent material are available to the community in general;";
- (g) after sub-paragraph 1 (f), insert the following new sub-paragraph:
  - "(fa) whether the sale, hire, distribution or exhibition of films and videotapes/dvcs that would, under existing laws, be accorded a classification above 'R' should be made unlawful;";
- (h) paragraph (2), leave out the paragraph, insert the following paragraph:

"(2) That the committee consist of 11 members, 4 Members of the House of Representatives to be nominated by the Government Whip or Whips, 2 Members of the House of Representatives to be nominated by the Opposition Whip or Whips, 2 Senators to be nominated by the Leader of the Government in the Senate, 1 Senator to be nominated by the Leader of the Opposition in the Senate and 2 Senators to be

nominated by any minority group or groups or independent Senator or independent Senators.";

- (i) paragraph (6), leave out "4", insert "(5)"; and
- (j) paragraph (10), leave out "Classification", insert "Material".

(2) That the provisions of the Resolution, so far as they are inconsistent with the Standing Orders, have effect notwithstanding anything contained in the Standing Orders.

(3) That the foregoing Resolution be communicated to the House of Representatives by Message, with a request for the concurrence of that House in the Senate's modifications of the Resolution transmitted to the Senate by that House.

**Senator WALTERS (Tasmania)** (3.39)—I do not want to delay the Senate. I welcome Senator Jenkins to the Joint Select Committee on Video Material. I would like to make sure that we are not setting a precedent by having one senator from the Australian Democrats when they have only seven senators in this place. The Liberal Party has 34 senators, yet it has only one senator on that Committee. I look forward to Senator Jenkins being a member of that Committee, but I stress that in future we must have regard to the correct proportions of numbers in the Senate.

Question resolved in the affirmative.

**Senate adjourned at 3.40 p.m. until 2 p.m. on Monday, 26 October 1987**

## PAPERS

The following papers are tabled:

Acts Interpretation Act—

Correspondence and Statement relating to extension of specified period for presentation of the Merit Protection and Review Agency Annual Report 1985-86.

Public Service Act—Determination 1987 Nos 80-90, 92-101.

Remuneration Tribunals Act—Remuneration Tribunal—Determination 1987 No. 10—Remuneration and Allowances for holders of public offices, dated 18 September 1987.

## ANSWERS TO QUESTIONS

The following answers to questions were circulated:

### **Detection of Nuclear Explosions**

(Question No. 14)

**Senator Valentine** asked the Minister representing the Minister for Primary Industries and Energy, upon notice, on 14 September 1987:

(1) How many seismic stations are there currently in Australia involved with the detection of nuclear explosions and where are they situated.

(2) What is the Australian agency involved in running these stations and which are the co-operating agencies in the United States and any other countries involved.

(3) If one of the co-operating agencies in the United States is the US Coast and Geodetic Survey, does overall control of the network remain the responsibility of the US Defence Advanced Research Projects Agency.

**Senator Walsh**—The Minister for Primary Industries and Energy has provided the following answer to the honourable senator's question:

(1) Seismic stations most commonly used at present are:

- (a) the Alice Springs Seismic Array (Joint Geological and Geophysical Research Station), Alice Springs, Northern Territory;
- (b) the Warramunga Seismic Array, near Tennant Creek, Northern Territory;
- (c) the World Wide Standard Seismograph (WWSS) and the Abbreviated Seismic Research Observatory at Charters Towers, Queensland;
- (d) the Seismic Research Observatory (SRO) at Narrogin, Western Australia; and
- (e) the Mawson Seismographic station, Mawson, Antarctica.

About 70 other seismic stations throughout Australia infrequently contribute data from earlier events for research into the detection of nuclear explosions.

(2) The agencies involved with the operation of these stations are as follows:

- (a) The Bureau of Mineral Resources (BMR) and the US Airforce;
- (b) The Australian National University and National Environmental Research Council (UK);
- (c) The University of Queensland, the BMR and the US Geological Survey (USGS);
- (d) The BMR and the USGS;
- (e) The BMR and the Antarctic Division of the Department of the Arts, Sport, the Environment, Tourism and Territories.

All the infrequently used stations referred to in (1) above are operated solely by Australian agencies.

The agency responsible for analysing data produced by seismic stations in Australia, with a view to monitoring nuclear explosions, is the BMR. This work is under-

taken in BMR's Australian Seismological Centre in Canberra.

(3) The US Coast and Geodetic Survey is not one of the co-operating agencies (see 2 above). Moreover, the US Defence Advanced Research Projects Agency does not control any of the seismic stations located in Australia.

### **Bank Robberies**

(Question No. 31)

**Senator Jones** asked the Minister representing the Attorney-General, upon notice, on 15 September 1987:

(1) What are the figures for the number of bank hold-ups involving the use of firearms by offenders at Commonwealth Bank premises throughout Australia, in the two years 1985-86, and 1986-87.

(2) How many offenders were detained, and arrested following such attacks, and how many convictions recorded State by State.

(3) What was the range of sentences given by the courts, State by State, for people convicted of bank robberies or attempted bank robberies with the use of firearms.

(4) Are such figures available in respect of similar crimes in Australian private banks, International financial institutions or any other financial institutions known by the criminal element to carry amounts of ready cash at any time.

**Senator Tate**—The Attorney-General has provided the following answers to the honourable senator's question:

(1) I am advised of the following figures for the number of bank hold-ups involving the use of firearms by offenders at Commonwealth Bank premises throughout Australia:

1985 . . . . .	49
1986 . . . . .	52
1987 (to October 1987) . . . . .	65

(2) and (3) Such matters as the number of offenders detained, arrests made, convictions recorded and the range of sentences given by the Courts, State by State, is one for state authorities and records. Insofar as the Australian Capital Territory is concerned I am advised of the following:

Commonwealth Bank premises

(a) 1985-86—Nil

(b) 1986-87—1 hold-up involving the use of firearms

Of the one offence recorded in the Australian Capital Territory during 1986-87 I am advised that no offenders were detained at the scene of the crime, however three offenders were arrested after police investigations. All three offenders were convicted of armed hold-up and sentenced to five years hard labour with a non-parole period of three years.

(4) Such figures are not readily available in the Australian Capital Territory and, in relation to other jurisdictions, are matters for state authorities and records.

**Bank Robberies**

(Question No. 32)

**Senator Jones** asked the Minister representing the Attorney-General, upon notice, on 15 September 1987.

(1) Has the attention of the Minister been drawn to a 20 years old campaign waged on behalf of Australia's Commonwealth and private banking institutions by their various unions for stricter gun laws to be applied throughout Australia.

(2) What action has been taken by banks and other lending institutions in this regard.

(3) What is the percentage of banks and other lending institutions known to carry ready money at counter level to install bullet proof glass to protect the employee from the potential robber.

(4) What measures of protection from the doorways to the counters have been put in place to ease the potential plight of customers to such financial institutions.

(5) What has been the level of co-operation from the banks in negotiations with (a) unions and (b) Governments, on the question of security in gun-risk financial institutions.

**Senator Tate**—The Attorney-General has provided the following answer to the honourable senator's question:

(1) I am well aware of a growing concern that uniform gun controls should be adopted throughout Australia. The Federal Government does not have constitutional authority to legislate in relation to firearms on a national basis. The possession and use of firearms is a matter controlled by the legislation of each of the States and Territories. Accordingly, any national scheme to control their possession and use would need agreement of all States and the Territories. The Australian Police Ministers' Council, which comprises Ministers responsible for police affairs of the Commonwealth, the States and the Northern Territory is currently examining national firearm control with a view to seeking some measure of uniformity.

(2) I am advised that the Australian Bankers' Association has established a Standing Committee on Bank Security, to provide a forum for dialogue between the banks, the unions and the police on all aspects of security at banking institutions.

(3) and (4) The nature of security standards imposed in their branches is a matter for individual banking institutions.

(5) See answer to (2) above. I am also advised that the Standing Committee on Bank Security provides a high level of discussion and regular exchanges of view between unions, banks and the police. The Commonwealth Government is represented on the Standing Committee on Bank Security by the Australian Federal Police.

**Firearms**

(Question No. 39)

**Senator Jones** asked the Minister representing the Attorney-General, upon notice, on 15 September 1987:

(1) What are the current Commonwealth laws regarding the possession of concealable firearms or non concealable firearms.

(2) What are the laws in each of the 6 States.

(3) Are any moves contemplated by the Commonwealth to initiate uniform legislation in a bid to stop the carnage that now appears to beset Australia, almost on a day to day basis.

(4) If there is any Constitutional hold-up to the introduction of this kind of legislation, from where does it emanate.

(5) Has the Commonwealth any power to compel the States and Territories to fall in line with sensible licensing and control of firearms.

**Senator Tate**—The Attorney-General has provided the following answer to the honourable senator's question:

(1) Commonwealth responsibility for the regulation and licensing of firearms is restricted to the Australian Capital Territory and external Territories. Under the Gun Licence Ordinance 1937 (ACT) anyone aged 16 years and over, who is approved by the Commissioner of the Australian Federal Police, can obtain a gun licence and anyone aged 18 years and over and approved can obtain a pistol licence. The Ordinance is currently under review.

The Commonwealth is also able to control the import of firearms under the Customs (Prohibited Imports) Regulations. Item 18 of the Second Schedule to the Customs (Prohibited Imports) Regulations refers to 'Goods which, in the opinion of the Minister, are of a dangerous character and a menace to the community'. Categories of goods gazetted under this item include:

weapons of a machine gun construction;

any firearm that does not pass safety testing;

brands of rifles, air rifles, pistols and starting pistols that are known never to pass safety testing;

certain brands of replica sub-machine guns that are readily able to be converted to automatic fire; and goods that include a concealed firearm.

The Second Schedule to the Regulations contains, in addition to item 18, the following 'firearm references':

ammunition greater than .22 calibre

pistols and parts

rifles greater than .22 calibre

laser sighting devices.

(2) This is a matter for State authorities. (3), (4) and (5). The possession and use of firearms is a matter controlled by the legislation of each of the States and Territories. The Federal Government does not have constitutional authority to legislate in relation to firearms on a national basis. Accordingly, any national scheme to control their possession and use would need agreement of all States and the Territories. The Austra-

lian Police Ministers' Council, which comprises Ministers responsible for police affairs of the Commonwealth, the States and the Northern Territory, is currently examining national firearm control with a view to seeking the maximum degree of uniformity.

#### New Parliament House Site: Severance Pay

**Senator Walsh**—On 23 September 1987 Senator Chaney asked Senator Button, as Minister representing the Minister for Industrial Relations, the following question without notice:

I refer the Minister to Senator Walsh's description of the new Parliament House as 'another scandal'. Does the Minister agree that it is scandalous for the Building Workers Industrial Union to demand the flow-on to the Parliament House construction site of the \$20 a week severance pay agreement reached with some employers? Is he aware that last Friday Mr Justice Ludeke condemned the severance pay deals which had been done and said that they could not be justified under the wage fixing principles and that any further attempt to extend the payment was unacceptable? What steps will the Government take to ensure that the \$20 severance payment is not paid on the new Parliament House site unless it is a determination of the Australian Conciliation and Arbitration Commission?

In Senator Button's reply he undertook to refer the question to the Minister for Industrial Relations. The Minister has provided the following response:

The Government has made it clear that it does not oppose genuine redundancy agreements which conform with the relevant principles established by the Australian Conciliation and Arbitration Commission.

The Government is aware that agreements have been reached between some employers and unions in the building industry for a redundancy scheme and it is aware of the views expressed by Mr Justice Ludeke in a statement he issued on 18 September 1987. His Honour expressed concern that the parties to the agreements had not brought them to the Commission for consideration and, without expressing a final view, His Honour indicated that *prima facie* they appeared not to conform with the constraints laid down in the national wage fixing principles. In the circumstances His Honour said it would be unacceptable to attempt to extend the agreements.

I have written to the parties advising them that the Government would not endorse the proposed scheme unless the Commission were satisfied that it did not breach its wages principles and unless the scheme could be demonstrated to be a bona fide redundancy arrangement payable only to employees who were made genuinely redundant. Accordingly, I requested the parties to reconsider the proposed scheme with a view to amending it substantially to overcome the Government's objections. I have subsequently been informed by the parties of their preparedness to review their proposed scheme to address the matters raised by the Government.

I have also made it quite clear to the parties that unless the scheme is appropriately amended the Commonwealth will not agree to its payments on the new Parliament House site or on any other Government projects.